

AN ACT

relating to energy savings performance contracts.

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

SECTION 1. Sections 44.901(a) and (f-1), Education Code, are amended to read as follows:

(a) In this section, "energy savings performance contract" has the meaning assigned by Section 302.001, Local Government Code ~~[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 consumption;~~

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

1 ~~improvements or equipment, including improvements or equipment~~
2 ~~relating to renewable energy or nonconventional water sources or~~
3 ~~water reuse].~~

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

13 SECTION 2. Sections [51.927\(a\)](#) and (g-1), Education Code,
14 are amended to read as follows:

15 (a) In this section, "energy savings performance contract"
16 has the meaning assigned by Section [302.001](#), Local Government Code
17 ~~[means a contract for energy or water conservation measures to~~
18 ~~reduce energy or water consumption or operating costs of new or~~
19 ~~existing institutional facilities in which the estimated savings in~~
20 ~~utility costs resulting from the measures is guaranteed to offset~~
21 ~~the cost of the measures over a specified period. The term includes~~
22 ~~a contract for the installation or implementation of:~~

23 ~~[(1) insulation of a building structure and systems~~
24 ~~within a building,~~

25 ~~[(2) storm windows or doors, caulking or weather~~
26 ~~stripping, multiglazed windows or doors, heat-absorbing or~~
27 ~~heat-reflective glazed and coated window or door systems, or other~~

1 ~~window or door system modifications that reduce energy consumption,~~
2 ~~[(3) automatic energy control systems, including~~
3 ~~computer software and technical data licenses,~~
4 ~~[(4) heating, ventilating, or air conditioning system~~
5 ~~modifications or replacements that reduce energy or water~~
6 ~~consumption,~~
7 ~~[(5) lighting fixtures that increase energy~~
8 ~~efficiency,~~
9 ~~[(6) energy recovery systems,~~
10 ~~[(7) electric systems improvements,~~
11 ~~[(8) water-conserving fixtures, appliances, and~~
12 ~~equipment or the substitution of non-water-using fixtures,~~
13 ~~appliances, and equipment,~~
14 ~~[(9) water-conserving landscape irrigation equipment,~~
15 ~~[(10) landscaping measures that reduce watering~~
16 ~~demands and capture and hold applied water and rainfall, including:~~
17 ~~[(A) landscape contouring, including the use of~~
18 ~~berms, swales, and terraces, and~~
19 ~~[(B) the use of soil amendments that increase the~~
20 ~~water-holding capacity of the soil, including compost,~~
21 ~~[(11) rainwater harvesting equipment and equipment to~~
22 ~~make use of water collected as part of a storm-water system~~
23 ~~installed for water quality control,~~
24 ~~[(12) equipment for recycling or reuse of water~~
25 ~~originating on the premises or from other sources, including~~
26 ~~treated municipal effluent,~~
27 ~~[(13) equipment needed to capture water from~~

1 ~~nonconventional, alternate sources, including air conditioning~~
2 ~~condensate or graywater, for nonpotable uses,~~

3 ~~[(14) metering equipment needed to segregate water use~~
4 ~~in order to identify water conservation opportunities or verify~~
5 ~~water savings, or~~

6 ~~[(15) other energy or water conservation-related~~
7 ~~improvements or equipment, including improvements or equipment~~
8 ~~related to renewable energy or nonconventional water sources or~~
9 ~~water reuse].~~

10 (g-1) Notwithstanding other law, the board may use any
11 available money~~[, other than money borrowed from this state,]~~ to
12 pay the provider of the energy or water conservation measures under
13 this section, and the board is not required to pay for such costs
14 solely out of the savings realized by the institution of higher
15 education under an energy savings performance contract. The board
16 may contract with the provider to perform work that is related to,
17 connected with, or otherwise ancillary to the measures identified
18 in the scope of an energy savings performance contract.

19 SECTION 3. Sections [2166.406](#)(a) and (f-1), Government Code,
20 are amended to read as follows:

21 (a) In this section, "energy savings performance contract"
22 has the meaning assigned by Section [302.001](#), Local Government Code
23 ~~[means a contract for energy or water conservation measures to~~
24 ~~reduce energy or water consumption or operating costs of new or~~
25 ~~existing governmental facilities in which the estimated savings in~~
26 ~~utility costs resulting from the measures is guaranteed to offset~~
27 ~~the cost of the measures over a specified period. The term includes~~

1 ~~a contract for the installation of:~~

2 ~~[(1) insulation of a building structure and systems~~
3 ~~within the building;~~

4 ~~[(2) storm windows or doors, caulking or weather~~
5 ~~stripping, multiglazed windows or doors, heat absorbing or heat~~
6 ~~reflective glazed and coated window or door systems, or other~~
7 ~~window or door system modifications that reduce energy consumption;~~

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

10 ~~[(4) heating, ventilating, or air-conditioning system~~
11 ~~modifications or replacements that reduce energy or water~~
12 ~~consumption;~~

13 ~~[(5) lighting fixtures that increase energy~~
14 ~~efficiency;~~

15 ~~[(6) energy recovery systems;~~

16 ~~[(7) electric systems improvements;~~

17 ~~[(8) water-conserving fixtures, appliances, and~~
18 ~~equipment or the substitution of non-water-using fixtures,~~
19 ~~appliances, and equipment;~~

