



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4268

Introduced 1/5/2022, 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	

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 saving 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. Designates the Smart Energy Design Assistance Center (SEDAC) as the lead agency for the review of performance contracts for school districts and area vocational centers. Sets forth the duties to be performed by SEDAC and the forms of assistance the agency must provide to school districts and area vocational centers.

LRB102 21256 CMG 30367 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, and 19b-90 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 resulting in building construction,
14 renovations, or modifications, and safety against fire of
15 public school rooms and buildings submitted to the regional
16 superintendent of schools ~~him~~ by school boards, and to approve
17 all those which comply substantially with the building code
18 authorized in Section 2-3.12.

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

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

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

1 specifications directly to the State Superintendent of
2 Education for approval or denial.

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

4 (105 ILCS 5/19b-1.1) (from Ch. 122, par. 19b-1.1)

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

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

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

24 (3) Automated or computerized energy control systems.

25 (4) Heating, ventilating, or air conditioning system

1 modifications or replacements.

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

8 (6) Energy recovery systems.

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

11 "Energy conservation measure" does not include new
12 construction or building additions beyond the square footage
13 and footprint of existing buildings or structures, except
14 areas required for the sole use of mechanical and electrical
15 upgrades or as necessary for the sole use of an energy unit
16 installation, such as geothermal or solar array equipment.

17 "Energy conservation measure" does not include new or
18 additional spaces, such as classrooms, gymnasiums, or
19 administrative or common areas, or site renovations, such as
20 parking lots, playgrounds, athletic fields, or track and field
21 areas. New construction or additions shall be designed and
22 constructed in accordance with applicable energy conservation
23 laws and codes and may not be included in the calculations of
24 any energy savings with respect to a guaranteed energy savings
25 contract.

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

1 (105 ILCS 5/19b-1.2) (from Ch. 122, par. 19b-1.2)

2 Sec. 19b-1.2. Guaranteed energy savings contract.
3 "Guaranteed energy savings contract" means a contract for: (i)
4 the implementation of an energy audit, an investment grade
5 audit, data collection, and other related analyses preliminary
6 to the undertaking of energy conservation measures; (ii) the
7 evaluation and recommendation of energy conservation measures;
8 (iii) the implementation of one or more energy conservation
9 measures; and (iv) the implementation of project monitoring
10 and data collection to verify post-installation energy
11 ~~consumption and energy-related~~ operating costs. The contract
12 shall provide that all payments, except obligations on
13 termination of the contract before its expiration, are to be
14 made over time and that the savings are guaranteed to the
15 extent necessary to pay the costs of the energy conservation
16 measures. Energy saving may include energy reduction and
17 offsetting sources of renewable energy funds including
18 renewable energy credits and carbon credits.

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

20 (105 ILCS 5/19b-1.3) (from Ch. 122, par. 19b-1.3)

21 Sec. 19b-1.3. Qualified provider. "Qualified provider"
22 means a person or business whose employees are experienced and
23 trained in the design, implementation, or installation of
24 energy conservation measures. The minimum training required

1 for any person or employee under this Section shall be the
2 satisfactory completion of at least 40 hours of course
3 instruction dealing with energy conservation measures. A
4 person or business may not engage in the practice of
5 architecture, engineering, or structural engineering unless
6 the person is licensed or the business is registered in
7 accordance with the Illinois Architecture Practice Act of
8 1989, the Professional Engineering Practice Act of 1989, or
9 the Structural Engineering Practice Act of 1989 and the rules
10 adopted pursuant to those Acts. A person or business may not
11 engage in the practice of plumbing unless the person is
12 licensed in accordance with the Illinois Plumbing License Law.
13 A qualified provider to whom the contract is awarded shall
14 give a sufficient bond to the school district or area
15 vocational center for its faithful performance.

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

17 (105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

18 Sec. 19b-1.4. Request for proposals. "Request for
19 proposals" means a competitive selection achieved by
20 negotiated procurement. The request for proposals shall be
21 submitted to the administrators of the Capital Development
22 Board Procurement Bulletin for publication and through at
23 least one public notice, at least 30 days before the request
24 date in a newspaper published in the district or vocational
25 center area, or if no newspaper is published in the district or

1 vocational center area, in a newspaper of general circulation
2 in the area of the district or vocational center, from a school
3 district or area vocational center that will administer the
4 program, requesting ~~innovative solutions and~~ proposals for
5 energy conservation measures. ~~Proposals submitted shall be~~
6 ~~sealed.~~ The request for proposals shall include all of the
7 following:

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

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

12 (3) Notice indicating that the school district or area
13 vocational center is requesting qualified providers to
14 propose energy conservation measures through a guaranteed
15 energy savings contract.

