



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2942

Introduced 2/14/2018, by Sen. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 500/20-60

30 ILCS 500/40-25

30 ILCS 500/25-45 rep.

Creates the Energy Performance Contracting Act. Requires each governmental unit to implement cost-effective conservation improvements and maintain efficient operation of its facilities in order to minimize energy consumption and related environmental impacts, and reduce operating costs. Provides that any governmental unit may enter into an energy performance contract with a qualified energy service provider to produce utility savings or operating and maintenance cost-savings. Designates the Smart Energy Design Assistance Center as the lead agency for the development and promotion of a program of performance contracts in governmental units under the Act, and provides requirements and duties for that agency. Provides for the selection process of qualified energy service providers. Provides for audits, payments, and term requirements for energy performance contracts entered into under the Act. Provides for the monitoring and reporting of energy consumption and cost-savings under an energy performance contract. Provides for the use of savings from performance contracts. Provides that the provisions of the Act shall prevail and control over conflicting provisions of law, and that any conflicting provisions of any statute enacted prior to the Act are hereby repealed. Defines terms. Amends the Illinois Procurement Code to make conforming changes. Effective immediately.

LRB100 18140 RJF 33335 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the Energy  
5 Performance Contracting Act.

6 Section 5. Purpose. The purpose of this Act is to obtain  
7 long-term energy and cost-savings for all governmental units by  
8 facilitating prompt incorporation of energy conservation  
9 improvements or energy production equipment, or both, in  
10 connection with buildings or facilities owned, operated, or  
11 under the supervision and control of all governmental units, in  
12 cooperation with providers of such services and associated  
13 materials from the private sector. These arrangements will  
14 improve and protect the health, safety, security, and welfare  
15 of the people of this State by promoting energy conservation  
16 and independence, developing alternate sources of energy, and  
17 fostering business activity.

18 Section 10. Definitions. As used in this Act:

19 "Cost-effective" means that the present value to a  
20 governmental unit of the energy reasonably expected to be saved  
21 or produced by a facility, activity, measure, or piece of  
22 equipment over its useful life, including any compensation

1 received from a utility, is greater than the net present value  
2 of the costs of implementing, maintaining, and operating such  
3 facility, activity, measure, or piece of equipment over its  
4 useful life, when discounted at the cost of public borrowing.

5 "Cost-savings measure" means any facility improvement,  
6 repair or alteration, or any equipment, fixture, or furnishing  
7 to be added or used in any facility that is designed to reduce  
8 energy consumption and operating costs or increase the  
9 operating efficiency of facilities for their appointed  
10 functions that are cost effective. "Cost-savings measure"  
11 includes, but is not limited to, one or more of the following:

12 (1) replacement or modification of lighting  
13 components, fixtures, and systems;

14 (2) renewable energy and alternate energy systems;

15 (3) cogeneration systems that produce steam or forms of  
16 energy, such as heat or electricity, for use primarily  
17 within a building or complex of buildings;

18 (4) devices that reduce water consumption or sewer  
19 charges, including water-conserving fixtures, appliances,  
20 and equipment, water-conserving landscape irrigation  
21 equipment, or the substitution of non-water using  
22 fixtures, appliances, and equipment;

23 (5) landscaping measures that reduce watering demands  
24 and capture and hold applied water and rainfall, including  
25 landscape contouring, including the use of berms, swales,  
26 and terraces, the use of soil amendments that increase the

1 water-holding capacity of the soil, including compost, and  
2 rainwater harvesting equipment and equipment to make use of  
3 water collected as part of a storm- water system installed  
4 for water quality control;

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

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

12 (8) metering equipment needed to segregate water use in  
13 order to identify water conservation opportunities or  
14 verify water savings;

15 (9) changes in operation and maintenance practices;

16 (10) indoor air quality improvements that conform to  
17 applicable building code requirements;

18 (11) daylighting systems;

19 (12) insulating the building structure or systems in  
20 the building;

21 (13) storm windows or doors, caulking or weather  
22 stripping, multi-glazed windows or door systems,  
23 heat-absorbing or heat-reflective glazed and coated window  
24 and door systems, additional glazing, reductions in glass  
25 area, or other window and door system modifications that  
26 reduce energy consumption;

