



Rep. Brandon W. Phelps

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1 AMENDMENT TO HOUSE BILL 5503

2 AMENDMENT NO. _____. Amend House Bill 5503 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Energy Efficiency Program for State Government Buildings Act.

6 Section 5. Purpose. The General Assembly finds and declares
7 it to be the public policy of the State to maximize the use of
8 energy efficiency measures in the construction, renovation,
9 and maintenance of buildings owned by the State. In furtherance
10 of this policy, the Capital Development Board and the
11 Department of Central Management Services shall administer an
12 energy efficiency program, to be known as the Energy Efficiency
13 Program for State Government Buildings.

14 Section 10. Definitions. As used in this Act, unless the
15 context requires otherwise:

1 "Aggregate simple payback period" means the simple payback
2 period of a set of energy efficiency measures taken together
3 for a building.

4 "Building" means all contiguous land, together with
5 structures, appurtenances, and improvements thereon that use
6 energy.

7 "Board" means the Capital Development Board.

8 "Capital cost avoidance" means savings generated when
9 expenditures of appropriated capital construction or
10 appropriated capital outlay funds are avoided because the
11 budgeted capital improvements or items of equipment are
12 contained within the energy efficiency measures provided by a
13 guaranteed energy savings performance contract.

14 "Department" means the Department of Central Management
15 Services.

16 "Director" means the Director of Central Management
17 Services.

18 "Energy audit" means examination of a building's
19 energy-using systems, energy consumption and costs, occupancy
20 patterns, and operation and maintenance procedures.

21 "Energy efficiency measure" means any improvement, repair,
22 alteration, or betterment of any building or facility owned or
23 operated by a State agency or any equipment, fixture, or
24 furnishing to be added to or used in any such building or
25 facility that is designed to reduce energy consumption or
26 operating costs and may include, without limitation, one or

1 more of the following:

2 (1) insulation of the building structure or systems
3 within the building;

4 (2) storm windows or doors, caulking or
5 weather-stripping, multiglazed windows or doors, heat
6 absorbing or heat reflective glazed and coated window or
7 door systems, additional glazing, reductions in glass
8 area, or other window and door system modifications that
9 reduce energy consumption;

10 (3) automated or computerized energy control systems;

11 (4) heating, ventilating, or air conditioning system
12 modifications or replacements;

13 (5) replacement or modification of lighting fixtures
14 to increase the energy efficiency of the lighting system
15 without increasing the overall illumination of a facility,
16 unless an increase in illumination is necessary to conform
17 to the applicable State or local building code for the
18 lighting system after the proposed modifications are made;

19 (6) energy recovery systems; and

20 (7) energy conservation measures that provide
21 long-term operating cost reductions.

22 "ENERGY STAR" means the voluntary program administered by
23 the United States Environmental Protection Agency and the
24 United States Department of Energy that is designed to protect
25 the environment through the promotion of energy-efficient
26 products and practices.

1 "Engineering analysis" means a detailed cost-benefit
2 analysis of energy efficiency investments, including a review
3 of potential cost savings through operation and maintenance
4 changes.

5 "Executive Director" means the Executive Director of the
6 Capital Development Board.

7 "Guaranteed energy savings performance contract" means an
8 agreement for the provision of energy services or equipment,
9 including energy efficiency measures, energy conservation
10 measures and alternate energy technologies for State
11 government buildings, in which a person agrees to design,
12 construct, install, maintain, operate, or manage energy
13 systems or equipment to improve energy efficiency of, or
14 produce energy in connection with, a State government building.
15 Payments for a guaranteed energy savings performance contract
16 shall be made from measured and verified savings generated from
17 implementation of the energy efficiency measures financed by
18 the contract. The term of a guaranteed energy savings
19 performance contract shall not exceed 5 years. If the measured
20 and verified savings are not sufficient to pay the financial
21 obligations under the contract, the contractor is liable for
22 the contract payments.

23 "High-performance building" means a State government
24 building that is designed, constructed, and capable of being
25 operated in a manner that:

26 (1) increases environmental performance and economic

1 value over time;

2 (2) safeguards the health of occupants;

3 (3) enhances satisfaction and productivity of workers
4 through energy-efficient systems;

5 (4) incorporates environmentally friendly materials
6 and products; and

7 (5) reduces waste.

8 "Life-cycle cost analysis" means a method for estimating
9 the total cost of an energy-using component or building over
10 its useful life, including cost factors such as purchase price
11 or construction, renovation, or leasing costs, energy use,
12 maintenance, interest, and inflation.

13 "Low cost/no cost energy conservation measures" means
14 those energy saving practices and energy efficiency measures,
15 usually involving operation and maintenance practices, that
16 can be accomplished by existing personnel within existing
17 operating budgets.

18 "Operating costs" means expenditures associated with
19 operating and maintaining a properly functioning building and
20 its systems including but not limited to the heating,
21 ventilation, cooling, lighting, plumbing, water heating,
22 electrical, and laundry systems and their controls.

23 "Qualified provider" means a person or business whose
24 employees are experienced and trained in the design,
25 implementation, or installation of energy conservation
26 measures.

1 "Request for proposals" means a competitive selection
2 achieved by negotiated procurement.

3 "Simple payback period" means the number of years it takes
4 to pay back, from estimated savings, the initial cost of an
5 energy efficiency measure with the simple payback period equal
6 to the initial cost divided by the estimated annual savings.

7 "Savings" means the reduction in expenditures, excluding
8 any State government and university personnel expenditures,
9 that are measured and verified, including but not limited to
10 energy usage, operating costs, and capital cost avoidance that
11 occur as a result of the implementation of energy efficiency
12 measures.

13 "State agency" means the Department of Central Management
14 Services.

15 Section 15. Authority of the Capital Development Board.
16 The Capital Development board shall have the authority to act
17 on behalf of any State agency in accordance with this Act.

18 Section 20. Energy Efficiency Program for State Government
19 Buildings.

20 (a) The Energy Efficiency Program for State Government
21 Buildings shall provide for implementation of low cost/no cost
22 energy conservation measures, engineering analyses, energy
23 efficiency measures, building improvements, and monitoring of
24 results for State-owned buildings.

1 (b) Any engineering analysis conducted on a State-owned
2 building shall assess the energy efficiency of the building and
3 make recommendations for improving the efficient use of energy
4 within the building. The analyses shall be performed by
5 individuals licensed under the Illinois Architecture Practice
6 Act of 1989, the Professional Engineering Practice Act of 1989
7 or the Structural Engineering Practice Act of 1989.

8 (c) Measures to improve the energy efficiency of a
9 State-owned building that have an aggregate simple payback
10 period of 5 years or less shall be implemented subject to
11 appropriation. No more than 5% of the cost of energy efficiency
12 measures for a building may be used for monitoring the results.

13 (d) If funds are appropriated for energy efficiency
14 improvements, the Board shall prioritize projects among the
15 various State-owned buildings to determine which projects
16 shall be implemented to best use the available funding.

17 (e) The savings in reduced expenditures that are specified
18 as payment sources shall be documented in the guaranteed energy
19 savings performance contract. Savings shall be determined by
20 using one of the measurement and verification methodologies
21 listed in the United States Department of Energy's
22 "International Performance Measurement and Verification
23 Protocol". If specific data limitations or documented unique
24 characteristics of the project prevent use of the
25 "International Performance Measurement and Verification
26 Protocol", an alternative method that is compatible shall be

1 adopted upon documentation and approval of the Director.

2 Section 25. Energy audit training program. The Department
3 shall institute an energy audit training program to identify
4 energy saving techniques for State-owned building maintenance
5 staff. Additional programs shall be developed to educate State
6 employees and other building occupants on energy awareness and
7 practices to reduce energy use in State-owned buildings. Local
8 government employees may be included in training and
9 educational programs.

10 Section 30. Life-cycle energy cost analyses. The Board
11 shall require persons submitting bids or plans for State-owned
12 buildings to be constructed or substantially renovated after
13 July 15, 2013, to include within those bids or plans life-cycle
14 energy cost analyses. The Board shall consider those life-cycle
15 cost analyses when evaluating competing bids or plans.

