

AN ACT

relating to energy savings performance contracts and energy efficiency planning.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 44.901, Education Code, is amended by amending Subsection (a) and adding Subsection (f-1) to read as follows:

(a) In this section, "energy savings performance contract" means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of new or existing school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term includes a contract for the installation or implementation of:

(1) insulation of a building structure and systems within the building;

(2) storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(3) automatic energy control systems, including computer software and technical data licenses;

(4) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water

- 1 consumption;
- 2 (5) lighting fixtures that increase energy
- 3 efficiency;
- 4 (6) energy recovery systems;
- 5 (7) electric systems improvements;
- 6 (8) water-conserving fixtures, appliances, and
- 7 equipment or the substitution of non-water-using fixtures,
- 8 appliances, and equipment;
- 9 (9) water-conserving landscape irrigation equipment;
- 10 (10) landscaping measures that reduce watering
- 11 demands and capture and hold applied water and rainfall, including:
- 12 (A) landscape contouring, including the use of
- 13 berms, swales, and terraces; and
- 14 (B) the use of soil amendments that increase the
- 15 water-holding capacity of the soil, including compost;
- 16 (11) rainwater harvesting equipment and equipment to
- 17 make use of water collected as part of a storm-water system
- 18 installed for water quality control;
- 19 (12) equipment for recycling or reuse of water
- 20 originating on the premises or from other sources, including
- 21 treated municipal effluent;
- 22 (13) equipment needed to capture water from
- 23 nonconventional, alternate sources, including air conditioning
- 24 condensate or graywater, for nonpotable uses;
- 25 (14) metering equipment needed to segregate water use
- 26 in order to identify water conservation opportunities or verify
- 27 water savings; or

1 (15) other energy or water conservation-related
2 improvements or equipment, including improvements or equipment
3 relating to renewable energy or nonconventional water sources or
4 water reuse.

5 (f-1) Notwithstanding other law, the board may use any
6 available money, other than money borrowed from this state, to pay
7 the provider of the energy or water conservation measures under
8 this section, and the board is not required to pay for such costs
9 solely out of the savings realized by the school district under an
10 energy savings performance contract. The board may contract with
11 the provider to perform work that is related to, connected with, or
12 otherwise ancillary to the measures identified in the scope of an
13 energy savings performance contract.

14 SECTION 2. Section 44.902, Education Code, is amended by
15 adding Subsection (b-1) and amending Subsection (d) to read as
16 follows:

17 (b-1) For purposes of Subsection (b), a strategy for
18 achieving energy efficiency includes facility design and
19 construction.

20 (d) The board of trustees may submit the plan required under
21 Subsection (a) to the State Energy Conservation Office for the
22 purposes of determining whether funds available through loan
23 programs administered by the office or tax incentives administered
24 by the state or federal government are available to the district.
25 The board may not disallow any proper allocation of incentives.

26 SECTION 3. Section 51.927, Education Code, is amended by
27 amending Subsection (a) and adding Subsection (g-1) to read as

1 follows:

2 (a) In this section, "energy savings performance contract"
3 means a contract for energy or water conservation measures to
4 reduce energy or water consumption or operating costs of new or
5 existing institutional facilities in which the estimated savings in
6 utility costs resulting from the measures is guaranteed to offset
7 the cost of the measures over a specified period. The term includes
8 a contract for the installation or implementation of:

9 (1) insulation of a building structure and systems
10 within a building;

11 (2) storm windows or doors, caulking or weather
12 stripping, multiglazed windows or doors, heat-absorbing or
13 heat-reflective glazed and coated window or door systems, or other
14 window or door system modifications that reduce energy consumption;

15 (3) automatic energy control systems, including
16 computer software and technical data licenses;

17 (4) heating, ventilating, or air conditioning system
18 modifications or replacements that reduce energy or water
19 consumption;

20 (5) lighting fixtures that increase energy
21 efficiency;

22 (6) energy recovery systems;

23 (7) electric systems improvements;

