



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3149

Introduced 2/19/2021, by Rep. Joyce Mason

SYNOPSIS AS INTRODUCED:

105 ILCS 5/3-14.20	from Ch. 122, par. 3-14.20
105 ILCS 5/19b-1.1	from Ch. 122, par. 19b-1.1
105 ILCS 5/19b-1.2	from Ch. 122, par. 19b-1.2
105 ILCS 5/19b-1.3	from Ch. 122, par. 19b-1.3
105 ILCS 5/19b-1.4	from Ch. 122, par. 19b-1.4
105 ILCS 5/19b-1.5 new	
105 ILCS 5/19b-2	from Ch. 122, par. 19b-2
105 ILCS 5/19b-2.1 new	
105 ILCS 5/19b-3	from Ch. 122, par. 19b-3
105 ILCS 5/19b-4	from Ch. 122, par. 19b-4
105 ILCS 5/19b-5	from Ch. 122, par. 19b-5
105 ILCS 5/19b-7	from Ch. 122, par. 19b-7
105 ILCS 5/19b-8	from Ch. 122, par. 19b-8
105 ILCS 5/19b-90 new	
105 ILCS 5/19b-95 new	

Amends the School Code. Provides that a duty of the regional superintendent of schools is to inspect the energy conservation measures of schools under the Code. In the Article concerning school energy conservation and savings measures, makes changes concerning definitions, the evaluation and submission of guaranteed energy savings contract proposals, performance reviews, the award of a contract, the written guarantee, installment payment contracts and lease purchase agreements, cost savings, and available funds. Prohibits guaranteed energy savings contracts from being entered into on or after January 1, 2022. Repeals the Article 20 years after the effective date of the amendatory Act.

LRB102 04098 CMG 14114 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Sections
5 3-14.20, 19b-1.1, 19b-1.2, 19b-1.3, 19b-1.4, 19b-2, 19b-3,
6 19b-4, 19b-5, 19b-7, and 19b-8 and by adding Sections 19b-1.5,
7 19b-2.1, 19b-90, and 19b-95 as follows:

8 (105 ILCS 5/3-14.20) (from Ch. 122, par. 3-14.20)

9 Sec. 3-14.20. Building plans and specifications. To
10 inspect the building plans and specifications, including but
11 not limited to plans and specifications for the heating,
12 ventilating, lighting, seating, water supply, toilets, energy
13 conservation measures, and safety against fire of public
14 school rooms and buildings submitted to the regional
15 superintendent of schools ~~him~~ by school boards, and to approve
16 all those which comply substantially with the building code
17 authorized in Section 2-3.12.

18 If a municipality or, in the case of an unincorporated
19 area, a county or, if applicable, a fire protection district
20 wishes to be notified of plans and specifications received by
21 a regional office of education for any future construction or
22 alteration of a public school facility located within that
23 entity's jurisdiction, then the entity must register this wish

1 with the regional superintendent of schools. Within 10 days
2 after the regional superintendent of schools receives the
3 plans and specifications from a school board and prior to the
4 bidding process, he or she shall notify, in writing, the
5 registered municipality and, if applicable, the registered
6 fire protection district where the school that is being
7 constructed or altered lies that plans and specifications have
8 been received. In the case of an unincorporated area, the
9 registered county shall be notified. If the municipality, fire
10 protection district, or county requests a review of the plans
11 and specifications, then the school board shall submit a copy
12 of the plans and specifications. The municipality and, if
13 applicable, the fire protection district or the county may
14 comment in writing on the plans and specifications based on
15 the building code authorized in Section 2-3.12, referencing
16 the specific code where a discrepancy has been identified, and
17 respond back to the regional superintendent of schools within
18 15 days after a copy of the plans and specifications have been
19 received or, if needed for plan review, such additional time
20 as agreed to by the regional superintendent of schools. This
21 review must be at no cost to the school district.

22 If such plans and specifications are not approved or
23 denied approval by the regional superintendent of schools
24 within 3 months after the date on which they are submitted to
25 him or her, the school board may submit such plans and
26 specifications directly to the State Superintendent of

1 Education for approval or denial.

2 (Source: P.A. 94-225, eff. 7-14-05.)

3 (105 ILCS 5/19b-1.1) (from Ch. 122, par. 19b-1.1)

4 Sec. 19b-1.1. Energy conservation measure. "Energy
5 conservation measure" means any improvement, repair,
6 alteration, or betterment of any building or facility owned or
7 operated by a school district or area vocational center or any
8 equipment, fixture, or furnishing to be added to or used in any
9 such building or facility, according to plans and
10 specifications designed and approved subject to the building
11 code authorized in Section 2-3.12 of this Code, that is
12 proposed ~~designed~~ to reduce energy ~~consumption~~ or operating
13 costs, and may include, without limitation, one or more of the
14 following:

15 (1) Insulation of the building structure or systems
16 within the building.

17 (2) Storm windows or doors, caulking or
18 weatherstripping, multiglazed windows or doors, heat
19 absorbing or heat reflective glazed and coated window or
20 door systems, additional glazing, reductions in glass
21 area, or other window and door system modifications that
22 reduce energy consumption.

23 (3) Automated or computerized energy control systems.

24 (4) Heating, ventilating, or air conditioning system
25 modifications or replacements.

1 (5) Replacement or modification of lighting fixtures
2 to increase the energy efficiency of the lighting system
3 without increasing the overall illumination of a facility,
4 unless an increase in illumination is necessary to conform
5 to the applicable State or local building code for the
6 lighting system after the proposed modifications are made.

7 (6) Energy recovery systems.

8 (7) (Blank) ~~Energy conservation measures that provide~~
9 ~~long term operating cost reductions.~~

10 "Energy conservation measure" does not include new
11 construction or building additions beyond the square footage
12 and footprint of the existing buildings or structures
13 currently in existence, except areas required for the sole use
14 of mechanical and electrical upgrades. "Energy conservation
15 measure" does not include new or additional spaces, such as
16 classrooms, gymnasiums, or administrative and common areas.
17 New construction or additions shall be designed and
18 constructed in accordance with the applicable energy
19 conservation laws and codes and may not be included in the
20 calculations of any energy savings with respect to any
21 guaranteed energy savings contract.

22 (Source: P.A. 95-612, eff. 9-11-07.)

23 (105 ILCS 5/19b-1.2) (from Ch. 122, par. 19b-1.2)

24 Sec. 19b-1.2. Guaranteed energy savings contract.

25 "Guaranteed energy savings contract" means a contract for: (i)

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

16 (Source: P.A. 96-1197, eff. 7-22-10.)

17 (105 ILCS 5/19b-1.3) (from Ch. 122, par. 19b-1.3)

18 Sec. 19b-1.3. Qualified provider. "Qualified provider"
19 means a person or business whose employees are experienced and
20 trained in the design, implementation, or installation of
21 energy conservation measures. The minimum training required
22 for any person or employee under this Section shall be the
23 satisfactory completion of at least 40 hours of course
24 instruction dealing with energy conservation measures, and the
25 person or business may not engage in the practice of

1 architecture, engineering, or structural engineering unless
2 the person is licensed or the business is registered in
3 accordance with the Illinois Architecture Practice Act of
4 1989, the Professional Engineering Practice Act of 1989, or
5 the Structural Engineering Practice Act of 1989 and the rules
6 adopted pursuant to those Acts. A person or business may not
7 engage in the practice of plumbing unless the person is
8 licensed in accordance with the Illinois Plumbing License Law.

9 A qualified provider to whom the contract is awarded shall
10 give a sufficient bond to the school district or area
11 vocational center for its faithful performance.

12 (Source: P.A. 92-767, eff. 8-6-02.)

