By: Carona S.B. No. 1031

A BILL TO BE ENTITLED

AN ACT

relating to design, construction, renovation, and energy efficiency standards for buildings.

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

SECTION 1. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.115 to read as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) 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 50 percent of the value of the building, structure, or other facility, any part of the construction or renovation of which is financed by revenue bonds issued under this subchapter.

(b) A building, structure, or other facility to which this section applies must 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. In approving high-performance building standards, a board of regents shall consider the standards approved by the Texas Facilities Commission under Section 2166.409, Government Code, and may solicit

and consider recommendations from the advisory committee appointed under that section.

(c) In addition to meeting the requirements of Subsection (b), a building, structure, or other facility to which this section applies must be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the State Energy Conservation Office under Section 447.004, Government Code.

SECTION 2. Subchapter I, Chapter 2166, Government Code, is amended by adding Section 2166.409 to read as follows:

Sec. 2166.409. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR STATE BUILDINGS. (a) This section applies to the construction of a state building, or the renovation of a state building the cost of which is more than 50 percent of the value of the building, including a building for education, assembly, or office occupancy under the charge and control of the Texas Department of Transportation, the Parks and Wildlife Department, the Texas Department of Housing and Community Affairs, the Texas State Affordable Housing Corporation, or the Veterans' Land Board that is otherwise exempt from this chapter under Section 2166.003. This section does not apply to a facility under the charge and control of the Texas Department of Criminal Justice or the Texas Youth Commission.

(b) A building to which this section applies must be designed and constructed or renovated so that the building achieves certification under a high-performance building standard approved by the commission 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.

(c) The commission shall appoint an advisory committee to advise the commission in determining which high-performance building standards to approve for use under Subsection (b). At least once each year, the advisory committee shall review available high-performance building standards and make recommendations to the commission. The advisory committee consists of:

(1) the director of facilities construction and space management appointed under Section 2152.104, who serves as the presiding officer of the committee;

(2) six 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; and

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

(3) one individual appointed by the comptroller who represents the State Energy Conservation Office;

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

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

(d) In addition to meeting the requirements of Subsection (b), a building to which this section applies must be designed and constructed or renovated so that the building:

(1) meets the American Society of Heating, Refrigerating and Air-Conditioning Engineers energy standards in effect on September 1, 2011, or the International Energy

Conservation Code in effect on September 1, 2011, or an updated version of those standards or that code adopted by the State Energy Conservation Office under Subsection (e), if applicable; and

(2) achieves 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).

(e) If the State Energy Conservation Office determines, based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System, that the latest published edition of the American Society of Heating, Refrigerating and Air-Conditioning Engineers energy standards or the International Energy Conservation Code will result in energy efficiency and air quality that is equivalent to or better than the energy efficiency and air quality achievable under the editions described by Subsection (d)(1), the office by rule shall adopt the equivalent or more stringent editions and substitute them for the standards or code described by Subsection (d)(1). The rule, if adopted, must establish an effective date for the new standards or code but not earlier than nine months after the date of adoption. The laboratory shall make its recommendations not later than six months after the date of publication of the new editions.

(f) A contract between the commission and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies must provide that, for billing purposes, any service provided by the private design professional that is necessary to

satisfy the requirements of Subsection (b) or (d) is considered an additional service rather than a basic service.

SECTION 3. Section 388.002(4), Health and Safety Code, is amended to read as follows:

(4) "Code-certified inspector" means an inspector who is certified by the International Code Council, the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, or the Southern Building Code Congress International to have met minimum standards for interpretation and enforcement of requirements of the International Energy Conservation Code [~~and the energy efficiency chapter of the International Residential Code~~].

SECTION 4. Section 388.003, Health and Safety Code, is amended by amending Subsections (a), (b-2), (c), (d), (e), and (f) and adding Subsections (a-1) and (c-1) to read as follows:

(a) To achieve energy conservation in the construction of, renovations to, and additions to all [~~single-family~~] residential, commercial, and industrial buildings in this state, the State Energy Conservation Office, in consultation with the laboratory, shall adopt the International Energy Conservation Code, as published at the end of each three-year code development cycle, as the minimum requirements for those buildings [~~construction, the energy efficiency chapter of the International Residential Code, as it existed on May 1, 2001, is adopted as the energy code in this state for single-family residential construction~~].

(a-1) The State Energy Conservation Office shall set an effective date for an energy code adopted under Subsection (a) that

is not later than nine months after publication of a new edition of the code at the end of each three-year code development cycle of the International Energy Conservation Code.

(b-2) The State Energy Conservation Office by rule shall establish a procedure for persons who have an interest in the adoption of energy codes [~~under Subsection (b-1)~~] to have an opportunity to comment on the codes under consideration. The office shall consider persons who have an interest in adoption of energy [~~those~~] codes to include:

(1) commercial and residential builders, architects, and engineers;

(2) municipal, county, and other local government authorities; [~~and~~]

(3) environmental groups; and

(4) the laboratory.