24 (8) water-conserving fixtures, appliances, and
25 equipment or the substitution of non-water-using fixtures,
26 appliances, and equipment;

27 (9) water-conserving landscape irrigation equipment;

1 (10) landscaping measures that reduce watering
2 demands and capture and hold applied water and rainfall, including:

3 (A) landscape contouring, including the use of
4 berms, swales, and terraces; and

5 (B) the use of soil amendments that increase the
6 water-holding capacity of the soil, including compost;

7 (11) rainwater harvesting equipment and equipment to
8 make use of water collected as part of a storm-water system
9 installed for water quality control;

10 (12) equipment for recycling or reuse of water
11 originating on the premises or from other sources, including
12 treated municipal effluent;

13 (13) equipment needed to capture water from
14 nonconventional, alternate sources, including air conditioning
15 condensate or graywater, for nonpotable uses;

16 (14) metering equipment needed to segregate water use
17 in order to identify water conservation opportunities or verify
18 water savings; or

19 (15) other energy or water conservation-related
20 improvements or equipment, including improvements or equipment
21 related to renewable energy or nonconventional water sources or
22 water reuse.

23 (g-1) Notwithstanding other law, the board may use any
24 available money, other than money borrowed from this state, to pay
25 the provider of the energy or water conservation measures under
26 this section, and the board is not required to pay for such costs
27 solely out of the savings realized by the institution of higher

1 education under an energy savings performance contract. The board
2 may contract with the provider to perform work that is related to,
3 connected with, or otherwise ancillary to the measures identified
4 in the scope of an energy savings performance contract.

5 SECTION 4. Section 2166.406, Government Code, is amended by
6 amending Subsections (a) and (g) and adding Subsection (f-1) to
7 read as follows:

8 (a) In this section, "energy savings performance contract"
9 means a contract for energy or water conservation measures to
10 reduce energy or water consumption or operating costs of new or
11 existing governmental facilities in which the estimated savings in
12 utility costs resulting from the measures is guaranteed to offset
13 the cost of the measures over a specified period. The term includes
14 a contract for the installation of:

15 (1) insulation of a building structure and systems
16 within the building;

17 (2) storm windows or doors, caulking or weather
18 stripping, multiglazed windows or doors, heat absorbing or heat
19 reflective glazed and coated window or door systems, or other
20 window or door system modifications that reduce energy consumption;

21 (3) automatic energy control systems, including
22 computer software and technical data licenses;

23 (4) heating, ventilating, or air-conditioning system
24 modifications or replacements that reduce energy or water
25 consumption;

26 (5) lighting fixtures that increase energy
27 efficiency;

- 1 (6) energy recovery systems;
- 2 (7) electric systems improvements;
- 3 (8) water-conserving fixtures, appliances, and
4 equipment or the substitution of non-water-using fixtures,
5 appliances, and equipment;
- 6 (9) water-conserving landscape irrigation equipment;
- 7 (10) landscaping measures that reduce watering
8 demands and capture and hold applied water and rainfall, including:
9 (A) landscape contouring, including the use of
10 berms, swales, and terraces; and
11 (B) the use of soil amendments that increase the
12 water-holding capacity of the soil, including compost;
- 13 (11) rainwater harvesting equipment and equipment to
14 make use of water collected as part of a storm-water system
15 installed for water quality control;
- 16 (12) equipment for recycling or reuse of water
17 originating on the premises or from other sources, including
18 treated municipal effluent;
- 19 (13) equipment needed to capture water from
20 nonconventional, alternate sources, including air conditioning
21 condensate or graywater, for nonpotable uses;
- 22 (14) metering equipment needed to segregate water use
23 in order to identify water conservation opportunities or verify
24 water savings; or
- 25 (15) other energy or water conservation-related
26 improvements or equipment including improvements or equipment
27 related to renewable energy or nonconventional water sources or

1 water reuse.

