



## 100TH GENERAL ASSEMBLY

### State of Illinois

### 2017 and 2018

### SB1287

Introduced 2/9/2017, by Sen. John G. Mulroe

#### 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

Amends the School Code. Provides that a duty of regional superintendents is to inspect the energy conservation measures of schools under the Code. In provisions concerning school energy conservation and savings measures, provides that qualified providers need to be licensed in accordance with the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, or the Structural Engineering Practice Act of 1989. Provides for procedures for the submission of proposals. Provides for changes made under guaranteed energy savings contracts to be subject to performance reviews. Changes the period of time in which guaranteed energy savings contracts begin becoming cost effective from 20 years to 8 years. Changes references from "energy or operational costs" to "energy operating costs". Makes changes to various definitions. Makes other changes.

LRB100 10392 MLM 20589 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 and 19b-2.1 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 school  
14 rooms and buildings submitted to him by school boards, and to  
15 approve all those which comply substantially with the building  
16 code authorized in Section 2-3.12.

17 If a municipality or, in the case of an unincorporated  
18 area, a county or, if applicable, a fire protection district  
19 wishes to be notified of plans and specifications received by a  
20 regional office of education for any future construction or  
21 alteration of a public school facility located within that  
22 entity's jurisdiction, then the entity must register this wish  
23 with the regional superintendent of schools. Within 10 days

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

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

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

2 (105 ILCS 5/19b-1.1) (from Ch. 122, par. 19b-1.1)

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

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

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

22 (3) Automated or computerized energy control systems.

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

25 (5) Replacement or modification of lighting fixtures

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

6 (6) Energy recovery systems.

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

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

10 (105 ILCS 5/19b-1.2) (from Ch. 122, par. 19b-1.2)

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

1 including renewable energy credits and carbon credits.

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

3 (105 ILCS 5/19b-1.3) (from Ch. 122, par. 19b-1.3)

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

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

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

24 (105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

1           Sec. 19b-1.4. Request for proposals. "Request for  
2 proposals" means a competitive selection achieved by  
3 negotiated procurement. The request for proposals shall be  
4 submitted to the administrators of the Capital Development  
5 Board Procurement Bulletin for publication and through at least  
6 one public notice, at least 30 days before the request date in  
7 a newspaper published in the district or vocational center  
8 area, or if no newspaper is published in the district or  
9 vocational center area, in a newspaper of general circulation  
10 in the area of the district or vocational center, from a school  
11 district or area vocational center that will administer the  
12 program, requesting ~~innovative solutions and~~ proposals for  
13 energy conservation measures. ~~Proposals submitted shall be~~  
14 ~~sealed.~~ The request for proposals shall include all of the  
15 following:

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

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

20           (3) Notice indicating that the school district or area  
21 vocational center is requesting qualified providers to  
22 propose energy conservation measures through a guaranteed  
23 energy savings contract.

24           (4) The date, time, and place where proposals must be  
25 received.

26           (5) The evaluation criteria for assessing the

1 proposals.

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

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

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

6 Sec. 19b-1.5. Energy operating cost. "Energy operating  
7 cost" means any expenditure paid by a school district or area  
8 vocational center for the furnishing of heat, cold, power,  
9 electricity, water or light to any building or facility owned  
10 or operated by a school district or area vocational center.

11 (105 ILCS 5/19b-2) (from Ch. 122, par. 19b-2)

12 Sec. 19b-2. Evaluation of proposal; performance review.  
13 Before entering into a guaranteed energy savings contract under  
14 Section 19b-3, a school district or area vocational center  
15 shall submit a request for proposals. The school district or  
16 area vocational center shall evaluate any sealed proposal from  
17 a qualified provider. The evaluation shall analyze the  
18 estimates of all costs of installations, modifications or  
19 remodeling, including, without limitation, costs of a  
20 pre-installation energy audit or analysis, design,  
21 engineering, installation, maintenance, repairs, debt service,  
22 conversions to a different energy or fuel source, or  
23 post-installation project monitoring, data collection, and  
24 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. If technical assistance is not  
3 available by a licensed architect or registered professional  
4 engineer on the school district or area vocational center  
5 staff, then the evaluation of the proposal shall be done by a  
6 registered professional engineer or architect, who is retained  
7 by the school district or area vocational center. A licensed  
8 architect or registered professional engineer evaluating a  
9 proposal or reviewing contract performance under this Section  
10 must not have any financial or contractual relationship with a  
11 qualified provider or other source that would constitute a  
12 conflict of interest. The school district or area vocational  
13 center may pay a reasonable fee for evaluation of the proposal  
14 or the review of contract performance or include the fee as  
15 part of the payments made under Section 19b-4.

16 Performance reviews shall be conducted at the discretion of  
17 the school district or area vocational center to verify the  
18 outcomes of the guaranteed energy savings contract and shall  
19 include any improvement, repair, alteration, or betterment of  
20 any building or facility owned or operated by a school district  
21 or area vocational center or any equipment, fixture, or  
22 furnishing added to or used in any such building or facility. A  
23 qualified provider may not withhold the disclosure of  
24 information related to the content of a proposal or the  
25 performance of the contract.

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

1 (105 ILCS 5/19b-2.1 new)

2 Sec. 19b-2.1. Submission of proposals. Proposals must be  
3 properly identified and sealed. Proposals may not be reviewed  
4 until after the deadline for submission has passed as set forth  
5 in the request for proposals. All qualified providers  
6 submitting proposals shall be disclosed after the deadline for  
7 submission but not before. Proposals shall identify the names  
8 of all parties to the proposed contract including those which  
9 may be subcontracted during the performance of the contract.  
10 Proposals must meet all material requirements of the request  
11 for proposal or they may be rejected as non-responsive.  
12 Proposals may be withdrawn prior to evaluation for any cause.

13 (105 ILCS 5/19b-3) (from Ch. 122, par. 19b-3)

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

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

1 provider shall reimburse the school district or area vocational  
2 center for any shortfall of guaranteed energy savings projected  
3 in the contract. A qualified provider shall provide a  
4 sufficient bond to the school district or area vocational  
5 center for the installation and the faithful performance of all  
6 the measures included in the contract. The guaranteed energy  
7 savings contract may provide for payments over a period of  
8 time, not to exceed 8 ~~20~~ years 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 combination  
14 or an area vocational center may enter into an installment  
15 payment contract or lease purchase agreement with a qualified  
16 provider or with a third party, as authorized by law, for the  
17 funding or financing of the purchase and installation of energy  
18 conservation measures by a qualified provider. Every school  
19 district or area vocational center may issue certificates  
20 evidencing the indebtedness incurred pursuant to the contracts  
21 or agreements. Any such contract or agreement shall be valid  
22 whether or not an appropriation with respect thereto is first  
23 included in any annual or supplemental budget adopted by the  
24 school district or area vocational center. Each contract or  
25 agreement entered into by a school district or area vocational

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

6 If an energy audit is performed by an energy services  
7 contractor for a school district within the 3 years immediately  
8 preceding the solicitation, then the school district must  
9 publish as a reference document in the solicitation for energy  
10 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 consumption of  
19 energy or energy operating costs, (ii) the physical condition  
20 of the school district's facilities, and (iii) any limitations  
21 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 the difference as  
18 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 operating  
23 cost ~~operating or capital~~ expenditures for any guaranteed  
24 energy savings contract including purchases using installment

1 payment contracts or lease purchase agreements. A school  
2 district or area vocational center that enters into such a  
3 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.)