(c) A municipality shall establish procedures:

(1) for the administration and enforcement of the code [~~codes~~]; [~~and~~]

(2) to ensure that code-certified inspectors shall perform inspections and enforce the code in the inspectors' jurisdictions; and

(3) to track and report to the State Energy Conservation Office on implementation of the code.

(c-1) A report under Subsection (c)(3) must include a description of the measures taken to enforce the most recently adopted version of the International Energy Conservation Code and an assessment of the rate of compliance.

(d) A municipality or county may establish procedures to adopt local amendments to the International Energy Conservation Code [~~and the energy efficiency chapter of the International Residential Code~~].

(e) Local amendments may not result in less stringent energy efficiency requirements in nonattainment areas and in affected counties than the requirements of the [~~energy efficiency chapter of the International Residential Code or~~] International Energy Conservation Code. Local amendments must comply with the National Appliance Energy Conservation Act of 1987 (42 U.S.C. Sections 6291-6309), as amended. The laboratory, at the request of a municipality or county, shall determine the relative impact of proposed local amendments to an energy code, including whether proposed amendments are substantially equal to or less stringent than the unamended code. For the purpose of establishing uniform requirements throughout a region, and on request of a council of governments, a county, or a municipality, the laboratory may recommend a climatically appropriate modification or a climate zone designation for a county or group of counties that is different from the climate zone designation in the unamended code. The laboratory shall:

(1) provide to counties and municipalities suggestions for modifications to the code to increase the county's or municipality's energy efficiency by 15 percent above the efficiency achieved under the unamended code;

(2) provide technical assistance to a local government considering whether to adopt the suggested modifications described

by Subdivision (1);

(3) report its findings to the council, county, or municipality, including an estimate based on suggested local amendments of:

(A) any energy savings potential above the unamended [~~base~~] code; and

(B) any resulting reduction in the emission of air pollutants [~~from local amendments~~]; [~~and~~]

(4) [~~(2)~~] annually submit a report to the commission:

(A) 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

(B) quantifying energy savings and emissions reductions from this program; and

(5) report the results under Subdivision (4)(B) to the commission and the Electric Reliability Council of Texas, and to the United States Environmental Protection Agency for inclusion in the state implementation plan for pollution reduction.

(f) Each municipality, and each county that has established procedures under Subsection (d), shall periodically review and consider revisions made by the International Code Council to the International Energy Conservation Code [~~and the energy efficiency chapter of the International Residential Code adopted after May 1, 2001~~].

SECTION 5. Section 388.004(a), Health and Safety Code, is amended to read as follows:

(a) For construction outside of the local jurisdiction of a municipality:

(1) a building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance;

(2) a building with inspections from private code-certified inspectors using the [~~energy efficiency chapter of the International Residential Code or~~] International Energy Conservation Code shall be considered in compliance; and

(3) a builder who does not have access to either of the above methods for a building shall certify compliance using a form provided by the laboratory, enumerating the code-compliance features of the building.

SECTION 6. Sections 388.007(a) and (c), Health and Safety Code, are amended to read as follows:

(a) The laboratory shall make available to builders, designers, engineers, and architects code implementation materials that explain the requirements of the International Energy Conservation Code [~~and the energy efficiency chapter of the International Residential Code~~] and that describe methods of compliance acceptable to code officials.

(c) The laboratory may 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~~].

SECTION 7. Section 388.008(a), Health and Safety Code, is amended to read as follows:

(a) The laboratory shall develop a standardized report format to be used by providers of home energy ratings. The laboratory may develop different report formats for rating newly constructed residences from those for existing residences. The form must be designed to give potential buyers information on a structure's energy performance, including:

(1) insulation;

(2) types of windows;

(3) heating and cooling equipment;

(4) water heating equipment;

(5) additional energy conserving features, if any;

(6) results of performance measurements of building tightness and forced air distribution; and

(7) an overall rating of probable energy efficiency relative to the minimum requirements of the International Energy Conservation Code [~~or the energy efficiency chapter of the International Residential Code, as appropriate~~].

SECTION 8. The following sections of the Health and Safety Code are repealed:

(1) Section 388.002(6);

(2) Sections 388.003(b) and (b-3); and

(3) Section 388.003(b-1), as added by Chapters 262 (S.B. 12) and 939 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 9. (a) The State Energy Conservation Office shall conduct a study on the feasibility of:

(1) newly constructed residential buildings being

designed to consume no more energy on a net annual basis than can be produced on-site from renewable energy sources by January 1, 2030; and

(2) all homes newly constructed in this state being designed to be ready for the installation of solar electric generation and to support electric vehicles by January 1, 2015.

(b) The State Energy Conservation Office shall, not later than January 1, 2013, make recommendations to the legislature on adopting standards to reach the goals described by Subsection (a) of this section.

SECTION 10. Section 55.115, Education Code, and Section 2166.409, Government Code, as added 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, 2012.

SECTION 11. This Act takes effect September 1, 2011.