

CHAPTER 654

S.B. No. 115

AN ACT

relating to an energy savings program for state agencies and to the organization, powers, and duties of the State Purchasing and General Services Commission.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 2, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Section 2.06 and by adding Sections 2.08 and 2.09 to read as follows:

Sec. 2.06. *ADMINISTRATION* [~~EXECUTIVE DIRECTOR~~]; STAFF. (a) The commission shall employ an executive director who shall serve at the pleasure of the commission.

The executive director [~~He~~] shall execute a bond payable to the state in such sum as the commission may deem necessary, to be approved by the commission and conditioned upon the faithful performance of *the* [his] duties of the office. Premiums for said bond also shall be payable from such appropriations for the commission as are authorized by the legislature. The executive director must have demonstrated executive and organizational ability.

(b) The executive director shall manage the affairs of the commission subject to and under the direction of the commission. All direction of the commission to the executive director shall be made at an open meeting of the commission and made a part of the minutes of the commission. A member of the commission may not grant any authority to the executive director or any other employee by power of attorney.

(c) *The executive director shall employ two associate deputy directors, who shall administer the operation of the divisions of the commission as provided by this Act.*

(d) The executive director may employ a staff necessary to administer the functions of the commission.

Sec. 2.08. REPORT. Not later than the 30th day after the date on which each regular session of the legislature begins, the commission shall report to the legislature concerning the activities of the commission during the preceding legislative interim and shall recommend any amendments to current law that would result in an increase in efficiency, economy, or productivity in the areas monitored by the commission.

Sec. 2.09. DIVISIONS. (a) The commission is divided into divisions as provided by this section. One associate deputy director shall direct the travel division, the energy efficiency division, and other divisions as directed by the executive director. The other associate deputy director shall direct the remaining divisions as directed by the executive director.

(b) Each division shall be managed by a division director who shall report to the appropriate associate deputy director.

SECTION 2. Subsection (b), Section 5.15, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) In accord with the provisions of Section 2.06 of this article, the executive director shall appoint a Director of Facilities [~~Planning and~~] *Construction and Space Management*, who shall be either a registered architect or a registered professional engineer and shall have proven administrative ability and experience in the fields of building design and construction.

SECTION 3. Subsection (e), Section 5.20, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Upon notice and on itemized statements by the commission:

(1) the comptroller shall transfer from each project appropriation to the State Building Construction Planning Fund created by Section 5.24 of this article an amount certified by the commission as sufficient to reimburse the planning fund for prior expenditures on behalf of the project; and

(2) the comptroller shall reserve from each project appropriation an amount estimated by the commission to be sufficient to cover contingencies over and above all amounts obligated by contract or otherwise, for planning, engineering, and architectural work, site acquisition and development, and construction, equipment, and furnishings contracts. The amount so reserved shall be used only upon the following conditions:

(A) that the architect/engineer or the contractor recommend and justify the proposed contingency expenditures by submitting a change order request;

(B) that the proposed change order request be approved by the architect/engineer;

(C) that the proposed change order request be approved by the using agency which shall make formal request for the allocation of funds from the contingency reserve; and

(D) that the director of *facilities* [~~planning and~~] construction *and space management* shall investigate the nature of the change order and concur in the necessity of the proposed expenditure or refuse same within 15 days after receiving the request.

In the event the director shall refuse to concur in a proposed contingency expenditure, the using agency may appeal to the commission and the findings of the commission shall be final. The commission shall promulgate regulations setting forth the procedures for such appeals.

If an approved change order shall result in a reduction of construction cost, the contingency reserve shall be increased by the amount of such reduction.

SECTION 4. Subsection (b), Section 5.26, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The commission shall cause the uniform general conditions of state building construction contracts to be reviewed whenever in its opinion such review is desirable, but in no event less frequently than once every five years. The review shall be made by a committee appointed by the commission consisting of the director of *facilities* [~~planning and~~] construction *and space management*, who shall serve ex officio as chairman of the committee and who shall vote only in the event of a tie; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Architects; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Professional Engineers; and two persons appointed by the commission from a list of nominees submitted to it by the Chairman of the Executive Council of the Texas Associated General Contractors Chapters; and two persons appointed by the commission from the list of nominees submitted to it by the Executive Secretary of the Mechanical Contractors Associations of Texas, Incorporated. Members of any review committee appointed pursuant to this subsection shall serve without compensation but may be reimbursed for their necessary and actual expenses.

SECTION 5. Section 5.28, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.28. ENERGY CONSERVATION STANDARDS BY OTHER ENTITIES. (a) The boards of regents and boards or governing bodies of state agencies, commissions, and institutions exempted by Section 5.13 of this article shall adopt and publish energy conservation design standards as provided in Section *13.03* [~~5.27~~] of this article for all new buildings under their authority. The standards shall be consistent with those *adopted* [~~promulgated~~] by the commission for other state buildings and be prepared in cooperation and consultation with the *energy efficiency division* of the commission [~~and the Governor's Energy Advisory Council~~].

