

BILL ANALYSIS

Senate Research Center

H.B. 3286
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Natural Resources
5/3/2001
Committee Report (Amended)

DIGEST AND PURPOSE

Current law permits state and local governments, school districts, and institutions of higher education to enter into performance contracts for energy conservation projects, but does not specifically extend this to water conservation projects. In a performance contract, a company enters into an agreement with an entity such as a school district and provides capital to pay for improvements that will result in reduced energy or water use. The company is reimbursed out of the revenue stream based on conservation savings. The benefit is that conservation improvements can be done without having to issue debt instruments. H.B. 3286 authorizes state and local entities, school districts, and institutions of higher education to enter into a performance contract for water conservation measures to reduce water consumption.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 44.901, Education Code, to read as follows:

Sec. 44.901. ENERGY OR WATER CONSERVATION MEASURES.

SECTION 2. Amends Sections 44.901(a)-(g), Education Code, as follows:

(a) Authorizes the board of trustees of a school district to enter into a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities in accordance with this section.

(b) Provides that a contract to which this section applies includes a contract for the installation of certain equipment.

(c) Requires all energy or water conservation measures to comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Requires a contract for energy or water conservation measures, notwithstanding anything to the contrary in Subsection (b), to not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

(d) Requires the person with whom the board contracts to be experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

(e) Makes conforming changes.

(f) Makes a conforming change.

(g) Provides that if the term of a contract for energy or water conservation measures exceeds one year, the school district's contractual obligations in any one year during the term of the contract beginning after the final date of installation is prohibited from exceeding the total energy, water, wastewater, and operating cost savings, including but not limited to electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from automatic monitoring and control as determined by the school district in this subsection, divided by the number of years in the contract term.

SECTION 3. Amends the heading to Section 51.927, Education Code, to me as follows:

Sec. 51.927. ENERGY OR WATER CONSERVATION MEASURES.

SECTION 4. Amends Sections 51.927(a)-(h) and (l), Education Code, as follows:

(a) Makes conforming changes.

(b) Provides that a contract to which this section applies includes a contract for the installation of certain equipment.

(c) Makes conforming changes.

(d) Requires the entity with whom the board contracts to be experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

(e) Makes conforming changes.

(f) Makes conforming changes.

(g) Makes conforming changes.

(h) Makes conforming changes.

(l) Requires the legislature to base an institution's appropriation for energy, water, or wastewater costs during a fiscal year on certain sums.

SECTION 5. Amends the heading to Chapter 302, Local Government Code, to read as follows:

Chapter 302. ENERGY OR WATER CONSERVATION MEASURES
FOR LOCAL GOVERNMENTS

SECTION 6. Amends Sections 302.001-302.004, Local Government Code, as follows:

Sec. 302.001. DEFINITION. Defines "local government."

Sec. 302.002. New heading: ENERGY OR WATER CONSERVATION MEASURES.
Makes conforming changes.

Sec. 302.003. PAYMENT AND PERFORMANCE BOND. Makes conforming changes.

Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. Makes conforming changes.

SECTION 7. Amends Section 2166.402, Government Code, as follows:

Sec. 2166.402. New heading: ENERGY OR WATER CONSERVATION STANDARDS FOR ENTITIES OTHERWISE EXCLUDED FROM CHAPTER.

- (a) Requires the design standards to meet certain criteria. Makes a conforming change.
- (b) Requires the state energy conservation office, rather than management center of the governor's office, to assist a governing body of a state agency, commission, or institution subject to Subsection (a) in preparing energy conservation standards by providing technical assistance and advice.
- (c) Requires the Texas Water Development Board to assist the governing body of a state agency, commission, or institution described by Subsection (a) in preparing water conservation standards by providing technical assistance and advice.

SECTION 8. Amends the heading to Section 2166.406, Government Code, to read as follows:

Sec. 2166.406. New heading: ENERGY OR WATER CONSERVATION MEASURES.

SECTION 9. Amends Sections 2166.406(a)-(h), (l), and (m), Government Code, as follows:

- (a)-(c). Makes conforming changes.
- (d) Requires the entity with whom the board contracts to be experienced in the design, implementation, and the installation of the energy or water conservation measures addressed by the contract.
- (e)-(i). Makes conforming changes.
- (l) Authorizes the state to allow proposal revisions after submissions and before the award of a contract for energy or water conservation measures.
- (m) Makes conforming changes.

SECTION 10. Amends Chapter 447, Government Code, as follows:

CHAPTER 447. New heading: STATE ENERGY CONSERVATION OFFICE

Sec. 447.001. New heading: ESTABLISHMENT OF OFFICE. Makes conforming changes.

Sec. 447.002. INFORMATION; RULES; PROGRAMS. Authorizes the office, rather than center, to make rules relating to the adoption and implementation of energy and water conservation programs applicable to state buildings and facilities. Authorizes the office's, rather than center's, rules for programs and energy and water conservation, adopted under Chapter 2001, to include provisions relating to the retrofitting of existing state structures with energy-saving and water-saving devices and to the energy-related renovation of such structures. Requires the state energy conservation office to coordinate all water conservation-related activities with the Texas Water Development Board. Requires the Texas Water Development Board to evaluate and help develop all proposed water conservation and reuse requirements and provide training and expertise to the staff of the state energy conservation office regarding water conservation issues. Makes conforming changes.

Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. Makes conforming changes. Deletes text regarding the National Energy Extension Service Act.

Sec. 447.004. DESIGN STANDARDS. (a)-(b) Make conforming changes.

(c) Requires the procedural standards to concern certain issues.

(d)-(e) Make conforming changes.

Sec. 447.005. New heading: ENERGY AND WATER EFFICIENCY PROJECTS. Makes conforming changes.

Sec. 447.006. OBTAINING DATA. Makes conforming changes.

Sec. 447.007. MODEL CODES. Makes conforming changes.

Sec. 447.008. ADDITIONAL ENERGY OR WATER SERVICES. (a) Authorizes the state energy conservation office, rather than management center, to provide additional energy and water services, including certain assistance or training.

(b)-(h) Make conforming changes.

Sec. 447.009. New heading: ENERGY AND WATER AUDITS. Makes conforming changes.

Sec. 447.010. New heading: ENERGY-SAVING AND WATER-SAVING DEVICES OR MEASURES. Makes conforming changes.

Sec. 447.011. New heading: ENERGY AND WATER MANAGEMENT PLANNING. Makes conforming changes.

SECTION 11. Amends Section 44.901, Education Code, by adding Subsection (j), to require the board, prior to entering into a contract under this section, to require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. Requires an engineer who reviews a contract to maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Provides that Section 19, The Texas Engineering Practice Act (Article 3271a, V.T.C.S.), applies to work performed under the contract.

SECTION 12. Amends Section 302.005, Local Government Code, by adding Subsection (d), to require the governing body, prior to entering into a contract under this section, to require that the cost projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. Requires an engineer who reviews a contract to maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Provides that Section 19, The Texas Engineering Practice Act (Article 3271a, V.T.C.S.), applies to work performed under the contract.

SECTION 13. Amends Section 2166.406(i), Government Code, to require the State Energy Conservation Office to establish guidelines and an approval process for contracts awarded under this section. Requires guidelines adopted under this subsection to require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract. Requires an engineer who reviews a contract to maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Provides that Section 19, The Texas Engineering Practice Act (Article 3271a, V.T.C.S.), applies to work performed under the contract. Deletes text regarding awarding the contract.

SECTION 14. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Adds new proposed SECTIONS 11-13.

Redesignates SECTION 11 of the original as SECTION 14.