



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1504

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

- 30 ILCS 500/20-5
- 30 ILCS 500/25-45
- 30 ILCS 500/Art. 32 heading new
- 30 ILCS 500/32-3 new
- 30 ILCS 500/32-4 new
- 30 ILCS 500/32-5 new
- 30 ILCS 500/32-10 new
- 30 ILCS 500/32-15 new
- 30 ILCS 500/32-20 new
- 30 ILCS 500/32-25 new

Amends the Illinois Procurement Code. Provides that the Illinois Department of Corrections and the Capital Development Board shall enter into a contract with a qualified provider to reduce energy usage and carbon footprints of State correctional facilities. Creates a new Article in the Illinois Procurement Code concerning the procurement of energy conservation measures. Provides that a State purchasing officer shall submit a request for proposals for a guaranteed energy savings contract and shall evaluate any sealed proposal from a qualified provider. Provides that sealed proposals must be opened by a State purchasing officer at a public opening. Provides that a State purchasing officer shall select the qualified provider that best meets the needs of the State agency. Effective immediately.

LRB097 10230 PJG 50426 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Sections 20-5 and 25-45 and by adding the heading of
6 Article 32 and Sections 32-3, 32-4, 32-5, 32-10, 32-15, 32-20,
7 and 32-25 as follows:

8 (30 ILCS 500/20-5)

9 Sec. 20-5. Method of source selection. Unless otherwise
10 authorized by law, all State contracts shall be awarded by
11 competitive sealed bidding, in accordance with Section 20-10,
12 except as provided in Sections 20-15, 20-20, 20-25, 20-30,
13 20-32, 20-35, 30-15, and 40-20.

14 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

15 (30 ILCS 500/25-45)

16 Sec. 25-45. Energy conservation program. State purchasing
17 officers may enter into energy conservation program contracts
18 that provide for utility cost savings. The chief procurement
19 officer shall promulgate and adopt rules in accordance with
20 Article 32 of this Act for the implementation of this Section.

21 For the purposes of promoting energy conservation and
22 carbon reduction in State owned facilities, the State

1 purchasing officer of the Illinois Department of Corrections
2 (IDOC) shall work in conjunction with the State purchasing
3 officer of the Capital Development Board (CDB) to follow the
4 procedure prescribed in Article 32 of this Act for the
5 procurement of guaranteed energy saving contracts. After
6 evaluating proposals, IDOC shall enter into a contract with the
7 qualified provider to reduce energy usage and carbon footprints
8 of the correctional facilities administered by IDOC. If, in the
9 judgment of IDOC and CDB, it is in the State's best interest to
10 award contracts to more than one qualified provider, they may
11 do so. The State shall award any contracts under this paragraph
12 by March 1, 2012. This paragraph is no longer operative after
13 January 1, 2013.

14 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

15 (30 ILCS 500/Art. 32 heading new)

16 ARTICLE 32. ENERGY CONSERVATION MEASURES

17 (30 ILCS 500/32-3 new)

18 Sec. 32-3. Applicable laws. Other State laws and related
19 administrative requirements apply to this Article, including,
20 but not limited to, the following laws and related
21 administrative requirements: the Illinois Human Rights Act,
22 the Prevailing Wage Act, the Public Construction Bond Act, the
23 Public Works Preference Act, the Employment of Illinois Workers
24 on Public Works Act, the Freedom of Information Act, the Open

1 Meetings Act, the Illinois Architecture Practice Act of 1989,
2 the Professional Engineering Practice Act of 1989, the
3 Structural Engineering Practice Act of 1989, and the Contractor
4 Unified License and Permit Bond Act.

5 (30 ILCS 500/32-4 new)

6 Sec. 32-4. Applicability. In order to protect the integrity
7 of historic buildings, no provision of this Article shall be
8 interpreted to require the implementation of energy
9 conservation measures that conflict with respect to any
10 property eligible for, nominated to, or entered on the National
11 Register of Historic Places, pursuant to the National Historic
12 Preservation Act of 1966, or the Illinois Register of Historic
13 Places, pursuant to the Illinois Historic Preservation Act.

14 (30 ILCS 500/32-5 new)

15 Sec. 32-5. Definitions. As used in this Article, unless the
16 context clearly requires otherwise:

17 "Energy conservation measure" means any improvement,
18 repair, alteration, or betterment of any building or facility
19 owned or operated by the State or any equipment, fixture, or
20 furnishing to be added to or used in any such building or
21 facility, subject to all applicable building codes, that is
22 designed to reduce energy consumption or operating costs, and
23 may include, without limitation, one or more of the following:

24 (1) Insulation of the building structure or systems

1 within the building.

2 (2) Storm windows or doors, caulking or
3 weatherstripping, multiglazed windows or doors, heat
4 absorbing or heat reflective glazed and coated window or
5 door systems, additional glazing, reductions in glass
6 area, or other window and door system modifications that
7 reduce energy consumption.

8 (3) Automated or computerized energy control systems.

9 (4) Heating, ventilating, or air conditioning system
10 modifications or replacements.

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

17 (6) Energy recovery systems.

18 (7) Energy conservation measures that provide
19 long-term operating cost reductions.