(b) The *energy efficiency division* of the commission shall assist the boards and governing bodies of state agencies, commissions, and institutions subject to the provisions of Subsection (a) of this section with the preparation of energy conservation standards by providing technical assistance and advice.

SECTION 6. The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by adding Articles 13 and 14 to read as follows:

ARTICLE 13. ENERGY EFFICIENCY AND CONSERVATION

Sec. 13.01. INFORMATION; RULES; PROGRAMS. *The commission, through the energy efficiency division, shall develop and provide energy conservation information for the state and shall make rules relating to the adoption and implementation of energy conservation programs. The commission's adopted energy conservation rules shall include provisions relating to the retrofitting of energy-saving devices in existing state structures and to the renovation of such a structure. To the extent that the commission receives funds appropriated for energy efficiency programs, the commission, through the energy efficiency division, shall implement programs that the division identifies as encouraging energy conservation by state government. Unless funds are available for the implementation of such a program, a state agency is not required to spend funds for an energy conservation program under this article.*

Sec. 13.02. LIAISON TO FEDERAL GOVERNMENT. The energy efficiency division shall serve as the state liaison to the federal government for the implementation and administration of federal programs relating to state agency energy conservation. In that capacity, the division shall administer any state programs established under:

- (1) Part D, Title III, Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);*
- (2) Part G, Title III, Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.);*
- (3) the National Energy Extension Service Act (42 U.S.C. 7001 et seq.); or*
- (4) the Energy Research and Development Administration appropriation authorization (42 U.S.C. 5907a et seq.).*

Sec. 13.03. DESIGN STANDARDS. (a) Through the energy efficiency division, the commission shall adopt and publish energy conservation design standards that all new state buildings, including buildings of state-supported institutions of higher education, are required to meet. The commission shall review and update the standards biennially.

(b) The standards must include performance and procedural standards for the maximum energy conservation allowed by the latest and most effective technology that is consistent with the requirements of public health and safety and with economic requirements.

(c) The standards must be adopted in terms of energy consumption allotments and must take into consideration the various classes of building uses. Performance standards must allow for design flexibility. Procedural standards must be directed toward specific design and building practices that produce good thermal resistance and low air leakage and toward requiring practices in the design of mechanical and electrical systems that conserve energy. The procedural standards must address, as applicable:

- (1) insulation;*
- (2) appropriate lighting;*
- (3) ventilation;*
- (4) the potential use of new systems for saving energy in ventilation, climate control, and other areas; and*
- (5) any other item that the commission considers appropriate.*

Sec. 13.04. ENERGY EFFICIENCY PROJECTS. Subject to applicable federal laws or guidelines, the commission, through the energy efficiency division, may implement energy efficiency projects at state agencies or may assist those agencies in implementing the projects through energy efficiency programs funded through federal matching grants or loans.

Sec. 13.05. OBTAINING MAINTENANCE DATA. To obtain current information on maintenance data, the commission shall obtain semiannually from each state agency information relating to the cost of heating, cooling, and maintaining buildings owned by the state.

Sec. 13.06. MODEL CODES. (a) After consultation with the Texas Department of Community Affairs, the commission shall prepare model energy conservation building codes.

(b) The commission shall provide the codes to municipalities for use in enacting or amending municipal ordinances.

Sec. 13.07. ADDITIONAL ENERGY MANAGEMENT SERVICES. Through the energy efficiency division, the commission may provide additional energy management services, including:

- (1) training of designated state employees in energy management and energy-accounting techniques;*
- (2) technical assistance regarding energy efficient capital improvements, including cogeneration investments;*

(3) technical assistance to the state auditor and to state agencies regarding monitoring of utility bills to detect billing errors;

(4) technical assistance to state agencies regarding third-party financing of energy efficient capital improvement projects; and

(5) assistance to state agencies relating to the purchase of natural gas, water, or electricity.

Sec. 13.08. ENERGY EFFICIENCY AUDITS. (a) *The energy efficiency division shall conduct audits of state-owned buildings used by state agencies. The audits shall be designed to assist state agencies in reducing energy consumption and costs through improved energy efficiency.*

(b) *Based on the audit performed under Subsection (a) of this section, the commission may recommend changes to improve energy efficiency and shall estimate the costs of those changes and certify to the comptroller of public accounts the amount of estimated savings to be obtained through implementation of the recommended changes.*

(c) *A state agency may apply to the comptroller of public accounts for funds to implement the energy saving recommendations. As provided by Section 13.09 of this Act, the comptroller shall authorize a transfer of money from the energy efficiency revolving fund created under that section to the state agency to pay for the recommended changes.*

(d) *A state agency that does not apply for funds to implement a change recommended by the commission must file a written statement with the commission explaining its reasons for not applying for funds to implement the change.*

Sec. 13.09. ENERGY SAVINGS LOAN PROGRAM; FUND. (a) *The comptroller of public accounts shall administer the energy savings loan program created under this section.*

