

Chapter 258

H.B. No. 1571

1 AN ACT

2 relating to energy savings performance contracts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Sections 44.901(a) and (f-1), Education Code,
5 are amended to read as follows:

6 (a) In this section, "energy savings performance contract"
7 has the meaning assigned by Section 302.001, Local Government Code
8 ~~[means a contract for energy or water conservation measures to~~
9 ~~reduce energy or water consumption or operating costs of new or~~
10 ~~existing school facilities in which the estimated savings in~~
11 ~~utility costs resulting from the measures is guaranteed to offset~~
12 ~~the cost of the measures over a specified period. The term includes~~
13 ~~a contract for the installation or implementation of:~~

14 ~~[(1) insulation of a building structure and systems~~
15 ~~within the building,~~

16 ~~[(2) storm windows or doors, caulking or~~
17 ~~weatherstripping, multiglazed windows or doors, heat absorbing or~~
18 ~~heat reflective glazed and coated window or door systems, or other~~
19 ~~window or door system modifications that reduce energy consumption,~~

20 ~~[(3) automatic energy control systems, including~~
21 ~~computer software and technical data licenses,~~

22 ~~[(4) heating, ventilating, or air-conditioning system~~
23 ~~modifications or replacements that reduce energy or water~~
24 ~~consumption,~~

- 1 ~~[(5) lighting fixtures that increase energy~~
2 ~~efficiency,~~
- 3 ~~[(6) energy recovery systems,~~
- 4 ~~[(7) electric systems improvements,~~
- 5 ~~[(8) water-conserving fixtures, appliances, and~~
6 ~~equipment or the substitution of non-water-using fixtures,~~
7 ~~appliances, and equipment,~~
- 8 ~~[(9) water-conserving landscape irrigation equipment,~~
- 9 ~~[(10) landscaping measures that reduce watering~~
10 ~~demands and capture and hold applied water and rainfall, including:~~
- 11 ~~[(A) landscape contouring, including the use of~~
12 ~~berms, swales, and terraces, and~~
- 13 ~~[(B) the use of soil amendments that increase the~~
14 ~~water-holding capacity of the soil, including compost,~~
- 15 ~~[(11) rainwater harvesting equipment and equipment to~~
16 ~~make use of water collected as part of a storm-water system~~
17 ~~installed for water quality control,~~
- 18 ~~[(12) equipment for recycling or reuse of water~~
19 ~~originating on the premises or from other sources, including~~
20 ~~treated municipal effluent,~~
- 21 ~~[(13) equipment needed to capture water from~~
22 ~~nonconventional, alternate sources, including air conditioning~~
23 ~~condensate or graywater, for nonpotable uses,~~
- 24 ~~[(14) metering equipment needed to segregate water use~~
25 ~~in order to identify water conservation opportunities or verify~~
26 ~~water savings, or~~
- 27 ~~[(15) other energy or water conservation-related~~

1 ~~improvements or equipment, including improvements or equipment~~
2 ~~relating to renewable energy or nonconventional water sources or~~
3 ~~water reuse].~~

4 (f-1) Notwithstanding other law, the board may use any
5 available money~~[, other than money borrowed from this state,]~~ to
6 pay the provider of the energy or water conservation measures under
7 this section, and the board is not required to pay for such costs
8 solely out of the savings realized by the school district under an
9 energy savings performance contract. The board may contract with
10 the provider to perform work that is related to, connected with, or
11 otherwise ancillary to the measures identified in the scope of an
12 energy savings performance contract.

13 SECTION 2. Sections 51.927(a) and (g-1), Education Code,
14 are amended to read as follows:

15 (a) In this section, "energy savings performance contract"
16 has the meaning assigned by Section 302.001, Local Government Code
17 ~~[means a contract for energy or water conservation measures to~~
18 ~~reduce energy or water consumption or operating costs of new or~~
19 ~~existing institutional facilities in which the estimated savings in~~
20 ~~utility costs resulting from the measures is guaranteed to offset~~
21 ~~the cost of the measures over a specified period. The term includes~~
22 ~~a contract for the installation or implementation of:~~

23 ~~[(1) insulation of a building structure and systems~~
24 ~~within a building,~~

25 ~~[(2) storm windows or doors, caulking or weather~~
26 ~~stripping, multiglazed windows or doors, heat-absorbing or~~
27 ~~heat-reflective glazed and coated window or door systems, or other~~

1 ~~window or door system modifications that reduce energy consumption,~~
2 ~~[(3) automatic energy control systems, including~~
3 ~~computer software and technical data licenses,~~
4 ~~[(4) heating, ventilating, or air conditioning system~~
5 ~~modifications or replacements that reduce energy or water~~
6 ~~consumption,~~
7 ~~[(5) lighting fixtures that increase energy~~
8 ~~efficiency,~~
9 ~~[(6) energy recovery systems,~~
10 ~~[(7) electric systems improvements,~~
11 ~~[(8) water-conserving fixtures, appliances, and~~
12 ~~equipment or the substitution of non-water-using fixtures,~~
13 ~~appliances, and equipment,~~
14 ~~[(9) water-conserving landscape irrigation equipment,~~
15 ~~[(10) landscaping measures that reduce watering~~
16 ~~demands and capture and hold applied water and rainfall, including:~~
17 ~~[(A) landscape contouring, including the use of~~
18 ~~berms, swales, and terraces, and~~
19 ~~[(B) the use of soil amendments that increase the~~
20 ~~water-holding capacity of the soil, including compost,~~
21 ~~[(11) rainwater harvesting equipment and equipment to~~
22 ~~make use of water collected as part of a storm-water system~~
23 ~~installed for water quality control,~~
24 ~~[(12) equipment for recycling or reuse of water~~
25 ~~originating on the premises or from other sources, including~~
26 ~~treated municipal effluent,~~
27 ~~[(13) equipment needed to capture water from~~

1 ~~nonconventional, alternate sources, including air conditioning~~
2 ~~condensate or graywater, for nonpotable uses,~~

3 ~~[(14) metering equipment needed to segregate water use~~
4 ~~in order to identify water conservation opportunities or verify~~
5 ~~water savings, or~~

6 ~~[(15) other energy or water conservation-related~~
7 ~~improvements or equipment, including improvements or equipment~~
8 ~~related to renewable energy or nonconventional water sources or~~
9 ~~water reuse].~~

10 (g-1) Notwithstanding other law, the board may use any
11 available money~~[, other than money borrowed from this state,]~~ to
12 pay the provider of the energy or water conservation measures under
13 this section, and the board is not required to pay for such costs
14 solely out of the savings realized by the institution of higher
15 education under an energy savings performance contract. The board
16 may contract with the provider to perform work that is related to,
17 connected with, or otherwise ancillary to the measures identified
18 in the scope of an energy savings performance contract.

19 SECTION 3. Sections 2166.406(a) and (f-1), Government Code,
20 are amended to read as follows:

21 (a) In this section, "energy savings performance contract"
22 has the meaning assigned by Section 302.001, Local Government Code
23 ~~[means a contract for energy or water conservation measures to~~
24 ~~reduce energy or water consumption or operating costs of new or~~
25 ~~existing governmental facilities in which the estimated savings in~~
26 ~~utility costs resulting from the measures is guaranteed to offset~~
27 ~~the cost of the measures over a specified period. The term includes~~

1 ~~a contract for the installation of:~~

2 ~~[(1) insulation of a building structure and systems~~
3 ~~within the building,~~

4 ~~[(2) storm windows or doors, caulking or weather~~
5 ~~stripping, multiglazed windows or doors, heat absorbing or heat~~
6 ~~reflective glazed and coated window or door systems, or other~~
7 ~~window or door system modifications that reduce energy consumption,~~

8 ~~[(3) automatic energy control systems, including~~
9 ~~computer software and technical data licenses,~~

10 ~~[(4) heating, ventilating, or air-conditioning system~~
11 ~~modifications or replacements that reduce energy or water~~
12 ~~consumption,~~

13 ~~[(5) lighting fixtures that increase energy~~
14 ~~efficiency,~~

15 ~~[(6) energy recovery systems,~~

16 ~~[(7) electric systems improvements,~~

17 ~~[(8) water-conserving fixtures, appliances, and~~
18 ~~equipment or the substitution of non-water-using fixtures,~~
19 ~~appliances, and equipment,~~

20 ~~[(9) water-conserving landscape irrigation equipment,~~

21 ~~[(10) landscaping measures that reduce watering~~
22 ~~demands and capture and hold applied water and rainfall, including:~~

23 ~~[(A) landscape contouring, including the use of~~
24 ~~berms, swales, and terraces, and~~

25 ~~[(B) the use of soil amendments that increase the~~
26 ~~water-holding capacity of the soil, including compost,~~

27 ~~[(11) rainwater harvesting equipment and equipment to~~

1 ~~make use of water collected as part of a storm-water system~~
2 ~~installed for water quality control,~~

3 ~~[(12) equipment for recycling or reuse of water~~
4 ~~originating on the premises or from other sources, including~~
5 ~~treated municipal effluent,~~

6 ~~[(13) equipment needed to capture water from~~
7 ~~nonconventional, alternate sources, including air conditioning~~
8 ~~condensate or graywater, for nonpotable uses,~~

9 ~~[(14) metering equipment needed to segregate water use~~
10 ~~in order to identify water conservation opportunities or verify~~
11 ~~water savings, or~~

12 ~~[(15) other energy or water conservation-related~~
13 ~~improvements or equipment including improvements or equipment~~
14 ~~related to renewable energy or nonconventional water sources or~~
15 ~~water reuse].~~

16 (f-1) Notwithstanding other law, the state agency may use
17 any available money[~~, other than money borrowed from this state,~~]
18 to pay the provider of the energy or water conservation measures
19 under this section, and the state agency is not required to pay for
20 such costs solely out of the savings realized by the state agency
21 under an energy savings performance contract. The state agency may
22 contract with the provider to perform work that is related to,
23 connected with, or otherwise ancillary to the measures identified
24 in the scope of an energy savings performance contract.

25 SECTION 4. Sections 302.001(1), (3), and (4), Local
26 Government Code, are amended to read as follows:

27 (1) "Baseline" means a calculation or set of

1 calculations in an energy savings performance contract that:

2 (A) may be based on:

3 (i) historical costs, revenues, accuracy,
4 or related components; or

5 (ii) avoided anticipated costs; and

6 (B) may be used for determining:

7 (i) [~~(A)~~] the costs for energy or water
8 usage [~~by a local government~~] and related net operating costs;

9 (ii) [~~(B)~~] the billable revenues from
10 providing energy, water, or other utilities to users; or

11 (iii) [~~(C)~~] the efficiency or accuracy of
12 metering or related equipment, systems, or processes or procedures.

13 (3) "Energy savings" means an estimated reduction in
14 net fuel costs, energy costs, water costs, stormwater fees, or
15 other utility costs, or related net operating costs, including
16 costs for anticipated equipment replacement and repair, from or as
17 compared to an established baseline of those costs. The term does
18 not include an estimated reduction due to a decrease in energy rates
19 that is not derived from increased conservation or reduced usage.

20 (4) "Energy savings performance contract" means a
21 contract with [~~between a local government and~~] a provider for
22 energy or water conservation or usage measures in which the
23 estimated energy savings, utility cost savings, increase in
24 billable revenues, or increase in meter accuracy resulting from the
25 measures is subject to guarantee to offset the cost of the energy or
26 water conservation or usage measures over a specified period. The
27 term includes a contract related to the pilot program described by

1 Subdivision (9-a) and a contract for the installation or
2 implementation of the following in new or existing facilities,
3 including all causally connected work:

4 (A) insulation of a building structure and
5 systems within the building;

6 (B) storm windows or doors, caulking or weather
7 stripping, multiglazed windows or doors, heat-absorbing or
8 heat-reflective glazed and coated window or door systems, or other
9 window or door system modifications that reduce energy consumption;

10 (C) automatic energy control systems, including
11 computer software and technical data licenses;

12 (D) heating, ventilating, or air-conditioning
13 system modifications or replacements that reduce energy or water
14 consumption;

15 (E) lighting fixtures that increase energy
16 efficiency;

17 (F) energy recovery systems;

18 (G) electric systems improvements;

19 (H) water-conserving fixtures, appliances, and
20 equipment or the substitution of non-water-using fixtures,
21 appliances, and equipment;

22 (I) water-conserving landscape irrigation
23 equipment;

24 (J) landscaping measures that reduce watering
25 demands and capture and hold applied water and rainfall, including:

26 (i) landscape contouring, including the use
27 of berms, swales, and terraces; and

1 (ii) the use of soil amendments that
2 increase the water-holding capacity of the soil, including compost;

3 (K) rainwater harvesting equipment and equipment
4 to make use of water collected as part of a storm-water system
5 installed for water quality control;

6 (L) equipment for recycling or reuse of water
7 originating on the premises or from other sources, including
8 treated municipal effluent;

9 (M) equipment needed to capture water from
10 nonconventional, alternate sources, including air-conditioning
11 condensate or graywater, for nonpotable uses;

12 (N) metering or related equipment or systems that
13 improve the accuracy of billable-revenue-generation systems;

14 (O) alternative fuel programs resulting in
15 energy cost savings and reduced emissions for local government
16 vehicles, including fleet vehicles;

17 (P) programs resulting in utility cost savings;
18 or

19 (Q) other energy or water conservation-related
20 improvements or equipment, including improvements or equipment
21 relating to renewable energy or nonconventional water sources or
22 water reuse.

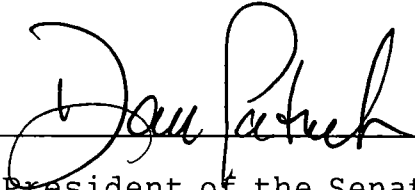
23 SECTION 5. Section 302.004(a-1), Local Government Code, is
24 amended to read as follows:

25 (a-1) Notwithstanding other law, the governing body of a
26 local government may use any available money[~~, other than money~~
27 ~~borrowed from this state,~~] to pay the provider of the energy or

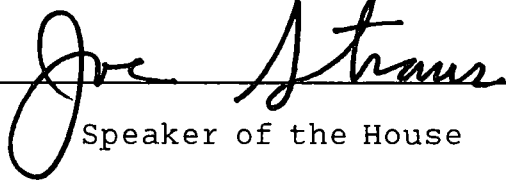
1 water conservation measures under this section, and the governing
2 body is not required to pay for such costs solely out of the savings
3 realized by the local government under an energy savings
4 performance contract. The governing body may contract with the
5 provider to perform work that is related to, connected with, or
6 otherwise ancillary to the measures identified in the scope of an
7 energy savings performance contract.

8 SECTION 6. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2017.

H.B. No. 1571




President of the Senate



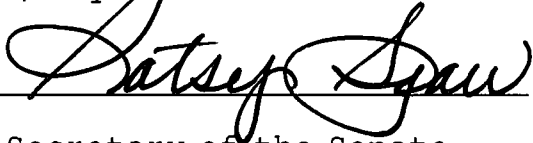
Speaker of the House

I certify that H.B. No. 1571 was passed by the House on April 28, 2017, by the following vote: Yeas 117, Nays 16, 2 present, not voting.



Chief Clerk of the House

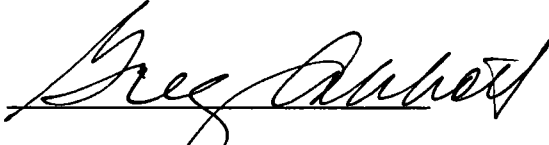
I certify that H.B. No. 1571 was passed by the Senate on May 18, 2017, by the following vote: Yeas 27, Nays 3.



Secretary of the Senate

APPROVED: 5-29-2017

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:00 PM O'CLOCK

MAY 29 2017



Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 5, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1571 by Paddie (Relating to energy savings performance contracts.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would modify provisions related to energy savings performance contracts (ESPCs), including amending the definition of ESPCs for school districts, institutions of higher education and state agencies to the meaning assigned in Section 302.001 of the Local Government Code. The bill would amend the Local Government Code to include in the definition of energy savings the anticipated equipment replacement and repair costs. The bill would authorize applicable entities to use any available money to pay the provider of an energy or water conservation measure, as opposed to current law which requires payment to be made solely from project savings realized under the ESPC. No fiscal impact is anticipated by Texas Education Agency and the Comptroller of Public Accounts. No significant fiscal impact is anticipated by Texas A&M University System Administration.

Local Government Impact

According to Texas Education Agency, minimal impact is anticipated as the proposed bill allows school districts to use additional sources of funds pay for eligible projects. According to the Brazoria and Harrison County Auditors, the bill would have no significant impact on them. The Cities of Marshall and Longview indicated that the bill would have no fiscal impact.

Source Agencies: 304 Comptroller of Public Accounts, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 783 University of Houston System Administration

LBB Staff: UP, CL, MMe, PM, SZ, DRE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 13, 2017

TO: Honorable Drew Darby, Chair, House Committee on Energy Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1571 by Paddie (relating to energy savings performance contracts.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would modify provisions related to energy savings performance contracts (ESPCs), including amending the definition of ESPCs for school districts, institutions of higher education and state agencies to the meaning assigned in Section 302.001 of the Local Government Code. The bill would amend the Local Government Code to include in the definition of energy savings the anticipated equipment replacement and repair costs. The bill would authorize applicable entities to use any available money to pay the provider of an energy or water conservation measure, as opposed to current law which requires payment to be made solely from project savings realized under the ESPC. No fiscal impact is anticipated by Texas Education Agency and the Comptroller of Public Accounts. No significant fiscal impact is anticipated by Texas A&M University System Administration.

Local Government Impact

According to Texas Education Agency, minimal impact is anticipated as the proposed bill allows school districts to use additional sources of funds pay for eligible projects. According to the Brazoria and Harrison County Auditors, the bill would have no significant impact on them. The Cities of Marshall and Longview indicated that the bill would have no fiscal impact.

Source Agencies: 304 Comptroller of Public Accounts, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 783 University of Houston System Administration

LBB Staff: UP, SZ, MMe, PM, DRE

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 31, 2017

TO: Honorable Drew Darby, Chair, House Committee on Energy Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1571 by Paddie (Relating to the use of local government energy savings performance contracts for measures that avoid expected future operating or maintenance costs.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

The bill would amend the Local Government Code to include in the definition of energy savings an estimated amount of avoided expected future operating and maintenance costs. According to the Texas Municipal League and the City of Marshall, no fiscal impact is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, SZ, MMe, PM, JGA, BM