13 (105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

14 Sec. 19b-1.4. Request for proposals. "Request for
15 proposals" means a competitive selection achieved by
16 negotiated procurement. The request for proposals shall be
17 submitted to the administrators of the Capital Development
18 Board Procurement Bulletin for publication and through at
19 least one public notice, at least 30 days before the request
20 date in a newspaper published in the district or vocational
21 center area, or if no newspaper is published in the district or
22 vocational center area, in a newspaper of general circulation
23 in the area of the district or vocational center, from a school
24 district or area vocational center that will administer the
25 program, requesting ~~innovative solutions and~~ proposals for

1 energy conservation measures. Proposals submitted shall be
2 sealed. The request for proposals shall include all of the
3 following:

4 (1) The name and address of the school district or
5 area vocation center.

6 (2) The name, address, title, and phone number of a
7 contact person.

8 (3) Notice indicating that the school district or area
9 vocational center is requesting qualified providers to
10 propose energy conservation measures through a guaranteed
11 energy savings contract.

12 (4) The date, time, and place where proposals must be
13 received.

14 (5) The evaluation criteria for assessing the
15 proposals.

16 (6) Any other stipulations and clarifications the
17 school district or area vocational center may require.

18 (Source: P.A. 95-612, eff. 9-11-07; 96-1197, eff. 7-22-10.)

19 (105 ILCS 5/19b-1.5 new)

20 Sec. 19b-1.5. Energy operating cost. "Energy operating
21 cost" means any expenditure paid by a school district or area
22 vocational center to a third party for the furnishing of heat,
23 cold, power, electricity, water, or light to any building or
24 facility owned or operated by a school district or area
25 vocational center. "Energy operating cost" shall be directly

1 related to the energy consumption of a structure. "Energy
2 operating cost" does not include calculations related to
3 general maintenance and custodial costs, including, but not
4 limited to, window cleaning, floor waxing, carpet vacuuming
5 and cleaning, mowing of lawns, trash removal, playground
6 maintenance, and similar indirect costs.

7 (105 ILCS 5/19b-2) (from Ch. 122, par. 19b-2)

8 Sec. 19b-2. Evaluation of proposal; performance review.
9 Before entering into a guaranteed energy savings contract
10 under Section 19b-3, a school district or area vocational
11 center shall submit a request for proposals. The school
12 district or area vocational center shall evaluate any sealed
13 proposal from a qualified provider. The evaluation shall
14 analyze the estimates of all costs of installations,
15 modifications or remodeling, including, without limitation,
16 costs of a pre-installation energy audit or analysis, design,
17 engineering, installation, maintenance, repairs, debt service,
18 conversions to a different energy or fuel source, or
19 post-installation project monitoring, data collection, and
20 reporting. The evaluation shall include a detailed analysis of
21 whether either the energy consumed or the energy operating
22 ~~costs, or both,~~ will be reduced and shall be submitted to the
23 administrators of the Capital Development Board Procurement
24 Bulletin for publication. If technical assistance is not
25 available by the a licensed architect of record or registered

1 professional engineer of record for ~~on~~ the school district or
2 area vocational center ~~staff~~, then the evaluation of the
3 proposal shall be done by a registered professional engineer
4 or architect, who is retained by the school district or area
5 vocational center. A licensed architect or registered
6 professional engineer evaluating a proposal or reviewing
7 contract performance under this Section must not have any
8 financial or contractual relationship with a qualified
9 provider or other source that would constitute a conflict of
10 interest. The school district or area vocational center may
11 pay a reasonable fee for evaluation of the proposal or the
12 review of contract performance or include the fee as part of
13 the payments made under Section 19b-4.

14 Performance reviews shall be conducted at least once every
15 4 years at the discretion of the school district or area
16 vocational center to verify the outcomes of the guaranteed
17 energy savings contract and shall include any improvement,
18 repair, alteration, or betterment of any building or facility
19 owned or operated by a school district or area vocational
20 center or any equipment, fixture, or furnishing added to or
21 used in any such building or facility. A performance review
22 shall be performed during a health and life safety survey
23 under Section 2-3.12 of this Code.