(b) *The comptroller of public accounts shall grant loans from the energy efficiency revolving fund created under this section to a state agency that applies for funds to implement energy saving recommendations made to the agency by the commission. Based on the estimated savings certified by the commission, the comptroller shall determine a payment schedule for the agency and may authorize payments to be made from the revolving fund to the agency for the energy saving projects recommended by the commission. The agency must repay the amounts borrowed as provided by the payment schedule. Repayment shall include reasonable interest and reimbursement of the administrative costs incurred by the energy efficiency division of the commission in performing energy audits and administering the provisions of this article.*

(c) *The energy efficiency revolving fund is created as a special fund in the State Treasury. The fund is composed of all sums transferred to that fund from the General Revenue Fund, interest earned on those sums, and amounts received in repayment of loans made under Subsection (b) of this section. The energy efficiency revolving fund shall be used to finance energy efficiency projects as provided by this section. The comptroller of public accounts shall administer the fund.*

Sec. 13.10. ENERGY-SAVING DEVICES OR MEASURES. *A state agency that reduces its energy expenses through the use of energy-saving devices or measures recommended by the energy efficiency division during an audit conducted under Section 13.08 of this Act may use any funds saved by the agency from appropriated utility expense funds for the installment purchase of the energy-saving devices or measures. The amount of funds spent on the energy-saving devices or measures may not exceed an amount equal to the reduction in the state agency's utility expenses attributable to the use of the energy-saving device or measure. For purposes of this section, "energy-saving device or measure" means a device or measure that directly reduces the energy consumption of a lighting, heating, ventilating, or air conditioning system or of other equipment that uses electricity, water, natural gas, fuel oil, or any other energy source.*

ARTICLE 14. TRAVEL

Sec. 14.01. DIVISION. The travel division of the commission is composed of the central travel office and the office of vehicle fleet maintenance. The commission shall adopt rules to implement this article.

Sec. 14.02. CENTRAL TRAVEL OFFICE. (a) The central travel office shall monitor travel reservations and other travel arrangements required for business travel by a state employee or state agency and shall provide travel-related services as delineated by this article. It is the intent of the legislature that state agencies use the services provided by the office to the maximum extent consistent with improved economy and efficiency. After approval by the executive director, the central travel office shall designate state agencies that may use the services of the office. The executive director shall approve the use of those services by the designated state agencies after the director of the travel division certifies to the executive director that the central travel office is capable of providing services.

(b) The central travel office shall initially provide services to designated agencies located in Travis County and shall extend its services to all state agencies as it develops the capability to do so. The office may negotiate contracts with private travel agents, with travel and transportation providers, and with credit card companies that provide travel services and other benefits to the state. Contracts entered into under this section are not subject to the competitive bidding requirements imposed under Article 3 of this Act. The comptroller of public accounts shall audit for compliance of rules adopted to enforce the provisions of this section.

Sec. 14.03. VEHICLE FLEET MAINTENANCE. (a) The office of vehicle fleet maintenance shall establish a vehicle-reporting system to assist each state agency in the management of its vehicle fleet. The office shall develop computerized data retrieval systems to implement the reporting system and shall maintain a complete inventory of agency vehicles by class of vehicles. The office shall determine the average cost of operation of the various classes of vehicles.

(b) Except as otherwise provided by this subsection, the office of vehicle fleet maintenance shall provide routine periodic maintenance service to agencies located in Travis County on a fee for service basis and shall negotiate contracts for major overhauls and other extensive mechanical work. Contracts entered into under this section are not subject to the competitive bidding requirements imposed under Article 3 of this Act.

Sec. 14.04. FEES. Fees collected by the travel division under this article shall be deposited in the State Treasury to the credit of the General Revenue Fund.

Sec. 14.05. CERTAIN AGENCIES. Institutions of higher education located in Travis County shall be included in the travel provisions of this article only to the extent that the provisions of this article become of statewide applicability.

SECTION 7. (a) Sections 5.27, 5.29, and 5.30, and Subsection (b), Section 5.31, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are repealed.

(b) Section 88, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. The Economic Input/Output Model operated by the Texas Water Development Board is hereby transferred to the Office of the Comptroller of Public Accounts on the effective date of this Act.

SECTION 9. (a) This Act takes effect September 1, 1987.

(b) All data, records, other personal property, and necessary personnel belonging or assigned to the energy efficiency division of the Public Utility Commission are transferred to the State Purchasing and General Services Commission on the effective date of this Act.

(c) The central travel office of the travel division of the State Purchasing and General Services Commission shall extend its services to all state agencies not later than August 31, 1991.

(d) The division of facilities planning and construction shall be designated the division of facilities construction and space management on the effective date of this Act.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 2, 1987, by a viva-voce vote; and that the Senate concurred in House amendments on May 31, 1987, by a viva-voce vote. Passed the House, with amendments, on May 29, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.