2 (f-1) Notwithstanding other law, the state agency may use
3 any available money, other than money borrowed from this state, to
4 pay the provider of the energy or water conservation measures under
5 this section, and the state agency is not required to pay for such
6 costs solely out of the savings realized by the state agency under
7 an energy savings performance contract. The state agency may
8 contract with the provider to perform work that is related to,
9 connected with, or otherwise ancillary to the measures identified
10 in the scope of an energy savings performance contract.

11 (g) An energy savings performance contract with respect to
12 [~~existing~~] buildings or facilities may be financed:

13 (1) under a lease/purchase contract that has a term
14 not to exceed 20 years from the final date of installation and that
15 meets federal tax requirements for tax-free municipal leasing or
16 long-term financing, including a lease/purchase contract under the
17 master equipment lease purchase program administered by the Texas
18 Public Finance Authority under Chapter 1232;

19 (2) with the proceeds of bonds; or

20 (3) under a contract with the provider of the energy or
21 water conservation measures that has a term not to exceed the lesser
22 of 20 years from the final date of installation or the average
23 useful life of the energy or water conservation or usage measures.

24 SECTION 5. Section 302.001(4), Local Government Code, is
25 amended to read as follows:

26 (4) "Energy savings performance contract" means a
27 contract between a local government and a provider for energy or

1 water conservation or usage measures in which the estimated energy
2 savings, increase in billable revenues, or increase in meter
3 accuracy resulting from the measures is subject to guarantee to
4 offset the cost of the energy or water conservation or usage
5 measures over a specified period. The term includes a contract for
6 the installation or implementation of the following in new or
7 existing facilities, including all causally connected work:

8 (A) insulation of a building structure and
9 systems within the building;

10 (B) storm windows or doors, caulking or weather
11 stripping, multiglazed windows or doors, heat-absorbing or
12 heat-reflective glazed and coated window or door systems, or other
13 window or door system modifications that reduce energy consumption;

14 (C) automatic energy control systems, including
15 computer software and technical data licenses;

16 (D) heating, ventilating, or air-conditioning
17 system modifications or replacements that reduce energy or water
18 consumption;

19 (E) lighting fixtures that increase energy
20 efficiency;

21 (F) energy recovery systems;

22 (G) electric systems improvements;

23 (H) water-conserving fixtures, appliances, and
24 equipment or the substitution of non-water-using fixtures,
25 appliances, and equipment;

26 (I) water-conserving landscape irrigation
27 equipment;

1 (J) landscaping measures that reduce watering
2 demands and capture and hold applied water and rainfall, including:

3 (i) landscape contouring, including the use
4 of berms, swales, and terraces; and

5 (ii) the use of soil amendments that
6 increase the water-holding capacity of the soil, including compost;

7 (K) rainwater harvesting equipment and equipment
8 to make use of water collected as part of a storm-water system
9 installed for water quality control;

10 (L) equipment for recycling or reuse of water
11 originating on the premises or from other sources, including
12 treated municipal effluent;

13 (M) equipment needed to capture water from
14 nonconventional, alternate sources, including air-conditioning
15 condensate or graywater, for nonpotable uses;

16 (N) metering or related equipment or systems that
17 improve the accuracy of billable-revenue-generation systems; or

18 (O) other energy or water conservation-related
19 improvements or equipment, including improvements or equipment
20 relating to renewable energy or nonconventional water sources or
21 water reuse.

22 SECTION 6. Section 302.004, Local Government Code, is
23 amended by adding Subsection (a-1) to read as follows:

24 (a-1) Notwithstanding other law, the governing body of a
25 local government may use any available money, other than money
26 borrowed from this state, to pay the provider of the energy or water
27 conservation measures under this section, and the governing body is

1 not required to pay for such costs solely out of the savings
2 realized by the local government under an energy savings
3 performance contract. The governing body may contract with the
4 provider to perform work that is related to, connected with, or
5 otherwise ancillary to the measures identified in the scope of an
6 energy savings performance contract.

7 SECTION 7. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1728 was passed by the House on May 12, 2011, by the following vote: Yeas 143, Nays 2, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1728 on May 26, 2011, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1728 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor