



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2119

Introduced 2/7/2023, 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 and approve school building plans and specifications for energy conservation measures. 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, available funds, an energy savings template, qualified providers, and the Smart Energy Design Assistance Center.

LRB103 24911 RJT 51245 b

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 primary use of mechanical and
15 electrical upgrades or as necessary for the sole use of an
16 energy unit installation, such as geothermal or solar array
17 equipment. "Energy conservation measure" does not include new
18 or 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. A contract may be
19 subject to change orders in the ordinary course of a
20 construction project but may not be amended to include
21 projects not originally included in the request for proposals
22 required by Section 19b-1.4 of this Code.

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

24 (105 ILCS 5/19b-1.3) (from Ch. 122, par. 19b-1.3)

1 Sec. 19b-1.3. Qualified provider. "Qualified provider"
2 means a person or business whose employees are experienced and
3 trained in the design, implementation, or installation of
4 energy conservation measures. The minimum training required
5 for any person or employee under this Section shall be the
6 satisfactory completion of at least 40 hours of course
7 instruction dealing with energy conservation measures. A
8 person or business may not engage in the practice of
9 architecture, engineering, or structural engineering unless
10 the person is licensed or the business is registered in
11 accordance with the Illinois Architecture Practice Act of
12 1989, the Professional Engineering Practice Act of 1989, or
13 the Structural Engineering Practice Act of 1989 and the rules
14 adopted pursuant to those Acts. A person or business may not
15 engage in the practice of plumbing unless the person is
16 licensed in accordance with the Illinois Plumbing License Law.
17 A qualified provider to whom the contract is awarded shall
18 give a sufficient bond to the school district or area
19 vocational center for its faithful performance.

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

21 (105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

22 Sec. 19b-1.4. Request for proposals. "Request for
23 proposals" means a competitive selection achieved by
24 negotiated procurement. The request for proposals shall be
25 submitted to the administrators of the Capital Development

1 Board Procurement Bulletin for publication and through at
2 least one public notice, at least 30 days before the request
3 date in a newspaper published in the district or vocational
4 center area, or if no newspaper is published in the district or
5 vocational center area, in a newspaper of general circulation
6 in the area of the district or vocational center, from a school
7 district or area vocational center that will administer the
8 program, requesting ~~innovative solutions~~ and proposals for
9 energy conservation measures. Proposals submitted shall be
10 sealed. The request for proposals shall include all of the
11 following:

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

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

16 (3) Notice indicating that the school district or area
17 vocational center is requesting qualified providers to
18 propose energy conservation measures through a guaranteed
19 energy savings contract.

20 (4) The date, time, and place where proposals must be
21 received.

22 (5) The evaluation criteria for assessing the
23 proposals.

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

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

1 (105 ILCS 5/19b-1.5 new)

2 Sec. 19b-1.5. Energy operating cost. "Energy operating
3 cost" means any expenditure paid by a school district or area
4 vocational center to a third party for the furnishing of heat,
5 cold, power, electricity, water, or light to any building or
6 facility owned or operated by a school district or area
7 vocational center. "Energy operating cost" shall be directly
8 related to the energy consumption costs of a structure paid to
9 a utility provider. "Energy operating cost" does not include
10 calculations related to general maintenance and custodial
11 costs, including, but not limited to, window cleaning, floor
12 waxing, carpet vacuuming and cleaning, the mowing of lawns,
13 trash removal, playground maintenance, parking lot
14 maintenance, and similar costs.

15 (105 ILCS 5/19b-2) (from Ch. 122, par. 19b-2)

16 Sec. 19b-2. Evaluation of proposal; performance review.
17 Before entering into a guaranteed energy savings contract
18 under Section 19b-3, a school district or area vocational
19 center shall submit a request for proposals. The school
20 district or area vocational center shall evaluate any sealed
21 proposal from a qualified provider. The evaluation shall
22 analyze the estimates of all costs of installations,
23 modifications or remodeling, including, without limitation,
24 costs of a pre-installation energy audit or analysis, design,

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

24 Performance reviews shall be conducted by the school board
25 of the school district or the governing board of the area
26 vocational center at least once every 4 years or at shorter

1 intervals at the discretion of the school district or area
2 vocational center to verify the outcomes of the guaranteed
3 energy savings contract and shall include any improvement,
4 repair, alteration, or betterment of any building or facility
5 owned or operated by the school district or area vocational
6 center or any equipment, fixture, or furnishing added to or
7 used in any such building or facility. A qualified provider
8 may not withhold the disclosure of information related to the
9 content of a proposal or the performance of the contract.

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

11 (105 ILCS 5/19b-2.1 new)

12 Sec. 19b-2.1. Submission of proposals. Proposals must be
13 properly identified. Proposals may not be reviewed until after
14 the deadline for submission has passed as set forth in the
15 request for proposals. All qualified providers identified by
16 the Smart Energy Design Assistance Center (SEDAC), in
17 consultation with the Capital Development Board, pursuant to
18 subsection (b) of Section 19b-90 of this Code that submit
19 proposals shall be disclosed after the deadline for submission
20 but not before. Proposals shall identify the names of all
21 parties to the proposed contract, including those that may be
22 subcontracted during the performance of the contract. A
23 proposal must meet all material requirements of the request
24 for proposal or the proposal may be rejected as nonresponsive.
25 Proposals may be withdrawn prior to evaluation for any cause.

