(A) a written contract stating the essential terms of the agreement for providing goods or services to the local governmental entity that is properly executed on behalf of the local governmental entity; or 

(B) a written contract, including a right of first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water by a local governmental entity intended for industrial use.

SECTION 3. Section 271.153, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), the total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

(1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

(c) Actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a local governmental entity for breach of a contract described by Section 271.151(2)(B).

SECTION 4. (a) Chapter 113, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Chapter 113, Civil Practice and Remedies Code, as added by this Act, does not waive sovereign immunity to suit for any claims related to or arising out of a contract that was the subject of litigation that was adjudicated or dismissed on the basis of sovereign immunity prior to the effective date of this Act.

(c) Sections 271.151(2) and 271.153, Local Government Code, as amended by this Act, apply to a claim that arises under a contract executed on or after the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed by the House on May 2, 2013: Yeas 147, Nays 0, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 3511 on May 24, 2013: Yeas 144, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.

Effective June 14, 2013.

CHAPTER 1139

H.B. No. 3605

AN ACT

relating to financial assistance awarded by the Texas Water Development Board for water supply projects.
Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 16.0121, Water Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) A retail public utility providing potable water that receives from the board financial assistance shall use a portion of that financial assistance, or any additional financial assistance provided by the board for the purpose described by this subsection, to mitigate the utility's system water loss if, based on a water audit filed by the utility under this section, the water loss meets or exceeds the threshold established by board rule.

(h) For each category of retail public utility listed in Subsection (c), the board shall adopt rules regarding:

(1) the amount of system water loss that requires a utility to take action under Subsection (g); and

(2) the use of financial assistance from the board as required by Subsection (g) to mitigate system water loss.

SECTION 2. Subchapter D, Chapter 17, Water Code, is amended by adding Section 17.1245 to read as follows:

Sec. 17.1245. EVALUATION. (a) In passing on an application for financial assistance from a retail public utility that provides potable water service to 3,300 or more connections, the board shall:

(1) evaluate for compliance with the board's best management practices the utility's water conservation plan required under Section 13.146; and

(2) issue a report to a utility detailing the results of the evaluation conducted under Subdivision (1).

(b) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a written summary of the results of evaluations conducted under Subsection (a)(1).

SECTION 3. Section 17.183, Water Code, is amended to read as follows:

Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in
(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications; and

(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible.

(b) Plans and specifications submitted to the board in connection with an application for financial assistance must include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards.

SECTION 4. Section 17.1245, Water Code, as added by this Act, applies only to an application for financial assistance submitted on or after the effective date of this Act. An application for financial assistance submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2013.

Passed by the House on May 2, 2013: Yeas 146, Nays 1, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 3605 on May 24, 2013: Yeas 146, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 21, 2013: Yeas 30, Nays 1.

Approved June 14, 2013.

Effective September 1, 2013.

CHAPTER 1140

S.B. No. 2

AN ACT

relating to certain charter schools.

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

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Sections 11.1542 and 11.1543 to read as follows:

Sec. 11.1542. OPEN-ENROLLMENT CHARTER SCHOOL OFFER FOR DISTRICT FACILITY. (a) The board of trustees of an independent school district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale or lease to any other specific entity.

(b) This section does not require the board of trustees of a school district to accept an offer made by an open-enrollment charter school.

Sec. 11.1543. CHARTER SCHOOL PAYMENT FOR FACILITIES USE OR FOR SERVICES. (a) An independent school district may not require a campus or campus program that has been granted a charter under Subchapter C, Chapter 12, and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.

(b) An independent school district may not require a campus or campus program described by Subsection (a) or an open-enrollment charter school to pay for any service provided by the district under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the amount of the actual costs to the district of providing the service.