24 (Source: P.A. 95-612, eff. 9-11-07.)

25 (105 ILCS 5/19b-2.1 new)

1 Sec. 19b-2.1. Submission of proposals. Proposals must be
2 properly identified and sealed. Proposals may not be reviewed
3 until after the deadline for submission has passed as set
4 forth in the request for proposals. All qualified providers
5 submitting proposals shall be disclosed after the deadline for
6 submission but not before. Proposals shall identify the names
7 of all parties to the proposed contract, including those that
8 may be subcontracted during the performance of the contract.
9 Proposals must meet all material requirements of the request
10 for proposals, or they may be rejected as non-responsive.
11 Proposals may be withdrawn prior to evaluation for any cause.
12 No person or business who contracts with a local government to
13 write specifications or otherwise provides specifications or
14 assessments for a procurement need under this Section shall
15 submit a bid or proposal or receive a contract for that
16 procurement need. The specifications or assessments may be
17 provided at no cost by a vendor or may be provided by the local
18 government itself. All projects procured under this Section
19 shall comply with Section 2-3.12 of this Code, if applicable,
20 and are subject to review by the State Board of Education.

21 (105 ILCS 5/19b-3) (from Ch. 122, par. 19b-3)

22 Sec. 19b-3. Award of guaranteed energy savings contract.
23 Sealed proposals must be opened by a member or employee of the
24 school board or governing board of the area vocational center,
25 whichever is applicable, at a public opening at which the

1 contents of the proposals must be announced. Each person or
2 entity submitting a sealed proposal must receive at least 13
3 days notice of the time and place of the opening. The school
4 district or area vocational center shall select the qualified
5 provider that best meets the needs of the district or area
6 vocational center. The school district or area vocational
7 center shall provide public notice of the meeting at which it
8 proposes to award a guaranteed energy savings contract of the
9 names of the parties to the proposed contract and of the
10 purpose of the contract. The public notice shall be made at
11 least 10 days prior to the meeting. After evaluating the
12 proposals under Section 19b-2, a school district or area
13 vocational center may enter into a guaranteed energy savings
14 contract with a qualified provider if it finds that the amount
15 it would spend on the energy conservation measures recommended
16 in the proposal would not exceed the amount to be saved in
17 ~~either energy operating or operational costs, or both,~~ within
18 an 8-year ~~a 20-year~~ period from the date of installation, if
19 the recommendations in the proposal are followed. Contracts
20 let or awarded must be submitted to the administrators of the
21 Capital Development Board Procurement Bulletin for
22 publication. The final contract and any subsequent
23 modifications and successful proposals, evaluations, and
24 performance reviews shall be considered public records subject
25 to inspection and copying by the public. All subsequent
26 modifications that increase the guaranteed energy savings

1 contract length or scope of work are subject to a new request
2 for proposals pursuant to this Article.

3 (Source: P.A. 95-612, eff. 9-11-07; 96-1197, eff. 7-22-10.)

4 (105 ILCS 5/19b-4) (from Ch. 122, par. 19b-4)

5 Sec. 19b-4. Guarantee. The guaranteed energy savings
6 contract shall include a written guarantee of the qualified
7 provider that ~~either~~ the energy operating ~~or operational~~ cost
8 savings, ~~or both,~~ will meet or exceed within 8 ~~20~~ years the
9 costs of the energy conservation measures. The qualified
10 provider shall reimburse the school district or area
11 vocational center within 90 days for any shortfall of
12 guaranteed energy savings projected in the contract. A
13 qualified provider shall provide a sufficient bond to the
14 school district or area vocational center for the installation
15 and the faithful performance of all the measures included in
16 the contract. The guaranteed energy savings contract may
17 provide for payments over a period of time, not to exceed 8 ~~20~~
18 years from the date of final installation of the measures.

19 (Source: P.A. 92-767, eff. 8-6-02.)