1 No person or business that contracts with a school district or
2 area vocational center to write specifications or otherwise
3 provides specifications or assessments for a procurement need
4 under this Section shall submit a bid or proposal or receive a
5 contract for that procurement need. All projects procured
6 under this Section shall comply with Section 2-3.12 of this
7 Code and the Health/Life Safety Code for Public Schools set
8 forth in 23 Ill. Adm. Code 180, if applicable, and are subject
9 to review by the regional office of education.

10 (105 ILCS 5/19b-3) (from Ch. 122, par. 19b-3)

11 Sec. 19b-3. Award of guaranteed energy savings contract.
12 Sealed proposals must be opened by a member or employee of the
13 school board or governing board of the area vocational center,
14 whichever is applicable, at a public opening at which the
15 contents of the proposals must be announced. Each person or
16 entity submitting a sealed proposal must receive at least 13
17 days notice of the time and place of the opening. The school
18 district or area vocational center shall select the lowest
19 responsive and responsible qualified provider that best meets
20 the needs of the district or area vocational center. The
21 school district or area vocational center shall provide public
22 notice of the meeting at which it proposes to award a
23 guaranteed energy savings contract of the names of the parties
24 to the proposed contract and of the purpose of the contract.
25 The public notice shall be made at least 10 days prior to the

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

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

20 (105 ILCS 5/19b-4) (from Ch. 122, par. 19b-4)

21 Sec. 19b-4. Guarantee. The guaranteed energy savings
22 contract shall include a written guarantee of the qualified
23 provider that ~~either~~ the energy operating ~~or operational~~ cost
24 savings, ~~or both,~~ will meet or exceed, within the reasonably
25 projected payback period for the improvements, as certified by

1 resolution of the school district or area vocational center,
2 or 20 years, whichever is less, the costs of the energy
3 conservation measures. The qualified provider shall reimburse
4 the school district or area vocational center for any
5 shortfall of guaranteed energy savings projected in the
6 contract. A qualified provider shall provide a sufficient bond
7 to the school district or area vocational center for the
8 installation and the faithful performance of all the measures
9 included in the contract. The guaranteed energy savings
10 contract may provide for payments over a period of time, not to
11 exceed the reasonably projected payback period for the
12 improvements, as certified by resolution of the school
13 district or area vocational center, or 20 years, whichever is
14 less, from the date of final installation of the measures.

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

16 (105 ILCS 5/19b-5) (from Ch. 122, par. 19b-5)

17 Sec. 19b-5. Installment payment contract; lease purchase
18 agreement. A school district or school districts in
19 combination or an area vocational center may enter into an
20 installment payment contract or lease purchase agreement with
21 a qualified provider or with a third party, as authorized by
22 law, for the funding or financing of the purchase and
23 installation of energy conservation measures by a qualified
24 provider. Every school district or area vocational center may
25 issue certificates evidencing the indebtedness incurred

1 pursuant to the contracts or agreements. Any such contract or
2 agreement shall be valid whether or not an appropriation with
3 respect thereto is first included in any annual or
4 supplemental budget adopted by the school district or area
5 vocational center. Each contract or agreement entered into by
6 a school district or area vocational center pursuant to this
7 Section shall be authorized by official action of the school
8 board or governing board of the area vocational center,
9 whichever is applicable. The authority granted in this Section
10 is in addition to any other authority granted by law.

11 If an energy audit is performed by an energy services
12 contractor for a school district within the 3 years
13 immediately preceding the solicitation, then the school
14 district must publish as a reference document in the
15 solicitation for energy conservation measures the following:

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

19 (2) the energy audit ~~provided that the school district~~
20 ~~may redact any proprietary or trademarked information or~~
21 ~~practices.~~

22 A school district may not withhold the disclosure of
23 information related to (i) the school district's energy
24 operating costs ~~consumption of energy~~, (ii) the physical
25 condition of the school district's facilities, and (iii) any
26 limitations prescribed by the school district.

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

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

14 (105 ILCS 5/19b-7) (from Ch. 122, par. 19b-7)

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

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

1 (105 ILCS 5/19b-8) (from Ch. 122, par. 19b-8)

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

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

12 (105 ILCS 5/19b-90 new)

13 Sec. 19b-90. Energy savings template, qualified providers,
14 and Smart Energy Design Assistance Center (SEDAC).

15 (a) Any contract under this Section shall utilize the
16 template provided for such contracts through a statewide
17 organization representing Illinois school business officials
18 or follow the requirements in subsections (c) and (d) of this
19 Section, at the discretion of the school district or area
20 vocational center.

21 (b) The Smart Energy Design Assistance Center (SEDAC)
22 based at the University of Illinois at Urbana-Champaign, under
23 the direction of the Governor, shall assist school districts
24 and area vocational centers in compiling a list of qualified
25 energy service providers, with respect to the review of

1 performance contracts.

2 (c) At the request of a school district or area of
3 vocational center, SEDAC shall establish guidelines and an
4 approval process for awarding energy performance contracts.
5 The guidelines adopted under this subsection (c) must require
6 that the cost-savings projected by a qualified provider be
7 reviewed by a licensed professional engineer who:

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

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

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

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

17 (d) At the request of a school district or area of
18 vocational center, SEDAC shall assist a school district or
19 area vocational center in identifying, evaluating, and
20 implementing cost-effective conservation projects at its
21 facilities. The 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 (e) SEDAC is authorized to fix, charge, and collect
4 reasonable fees that will, subject to appropriation, be funded
5 by the State.