20 ~~[(9) water-conserving landscape irrigation equipment;~~

21 ~~[(10) landscaping measures that reduce watering~~
22 ~~demands and capture and hold applied water and rainfall, including:~~

23 ~~[(A) landscape contouring, including the use of~~
24 ~~berms, swales, and terraces; and~~

25 ~~[(B) the use of soil amendments that increase the~~
26 ~~water-holding capacity of the soil, including compost;~~

27 ~~[(11) rainwater harvesting equipment and equipment to~~

1 ~~make use of water collected as part of a storm-water system~~
2 ~~installed for water quality control,~~

3 ~~[(12) equipment for recycling or reuse of water~~
4 ~~originating on the premises or from other sources, including~~
5 ~~treated municipal effluent,~~

6 ~~[(13) equipment needed to capture water from~~
7 ~~nonconventional, alternate sources, including air conditioning~~
8 ~~condensate or graywater, for nonpotable uses,~~

9 ~~[(14) metering equipment needed to segregate water use~~
10 ~~in order to identify water conservation opportunities or verify~~
11 ~~water savings, or~~

12 ~~[(15) other energy or water conservation-related~~
13 ~~improvements or equipment including improvements or equipment~~
14 ~~related to renewable energy or nonconventional water sources or~~
15 ~~water reuse].~~

16 (f-1) Notwithstanding other law, the state agency may use
17 any available money~~[, other than money borrowed from this state,]~~
18 to pay the provider of the energy or water conservation measures
19 under this section, and the state agency is not required to pay for
20 such costs solely out of the savings realized by the state agency
21 under an energy savings performance contract. The state agency may
22 contract with the provider to perform work that is related to,
23 connected with, or otherwise ancillary to the measures identified
24 in the scope of an energy savings performance contract.

25 SECTION 4. Sections [302.001\(1\)](#), (3), and (4), Local
26 Government Code, are amended to read as follows:

27 (1) "Baseline" means a calculation or set of

1 calculations in an energy savings performance contract that:

2 (A) may be based on:

3 (i) historical costs, revenues, accuracy,
4 or related components; or

5 (ii) avoided anticipated costs; and

6 (B) may be used for determining:

7 (i) [~~(A)~~] the costs for energy or water
8 usage [~~by a local government~~] and related net operating costs;

9 (ii) [~~(B)~~] the billable revenues from
10 providing energy, water, or other utilities to users; or

11 (iii) [~~(C)~~] the efficiency or accuracy of
12 metering or related equipment, systems, or processes or procedures.

13 (3) "Energy savings" means an estimated reduction in
14 net fuel costs, energy costs, water costs, stormwater fees, or
15 other utility costs, or related net operating costs, including
16 costs for anticipated equipment replacement and repair, from or as
17 compared to an established baseline of those costs. The term does
18 not include an estimated reduction due to a decrease in energy rates
19 that is not derived from increased conservation or reduced usage.

20 (4) "Energy savings performance contract" means a
21 contract with [~~between a local government and~~] a provider for
22 energy or water conservation or usage measures in which the
23 estimated energy savings, utility cost savings, increase in
24 billable revenues, or increase in meter accuracy resulting from the
25 measures is subject to guarantee to offset the cost of the energy or
26 water conservation or usage measures over a specified period. The
27 term includes a contract related to the pilot program described by

1 Subdivision (9-a) and a contract for the installation or
2 implementation of the following in new or existing facilities,
3 including all causally connected work:

4 (A) insulation of a building structure and
5 systems within the building;

6 (B) storm windows or doors, caulking or weather
7 stripping, multiglazed windows or doors, heat-absorbing or
8 heat-reflective glazed and coated window or door systems, or other
9 window or door system modifications that reduce energy consumption;

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

12 (D) heating, ventilating, or air-conditioning
13 system modifications or replacements that reduce energy or water
14 consumption;

15 (E) lighting fixtures that increase energy
16 efficiency;

17 (F) energy recovery systems;

18 (G) electric systems improvements;

19 (H) water-conserving fixtures, appliances, and
20 equipment or the substitution of non-water-using fixtures,
21 appliances, and equipment;

22 (I) water-conserving landscape irrigation
23 equipment;

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

26 (i) landscape contouring, including the use
27 of berms, swales, and terraces; and

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

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

6 (L) equipment for recycling or reuse of water
7 originating on the premises or from other sources, including
8 treated municipal effluent;

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

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

14 (O) alternative fuel programs resulting in
15 energy cost savings and reduced emissions for local government
16 vehicles, including fleet vehicles;

17 (P) programs resulting in utility cost savings;
18 or

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

23 SECTION 5. Section 302.004(a-1), Local Government Code, is
24 amended to read as follows:

25 (a-1) Notwithstanding other law, the governing body of a
26 local government may use any available money[~~other than money~~
27 ~~borrowed from this state,~~] to pay the provider of the energy or

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

8 SECTION 6. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2017.

H.B. No. 1571

President of the Senate

Speaker of the House

I certify that H.B. No. 1571 was passed by the House on April 28, 2017, by the following vote: Yeas 117, Nays 16, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1571 was passed by the Senate on May 18, 2017, by the following vote: Yeas 27, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor