

SUBJECT: Expanding eligibility for certain energy savings performance contracts

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 11 ayes — Darby, Paddie, Anchia, Canales, Craddick, Dale, Herrero, Keffer, P. King, Landgraf, Meyer

0 nays

2 absent — Riddle, Wu

WITNESSES: For — Glenn Gaines, Schneider Electric; (*Registered, but did not testify:* Matthew Thompson, Apache Corporation; Christie Goodman, Chevron; Jeff Coyle, City of San Antonio; Cyrus Reed, Lone Star Sierra Club; David Holt, Permian Basin Petroleum Association; David Weinberg, Texas League of Conservation Voters; Monty Wynn, Texas Municipal League; Jackie Mason, Texas Propane Gas Association)

Against — None

BACKGROUND: Energy savings performance contracting is a construction financing method that allows an entity to finance the completion of energy-saving improvements with money saved through reduced utility expenses.

To enter into an energy savings performance contract, an entity must notify the Comptroller's State Energy Conservation Office of its intent, issue a request, and select a contractor, usually an energy service company. After identifying eligible projects, the contractor designs and installs the needed improvements. The entity pays for the financed project out of savings realized by the improvements. By law, the contractor must guarantee that the savings will be at least equal to the payments for the cost of the improvements over the term of the contract. After the contract ends, all additional cost savings benefit the entity.

Current Texas law allows institutions of higher education, state agencies, public school districts, and local governments to enter into energy savings

performance contracts.

Local Government Code, ch. 302 provides for energy savings performance contracts for local government buildings and grounds. These contracts are between a local government and a provider for energy or water conservation or usage measures in which the estimated energy savings, increase in billable revenues, or increase in meter accuracy is guaranteed to offset the cost of the energy-saving improvement measures over a specified period.

DIGEST: CSHB 1184 would amend Local Government Code, ch. 302 to add "utility cost savings" as a type of energy savings that could offset the cost of an energy-saving improvement measure for local government buildings and grounds under a performance contract.

The bill also would add the following to the list of projects eligible for energy saving performance contracts for local governments:

- alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles; and
- programs resulting in utility cost savings.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 1184 would allow local governmental entities to take advantage of new energy and utility savings opportunities through performance contracting, which would improve efficiency and reduce costs. These entities currently can enter into energy savings performance contracts without any upfront investments to install more efficient systems or equipment that will result in long-term savings in energy, water, or other costs. Instead, projects are financed out of savings realized by improvements. Recently, new opportunities have been identified to expand performance contracting. CSHB 1184 would allow for flexibility

as new innovations were developed and made available so that those savings could be captured and used for improvements.

Specifically, the bill would add alternative fuel programs for vehicles and programs resulting in utility cost savings to the list of projects eligible for performance contracting. These additions would allow local governmental entities to update their vehicle fleets to be more cost-efficient as well as give local governments flexibility to use performance contracting for telecommunications-related utility savings or for reduced-cost energy procurement.

While variables such as driver behavior could cut into fuel savings of vehicle fleets, the same is true of any energy improvement if it is not used conservatively. For example, an energy-efficient lighting system might not yield the savings expected if lights are continually left on when leaving a room. Concerns over variables such as bad operator behavior might make drawing up a contract challenging, but contractors and local governmental entities would have to come to a mutually beneficial agreement before moving forward.

**OPPONENTS
SAY:**

Energy savings performance contracts typically have been used to retrofit fixed assets, such as HVAC systems, lighting, or thermostat control systems. Contracts to update a vehicle fleet running on alternative fuels could be challenging because the contract would need to account for variables, such as driver behavior, which could cut into fuel savings.

NOTES:

Unlike the bill as introduced, the committee substitute would add "utility cost savings" as an energy savings that could offset the cost of an energy-saving improvement measure for local government buildings and grounds under a performance contract. The committee substitute also would add "programs resulting in utility cost savings" to the list of projects eligible for energy saving performance contracts.