

## **BILL ANALYSIS**

Senate Research Center

H.B. 1728  
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Government Organization  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Energy Savings Performance Contracting program has become a very popular way to make capital improvements in public buildings. Many K-12 school districts, cities, counties, community colleges, state universities, and state agencies have utilized this program to make improvements and reduce energy costs in their buildings.

H.B. 1728 proposes to give public entities more options and greater flexibility in utilizing the Energy Savings Performance Contracting program.

H.B. 1728 amends current law relating to energy savings performance contracts and energy efficiency planning.

### **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 Section 44.901, Education Code, by amending Subsection (a) and adding Subsection (f-1), as follows:

(a) Redefines, in this section, "energy savings performance contract."

(f-1) Authorizes the board of trustees of a school district, notwithstanding other law, to contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract and to use any available money, other than money borrowed from this state, to pay the provider for such services under this section and provides that the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract.

SECTION 2. Amends Section 44.902, Education Code, by adding Subsection (b-1) and amending Subsection (d), as follows:

(b-1) Provides that for purposes of Subsection (b), a strategy for achieving energy efficiency includes facility design and construction.

(d) Authorizes the board of trustees to submit the plan required under Subsection (a) to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office or tax incentives administered by the state or federal government are available to the district. Prohibits the board from disallowing any proper allocation of incentives.

SECTION 3. Amends Section 51.927, Education Code, by amending Subsection (a) and adding Subsection (g-1), as follows:

(a) Redefines, in this section, "energy savings performance contract."

(g-1) Authorizes the governing board of a state institution of higher education, notwithstanding other law, to contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract and to use any available money, other than money borrowed from this state, to pay the provider for such services under this section and provides that the board is not required to pay for such costs solely out of the savings realized by the institution of higher education under an energy savings performance contract.

SECTION 4. Amends Section 2166.406, Government Code, by amending Subsections (a) and (g) and adding Subsection (f-1), as follows:

(a) Redefines, in this section, "energy savings performance contract."

(f-1) Authorizes a state agency, notwithstanding other law, to contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract and to use any available money, other than money borrowed from this state, to pay the provider for such services under this section and provides that the state agency is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract.

(g) Authorizes an energy savings performance contract with respect to buildings, rather than existing buildings, or facilities to be financed in certain ways.

SECTION 5. Amends Section 302.001(4), Local Government Code, to redefine "energy savings performance contract."

SECTION 6. Amends Section 302.004, Local Government Code, by adding Subsection (a-1), to authorize the governing body of a local government, notwithstanding other law, to contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract and to use any available money, other than money borrowed from this state, to pay the provider for such services under this section and provides that the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract.

SECTION 7. Effective date: September 1, 2011.