16 Section 35. Report on energy efficiency measures in State
17 government. The Department shall report on or before October
18 15, 2013, and on or before every October 15 thereafter to the
19 Legislative Research Unit and the Commission on Government
20 Forecasting and Accountability on progress made to maximize the
21 use of energy efficiency measures in State government. The
22 Commission on Government Forecasting and Accountability shall
23 transmit the report to the Speaker of the House of

1 Representatives, the Minority Leader of the House of
2 Representatives, the President of the Senate, and the Minority
3 Leader of the Senate. The report shall include but not be
4 limited to:

5 (1) a summary of initiatives undertaken by the Board
6 during the reporting period to promote adoption of low
7 cost/no cost energy efficiency measures, including
8 employee training efforts;

9 (2) a summary of energy efficiency measures installed
10 and energy improvements made during the reporting period;

11 (3) energy consumption and expenditure data for
12 facilities owned by State government and any documented
13 savings made as a result of energy efficiency measures and
14 improvements;

15 (4) a status report on the number of buildings newly
16 constructed or renovated in accordance with the
17 high-performance building standards required under this
18 Act and the amount of savings realized based upon a
19 life-cycle cost analysis;

20 (5) any efforts made during the reporting period to
21 promote acquisition of energy efficient products pursuant
22 to this Act and the amount of savings expected to be
23 realized in the first year of operation from the purchase
24 of ENERGY STAR-qualified products pursuant to this Act;

25 (6) any recommendations for future funding of energy
26 improvements or other measures needed to assure energy

1 efficiency in State government; and

2 (7) any improvements in energy efficiency planned or
3 realized through the use of ENERGY STAR-qualified products
4 and guaranteed energy savings performance contracts.

5 Section 40. Energy Efficiency in State Government
6 Buildings Fund.

7 (a) A special fund in the State treasury is hereby created
8 which shall be known as the Energy Efficiency in State
9 Government Buildings Fund. The Fund shall be used to provide
10 financial assistance to State government agencies for the
11 purposes of this Act. Notwithstanding any other law to the
12 contrary, the Energy Efficiency in State Government Buildings
13 Fund is not subject to sweeps, administrative charge-backs, or
14 any other fiscal or budgetary maneuver that would in any way
15 transfer any amounts from the Energy Efficiency in State
16 Government Buildings Fund into any other fund of the State.

17 (b) The Fund may receive State appropriations, gifts,
18 grants, and federal funds and shall include earnings from the
19 investment of moneys in the Fund.

20 (c) Administration of this Fund shall be the responsibility
21 of the Board. The Board shall establish terms and conditions
22 for the operation of the Fund including the application
23 process. The Board shall establish and implement fiscal
24 controls and accounting periods for projects that receive
25 financial assistance from the Fund.

1 Section 45. Administrative rules. The Board may implement
2 the provisions of this Act through the promulgation of
3 administrative rules pursuant to the Illinois Administrative
4 Procedure Act.

5 Section 50. Prequalification; qualified providers.

6 (a) The Capital Development Board shall establish
7 procedures to prequalify firms or entities seeking to provide
8 services under performance and guaranteed energy savings
9 performance contracts and ensure such firms are qualified
10 providers of such services.

11 (b) The minimum training required for a qualified provider
12 under this Section shall be the satisfactory completion of at
13 least 40 hours of course instruction dealing with energy
14 conservation measures. A qualified provider to whom the
15 contract is awarded shall give a sufficient bond to the State
16 agency or area vocational center for its faithful performance.
17 All design services shall be procured in accordance with the
18 Architectural, Engineering, and Land Surveying Qualifications
19 Based Selection Act.

20 Section 55. Request for proposals. The request for
21 proposals shall be administered by the Capital Development
22 Board and notification of the procurement will be accordance
23 with the Illinois Procurement Code, but in no case shall the

1 Board provide less than a 30-day notice of the request for
2 proposals. Proposals submitted shall be sealed. The request for
3 proposals shall include all of the following:

4 (1) the name and address of the proposed project;

5 (2) the name, address, title, and phone number of a
6 contact person;

7 (3) notice indicating that the State agency is
8 requesting qualified providers to propose energy
9 conservation measures through a performance or guaranteed
10 energy savings performance contract;

11 (4) the date, time, and place where proposals must be
12 received;

13 (5) the evaluation criteria for assessing the
14 proposals; and

15 (6) any other stipulations and clarifications the
16 State agency may require.

17 Section 60. Evaluation of proposals. Before entering into a
18 performance or guaranteed energy savings performance contract,
19 a State agency shall submit a request for proposals. The
20 Capital Development Board shall evaluate any sealed proposal
21 from a qualified provider on behalf of the State agency. The
22 evaluation shall analyze the estimates of all costs of
23 installations, modifications, or remodeling, including,
24 without limitation, costs of a pre-installation energy audit or
25 analysis, design, engineering, installation, maintenance,

1 repairs, debt service, conversions to a different energy or
2 fuel source, or post-installation project monitoring, data
3 collection, and reporting. The evaluation shall include a
4 detailed analysis of whether either the energy consumed or the
5 operating costs, or both, will be reduced. The evaluation of
6 the proposal shall be done by a licensed professional engineer
7 or architect who is retained by the Capital Development Board
8 and selected in accordance with the Architectural,
9 Engineering, and Land Surveying Qualifications Based Selection
10 Act. A licensed architect or registered professional engineer
11 evaluating a proposal under this Section must not have any
12 financial or contractual relationship with a qualified
13 provider or other source that would constitute a conflict of
14 interest.

15 Section 65. Award of contract.

16 (a) Sealed proposals must be opened by the Capital
17 Development Board at a public opening at which the contents of
18 the proposals must be announced. Each person or entity
19 submitting a sealed proposal must receive at least 14 days
20 notice of the time and place of the opening. The Capital
21 Development Board shall select the qualified provider that best
22 meets the needs of the State agency. After evaluating the
23 proposals under Section 60, the Capital Development Board may
24 enter into a guaranteed energy savings performance contract
25 with a qualified provider if it finds that the amount it would

1 spend on the energy conservation measures recommended in the
2 proposal would not exceed the amount to be saved in either
3 energy or operational costs, or both, within a 5-year period
4 from the date of installation, if the recommendations in the
5 proposal are followed. Contracts let or awarded must be
6 published in the Illinois Procurement Bulletin.

7 (b) The request for proposals and any contracts awarded to
8 a qualified provider shall require that any subsequent need for
9 architectural, engineering, or land surveying services that
10 arises after the submittal of the request for qualifications,
11 the request for proposals, or contract award shall be procured
12 by the provider using a qualifications based selection process
13 consisting of publication of notice of availability of such
14 services, a statement of desired qualifications, an evaluation
15 based on such desired qualifications, and the development of a
16 shortlist ranking the firms in order of qualifications, and
17 then negotiations with such ranked firms for a fair and
18 reasonable fee. Compliance with the Architectural,
19 Engineering, and Land Surveying Qualifications Based Selection
20 Act shall be deemed prima facie compliance with this
21 subsection. Every performance or guaranteed energy savings
22 performance contract shall incorporate the requirements of
23 this subsection.

24 (c) The request for proposals shall require that each and
25 every contractor, subcontractor, and architectural,
26 engineering, and land surveying firm or entity shall be listed

1 and the quotation or price for such services shall also be
2 listed. If, prior to or after the award of the contract, any of
3 the listed firms shall have a reduction in their listed price,
4 the performance or guaranteed energy savings performance
5 contract shall be modified and such savings shall be for the
6 benefit of the State agency with a corresponding reduction in
7 the contract amount. The information in the request for
8 proposals shall be considered confidential and only for the use
9 of the State agency.

