



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3198

Introduced 2/15/2018, 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 references from "energy or operational cost" to "energy operating cost". Makes changes to various definitions. Makes other changes.

LRB100 20054 AXK 35336 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 "Energy conservation measure" does not include new
10 construction or building additions beyond the square footage
11 and footprint of the existing buildings or structures currently
12 in existence, except as required for mechanical and electrical
13 upgrades. "Energy conservation measure" does not include new or
14 additional classrooms, gymnasiums, or administrative and
15 common areas. New construction or additions shall be designed
16 and constructed in accordance with the applicable energy
17 conservation laws and codes and may not be included in the
18 calculations of any energy savings with respect to any
19 guaranteed energy savings contract.

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

21 (105 ILCS 5/19b-1.2) (from Ch. 122, par. 19b-1.2)

22 Sec. 19b-1.2. Guaranteed energy savings contract.
23 "Guaranteed energy savings contract" means a contract for: (i)
24 the implementation of an energy audit, data collection, and
25 other related analyses preliminary to the undertaking of energy

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

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

14 (105 ILCS 5/19b-1.3) (from Ch. 122, par. 19b-1.3)

15 Sec. 19b-1.3. Qualified provider. "Qualified provider"
16 means a person or business whose employees are experienced and
17 trained in the design, implementation, or installation of
18 energy conservation measures. The minimum training required
19 for any person or employee under this Section shall be the
20 satisfactory completion of at least 40 hours of course
21 instruction dealing with energy conservation measures, and the
22 person or business may not engage in the practice of
23 architecture, engineering, or structural engineering unless
24 the person is licensed or the business is registered in
25 accordance with the Illinois Architecture Practice Act of 1989,

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

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

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

10 (105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

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

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

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

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

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

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

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

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

16 (105 ILCS 5/19b-1.5 new)

17 Sec. 19b-1.5. Energy operating cost. "Energy operating
18 cost" means any expenditure paid by a school district or area
19 vocational center for the furnishing of heat, cold, power,
20 electricity, water, or light to any building or facility owned
21 or operated by a school district or area vocational center.
22 "Energy operating cost" shall be directly related to the energy
23 consumption of a structure and the mechanical and electrical
24 systems of energy conservation measures, including maintenance
25 and other services to those systems during the expected life of

1 the contract. "Energy operating cost" does not include
2 calculations related to general maintenance and custodial
3 costs, including, but not limited to, window cleaning, carpet
4 vacuuming and cleaning, mowing of lawns, trash removal,
5 playground maintenance, and similar indirect costs.

6 (105 ILCS 5/19b-2) (from Ch. 122, par. 19b-2)

7 Sec. 19b-2. Evaluation of proposal; performance review.
8 Before entering into a guaranteed energy savings contract under
9 Section 19b-3, a school district or area vocational center
10 shall submit a request for proposals. The school district or
11 area vocational center shall evaluate any sealed proposal from
12 a qualified provider. The evaluation shall analyze the
13 estimates of all costs of installations, modifications or
14 remodeling, including, without limitation, costs of a
15 pre-installation energy audit or analysis, design,
16 engineering, installation, maintenance, repairs, debt service,
17 conversions to a different energy or fuel source, or
18 post-installation project monitoring, data collection, and
19 reporting. The evaluation shall include a detailed analysis of
20 whether either the energy consumed or the energy operating
21 costs, or both, will be reduced. If technical assistance is not
22 available by a licensed architect or registered professional
23 engineer on the school district or area vocational center
24 staff, then the evaluation of the proposal shall be done by a
25 registered professional engineer or architect, who is retained

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

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

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

20 (105 ILCS 5/19b-2.1 new)

21 Sec. 19b-2.1. Submission of proposals. Proposals must be
22 properly identified and sealed. Proposals may not be reviewed
23 until after the deadline for submission has passed as set forth
24 in the request for proposals. All qualified providers
25 submitting proposals shall be disclosed after the deadline for

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

16 (105 ILCS 5/19b-3) (from Ch. 122, par. 19b-3)

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

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

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

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

19 Sec. 19b-4. Guarantee. The guaranteed energy savings
20 contract shall include a written guarantee of the qualified
21 provider that ~~either~~ the energy operating ~~or operational~~ cost
22 savings, ~~or both~~, will meet or exceed within 20 years the costs
23 of the energy conservation measures. The qualified provider
24 shall reimburse the school district or area vocational center
25 for any shortfall of guaranteed energy savings projected in the

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

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

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

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

1 vocational center, whichever is applicable. The authority
2 granted in this Section is in addition to any other authority
3 granted by law.

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

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

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

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

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

1 disclosure that no energy services contractor or qualified
2 provider participated in the preparation of the specifications
3 for the school district. The written disclosure shall be
4 published in the Capital Development Board Procurement
5 Bulletin with the Request for Proposal.

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

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

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

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

18 (105 ILCS 5/19b-8) (from Ch. 122, par. 19b-8)

19 Sec. 19b-8. Available funds. A school district or area
20 vocational center may use funds designated for energy operating
21 cost ~~operating or capital~~ expenditures for any guaranteed
22 energy savings contract including purchases using installment
23 payment contracts or lease purchase agreements. A school
24 district or area vocational center that enters into such a

1 contract or agreement may covenant in such contract or
2 agreement that payments made thereunder shall be payable from
3 the first funds legally available in each fiscal year.

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