- 1 (14) automated or computerized energy control systems;
- 2 (15) heating, ventilation, or air conditioning system  
3 modifications or replacements;
- 4 (16) indoor air quality improvements that conform to  
5 applicable building code requirements;
- 6 (17) energy recovery systems;
- 7 (18) steam trap improvement programs that reduce  
8 operating costs;
- 9 (19) building operation programs that reduce utility  
10 and operating costs including, but not limited to,  
11 computerized energy management and consumption tracking  
12 programs, staff and occupant training, and other similar  
13 activities;
- 14 (20) any life safety measures that provide long-term  
15 operating cost reductions and are in compliance with State  
16 and local statute;
- 17 (21) any life safety measures related to compliance  
18 with the federal Americans with Disabilities Act that  
19 provide long-term operating cost reductions and are in  
20 compliance with State and local statute;
- 21 (22) a program to reduce energy costs through rate  
22 adjustments, load shifting to reduce peak demand, and use  
23 of alternative energy suppliers, such as, but not limited  
24 to:
- 25 (A) changes to more favorable rate schedules; and
- 26 (B) negotiation of lower rates, same supplier or

1 new suppliers, where applicable; and

2 (C) auditing of energy service billing and meters;

3 (23) services to reduce utility costs by identifying  
4 utility errors and optimizing existing rate schedules  
5 under which service is provided; and

6 (24) any other installation, modification of  
7 installation, or remodeling of building infrastructure  
8 improvements that produce utility or operational cost  
9 savings for their appointed functions in compliance with  
10 applicable State and local building codes.

11 "Energy performance contract" or "energy services  
12 agreement" means a contract between the governmental unit and a  
13 qualified energy service provider for evaluation,  
14 recommendation, and implementation of one or more cost-savings  
15 measures. A performance contract may be structured as either:

16 (1) a guaranteed energy savings performance contract,  
17 which shall include, at a minimum, the design and  
18 installation of equipment, and, if applicable, operation  
19 and maintenance of any of the measures implemented, and  
20 guaranteed annual savings which must meet or exceed the  
21 total annual contract payments made by the governmental  
22 unit for that contract, including financing charges to be  
23 incurred by the governmental unit over the life of the  
24 contract; or

25 (2) a shared savings contract, which shall include  
26 provisions mutually agreed upon by the governmental unit

1 and the qualified provider or qualified energy service  
2 company as to the negotiated rate of payments based upon  
3 energy and operational cost-savings and a stipulated  
4 maximum energy consumption level over the life of the  
5 contract.

6 "Governmental unit" means any State agency, authority, or  
7 any political subdivision of State or local government,  
8 including, but not limited to, county, city, township, village  
9 or municipal government, local school districts and  
10 institutions of higher education, any State-supported  
11 institution, or a joint action agency composed of political  
12 subdivisions.

13 "Investment grade audit" means a study by the qualified  
14 energy services provider selected for a particular energy  
15 performance contract project which includes detailed  
16 descriptions of the improvements recommended for the project,  
17 the estimated costs of the improvements, and the utility and  
18 operations and maintenance cost-savings projected to result  
19 from the recommended improvements.

20 "Operation and maintenance cost-savings" means a  
21 measurable decrease in operation and maintenance costs, and  
22 future replacement expenditures, that are a direct result of  
23 the implementation of one or more utility cost-savings  
24 measures. These savings shall be calculated in comparison with  
25 an established baseline of operation and maintenance costs.

26 "Person" means any corporate or non-corporate entity or

1 individual of any type.

2 "Public building" means any structure, building, or  
3 facility, including its equipment, furnishings, or appliances  
4 that is owned or operated by a governmental unit.

5 "Qualified energy service provider" means a person with a  
6 record of successful energy performance contract projects or a  
7 person who: (1) is experienced in the design, implementation,  
8 and installation of energy efficiency and facility improvement  
9 measures; (2) has the technical capabilities to ensure such  
10 measures generate energy and operational cost-savings; and (3)  
11 has the ability to secure the financing necessary to support  
12 energy savings guarantees.

13 "Utility cost-savings" means any utility expenses that are  
14 eliminated or avoided on a long-term basis as a result of  
15 equipment installed or modified, or services performed by a  
16 qualified energy service provider. "Utility cost-savings" does  
17 not include merely shifting personnel costs or similar  
18 short-term cost-savings.