20 "Guaranteed energy savings contract" means a contract for:

21 (i) the implementation of an energy audit, data collection, and
22 other related analyses preliminary to the undertaking of energy
23 conservation measures; (ii) the evaluation and recommendation
24 of energy conservation measures; (iii) the implementation of
25 one or more energy conservation measures; and (iv) the
26 implementation of project monitoring and data collection to

1 verify post-installation energy consumption and energy-related
2 operating costs. The contract shall provide that all payments,
3 except obligations on termination of the contract before its
4 expiration, are to be made over time and that the savings are
5 guaranteed to the extent necessary to pay the costs of the
6 energy conservation measures. Energy savings may include
7 energy reduction and offsetting sources of renewable energy
8 funds including renewable energy credits and carbon credits.

9 "Qualified provider" means a person or business whose
10 employees are experienced and trained in the design,
11 implementation, or installation of energy conservation
12 measures. The minimum training required for any person or
13 employee under this paragraph shall be the satisfactory
14 completion of at least 40 hours of course instruction dealing
15 with energy conservation measures. A qualified provider to whom
16 the contract is awarded shall give a sufficient bond to the
17 State agency for its faithful performance.

18 "Request for proposals" means a competitive selection
19 achieved by negotiated procurement. The request for proposals
20 shall be announced through public notice, at least 14 days
21 before the request date, in the Illinois Procurement Bulletin,
22 from the State purchasing officer 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
26 following:

- 1 (1) The name and address of the State agency.
- 2 (2) The name, address, title, and phone number of the
3 State purchasing officer.
- 4 (3) Notice indicating that the State agency is
5 requesting qualified providers to propose energy
6 conservation measures through a guaranteed energy savings
7 contract.
- 8 (4) The date, time, and place where proposals must be
9 received.
- 10 (5) The evaluation criteria for assessing the
11 proposals.
- 12 (6) Any other stipulations and clarifications the
13 State agency may require.

14 (30 ILCS 500/32-10 new)

15 Sec. 32-10. Evaluation of proposal. Before entering into a
16 guaranteed energy savings contract under Section 32-15, a State
17 purchasing officer shall submit a request for proposals. The
18 State purchasing officer shall evaluate any sealed proposal
19 from a qualified provider. The evaluation shall analyze the
20 estimates of all costs of installations, modifications, or
21 remodeling, including, without limitation, costs of a
22 pre-installation energy audit or analysis, design,
23 engineering, installation, maintenance, repairs, debt service,
24 conversions to a different energy or fuel source, or
25 post-installation project monitoring, data collection, and

1 reporting. The evaluation shall include a detailed analysis of
2 whether either the energy consumed or the operating costs, or
3 both, will be reduced. If technical assistance is not available
4 by a licensed architect or registered professional engineer on
5 the State agency's staff, then the evaluation of the proposal
6 shall be done by a registered professional engineer or
7 architect who is retained by the State agency. Any licensed
8 architect or registered professional engineer evaluating a
9 proposal under this Section may not have any financial or
10 contractual relationship with a qualified provider or other
11 source that would constitute a conflict of interest. The State
12 agency may pay a reasonable fee for evaluation of the proposal
13 or include the fee as part of the payments made under Section
14 32-20.

15 (30 ILCS 500/32-15 new)

16 Sec. 32-15. Award of guaranteed energy savings contract.
17 Sealed proposals must be opened by the State purchasing officer
18 at a public opening at which the contents of the proposals must
19 be announced. Each person or entity submitting a sealed
20 proposal must receive at least 10 days notice of the time and
21 place of the opening. The State purchasing officer shall select
22 the qualified provider that best meets the needs of the State
23 agency. The State agency shall provide public notice of (i) the
24 meeting at which it proposes to award a guaranteed energy
25 savings contract, (ii) the names of the parties to the proposed

1 contract, and (iii) the purpose of the contract. The public
2 notice shall be made at least 10 days prior to the meeting.
3 After evaluating the proposals under Section 32-10, a State
4 purchasing officer may enter into a guaranteed energy savings
5 contract with a qualified provider if he or she finds that the
6 amount the State agency would spend on the energy conservation
7 measures recommended in the proposal would not exceed the
8 amount to be saved in either energy or operational costs, or
9 both, within a 10-year period from the date of installation, if
10 the recommendations in the proposal are followed.

11 (30 ILCS 500/32-20 new)

12 Sec. 32-20. Guarantee. The guaranteed energy savings
13 contract shall include a written guarantee of the qualified
14 provider that either the energy or operational cost savings, or
15 both, will meet or exceed within 20 years the costs of the
16 energy conservation measures. The qualified provider shall
17 reimburse the State agency for any shortfall of guaranteed
18 energy savings projected in the contract. A qualified provider
19 shall provide a sufficient bond to the State agency for the
20 installation and the faithful performance of all the measures
21 included in the contract. The guaranteed energy savings
22 contract may provide for payments over a period of time, not to
23 exceed 20 years from the date of the final installation of the
24 measures.

1 (30 ILCS 500/32-25 new)

2 Sec. 32-25. Operational and energy cost savings. The State
3 agency shall document the operational and energy cost savings
4 specified in the guaranteed energy savings contract and shall
5 designate and appropriate that amount for an annual payment of
6 the contract. If the annual energy savings are less than
7 projected under the guaranteed energy savings contract, the
8 qualified provider shall pay the difference as provided in
9 Section 32-20.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.