



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3330

Introduced 2/14/2020, 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conflicting provisions of law, and that any conflicting provisions of any statute enacted prior to the Act are hereby repealed.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.

LRB101 17701 RJF 67128 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 the State, including public
8 institutions of higher education and public community colleges
9 located in this State. "Governmental unit" does not include
10 units of local government, including counties, cities,
11 townships, villages, municipal governments, or local school
12 districts. Nothing in this Act prevents the Smart Energy Design
13 Assistance Center as the lead agency for the development and
14 promotion of a program from contracting or partnering with
15 units of local government or local school districts throughout
16 the State on a voluntary basis.

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

24 "Operation and maintenance cost-savings" means a
25 measurable decrease in operation and maintenance costs, and
26 future replacement expenditures, that are a direct result of

1 the implementation of one or more utility cost-savings
2 measures. These savings shall be calculated in comparison with
3 an established baseline of operation and maintenance costs.

4 "Person" means any corporate or non-corporate entity or
5 individual of any type.

6 "Public building" means any structure, building, or
7 facility, including its equipment, furnishings, or appliances
8 that is owned or operated by a governmental unit.

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

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

23 Section 15. Authorization.

24 (a) Each governmental unit shall implement cost-effective
25 conservation improvements and maintain efficient operation of

1 its facilities in order to minimize energy consumption and
2 related environmental impacts, and reduce operating costs.
3 Each governmental unit shall undertake an energy audit and
4 implement cost-effective conservation measures. Energy
5 performance contracting shall be the preferred method for
6 completing energy audits and implementing cost-effective
7 conservation measures.

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

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

25 (a) The Smart Energy Design Assistance Center (SEDAC) based

1 at the University of Illinois at Urbana-Champaign is hereby
2 designated to be the lead agency for the development and
3 promotion of a program of performance contracts in governmental
4 units. SEDAC will coordinate its activities with the Capital
5 Development Board. SEDAC, under the direction of the Governor,
6 will have the following duties with respect to this program:

7 (1) assistance to the Capital Development Board to
8 assemble a list of qualified energy service providers and
9 to negotiate master service contracts and pricing
10 schedules with such qualified energy service providers;

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

17 (3) promotion of the energy performance contract
18 program to all governmental units.

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

1 contract. In conducting the review, the engineer shall focus
2 primarily on the proposed improvements from an engineering
3 perspective, the methodology and calculations related to cost
4 savings, increases in revenue, and, if applicable, efficiency
5 or accuracy of metering equipment. An engineer who reviews a
6 contract shall maintain the confidentiality of any proprietary
7 information the engineer acquires while reviewing the
8 contract.

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

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

1 total cost of the energy performance contract.

2 (e) The Governor is encouraged to develop and submit to the
3 General Assembly a regular or supplemental budget request for
4 the additional funds and staffing required by the Smart Energy
5 Design Assistance Center to fulfill the duties required under
6 this Section.

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

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

1 capability; (5) ability to access long-term financing; (6)
2 experience with projects of similar size and scope; and (7)
3 other factors determined by the governmental unit to be
4 relevant and appropriate and relate to the ability to perform
5 the project.

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

23 Section 30. Investment grade audit and contract execution.

24 (a) One qualified energy service provider selected as a
25 result of the process provided under subsection (b) of Section

1 25 shall prepare an investment grade energy audit, which, upon
2 acceptance, shall be part of the final energy performance
3 contract or energy services agreement which shall be executed
4 with the governmental unit. The investment grade energy audit
5 shall include estimates of the amounts by which utility
6 cost-savings and operation and maintenance cost-savings would
7 increase and estimates of all costs of such utility
8 cost-savings measures or energy-savings measures, including,
9 but not limited to, itemized costs of design, engineering,
10 equipment, materials, installation, maintenance, repairs, and
11 debt service.

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

24 Section 35. Installment payment and lease-purchase
25 agreements.

1 (a) A governmental unit may use designated funds, bonds, or
2 master lease for any energy performance contract, including
3 purchases using installment payment contracts or
4 lease-purchase agreements, so long as that use is consistent
5 with the purpose of the appropriation.

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

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

20 Section 45. Term of Contracts. An energy performance
21 contract, and payments provided thereunder, may extend beyond
22 the fiscal year in which the energy performance contract became
23 effective, subject to appropriation of moneys, if required by
24 law, for costs incurred in future fiscal years. The energy

1 performance contract may extend for a term not to exceed 25
2 years. The allowable length of the contract may also reflect
3 the useful life of the cost-savings measures. Energy
4 performance contracts may provide for payments over a period of
5 time not to exceed deadlines specified in the energy
6 performance contract from the date of the final installation of
7 the cost-saving measures.

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

14 Section 55. Use of moneys; reconciliation.

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

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

1 (c) The energy performance contract may provide that
2 reconciliation of the amounts owed under an energy performance
3 contract shall occur in a period beyond one year with final
4 reconciliation occurring within the term of the performance
5 contract.

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

14 Section 60. Monitoring; reports.

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

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

1 occurrences:

2 (1) subsequent material change to the baseline energy
3 consumption identified at the beginning of the performance
4 contract;

5 (2) changes in utility rates;

6 (3) changes in the number of days in the utility
7 billing cycle;

8 (4) changes in the total square footage of the
9 building;

10 (5) changes in the operational schedule of the
11 facility;

12 (6) changes in facility temperature;

13 (7) material change in the weather;

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

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

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

1 standards.

