

BILL ANALYSIS

Senate Research Center
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S.B. 1460
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, construction performed pursuant to an energy savings performance contract requires that all of the debt service against the contractual obligation from the performance contract is required to be less than or equal to the energy savings. However, the current energy savings performance contracting statute does not allow public entities any flexibility to use other available money to pay for a performance contract or additional work requested of the entity as part of a performance contract.

In addition, the current energy savings performance contracting statute does not clearly state that performance contracting can be implemented for new buildings. In fact, one part of Chapter 2166 (Building Construction and Acquisition), Government Code, refers to the use of performance contracts in existing buildings, which could be interpreted to exclude new buildings.

As proposed, S.B. 1460 amends current law relating to energy savings performance contracts.

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 use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for the energy or water conservation measures solely out of the savings realized by the school district under an energy saving performance contract.

SECTION 2. 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 use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for the energy or water conservation measures solely out of the savings realized by the institution of higher education under an energy saving performance contract.

SECTION 3. 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) Authorize a state agency, notwithstanding other law, to use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the state agency is not required to pay for energy or water conservation measures solely out of the savings realized by the state agency under an energy saving 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 4. Amends Section 302.001(4), Local Government Code, to redefine "energy savings performance contract."

SECTION 5. 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 use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for energy or water conservation measures solely out of the savings realized by the local government under an energy saving performance contract.

SECTION 6. Effective date: September 1, 2011.