19 Section 15. Authorization.

20 (a) Each governmental unit shall implement cost-effective  
21 conservation improvements and maintain efficient operation of  
22 its facilities in order to minimize energy consumption and  
23 related environmental impacts, and reduce operating costs.  
24 Each governmental unit shall undertake an energy audit and  
25 implement cost-effective conservation measures. Energy



1 performance contracting shall be the preferred method for  
2 completing energy audits and implementing cost-effective  
3 conservation measures.

4 (b) Any governmental unit may enter into an energy  
5 performance contract with a qualified energy service provider  
6 to produce utility savings or operating and maintenance cost  
7 savings. Cost-savings measures implemented under such  
8 contracts shall comply with State or local building codes. Any  
9 governmental unit may implement other capital improvements in  
10 conjunction with a performance contract so long as the measures  
11 that are being implemented to achieve energy and operations and  
12 maintenance cost-savings are a significant portion of an  
13 overall project. A governmental unit may enter into an energy  
14 savings performance contract for a period of more than one year  
15 only if the governmental unit finds that the amount the  
16 governmental unit would spend on the energy or water  
17 conservation measures will not exceed the amount to be saved in  
18 energy, water, wastewater, and operating costs over 20 years  
19 from the date of installation.

20 Section 20. Smart Energy Design Assistance Center (SEDAC).

21 (a) The Smart Energy Design Assistance Center (SEDAC) based  
22 at the University of Illinois at Urbana-Champaign is hereby  
23 designated to be the lead agency for the development and  
24 promotion of a program of performance contracts in governmental  
25 units. SEDAC will coordinate its activities with the Department

1 of Central Management Services. SEDAC, under the direction of  
2 the Governor, will have the following duties with respect to  
3 this program:

4 (1) assistance to the Department of Central Management  
5 Services to assemble a list of qualified energy service  
6 providers and to negotiate with such qualified energy  
7 service providers master service contracts and pricing  
8 schedules;

9 (2) development of a standardized energy performance  
10 contract process and standard energy performance contract  
11 documents, including request for qualifications, request  
12 for proposals, investment grade audit contract, energy  
13 services agreement, including the form of the project  
14 savings guarantee, and project financing agreement; and

15 (3) promotion of the energy performance contract  
16 program to all governmental units.

17 (b) SEDAC shall establish guidelines and an approval  
18 process for awarding energy performance contracts. The  
19 guidelines adopted under this subsection (b) must require that  
20 the cost-savings projected by a qualified provider be reviewed  
21 by a licensed professional engineer who has a minimum of 3  
22 years of experience in energy calculation and review, is not an  
23 officer or employee of a qualified provider for the contract  
24 under review, and is not otherwise associated with the  
25 contract. In conducting the review, the engineer shall focus  
26 primarily on the proposed improvements from an engineering

1 perspective, the methodology and calculations related to cost  
2 savings, increases in revenue, and, if applicable, efficiency  
3 or accuracy of metering equipment. An engineer who reviews a  
4 contract shall maintain the confidentiality of any proprietary  
5 information the engineer acquires while reviewing the  
6 contract.

7 (c) SEDAC shall assist governmental units in identifying,  
8 evaluating, and implementing cost-effective conservation  
9 projects at their facilities. The assistance shall include: (1)  
10 notifying governmental units of their responsibilities under  
11 this Act; (2) apprising governmental units of opportunities to  
12 develop and finance energy performance contracting projects;  
13 (3) providing technical and analytical support, including  
14 procurement energy performance contracting services; (4)  
15 reviewing verification procedures for energy savings; and (5)  
16 assisting in the structuring and arranging of financing for  
17 energy performance contracting projects.

18 (d) SEDAC is authorized to fix, charge, and collect  
19 reasonable fees, not to exceed 2% of the total cost of the  
20 energy performance contract project, for any administrative  
21 support and resources or other services provided by SEDAC, or  
22 its designee, under this subsection (d) from the governmental  
23 units that use its technical support services. Governmental  
24 units are authorized to add the costs of these fees to the  
25 total cost of the energy performance contract.

26 (e) The Governor is encouraged to develop and submit to the

1 General Assembly a regular or supplemental budget request for  
2 the additional funds and staffing required by the Smart Energy  
3 Design Assistance Center to fulfill the duties required under  
4 this Section.

5 Section 25. Selection of a qualified energy service  
6 provider. The State process of implementing energy performance  
7 contracts for governmental units shall be as provided in this  
8 Section.

