



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB2582

by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/25-45

Amends the Illinois Procurement Code. Provides for executive agencies, the Department of Central Management Services, and the Capital Development Board to enter into guaranteed energy savings contracts. Requires the agencies to enter into a request for proposals before entering into a guaranteed energy savings contracts; sets forth requirements for the request for proposals. Sets forth provisions concerning the evaluation of proposals. Requires guaranteed energy savings contracts to result in energy or operational cost savings within 20 years. Requires contractors to reimburse the State for any shortfall of guaranteed energy savings projected in the contract. Sets forth other requirements, and provides that certain State laws apply to any contracts entered into under the provisions. Provides that no provision shall be interpreted to require the implementation of energy conservation measures that conflict with respect to any property eligible for, nominated to, or entered on the National Register of Historic Places or the Illinois Register of Historic Places. Removes prior provisions allowing the chief procurement officer to promulgate rules for entering into energy conservation program contracts.

LRB100 05513 MLM 15524 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by  
5 changing Section 25-45 as follows:

6 (30 ILCS 500/25-45)

7 Sec. 25-45. Executive agency energy conservation and  
8 saving measures ~~Energy conservation program.~~

9 (a) Definitions. As used in this Section:

10 "Board" means the Capital Development Board or its  
11 successors.

12 "Contracting authority" means the Department, the Board,  
13 or other such agencies as may be delegated to execute certain  
14 of its statutory procurement functions through  
15 intergovernmental agreements specifically developed for the  
16 purpose of securing energy conservation services.

17 "Department" means the Department of Central Management  
18 Services acting in its capacity as the statutory owner and  
19 manager of all properties owned and operated by the State of  
20 Illinois on behalf of agencies, boards, and commissions  
21 functioning under the executive authority of the Governor.

22 "Energy conservation measure" means any improvement,  
23 repair, alteration, or betterment of any executive agency

1 facility or any equipment, fixture, or furnishing to be added  
2 to or used in an executive agency facility, that is designed to  
3 reduce energy consumption or operating costs, and may include,  
4 but is not limited to, one or more of the following:

5 (1) Insulation of the building structure or systems  
6 within the building.

7 (2) Storm windows or doors, caulking or weather  
8 stripping, multiglazed windows or doors, heat-absorbing or  
9 heat-reflective glazed and coated window or door systems,  
10 additional glazing, reductions in glass area, or other  
11 window and door system modifications that reduce energy  
12 consumption.

13 (3) Automated or computerized energy control systems.

14 (4) Heating, ventilating, or air conditioning system,  
15 modifications, or replacements.

16 (5) Replacement or modification of lighting fixtures  
17 to increase the energy efficiency of the lighting system  
18 without increasing the overall illumination of a building,  
19 unless an increase in illumination is necessary to conform  
20 to the applicable State or local building code for the  
21 lighting system after the proposed modifications are made.

22 (6) Energy recovery systems.

23 (7) Energy conservation measures that provide  
24 long-term operating cost reductions.

25 "Executive agency facility" means a building owned and  
26 operated by the State of Illinois through an agency, board, or

1 commission statutorily functioning under the executive  
2 authority of the Governor and under the general property  
3 management authority of the Department of Central Management  
4 Services.

5 "Guaranteed energy savings contract" means a contract for:  
6 (i) the implementation of an energy audit, data collection, and  
7 other related analyses preliminary to the undertaking of energy  
8 conservation measures; (ii) the evaluation and recommendation  
9 of energy conservation measures; (iii) the implementation of  
10 one or more energy conservation measures; and (iv) the  
11 implementation of project monitoring and data collection to  
12 verify post installation energy consumption and energy related  
13 operating costs. The contract shall provide that all payments,  
14 except obligations on termination of the contract before its  
15 expiration, are to be made over time and that the savings are  
16 guaranteed to the extent necessary to pay the costs of the  
17 energy conservation measures. "Energy savings" may include  
18 energy reduction and offsetting sources of renewable energy  
19 funds, including renewable energy credits and carbon credits.

