

- SUBJECT:** Use of available funds to pay for energy savings performance contracts
- COMMITTEE:** Energy Resources — favorable, without amendment
- VOTE:** 9 ayes — Keffer, Crownover, Carter, Craddick, J. Davis, C. Howard, Lozano, Sheffield, Strama
- 0 nays
- WITNESSES:** For — Tod Wickersham, McKinstry and Businesses for an Energy Efficient Texas Coalition; Mike Moore, Schneider Electric; David Power, Public Citizen, Inc.; Cyrus Reed, Sierra Club, Lone Star Chapter; Jeff Sherman, Schneider Electric; Frank Sturzl, HillCo Partners, Inc.; David Weinberg, Texas League of Conservation Voters
- Against — None
- BACKGROUND:** Statutes relating to energy savings performance contracts do not clearly state that performance contracting can be implemented for new buildings. This can even be interpreted as excluding new buildings.
- Also, there is concern that the current statutes relating to energy savings performance contracts do not allow public entities the flexibility to use other available money to pay for a performance contract or additional work as part of a performance contract. This restricts a public entity's ability to change the scope of a contract, because the energy savings achieved in the original scope would not pay for the change despite newly available funds and a continued need to use the expertise of the performance contractor to complete a project. The public entity may not be allowed to use performance contracting even if the entity has funds available to pay the project costs or the costs of the change in the scope of work.
- DIGEST:** HB 1728 would amend the Education Code, Government Code, and Local Government Code to allow school districts, institutions of higher education, state agencies, and local governments to use any available money, except for money borrowed from the state, to pay for an energy savings performance contract to reduce energy or water consumption or operating costs of new or existing facilities. These entities no longer

would be required to pay for energy savings performance services solely out of the financial savings realized from execution of the contracts.

The bill would take effect September 1, 2011.

NOTES:

The companion bill, SB 1460 by Harris, is scheduled for public hearing in the Senate Government Organization Committee on May 9.

According to the fiscal note, HB 1728 would have no significant fiscal impact on the state.