16 (4) The date, time, and place where proposals must be
17 received.

18 (5) The evaluation criteria for assessing the
19 proposals.

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

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

23 (105 ILCS 5/19b-1.5 new)

24 Sec. 19b-1.5. Energy operating cost. "Energy operating
25 cost" means any expenditure paid by a school district or area

1 vocational center to a third party for the furnishing of heat,
2 cold, power, electricity, water, or light to any building or
3 facility owned or operated by a school district or area
4 vocational center. "Energy operating cost" shall be directly
5 related to the energy consumption costs of a structure paid to
6 a utility provider. "Energy operating cost" does not include
7 calculations related to general maintenance and custodial
8 costs, including, but not limited to, window cleaning, floor
9 waxing, carpet vacuuming and cleaning, the mowing of lawns,
10 trash removal, playground maintenance, parking lot
11 maintenance, and similar costs.

12 (105 ILCS 5/19b-2) (from Ch. 122, par. 19b-2)

13 Sec. 19b-2. Evaluation of proposal; performance review.
14 Before entering into a guaranteed energy savings contract
15 under Section 19b-3, a school district or area vocational
16 center shall submit a request for proposals. The school
17 district or area vocational center shall evaluate any ~~sealed~~
18 proposal from a qualified provider. The evaluation shall
19 analyze the estimates of all costs of installations,
20 modifications or remodeling, including, without limitation,
21 costs of a pre-installation energy audit or analysis, design,
22 engineering, installation, ~~maintenance, repairs,~~ debt service,
23 conversions to a different energy or fuel source, or
24 post-installation project monitoring, data collection, and
25 reporting. The evaluation shall include a detailed analysis of

1 whether ~~either the energy consumed or~~ the energy operating
2 costs, ~~or both,~~ will be reduced and shall be submitted to the
3 administrators of the Capital Development Board for
4 publication in the Illinois Procurement Bulletin. If technical
5 assistance is not available by a licensed architect or
6 registered professional engineer on the school district or
7 area vocational center staff, then the evaluation of the
8 proposal shall be done by a registered professional engineer
9 or architect, who is retained by the school district or area
10 vocational center. A licensed architect or registered
11 professional engineer evaluating a proposal or reviewing
12 contract performance under this Section must certify in
13 writing that he or she does not have any financial or
14 contractual relationship with a qualified provider or other
15 source that would constitute a conflict of interest. The
16 school district or area vocational center may pay a reasonable
17 fee for evaluation of the proposal or the review of contract
18 performance or include the fee as part of the payments made
19 under Section 19b-4.

20 Performance reviews shall be conducted at least once every
21 4 years or at shorter intervals at the discretion of the school
22 district or area vocational center to verify the outcomes of
23 the guaranteed energy savings contract and shall include any
24 improvement, repair, alteration, or betterment of any building
25 or facility owned or operated by the school district or area
26 vocational center or any equipment, fixture, or furnishing

1 added to or used in any such building or facility. A qualified
2 provider may not withhold the disclosure of information
3 related to the content of a proposal or the performance of the
4 contract.

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

6 (105 ILCS 5/19b-2.1 new)

7 Sec. 19b-2.1. Submission of proposals. Proposals must be
8 properly identified. Proposals may not be reviewed until after
9 the deadline for submission has passed as set forth in the
10 request for proposals. All qualified providers identified by
11 the Smart Energy Design Assistance Center (SEDAC), in
12 consultation with the Capital Development Board, pursuant to
13 paragraph (1) of subsection (a) of Section 19b-90 of this Code
14 that submit proposals shall be disclosed after the deadline
15 for submission but not before. Proposals shall identify the
16 names of all parties to the proposed contract, including those
17 that may be subcontracted during the performance of the
18 contract. A proposal must meet all material requirements of
19 the request for proposal or the proposal may be rejected as
20 nonresponsive. Proposals may be withdrawn prior to evaluation
21 for any cause. No person or business that contracts with a
22 school district or area vocational center to write
23 specifications or otherwise provides specifications or
24 assessments for a procurement need under this Section shall
25 submit a bid or proposal or receive a contract for that

1 procurement need. All projects procured under this Section
2 shall comply with Section 2-3.12 of this Code and the
3 Health/Life Safety Code for Public Schools set forth in 23
4 Ill. Adm. Code 180, if applicable, and are subject to review by
5 the State Board of Education and the regional office of
6 education.

