



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3472

Introduced 2/14/2020, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

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

Amends the School Code. Provides that a duty of the regional superintendent of schools is to inspect the energy conservation measures of schools under the Code. In the Article concerning school energy conservation and savings measures, makes changes concerning definitions, the evaluation and submission of guaranteed energy savings contract proposals, performance reviews, the award of a contract, the written guarantee, installment payment contracts and lease purchase agreements, cost savings, and available funds. Prohibits guaranteed energy savings contracts from being entered into on or after January 1, 2021. Repeals the Article 20 years after the effective date of the amendatory Act.

LRB101 20028 NHT 69558 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

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

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

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

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

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

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

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

1 or denial.

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

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

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

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

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

23 (3) Automated or computerized energy control systems.

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

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

7 (6) Energy recovery systems.

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

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

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

22 (105 ILCS 5/19b-1.2) (from Ch. 122, par. 19b-1.2)

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

24 "Guaranteed energy savings contract" means a contract for: (i)
25 the implementation of an energy audit, data collection, and

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

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

15 (105 ILCS 5/19b-1.3) (from Ch. 122, par. 19b-1.3)

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

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

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

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

11 (105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

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

1 following:

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

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

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

10 (4) The date, time, and place where proposals must be
11 received.

12 (5) The evaluation criteria for assessing the
13 proposals.

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

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

17 (105 ILCS 5/19b-1.5 new)

18 Sec. 19b-1.5. Energy operating cost. "Energy operating
19 cost" means any expenditure paid by a school district or area
20 vocational center to a third party for the furnishing of heat,
21 cold, power, electricity, water, or light to any building or
22 facility owned or operated by a school district or area
23 vocational center. "Energy operating cost" shall be directly
24 related to the energy consumption of a structure. "Energy
25 operating cost" does not include calculations related to

1 general maintenance and custodial costs, including, but not
2 limited to, window cleaning, floor waxing, carpet vacuuming and
3 cleaning, mowing of lawns, trash removal, playground
4 maintenance, and similar indirect costs.

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

6 Sec. 19b-2. Evaluation of proposal; performance review.

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

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

12 Performance reviews shall be conducted at least once every
13 4 years at the discretion of the school district or area
14 vocational center to verify the outcomes of the guaranteed
15 energy savings contract and shall include any improvement,
16 repair, alteration, or betterment of any building or facility
17 owned or operated by a school district or area vocational
18 center or any equipment, fixture, or furnishing added to or
19 used in any such building or facility. A performance review
20 shall be performed during a health and life safety survey under
21 Section 2-3.12 of this Code.

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

23 (105 ILCS 5/19b-2.1 new)

24 Sec. 19b-2.1. Submission of proposals. Proposals must be
25 properly identified and sealed. Proposals may not be reviewed

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

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

20 Sec. 19b-3. Award of guaranteed energy savings contract.
21 Sealed proposals must be opened by a member or employee of the
22 school board or governing board of the area vocational center,
23 whichever is applicable, at a public opening at which the
24 contents of the proposals must be announced. Each person or
25 entity submitting a sealed proposal must receive at least 13

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

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

2 (105 ILCS 5/19b-4) (from Ch. 122, par. 19b-4)

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

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

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

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

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

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

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

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

25 For purposes of this Section, proprietary information or
26 practices does not include overhead or profit calculations or

1 allowances.

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

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

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

20 (105 ILCS 5/19b-7) (from Ch. 122, par. 19b-7)

21 Sec. 19b-7. Energy operating ~~Operational and energy~~ cost
22 savings. The school district or area vocational center shall
23 document the ~~operational and~~ energy operating cost savings
24 specified in the guaranteed energy savings contract and
25 designate and appropriate that amount for an annual payment of

1 the contract. If the annual energy operating cost savings are
2 less than projected under the guaranteed energy savings
3 contract, the qualified provider shall, within 90 days, pay the
4 difference as provided in Section 19b-4.

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

6 (105 ILCS 5/19b-8) (from Ch. 122, par. 19b-8)

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

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

17 (105 ILCS 5/19b-90 new)

18 Sec. 19b-90. New or modified contracts prohibited. No new
19 guaranteed energy savings contract, contract modifications, or
20 contract amendments may be entered into on or after January 1,
21 2021.

22 (105 ILCS 5/19b-95 new)

23 Sec. 19b-95. Repeal. This Article is repealed 20 years

1 after the effective date of this amendatory Act of the 101st
2 General Assembly.