

BILL ANALYSIS

Senate Research Center
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S.B. 533
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Government Organization
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An energy savings performance contract (ESPC) allows state agencies, institutions of higher education, public school districts, and local governments to complete energy-saving improvements within an existing budget by financing them with money saved through reduced utility expenditures.

Contractors guarantee the savings that will be achieved as a result of implementing the energy savings measures in the contract. If the actual energy savings achieved after installation does not meet the savings guaranteed, the contractor is obligated to reimburse the difference to the agency or higher education institution. By statute, the guaranteed savings must be equal to or greater than the total costs of the contract. Contractors provide a measurement and verification of savings report that shows whether or not the guaranteed savings goals have been met.

The State Energy Conservation Office (SECO) and the Texas Higher Education Coordinating Board (THECB) are responsible for managing ESPCs for state agencies and higher education institutions, respectively. The sections of the Government Code and Education Code that govern ESPCs require contractors to provide a periodic measurement and verification of savings report; however, there is nothing in statute requiring SECO or THECB to analyze the findings submitted in the contractors' reports. Until the State Auditor's Office conducted an audit on the efficacy of ESPCs, the state had not been consistently tracking whether the ESPCs were meeting their contractually agreed upon cost savings guarantees.

This bill implements a recommendation from the 2012 Senate Committee on Government Organization interim report to ensure that SECO or THECB analyze the report submitted by the contractor and submit their findings to the contracting state agency or institution of higher education and the Legislative Budget Board. Once SECO or THECB demonstrate that the guaranteed cost savings are being met, their reporting requirements would terminate.

As proposed, S.B. 533 amends current law relating to a review of cost savings to state agencies and institutions of higher education under 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 51.927, Education Code, by adding Subsection (1), as follows:

(1) Requires that the guidelines established under Subsection (i) require the Texas Higher Education Coordinating Board (THECB) to:

(1) review any reports submitted to THECB that measure and verify cost savings to an institution of higher education under an energy savings performance contract; and

(2) based on the reports, provide an analysis, on a periodic basis, of the cost savings under the energy savings performance contract to the governing board of the institution of higher education and the Legislative Budget Board (LBB) until the governing board of the institution of higher education determines that the analysis is no longer required to accurately measure cost savings.

SECTION 2. Amends Section 2166.406, Government Code, by adding Subsection (1), as follows:

(1) Requires that guidelines adopted under Subsection (i) require the State Energy Conservation Office (SECO) to:

(1) review any reports submitted to SECO that measure and verify cost savings to a state agency under an energy savings performance contract; and

(2) based on the reports, provide an analysis, on a periodic basis, of the cost of savings under the energy savings performance contract to the state agency and LBB until the state agency determines that the analysis is no longer required to accurately measure cost savings.

SECTION 3. Effective date: upon passage or September 1, 2013.