20 "Qualified provider" means a person whose employees are  
21 experienced and trained in the design, implementation, or  
22 installation of energy conservation measures. The minimum  
23 training required for any person or employee under this Section  
24 shall be the satisfactory completion of at least 40 hours of  
25 course instruction dealing with energy conservation measures.  
26 A qualified provider to whom the contract is awarded shall give

1 a sufficient bond to the executive agency or for its faithful  
2 performance.

3 (b) Before entering into a guaranteed energy savings  
4 contract, the contracting authority shall issue a request for  
5 proposals in accordance with Article 30 of this Code requesting  
6 competitive sealed offers for innovative solutions and  
7 conservation measures. A request for proposals shall be  
8 published in the volume of the Illinois Procurement Bulletin  
9 under the authority of the chief procurement officer for the  
10 Capital Development Board under Section 10-5 of the Illinois  
11 Procurement Code for at least 30 days before offers are due.  
12 The request for proposals shall, at a minimum, include all of  
13 the following:

14 (1) The name and address of the executive agency.

15 (2) The name, address, title, and phone number of an  
16 executive agency contact person who will respond to  
17 questions regarding the request for proposals.

18 (3) Notice indicating that the contracting authority  
19 is requesting qualified providers to propose energy  
20 conservation measures through a guaranteed energy savings  
21 contract.

22 (4) The date, time, and place where offers must be  
23 received.

24 (5) The evaluation criteria for evaluating offers.

25 (6) Any other stipulations and clarifications the  
26 contracting authority or executive agency facility may

1 require.

2 (7) A written disclosure that identifies any energy  
3 services contractor that participated in the preparation  
4 of specifications. If no energy services contractor  
5 participated in the preparation of specifications, then  
6 the request for proposals must include a disclosure that no  
7 energy services contractor participated in the preparation  
8 of the specifications.

9 (c) The evaluation of offers shall analyze the estimates of  
10 all costs of installations, modifications, or remodeling,  
11 including, but not limited to, costs of a pre-installation  
12 energy audit or analysis, design, engineering, installation,  
13 maintenance, repairs, debt service, conversions to a different  
14 energy or fuel source, or post-installation project  
15 monitoring, data collection, and reporting. The evaluation  
16 shall include a detailed analysis of whether either the energy  
17 consumed or the operating costs, or both, will be reduced. If a  
18 licensed architect or registered professional engineer on the  
19 executive agency's or contracting authority's staff is  
20 unavailable to serve as an evaluator, then the evaluation shall  
21 include a registered professional engineer or architect, who is  
22 retained by the executive agency or contracting authority. A  
23 licensed architect or registered professional engineer  
24 participating on an evaluation team under this Section must not  
25 have any financial or contractual relationship with an offeror  
26 or other source that would constitute a conflict of interest.

1 The contracting authority or executive agency facility may pay  
2 a reasonable fee for evaluation of the proposal or include the  
3 fee as part of the payments made under subsection (e) of this  
4 Section. Any contracting agency shall coordinate with the Board  
5 to ensure that there are no conflicts with the proposals and  
6 current or upcoming Board projects.

7 (d) After evaluating the proposals, a contracting  
8 authority for an executive agency facility may enter into a  
9 guaranteed energy savings contract with the best-qualified  
10 offeror if the contracting authority finds that the amount it  
11 would spend on the energy conservation measures recommended in  
12 the proposal would not exceed the amount to be saved in either  
13 energy or operational costs, or both, within a 20-year period  
14 from the date of installation if the recommendations in the  
15 proposal are followed. Contracts let or awarded must be  
16 published in the volume of the Illinois Procurement Bulletin  
17 under the authority of the chief procurement officer for the  
18 Capital Development Board or as otherwise prescribed by  
19 agreement between the Capital Development Board and the  
20 contracting authority.

21 (e) The guaranteed energy savings contract shall include  
22 the contractor's guarantee that either the energy or  
23 operational cost savings, or both, will meet or exceed within  
24 20 years the costs of the energy conservation measures. The  
25 contractor shall reimburse the State for any shortfall of  
26 guaranteed energy savings projected in the contract. A

1 contractor shall provide a sufficient bond, as determined by  
2 the State, to the contracting authority for the installation  
3 and the faithful performance of all the measures included in  
4 the contract. The guaranteed energy savings contract may  
5 provide for payments over a period of time, not to exceed 20  
6 years from the date of final installation of the energy  
7 conservation measures.

