

SUBJECT: Energy conservation contracts for institutions of higher education

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 6 ayes — R. Lewis, Hawley, Driver, West, Williams, Woolley
0 nays
3 absent — Crabb, Merritt, Wilson

WITNESSES: For — None
Against — None
On — Jerry Matthews, Texas Energy Coordination Council

BACKGROUND: In 1992, the Legislature authorized higher education institutions to enter into performance contracts for energy conservation measures to reduce energy consumption and thus operating costs. Offerors had to guarantee savings. The Texas Higher Education Coordinating Board (THECB), in consultation with the energy management center, was required to establish guidelines and an approval process for energy conservation measures.

In 1997, the Legislature enacted HB 3530 by Holzheuser, expanding the program and adding a number of provisions regarding compliance with regulations, appropriations actions, and the establishment of rules and guidelines for contract approval. That bill also required colleges and universities to submit contracts to the State Energy Conservation Office (SECO) and the Texas Energy Coordination Council (TECC) for approval. It allowed SECO to provide a cost-benefit analysis of the guaranteed savings and to charge an offeror for that service.

DIGEST: CSHB 2960 would amend the Education Code to delete the requirement that SECO and TECC review an energy conservation contract before it can be awarded. Instead, THECB would have to include in its guidelines for contract approval a requirement that the cost savings projected by an offeror be reviewed by a licensed professional engineer who was not an officer or employee of the offeror and not otherwise associated with the contract. The

bill also would delete language allowing SECO to provide a cost-benefit analysis and to charge a fee for that analysis.

The bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

CSHB 2960 would eliminate the unnecessary bureaucratic hurdle of requiring SECO and TECC to review and approve an energy conservation contract. These agencies' primary role should be consultative. They should not be involved in the negotiation of contracts between state institutions of higher education and private-sector companies. These contracts already have been approved by the college or university and still must be approved by THECB and potentially by the Texas Bond Review Board (BRB). SECO and TECC instead could offer suggestions and recommendations to the college or university, THECB, and BRB.

The bill would require that an offeror's cost savings estimates be reviewed by an independent engineer. This review would maintain the safeguard of an independent analysis of the savings estimate in a contract without requiring another state agency to review the contract.

**OPPONENTS
SAY:**

SECO and TECC add valuable input on energy conservation measures and ensure that projected performance and cost savings can be met. SECO's cost-benefit analyses thoroughly examine offerors' projections of savings. THECB does not have the technical expertise to evaluate offerors' potential cost savings nor to ensure that contracts will comply with environmental and construction regulations.

NOTES:

The committee substitute added the requirement that the cost savings be reviewed by an independent engineer.

The companion bill, SB 1318 by Armbrister, has been referred to the Senate Natural Resources Committee.