9 (a) Regarding requests for qualifications, the Department  
10 Central Management Services is authorized to assemble a list of  
11 qualified energy service providers, in accordance with the  
12 provisions of the Illinois Procurement Code. The Department of  
13 Central Management Services shall attempt to use objective  
14 criteria in the selection process. The criteria for evaluation  
15 shall include substantive factors to assess the capability of  
16 the qualified energy service company or qualified provider in  
17 the areas of design, engineering, installation, maintenance,  
18 and repairs associated with performance contracts. The  
19 substantive factors shall be as follows: (1) experience in  
20 conversions to a different energy or fuel source, so long as it  
21 is associated with a comprehensive energy efficiency retrofit;  
22 (2) post-installation project monitoring, data collection, and  
23 reporting of savings; (3) overall project experience and  
24 qualifications; (4) management capability; (5) ability to  
25 access long-term financing; (6) experience with projects of

1 similar size and scope; and (7) other factors determined by the  
2 governmental unit to be relevant and appropriate and relate to  
3 the ability to perform the project.

4 (b) Regarding requests for proposals, before entering into  
5 a performance contract under this Section, a governmental unit  
6 shall issue a request for proposals from up to 3 qualified  
7 energy service providers. A governmental unit may thereafter  
8 award the performance contract to the qualified energy service  
9 company or qualified provider that best meets the needs of the  
10 governmental unit, which need not be the lowest cost provided.  
11 A cost-effective feasibility analysis shall be prepared in  
12 response to the request for proposals. The feasibility analysis  
13 included in the response to the request for proposals shall  
14 serve as the selection document for purposes of selecting a  
15 qualified energy service provider to engage in final contract  
16 negotiations. Factors to be included in selecting among the  
17 selected energy service providers include contract terms,  
18 comprehensiveness of the proposal, comprehensiveness of  
19 cost-savings measures, experience, quality of technical  
20 approach, and overall benefits to the governmental unit.

21 Section 30. Investment grade audit and contract execution.

22 (a) One qualified energy service provider selected as a  
23 result of the process provided under subsection (b) of Section  
24 25 shall prepare an investment grade energy audit, which, upon  
25 acceptance, shall be part of the final energy performance

1 contract or energy services agreement which shall be executed  
2 with the governmental unit. The investment grade energy audit  
3 shall include estimates of the amounts by which utility  
4 cost-savings and operation and maintenance cost-savings would  
5 increase and estimates of all costs of such utility  
6 cost-savings measures or energy-savings measures, including,  
7 but not limited to, itemized costs of design, engineering,  
8 equipment, materials, installation, maintenance, repairs, and  
9 debt service.

10 (b) Notwithstanding the provisions of subsection (a), if  
11 after preparation of the investment grade energy audit the  
12 governmental unit decides not to execute an energy services  
13 agreement, and the costs and benefits described in the energy  
14 audit are not materially different from those described in the  
15 feasibility study submitted in response to the request for  
16 proposals, then the costs incurred in preparing the investment  
17 grade energy audit shall be paid to the qualified energy  
18 service provider by the governmental unit. Otherwise, the costs  
19 of the investment grade energy audit shall be deemed part of  
20 the costs of the energy performance contract or energy services  
21 agreement.

22 Section 35. Installment payment and lease-purchase  
23 agreements.

24 (a) A governmental unit may use designated funds, bonds, or  
25 master lease for any energy performance contract, including

1 purchases using installment payment contracts or  
2 lease-purchase agreements, so long as that use is consistent  
3 with the purpose of the appropriation.

4 (b) A guaranteed energy performance savings contract may  
5 provide for financing, including tax-exempt financing, by a  
6 third party. The contract for third party financing may be  
7 separate from the energy performance contract. A separate  
8 contract for third party financing must include a provision  
9 that the third party financier must not be granted rights or  
10 privileges that exceed the rights and privileges available to  
11 the guaranteed energy performance savings contractor.

12 Section 40. Payment schedule and savings. Each performance  
13 contract shall provide that all payments between parties,  
14 except obligations on termination of the contract before its  
15 expiration, shall be made over time, and the objective of each  
16 energy performance contract is implementation of cost-savings  
17 measures and energy and operational cost-savings.

18 Section 45. Term of Contracts. An energy performance  
19 contract, and payments provided thereunder, may extend beyond  
20 the fiscal year in which the energy performance contract became  
21 effective, subject to appropriation of moneys, if required by  
22 law, for costs incurred in future fiscal years. The energy  
23 performance contract may extend for a term not to exceed 25  
24 years. The allowable length of the contract may also reflect

1 the useful life of the cost-savings measures. Energy  
2 performance contracts may provide for payments over a period of  
3 time not to exceed deadlines specified in the energy  
4 performance contract from the date of the final installation of  
5 the cost-saving measures.