20 (105 ILCS 5/19b-5) (from Ch. 122, par. 19b-5)

21 Sec. 19b-5. Installment payment contract; lease purchase
22 agreement. A school district or school districts in
23 combination or an area vocational center may enter into an
24 installment payment contract or lease purchase agreement with

1 a qualified provider or with a third party, as authorized by
2 law, for the funding or financing of the purchase and
3 installation of energy conservation measures by a qualified
4 provider. Every school district or area vocational center may
5 issue certificates evidencing the indebtedness incurred
6 pursuant to the contracts or agreements. Any such contract or
7 agreement shall be valid whether or not an appropriation with
8 respect thereto is first included in any annual or
9 supplemental budget adopted by the school district or area
10 vocational center. Each contract or agreement entered into by
11 a school district or area vocational center pursuant to this
12 Section shall be authorized by official action of the school
13 board or governing board of the area vocational center,
14 whichever is applicable. The authority granted in this Section
15 is in addition to any other authority granted by law.

16 If an energy audit is performed by an energy services
17 contractor for a school district within the 3 years
18 immediately preceding the solicitation, then the school
19 district must publish as a reference document in the
20 solicitation for energy conservation measures the following:

21 (1) an executive summary of the energy audit provided
22 that the school district may exclude any proprietary or
23 trademarked information or practices; or

24 (2) the energy audit provided that the school district
25 may redact any proprietary or trademarked information or
26 practices.

1 For purposes of this Section, proprietary information or
2 practices does not include overhead or profit calculations or
3 allowances.

4 A school district may not withhold the disclosure of
5 information related to (i) the school district's consumption
6 of energy or energy operating costs, (ii) the physical
7 condition of the school district's facilities, and (iii) any
8 limitations prescribed by the school district.

9 The solicitation must include a written disclosure that
10 identifies any energy services contractor or qualified
11 provider that participated in the preparation of the
12 specifications issued by the school district. If no energy
13 services contractor or qualified provider participated in the
14 preparation of the specifications issued by the school
15 district, then the solicitation must include a written
16 disclosure that no energy services contractor or qualified
17 provider participated in the preparation of the specifications
18 for the school district. The written disclosure shall be
19 published in the Capital Development Board Procurement
20 Bulletin with the Request for Proposal.

21 (Source: P.A. 96-1197, eff. 7-22-10; 97-333, eff. 8-12-11.)

22 (105 ILCS 5/19b-7) (from Ch. 122, par. 19b-7)

23 Sec. 19b-7. Energy operating ~~Operational and energy~~ cost
24 savings. The school district or area vocational center shall
25 document the ~~operational and~~ energy operating cost savings

1 specified in the guaranteed energy savings contract and
2 designate and appropriate that amount for an annual payment of
3 the contract. If the annual energy operating cost savings are
4 less than projected under the guaranteed energy savings
5 contract, the qualified provider shall, within 90 days, pay
6 the difference as provided in Section 19b-4.

7 (Source: P.A. 92-767, eff. 8-6-02.)

8 (105 ILCS 5/19b-8) (from Ch. 122, par. 19b-8)

9 Sec. 19b-8. Available funds. A school district or area
10 vocational center may use funds designated for energy
11 operating cost ~~operating or capital~~ expenditures for any
12 guaranteed energy savings contract including purchases using
13 installment payment contracts or lease purchase agreements. A
14 school district or area vocational center that enters into
15 such a contract or agreement may covenant in such contract or
16 agreement that payments made thereunder shall be payable from
17 the first funds legally available in each fiscal year.

18 (Source: P.A. 92-767, eff. 8-6-02.)

19 (105 ILCS 5/19b-90 new)

20 Sec. 19b-90. New or modified contracts prohibited. No new
21 guaranteed energy savings contract, contract modifications, or
22 contract amendments may be entered into on or after January 1,
23 2022.

1 (105 ILCS 5/19b-95 new)

2 Sec. 19b-95. Repeal. This Article is repealed 20 years
3 after the effective date of this amendatory Act of the 102nd
4 General Assembly.