7 (105 ILCS 5/19b-3) (from Ch. 122, par. 19b-3)

8 Sec. 19b-3. Award of guaranteed energy savings contract.
9 Proposals ~~Sealed proposals~~ must be opened by a member or
10 employee of the school board or governing board of the area
11 vocational center, whichever is applicable, at a public
12 opening at which the contents of the proposals must be
13 announced. Each person or entity submitting a sealed proposal
14 must receive at least 13 days notice of the time and place of
15 the opening. The school district or area vocational center
16 shall select the lowest responsive and responsible qualified
17 provider identified by the Smart Energy Design Assistance
18 Center (SEDAC), in consultation with the Capital Development
19 Board, pursuant to paragraph (1) of subsection (a) of Section
20 19b-90 of this Code that best meets the needs of the district
21 or area vocational center. The school district or area
22 vocational center shall provide public notice of the meeting
23 at which it proposes to award a guaranteed energy savings
24 contract of the names of the parties to the proposed contract
25 and of the purpose of the contract. The public notice shall be

1 made at least 10 days prior to the meeting. After evaluating
2 the proposals under Section 19b-2, a school district or area
3 vocational center may enter into a guaranteed energy savings
4 contract with a qualified provider if it finds that the amount
5 it would spend on the energy conservation measures recommended
6 in the proposal would not exceed the amount to be saved in
7 ~~either energy operating or operational costs, or both,~~ within
8 a 10-year period (or 20-year period for solar or geothermal
9 projects) from the date of installation, if the
10 recommendations in the proposal are followed. Contracts let or
11 awarded must be submitted to the administrators of the Capital
12 Development Board Procurement Bulletin for publication. The
13 final contract and any subsequent modifications and successful
14 proposals, evaluations, and the performance review shall be
15 considered public records under the Freedom of Information Act
16 and subject to inspection and copying by the public.

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

18 (105 ILCS 5/19b-4) (from Ch. 122, par. 19b-4)

19 Sec. 19b-4. Guarantee. The guaranteed energy savings
20 contract shall include a written guarantee of the qualified
21 provider that ~~either~~ the energy operating or operational cost
22 savings, ~~or both,~~ will meet or exceed, within a 10-year period
23 (or 20-year period for solar or geothermal projects), 20 years
24 the costs of the energy conservation measures. The qualified
25 provider shall reimburse the school district or area

1 vocational center for any shortfall of guaranteed energy
2 savings projected in the contract. A qualified provider shall
3 provide a sufficient bond to the school district or area
4 vocational center for the installation and the faithful
5 performance of all the measures included in the contract. The
6 guaranteed energy savings contract may provide for payments
7 over a period of time, not to exceed 10 ~~20~~ years (or 20 years
8 for solar or geothermal projects) from the date of final
9 installation of the measures.

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

11 (105 ILCS 5/19b-5) (from Ch. 122, par. 19b-5)

12 Sec. 19b-5. Installment payment contract; lease purchase
13 agreement. A school district or school districts in
14 combination or an area vocational center may enter into an
15 installment payment contract or lease purchase agreement with
16 a qualified provider or with a third party, as authorized by
17 law, for the funding or financing of the purchase and
18 installation of energy conservation measures by a qualified
19 provider. Every school district or area vocational center may
20 issue certificates evidencing the indebtedness incurred
21 pursuant to the contracts or agreements. Any such contract or
22 agreement shall be valid whether or not an appropriation with
23 respect thereto is first included in any annual or
24 supplemental budget adopted by the school district or area
25 vocational center. Each contract or agreement entered into by

1 a school district or area vocational center pursuant to this
2 Section shall be authorized by official action of the school
3 board or governing board of the area vocational center,
4 whichever is applicable. The authority granted in this Section
5 is in addition to any other authority granted by law.

6 If an energy audit is performed by an energy services
7 contractor for a school district within the 3 years
8 immediately preceding the solicitation, then the school
9 district must publish as a reference document in the
10 solicitation for energy conservation measures the following:

11 (1) an executive summary ~~of the energy audit provided~~
12 ~~that the school district may exclude any proprietary or~~
13 ~~trademarked information or practices; or~~

14 (2) the energy audit ~~provided that the school district~~
15 ~~may redact any proprietary or trademarked information or~~
16 ~~practices.~~

17 A school district may not withhold the disclosure of
18 information related to (i) the school district's energy
19 operating costs ~~consumption of energy~~, (ii) the physical
20 condition of the school district's facilities, and (iii) any
21 limitations prescribed by the school district.

22 The solicitation must include a written disclosure that
23 identifies any energy services contractor or qualified
24 provider that participated in the preparation of the
25 specifications issued by the school district. If no energy
26 services contractor or qualified provider participated in the

1 preparation of the specifications issued by the school
2 district, then the solicitation must include a written
3 disclosure that no energy services contractor or qualified
4 provider participated in the preparation of the specifications
5 for the school district. The written disclosure shall be
6 published in the Capital Development Board Procurement
7 Bulletin with the Request for Proposal.

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

9 (105 ILCS 5/19b-7) (from Ch. 122, par. 19b-7)

10 Sec. 19b-7. Energy operating ~~Operational and energy~~ cost
11 savings. The school district or area vocational center shall
12 document the ~~operational and~~ energy operating cost savings
13 specified in the guaranteed energy savings contract and
14 designate and appropriate that amount for an annual payment of
15 the contract. If the annual energy operating cost savings are
16 less than projected under the guaranteed energy savings
17 contract, the qualified provider shall pay, within 90 days,
18 the difference as provided in Section 19b-4.

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

20 (105 ILCS 5/19b-8) (from Ch. 122, par. 19b-8)

21 Sec. 19b-8. Available funds. A school district or area
22 vocational center may use funds designated for energy
23 operating cost ~~operating or capital~~ expenditures for any
24 guaranteed energy savings contract, including purchases using

1 installment payment contracts or lease purchase agreements. A
2 school district or area vocational center that enters into
3 such a contract or agreement may covenant in such contract or
4 agreement that payments made thereunder shall be payable from
5 the first funds legally available in each fiscal year.

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

7 (105 ILCS 5/19b-90 new)

8 Sec. 19b-90. Smart Energy Design Assistance Center
9 (SEDAC).

10 (a) The Smart Energy Design Assistance Center (SEDAC)
11 based at the University of Illinois at Urbana-Champaign is
12 designated to be the lead agency for the review of performance
13 contracts for school districts or area vocational centers.
14 SEDAC shall coordinate its activities with school districts,
15 the Capital Development Board, and area vocational centers.
16 SEDAC, under the direction of the Governor, shall have the
17 following duties with respect to the review of performance
18 contracts:

19 (1) to assist school districts and area vocational
20 centers in compiling a list of qualified energy service
21 providers; and

22 (2) to develop a standardized energy performance
23 contract process and standard energy performance contract
24 documents, including a request for qualifications, a
25 request for proposals, an investment grade audit contract,

1 an energy services agreement, including the form of the
2 project savings guarantee, and a project financing
3 agreement.

4 (b) SEDAC shall establish guidelines and an approval
5 process for awarding energy performance contracts. The
6 guidelines adopted under this subsection (b) must require that
7 the cost-savings projected by a qualified provider be reviewed
8 by a licensed professional engineer who:

9 (1) has a minimum of 3 years of experience in energy
10 calculation and review;

11 (2) is not an officer or employee of a qualified
12 provider for the contract under review; and

13 (3) is not otherwise associated with the contract.

14 In conducting the review, the engineer shall focus
15 primarily on the proposed improvements from an engineering
16 perspective and the methodology and calculations related to
17 energy-related cost savings.

18 (c) SEDAC shall assist a school district or area
19 vocational center in identifying, evaluating, and implementing
20 cost-effective conservation projects at its facilities. The
21 assistance shall include:

22 (1) providing technical and analytical support,
23 including the procurement of energy performance
24 contracting services;

25 (2) reviewing verification procedures for energy
26 savings; and

1 (3) assisting in the structuring and arranging of
2 financing for energy performance contracting projects.

3 (d) SEDAC is authorized to fix, charge, and collect
4 reasonable fees from a school district or an area vocational
5 center for any administrative support and resources or other
6 services provided by SEDAC or its designee under this Section.
7 School districts and area vocational centers are authorized to
8 add the costs of these fees to the total cost of the energy
9 performance contract.