

BILL ANALYSIS

Senate Research Center
82R30038 MCK-D

C.S.H.B. 51
By: Lucio III et al. (Hinojosa)
Natural Resources
5/19/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Buildings in the United States account for approximately 40 percent of all energy usage and approximately 30 percent of waste output. Therefore, energy efficient performance standards for the construction of state buildings need to be developed.

High-performance buildings are generally recognized for using key resources, such as energy, water, materials, and land, much more efficiently than buildings that are simply built to meet the current code regulations. Over the estimated 20-year life cycle of a high-performance building, building owners and governmental entities will see a significant return on the initial investment in such a building.

C.S.H.B. 51 amends current law relating to efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

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 Subchapter B, Chapter 55, Education Code, by adding Section 55.115, as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) Provides that this section applies to the construction of an institution of higher education building, structure, or other facility, or the renovation of a building, structure, or other facility the cost of which is more than \$2 million, or, if less than \$2 million, more than 50 percent of the value of the building, structure, or other facility, if any part of the construction or renovation is financed by revenue bonds issued under this subchapter.

(b) Requires that a building, structure, or other facility to which this section applies be designed and constructed or renovated so that the building, structure, or other facility complies with high-performance building standards, approved by the board of regents of the institution, that provide minimum requirements for energy use, natural resources use, and indoor air quality. Provides that a board of regents, in approving high-performance building standards, is required to consider, but is not subject to, the high-performance building evaluation system approved by the State Energy Conservation Office (SECO) under Section 447.004 (Design Standards), Government Code, and is authorized to solicit and consider recommendations from the advisory committee appointed under that section.

(c) Requires that a building, structure, or other facility to which this section applies to be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by SECO under Section 447.004, Government Code.

(d) Provides that this section does not apply to an institution of higher education that constructs or renovates a building, structure, or other facility if the institution:

(1) determines that compliance with the standards described by Subsection (b) is impractical;

(2) notifies SECO of the determination; and

(3) provides documentation supporting the determination under Subdivision (1) to SECO.

SECTION 2. Amends Section 447.004, Government Code, by amending Subsection (b) and adding Subsections (b-1), (b-2), and (b-3), as follows:

(b) Requires that the standards established under Subsection (a) (relating to requiring SECO to establish and publish mandatory energy and water conservation design standards for each new state building or major renovation project):

(1) include performance and procedural standards for the maximum energy and water conservation allowed by the latest and most cost-effective technology that is consistent with the requirements of public health, safety, and economic resources;

(2) be stated in terms of energy and water consumption levels that meet energy standards adopted by SECO and that:

(A) achieve a 15 percent reduction in water use when compared to water use based on plumbing fixtures selected in accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486); or

(B) comply with water conservation standards published by SECO;

(3) consider the various types of building uses; and

(4) allow for design flexibility, including allowing for certification under any high-performance design evaluation system approved by SECO.

(b-1) Requires that a building to which this section applies be designed and constructed or renovated so that the building achieves certification under any high-performance design evaluation system approved by SECO that:

(1) is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state;

(2) provides minimum requirements for energy use, natural resources use, and indoor air quality;

(3) requires substantiating documentation for certification;

(4) requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and

(5) encourages the use of materials or products manufactured or produced in this state.

(b-2) Requires SECO to appoint an advisory committee to advise SECO in selecting one or more high-performance building design evaluation systems to approve for use under Subsection (b-1). Requires the advisory committee, at least once every two years, to review available high-performance building standards and make recommendations to SECO. Provides that the advisory committee consists of:

(1) one individual appointed by the comptroller of public accounts who represents SECO and who serves as the presiding officer of the committee;

(2) eight individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees:

(A) a list submitted by the president of the Texas Society of Architects;

(B) a list submitted by the presidents of the Texas Council of Engineering Companies and Texas Society of Professional Engineers;

(C) a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General Contractors, Texas Building Branch;

(D) a list submitted by the president of the Texas chapter of the American Society of Landscape Architects;

(E) a list submitted by the president of the Texas Chemical Council;

(F) a list submitted by the Texas State Building and Construction Trades Council; and

(G) a list submitted by the president of the Texas chapter of the Urban Land Institute;

(H) a list submitted by the chair of the Brick Industry Association;

(3) the director of facilities construction and space management appointed under Section 2152.104 (Associate Deputy Directors; Divisions; Division Directors);

(4) one individual representing the Energy Systems Laboratory of the Texas Engineering Experiment Station of The Texas A&M University System (laboratory);

(5) one individual representing a state agency that has a substantial ongoing construction program; and

(6) one individual representing the interests of historically underutilized businesses.

(b-3) Requires that a contract between a state agency and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the certification requirements of Subsection (b-1) is considered an additional service rather than a basic service. Prohibits a governmental entity from disallowing the allocation of federal deductions to eligible design professionals authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

SECTION 3. Amends Section 388.003, Health and Safety Code, by amending Subsections (c) and (e), as follows:

(c) Requires a municipality to establish procedures:

- (1) for the administration and enforcement of the codes;
- (2) to ensure that code-certified inspectors are required to perform inspections and enforce the code in the inspectors' jurisdictions; and
- (3) to track and report to SECO on implementation of the codes.

(e) Requires the laboratory to:

- (1) report its findings to the council, county, or municipality, including an estimate of any energy savings potential above the unamended code from local amendments, rather than any energy savings potential above the base code from local amendments; and
- (2) annually submit a report to the Texas Natural Resource Conservation Commission identifying the municipalities and counties whose codes are more stringent than the unamended code, and whose codes are equally stringent or less stringent than the unamended code, and quantifying energy savings and emissions reductions from this program for consideration in the state implementation plan for emissions reduction credit.

SECTION 4. Amends Section 388.007, Health and Safety Code, by amending Subsection (c) and adding Subsection (d), as follows:

- (c) Authorizes the laboratory to provide local jurisdictions with technical assistance concerning implementation and enforcement of the International Energy Conservation Code and the energy efficiency chapter of the International Residential Code, including local amendments to those codes.
- (d) Authorizes the laboratory to conduct outreach to the real estate industry, including real estate agents, home builders, remodelers, appraisers, and financial institutions, on the value of energy code compliance and verified, above-code, high-performance construction.

SECTION 5. Provides that Section 55.115, Education Code, as added by this Act, and Section 447.004, Government Code, as amended by this Act, apply only to an institution of higher education building, structure, or other facility or a state building for which the contract for design services is entered into on or after September 1, 2013.

SECTION 6. Effective date: September 1, 2011.