6 Section 50. Allocation of obligations. Subject to  
7 appropriations as provided in Sections 30 and 35 of this Act,  
8 each governmental unit shall allocate sufficient moneys for  
9 each fiscal year to make payment of any amounts payable by the  
10 governmental unit under performance contracts during that  
11 fiscal year.

12 Section 55. Use of moneys; reconciliation.

13 (a) The governmental unit engaging in the performance  
14 contract shall retain the savings achieved by entering into the  
15 performance contract. In no event shall the governmental unit  
16 utilize those savings to supplant otherwise appropriated funds  
17 for the governmental unit.

18 (b) Unless otherwise provided by law or ordinance, a  
19 governmental unit may use funds designated for operating and  
20 capital expenditures or utilities for any performance  
21 contract, including, without limitation, contracts entered  
22 into under Section 25 of this Act.

23 (c) The energy performance contract may provide that  
24 reconciliation of the amounts owed under an energy performance



1 contract shall occur in a period beyond one year with final  
2 reconciliation occurring within the term of the performance  
3 contract.

4 (d) The energy performance contract shall require the  
5 qualified provider to provide to the governmental unit an  
6 annual reconciliation of the guaranteed energy cost-savings.  
7 If the reconciliation reveals a shortfall in annual energy cost  
8 savings, the qualified provider is liable for that shortfall.  
9 If the reconciliation reveals an excess in annual energy cost  
10 savings, the excess savings may be used to cover potential  
11 energy cost-savings shortages in subsequent contract years.

12 Section 60. Monitoring; reports.

13 (a) During the term of each energy performance contract,  
14 the qualified energy service company or qualified provider  
15 shall monitor the reductions in energy consumption and  
16 cost-savings attributable to the cost-savings measures  
17 installed under the performance contract, and shall, no less  
18 than annually, prepare and provide a report to the governmental  
19 unit documenting the performance of the cost-savings measures  
20 to the governmental unit.

21 (b) The qualified provider or qualified energy service  
22 company and governmental unit may agree to make modifications  
23 in calculating savings based on any of the following  
24 occurrences:

25 (1) subsequent material change to the baseline energy

1 consumption identified at the beginning of the performance  
2 contract;

3 (2) changes in utility rates;

4 (3) changes in the number of days in the utility  
5 billing cycle;

6 (4) changes in the total square footage of the  
7 building;

8 (5) changes in the operational schedule of the  
9 facility;

10 (6) changes in facility temperature;

11 (7) material change in the weather;

12 (8) material changes in the amount of equipment or  
13 lighting used at the facility; or

14 (9) any other change which reasonably would be expected  
15 to modify energy use or energy costs.

16 (c) For all projects carried out under this Act, the  
17 governmental unit shall report the name of the project, the  
18 project host, the investment on the project, and the expected  
19 energy savings to the Illinois Commerce Commission, and shall  
20 file with the Illinois Commerce Commission a copy of all  
21 reconciliation reports delivered under this subsection (c).  
22 The Illinois Commerce Commission may report energy savings from  
23 these projects to the federal Energy Information  
24 Administration under the Energy Policy Act of 1992 reporting  
25 standards.

1           Section 65. Contingency provisions. Performance contracts  
2 shall include contingency provisions in the event that actual  
3 savings do not meet predicted savings

4           Section 70. Use of savings from performance contracts.  
5 Governmental units may direct savings realized under the  
6 performance contract to contract payment and other expenses as  
7 they deem necessary. Governmental units are encouraged to  
8 reinvest savings whenever practical into cost-savings  
9 measures, so long as the governmental unit is satisfying all  
10 obligations under the performance contract.

11          Section 75. Act takes precedence; repeal of prior  
12 conflicting statutes. In case of any conflict between the  
13 provisions of this Act and any other law, the provisions of  
14 this Act shall prevail and control. The provisions of any  
15 statute enacted prior to this Act which are inconsistent with  
16 this Act are hereby repealed. The Attorney General shall  
17 consult with the Smart Energy Design Assistance Center (SEDAC)  
18 in construing this Section.