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

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

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

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

1 (30 ILCS 500/20-60)

2 Sec. 20-60. Duration of contracts.

3 (a) Maximum duration. A contract may be entered into for
4 any period of time deemed to be in the best interests of the
5 State but not exceeding 10 years inclusive, beginning January
6 1, 2010, of proposed contract renewals. Third parties may lease
7 State-owned dark fiber networks for any period of time deemed
8 to be in the best interest of the State, but not exceeding 20
9 years. The length of a lease for real property or capital
10 improvements shall be in accordance with the provisions of
11 Section 40-25. The length of energy conservation program
12 contracts or energy savings contracts or leases shall be in
13 accordance with the provisions of Section 45 of the Energy
14 Performance Contracting Act ~~25-45~~. A contract for bond or
15 mortgage insurance awarded by the Illinois Housing Development
16 Authority, however, may be entered into for any period of time
17 less than or equal to the maximum period of time that the
18 subject bond or mortgage may remain outstanding.

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

24 (c) The chief procurement officer shall file a proposed
25 extension or renewal of a contract with the Procurement Policy
26 Board prior to entering into any extension or renewal if the

1 cost associated with the extension or renewal exceeds \$249,999.
2 The Procurement Policy Board may object to the proposed
3 extension or renewal within 30 calendar days and require a
4 hearing before the Board prior to entering into the extension
5 or renewal. If the Procurement Policy Board does not object
6 within 30 calendar days or takes affirmative action to
7 recommend the extension or renewal, the chief procurement
8 officer may enter into the extension or renewal of a contract.
9 This subsection does not apply to any emergency procurement,
10 any procurement under Article 40, or any procurement exempted
11 by Section 1-10(b) of this Code. If any State agency contract
12 is paid for in whole or in part with federal-aid funds, grants,
13 or loans and the provisions of this subsection would result in
14 the loss of those federal-aid funds, grants, or loans, then the
15 contract is exempt from the provisions of this subsection in
16 order to remain eligible for those federal-aid funds, grants,
17 or loans, and the State agency shall file notice of this
18 exemption with the Procurement Policy Board prior to entering
19 into the proposed extension or renewal. Nothing in this
20 subsection permits a chief procurement officer to enter into an
21 extension or renewal in violation of subsection (a). By August
22 1 each year, the Procurement Policy Board shall file a report
23 with the General Assembly identifying for the previous fiscal
24 year (i) the proposed extensions or renewals that were filed
25 with the Board and whether the Board objected and (ii) the
26 contracts exempt from this subsection.

1 (d) Notwithstanding the provisions of subsection (a) of
2 this Section, the Department of Innovation and Technology may
3 enter into leases for dark fiber networks for any period of
4 time deemed to be in the best interests of the State but not
5 exceeding 20 years inclusive. The Department of Innovation and
6 Technology may lease dark fiber networks from third parties
7 only for the primary purpose of providing services (i) to the
8 offices of Governor, Lieutenant Governor, Attorney General,
9 Secretary of State, Comptroller, or Treasurer and State
10 agencies, as defined under Section 5-15 of the Civil
11 Administrative Code of Illinois or (ii) for anchor
12 institutions, as defined in Section 7 of the Illinois Century
13 Network Act. Dark fiber network lease contracts shall be
14 subject to all other provisions of this Code and any applicable
15 rules or requirements, including, but not limited to,
16 publication of lease solicitations, use of standard State
17 contracting terms and conditions, and approval of vendor
18 certifications and financial disclosures.

19 (e) As used in this Section, "dark fiber network" means a
20 network of fiber optic cables laid but currently unused by a
21 third party that the third party is leasing for use as network
22 infrastructure.

23 (Source: P.A. 100-23, eff. 7-6-17; 100-611, eff. 7-20-18;
24 101-81, eff. 7-12-19.)

1 Sec. 40-25. Length of leases.

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

10 (a-5) Extended term. A lease for real property owned by the
11 University of Illinois to be used by the University of Illinois
12 at Chicago for an ambulatory surgical center, which would
13 include both clinical services and retail space, may exceed 10
14 years in length where: (i) the lease requires the lessor to
15 make capital improvements in excess of \$100,000; and (ii) the
16 Board of Trustees of the University of Illinois determines a
17 term of more than 10 years is necessary and is in the best
18 interest of the University. A lease under this subsection (a-5)
19 may not exceed 30 years in length.

20 (b) Renewal. Leases may include a renewal option. An option
21 to renew may be exercised only when a State purchasing officer
22 determines in writing that renewal is in the best interest of
23 the State and notice of the exercise of the option is published
24 in the appropriate volume of the Procurement Bulletin at least
25 30 calendar days prior to the exercise of the option.

26 (c) Subject to appropriation. All leases shall recite that

1 they are subject to termination and cancellation in any year
2 for which the General Assembly fails to make an appropriation
3 to make payments under the terms of the lease.

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

9 (Source: P.A. 100-23, eff. 7-6-17; 100-1047, eff. 1-1-19;
10 101-426, eff. 1-1-20.)

11 (30 ILCS 500/25-45 rep.)

12 Section 105. The Illinois Procurement Code is amended by
13 repealing Section 25-45.

14 Section 995. No acceleration or delay. Where this Act makes
15 changes in a statute that is represented in this Act by text
16 that is not yet or no longer in effect (for example, a Section
17 represented by multiple versions), the use of that text does
18 not accelerate or delay the taking effect of (i) the changes
19 made by this Act or (ii) provisions derived from any other
20 Public Act.

21 Section 999. Effective date. This Act takes effect upon
22 becoming law.