8 (f) The contracting authority may enter into an installment  
9 payment contract or lease purchase agreement with a contractor  
10 for services solicited under this Section or with a third  
11 party, as authorized by law, for the funding or financing of  
12 the purchase and installation of energy conservation measures.  
13 The State of Illinois may issue certificates evidencing the  
14 indebtedness incurred pursuant to the contracts. Each contract  
15 or agreement entered into by a contracting authority pursuant  
16 to this Section shall be authorized by official action of the  
17 contracting authority. The authority granted in this Section is  
18 in addition to any other authority granted by law. If an energy  
19 audit is performed by an energy services contractor for an  
20 executive agency facility within the 3 years immediately  
21 preceding the request for proposals, then the contracting  
22 authority must publish as a reference document in the  
23 solicitation for energy conservation measures the following:

24 (1) an executive summary of the energy audit, provided  
25 that the contracting authority and executive agency  
26 facility may exclude any proprietary or trademarked



1 information or practices; or

2 (2) the energy audit, provided that the contracting  
3 authority and executive agency facility may redact any  
4 proprietary or trademarked information or practices.

5 An executive agency facility or contracting authority may  
6 not withhold the disclosure of information related to: (i) the  
7 executive agency facility's consumption of energy, (ii) the  
8 physical condition of the executive agency's facilities, and  
9 (iii) any limitations prescribed by the executive agency  
10 facility or contracting authority.

11 (g) Guaranteed energy savings contracts may extend beyond  
12 the fiscal year in which they become effective. The agency  
13 responsible for payments under such a contract shall include in  
14 its annual budget and appropriations measures for each  
15 subsequent fiscal year any amounts payable under guaranteed  
16 energy savings contracts during that fiscal year.

17 (h) In cooperation with the contracting authority, the  
18 executive agency facility shall document the operational and  
19 energy cost savings specified in the guaranteed energy savings  
20 contract and designate and appropriate that amount for an  
21 annual payment of the contract. If the annual energy savings  
22 are less than projected under the guaranteed energy savings  
23 contract the contractor shall pay the difference as provided in  
24 subsection (e) of this Section.

25 (i) An executive agency facility or contracting authority  
26 may use funds designated for operating or capital expenditures

1 for any guaranteed energy savings contract including purchases  
2 using installment payment contracts or lease purchase  
3 agreements. An executive agency facility or contracting  
4 authority that enters into such a contract or agreement may  
5 covenant in the contract or agreement that payments made under  
6 the contract or agreement shall be payable from the first funds  
7 legally available in each fiscal year.

8 (j) Operating and maintenance funds and other amounts  
9 appropriated for distribution to or reimbursement of an  
10 executive agency facility or contracting authority shall not be  
11 reduced as a result of energy savings realized from a  
12 guaranteed energy savings contract or a lease purchase  
13 agreement for the purchase and installation of energy  
14 conservation measures.

15 (k) Other State laws and related administrative  
16 requirements apply to this Section, including, but not limited  
17 to, the following laws and related administrative  
18 requirements: the Illinois Human Rights Act, the Prevailing  
19 Wage Act, the Public Construction Bond Act, the Employment of  
20 Illinois Workers on Public Works Act, the Freedom of  
21 Information Act, the Open Meetings Act, the Illinois  
22 Architecture Practice Act of 1989, the Professional  
23 Engineering Practice Act of 1989, the Structural Engineering  
24 Practice Act of 1989, the Local Government Professional  
25 Services Selection Act, and the Contractor Unified License and  
26 Permit Bond Act.

1       (1) In order to protect the integrity of historic  
2 buildings, no provision of this Section shall be interpreted to  
3 require the implementation of energy conservation measures  
4 that conflict with respect to any property eligible for,  
5 nominated to, or entered on the National Register of Historic  
6 Places, pursuant to the federal National Historic Preservation  
7 Act of 1966, or the Illinois Register of Historic Places,  
8 pursuant to the Illinois Historic Preservation Act.

9 ~~State purchasing officers may enter into energy conservation~~  
10 ~~program contracts that provide for utility cost savings. The~~  
11 ~~chief procurement officer shall promulgate and adopt rules for~~  
12 ~~the implementation of this Section.~~

13 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)