19          Section 100. The Illinois Procurement Code is amended by  
20 changing Sections 20-60 and 40-25 as follows:

21           (30 ILCS 500/20-60)

22           Sec. 20-60. Duration of contracts.

1           (a) Maximum duration. A contract may be entered into for  
2 any period of time deemed to be in the best interests of the  
3 State but not exceeding 10 years inclusive, beginning January  
4 1, 2010, of proposed contract renewals. The length of a lease  
5 for real property or capital improvements shall be in  
6 accordance with the provisions of Section 40-25. The length of  
7 energy conservation program contracts or energy savings  
8 contracts or leases shall be in accordance with the provisions  
9 of Section 45 of the Energy Performance Contracting Act ~~25-45~~.  
10 A contract for bond or mortgage insurance awarded by the  
11 Illinois Housing Development Authority, however, may be  
12 entered into for any period of time less than or equal to the  
13 maximum period of time that the subject bond or mortgage may  
14 remain outstanding.

15           (b) Subject to appropriation. All contracts made or entered  
16 into shall recite that they are subject to termination and  
17 cancellation in any year for which the General Assembly fails  
18 to make an appropriation to make payments under the terms of  
19 the contract.

20           (c) The chief procurement officer shall file a proposed  
21 extension or renewal of a contract with the Procurement Policy  
22 Board prior to entering into any extension or renewal if the  
23 cost associated with the extension or renewal exceeds \$249,999.  
24 The Procurement Policy Board may object to the proposed  
25 extension or renewal within 30 calendar days and require a  
26 hearing before the Board prior to entering into the extension

1 or renewal. If the Procurement Policy Board does not object  
2 within 30 calendar days or takes affirmative action to  
3 recommend the extension or renewal, the chief procurement  
4 officer may enter into the extension or renewal of a contract.  
5 This subsection does not apply to any emergency procurement,  
6 any procurement under Article 40, or any procurement exempted  
7 by Section 1-10(b) of this Code. If any State agency contract  
8 is paid for in whole or in part with federal-aid funds, grants,  
9 or loans and the provisions of this subsection would result in  
10 the loss of those federal-aid funds, grants, or loans, then the  
11 contract is exempt from the provisions of this subsection in  
12 order to remain eligible for those federal-aid funds, grants,  
13 or loans, and the State agency shall file notice of this  
14 exemption with the Procurement Policy Board prior to entering  
15 into the proposed extension or renewal. Nothing in this  
16 subsection permits a chief procurement officer to enter into an  
17 extension or renewal in violation of subsection (a). By August  
18 1 each year, the Procurement Policy Board shall file a report  
19 with the General Assembly identifying for the previous fiscal  
20 year (i) the proposed extensions or renewals that were filed  
21 with the Board and whether the Board objected and (ii) the  
22 contracts exempt from this subsection.

23 (Source: P.A. 100-23, eff. 7-6-17.)

24 (30 ILCS 500/40-25)

25 Sec. 40-25. Length of leases.

1 (a) Maximum term. Leases shall be for a term not to exceed  
2 10 years inclusive, beginning January, 1, 2010, of proposed  
3 contract renewals and shall include a termination option in  
4 favor of the State after 5 years. The length of energy  
5 conservation program contracts or energy savings contracts or  
6 leases shall be in accordance with the provisions of Section 45  
7 of the Energy Performance Contracting Act 25-45.

8 (b) Renewal. Leases may include a renewal option. An option  
9 to renew may be exercised only when a State purchasing officer  
10 determines in writing that renewal is in the best interest of  
11 the State and notice of the exercise of the option is published  
12 in the appropriate volume of the Procurement Bulletin at least  
13 60 calendar days prior to the exercise of the option.

14 (c) Subject to appropriation. All leases shall recite that  
15 they are subject to termination and cancellation in any year  
16 for which the General Assembly fails to make an appropriation  
17 to make payments under the terms of the lease.

18 (d) Holdover. Beginning January 1, 2010, no lease may  
19 continue on a month-to-month or other holdover basis for a  
20 total of more than 6 months. Beginning July 1, 2010, the  
21 Comptroller shall withhold payment of leases beyond this  
22 holdover period.

23 (Source: P.A. 100-23, eff. 7-6-17.)

24 (30 ILCS 500/25-45 rep.)

25 Section 105. The Illinois Procurement Code is amended by

1     repealing Section 25-45.

2             Section 999. Effective date. This Act takes effect upon  
3     becoming law.