Energy Efficiency Exemption to the Revenue Limit §121.91(4)(o)

Under § 121.91 (4) (o) a school board may adopt a resolution to increase the revenue limit otherwise applicable to a school district under §121.91 (2m) in any school year by an amount spent by the school district in that school year on a project to implement energy efficiency measures or to purchase energy efficiency products if certain conditions are met.

Research and Due Diligence

State law requires districts to enter into a properly executed performance contract per §[66.0133](http://docs.legis.wisconsin.gov/document/statutes/66.0133) to take advantage of the non-recurring energy exemption to the revenue limit. The first step is to complete the selection process to determine your energy service company (ESCO).

The next step is to identify potential projects and determine if they are eligible for the exemption. Review the following to determine if your projects are eligible.

* A properly executed performance contract entered into under §[66.0133](http://docs.legis.wisconsin.gov/document/statutes/66.0133).
* The project improves energy efficiency of existing facilities or equipment.
* The energy efficiency measures or products result in the avoidance of, or reduction in, energy (utility) costs or operational costs.
* The energy efficiency related expenditures result in future utility or operational savings sufficient to cover the costs over a period of time (not greater than the useful life of the facility) as identified by the board of education. (Project cost/ savings analysis).
* The performance contract provides the board with cost and savings information regarding the energy efficiency measures and products.
* The board completes a cost/savings analysis to identify the period of time required for the entire project’s savings to equal costs and whether the amount the school board will spend on the project is not likely to exceed the savings over the useful life of the facility.
* A plain language reading of the literature regarding performance contracting for energy efficiency projects might lead the average person to the conclusion that the identified savings resulting from the completion of the project will be sufficient to pay for the costs of the project over the life of the debt. In essence, the project will pay for itself and maybe even save more money after the debt is paid off.
  + $10,000,000 project with 20 year debt term and payback results in annual payment and expected savings of $500,000 per year.
* §[66.0133](http://docs.legis.wisconsin.gov/document/statutes/66.0133) allows for a much broader application. Savings are required to be identified, using a variety of measures, to offset costs. Per §66.0133(2)(c), the school board must determine that the amount it will spend on the project is not likely to exceed the savings over the useful life of the facility (not the term of the debt).
  + $10,000,000 project with 20 year debt term and 50 year useful life payback results in an annual payment of $500,000 per year and expected savings of $200,000 per year.
* The cost and savings determination is a local decision. The Board of Education should be prepared to respond to tax payer inquiries as to how the amount they will spend on the project is not likely to exceed the savings over the useful life of the facility.

School Board Consideration and Resolution

* Is the information contained in the contract sufficient to meet the PI 15 resolution requirements?
* Confirm energy savings exist for each of the projects included in the performance contract. Savings should be reported in the appropriate unit of measure.
* The project may be financed with current year funds or debt. A resolution is limited to either current year funds or debt. If both types of funding are chosen, separate resolutions are required.
* A bond, note, or state trust fund loan obtained to finance the project is issued for a term not exceeding 20 years. If debt is issued, the resolution is valid for the term of the debt and should include all of the years in which the exemption applies.
  + *The Board may amend or pass a new resolution to reflect desired changes in the exemption expense. Utility savings related to the project will continue to be applied to reduce debt as long as there is an exemption expense for the project.*
* When the exemption is used for debt payments, related utility savings are used to retire the bond, note, or state trust fund loan. The Department of Public Instruction will accomplish this by annually reducing the exemption for energy efficiency expenditures by the reported utility savings.

Evaluation and Reporting

* The EE exemption is a non-recurring exemption to the revenue limit. If the annual exemption amount is not spent, the following year exemption will be reduced by the unexpended amount.
* The resolution, or amendments to a prior resolution that includes debt, must be passed on or before **October 1st**.
* Reporting requirements
  + Annually complete and publish the 65.90 Addendum reporting project savings for utility and operational costs to the electorate at the Budget Hearing. Include this information in the school district’s newsletter or in the published minutes of a school Board meeting.
  + Report the following to DPI
    - Resolution within **10 days** of passage.
      * Project Information including cost/savings analysis for each energy efficiency measure of product included in the project as well as the project total.
      * Exemption (Expense and levy) amount determined by the Board
    - Utility savings (Per 65.90 Addendum) within **two weeks** of publication.
* DPI has created a form for districts to report the project costs and savings.
  + The report should provide a list, grouped as appropriate (possibly by system), of the specific measures or products that make up the entire contract.
  + The report should describe the measurement and verification methodology and the performance indicators used to measure savings for each item listed.
  + The report should specify the amount by which utility or operational costs will be reduced by the project or product. The district should be able to identify the units of measurement, unit savings, cost per unit, and cost savings.
  + The report should include measures for operational and one-time savings.
  + The report should identify the number of years it will take for savings to equal the total cost of the project, payback period.