10 Section 70. Guarantee. A guaranteed energy savings
11 performance contract shall include a written guarantee by the
12 qualified provider that either the energy or operational cost
13 savings, or both, will meet or exceed, within 5 years, the
14 costs of the energy conservation measures. The qualified
15 provider shall reimburse the State agency for any shortfall of
16 guaranteed energy savings projected in the contract. A
17 qualified provider shall provide a sufficient bond to the State
18 agency for the installation and the faithful performance of all
19 the measures included in the contract. The guaranteed energy
20 savings performance contract may provide for payments over a
21 period of time not to exceed 5 years from the date of final
22 installation of the measures.

23 Section 75. Disclosures. A State agency may not withhold
24 the disclosure of information related to (i) the State agency's

1 consumption of energy, (ii) the physical condition of the State
2 agency's facilities, and (iii) any limitations prescribed by
3 the State agency.

4 In accordance with Section 50-10.5 of the Illinois
5 Procurement Code, no contractor that participated in the
6 preparation of the specifications issued by the State agency
7 shall be permitted to respond to the solicitation or be awarded
8 a performance or guaranteed energy savings performance
9 contract. The solicitation must include a written disclosure
10 that no energy services contractor participated in the
11 preparation of the specifications. The written disclosure
12 shall be published in the Capital Development Board's volume of
13 the Illinois Procurement Bulletin with the request for
14 proposal.

15 Section 80. Operational and energy cost savings. The
16 Department shall document the operational and energy cost
17 savings specified in the guaranteed energy savings performance
18 contract. If the annual energy savings are less than projected
19 under the guaranteed energy savings performance contract the
20 qualified provider shall pay the difference in accordance with
21 Section 70.

22 Section 85. Bonding. A qualified provider shall provide a
23 sufficient bond to the State agency for the installation and
24 the faithful performance of all the measures included in the

1 contract in accordance with the Public Construction Bond Act.
2 Such bond shall be in effect for the entire term of the
3 contract.

4 Section 90. Applicable laws. Other State laws and related
5 administrative requirements apply to this Act, including, but
6 not limited to, the following laws and related administrative
7 requirements: the Illinois Human Rights Act, the Business
8 Enterprise for Minorities, Females, and Persons with
9 Disabilities Act, the Prevailing Wage Act, the Employment of
10 Illinois Workers on Public Works Act, the Freedom of
11 Information Act, the Open Meetings Act, the Illinois
12 Architecture Practice Act of 1989, the Professional
13 Engineering Practice Act of 1989, the Structural Engineering
14 Practice Act of 1989, the Architectural, Engineering, and Land
15 Surveying Qualifications Based Selection Act, the Contractor
16 Unified License and Permit Bond Act, the Procurement of
17 Domestic Products Act, the Public Purchases in Other States
18 Act, the Governmental Joint Purchasing Act, the Design-Build
19 Procurement Act, the State Prompt Payment Act, the Public
20 Contract Fraud Act, the Public Construction Contract Act, the
21 Airport and Correctional Facility Land Disclosure Act, the
22 State Real Property Leasing Act, the Real Estate Leasing Act,
23 the Project Labor Agreements Act, and the provisions of Article
24 50 of the Illinois Procurement Code.

1 Section 95. The State Finance Act is amended by adding
2 Section 5.811 as follows:

3 (30 ILCS 105/5.811 new)

4 Sec. 5.811. Energy Efficiency in State Government
5 Buildings Fund.

6 Section 100. The Illinois Procurement Code is amended by
7 changing Section 30-45 as follows:

8 (30 ILCS 500/30-45)

9 Sec. 30-45. Other Acts. This Article is subject to
10 applicable provisions of the following Acts:

11 (1) the Prevailing Wage Act;

12 (2) the Public Construction Bond Act;

13 (3) the Public Works Employment Discrimination Act;

14 (4) the Public Works Preference Act (repealed on June
15 16, 2010 by Public Act 96-929);

16 (5) the Employment of Illinois Workers on Public Works
17 Act;

18 (6) the Public Contract Fraud Act;

19 (7) the Illinois Construction Evaluation Act; ~~and~~

20 (8) the Project Labor Agreements Act; and ~~and~~

21 (9) the Energy Efficiency Program for State Government
22 Buildings Act.

23 (Source: P.A. 97-199, eff. 7-27-11; 97-333, eff. 8-12-11.)

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