

AN ACT concerning finance.

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

Section 5. The Illinois Finance Authority Act is amended by changing Sections 801-40, 825-65, 825-75 and by adding Section 801-50 as follows:

(20 ILCS 3501/801-40)

Sec. 801-40. In addition to the powers otherwise authorized by law and in addition to the foregoing general corporate powers, the Authority shall also have the following additional specific powers to be exercised in furtherance of the purposes of this Act.

(a) The Authority shall have power (i) to accept grants, loans or appropriations from the federal government or the State, or any agency or instrumentality thereof, to be used for the operating expenses of the Authority, or for any purposes of the Authority, including the making of direct loans of such funds with respect to projects, and (ii) to enter into any agreement with the federal government or the State, or any agency or instrumentality thereof, in relationship to such grants, loans or appropriations.

(b) The Authority shall have power to procure and enter into contracts for any type of insurance and indemnity

agreements covering loss or damage to property from any cause, including loss of use and occupancy, or covering any other insurable risk.

(c) The Authority shall have the continuing power to issue bonds for its corporate purposes. Bonds may be issued by the Authority in one or more series and may provide for the payment of any interest deemed necessary on such bonds, of the costs of issuance of such bonds, of any premium on any insurance, or of the cost of any guarantees, letters of credit or other similar documents, may provide for the funding of the reserves deemed necessary in connection with such bonds, and may provide for the refunding or advance refunding of any bonds or for accounts deemed necessary in connection with any purpose of the Authority. The bonds may bear interest payable at any time or times and at any rate or rates, notwithstanding any other provision of law to the contrary, and such rate or rates may be established by an index or formula which may be implemented or established by persons appointed or retained therefor by the Authority, or may bear no interest or may bear interest payable at maturity or upon redemption prior to maturity, may bear such date or dates, may be payable at such time or times and at such place or places, may mature at any time or times not later than 40 years from the date of issuance, may be sold at public or private sale at such time or times and at such price or prices, may be secured by such pledges, reserves, guarantees, letters of credit, insurance contracts or other similar credit support

or liquidity instruments, may be executed in such manner, may be subject to redemption prior to maturity, may provide for the registration of the bonds, and may be subject to such other terms and conditions all as may be provided by the resolution or indenture authorizing the issuance of such bonds. The holder or holders of any bonds issued by the Authority may bring suits at law or proceedings in equity to compel the performance and observance by any person or by the Authority or any of its agents or employees of any contract or covenant made with the holders of such bonds and to compel such person or the Authority and any of its agents or employees to perform any duties required to be performed for the benefit of the holders of any such bonds by the provision of the resolution authorizing their issuance, and to enjoin such person or the Authority and any of its agents or employees from taking any action in conflict with any such contract or covenant. Notwithstanding the form and tenor of any such bonds and in the absence of any express recital on the face thereof that it is non-negotiable, all such bonds shall be negotiable instruments. Pending the preparation and execution of any such bonds, temporary bonds may be issued as provided by the resolution. The bonds shall be sold by the Authority in such manner as it shall determine. The bonds may be secured as provided in the authorizing resolution by the receipts, revenues, income and other available funds of the Authority and by any amounts derived by the Authority from the loan agreement

or lease agreement with respect to the project or projects; and bonds may be issued as general obligations of the Authority payable from such revenues, funds and obligations of the Authority as the bond resolution shall provide, or may be issued as limited obligations with a claim for payment solely from such revenues, funds and obligations as the bond resolution shall provide. The Authority may grant a specific pledge or assignment of and lien on or security interest in such rights, revenues, income, or amounts and may grant a specific pledge or assignment of and lien on or security interest in any reserves, funds or accounts established in the resolution authorizing the issuance of bonds. Any such pledge, assignment, lien or security interest for the benefit of the holders of the Authority's bonds shall be valid and binding from the time the bonds are issued without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims against the Authority or any other person irrespective of whether the other parties have notice of the pledge, assignment, lien or security interest. As evidence of such pledge, assignment, lien and security interest, the Authority may execute and deliver a mortgage, trust agreement, indenture or security agreement or an assignment thereof. A remedy for any breach or default of the terms of any such agreement by the Authority may be by mandamus proceedings in any court of competent jurisdiction to compel the performance and

compliance therewith, but the agreement may prescribe by whom or on whose behalf such action may be instituted. It is expressly understood that the Authority may, but need not, acquire title to any project with respect to which it exercises its authority.

(d) With respect to the powers granted by this Act, the Authority may adopt rules and regulations prescribing the procedures by which persons may apply for assistance under this Act. Nothing herein shall be deemed to preclude the Authority, prior to the filing of any formal application, from conducting preliminary discussions and investigations with respect to the subject matter of any prospective application.

(e) The Authority shall have power to acquire by purchase, lease, gift or otherwise any property or rights therein from any person useful for its purposes, whether improved for the purposes of any prospective project, or unimproved. The Authority may also accept any donation of funds for its purposes from any such source. The Authority shall have no independent power of condemnation but may acquire any property or rights therein obtained upon condemnation by any other authority, governmental entity or unit of local government with such power.

(f) The Authority shall have power to develop, construct and improve either under its own direction, or through collaboration with any approved applicant, or to acquire through purchase or otherwise, any project, using for such

purpose the proceeds derived from the sale of its bonds or from governmental loans or grants, and to hold title in the name of the Authority to such projects.

(g) The Authority shall have power to lease pursuant to a lease agreement any project so developed and constructed or acquired to the approved tenant on such terms and conditions as may be appropriate to further the purposes of this Act and to maintain the credit of the Authority. Any such lease may provide for either the Authority or the approved tenant to assume initially, in whole or in part, the costs of maintenance, repair and improvements during the leasehold period. In no case, however, shall the total rentals from any project during any initial leasehold period or the total loan repayments to be made pursuant to any loan agreement, be less than an amount necessary to return over such lease or loan period (1) all costs incurred in connection with the development, construction, acquisition or improvement of the project and for repair, maintenance and improvements thereto during the period of the lease or loan; provided, however, that the rentals or loan repayments need not include costs met through the use of funds other than those obtained by the Authority through the issuance of its bonds or governmental loans; (2) a reasonable percentage additive to be agreed upon by the Authority and the borrower or tenant to cover a properly allocable portion of the Authority's general expenses, including, but not limited to, administrative expenses,

salaries and general insurance, and (3) an amount sufficient to pay when due all principal of, interest and premium, if any on, any bonds issued by the Authority with respect to the project. The portion of total rentals payable under clause (3) of this subsection (g) shall be deposited in such special accounts, including all sinking funds, acquisition or construction funds, debt service and other funds as provided by any resolution, mortgage or trust agreement of the Authority pursuant to which any bond is issued.

(h) The Authority has the power, upon the termination of any leasehold period of any project, to sell or lease for a further term or terms such project on such terms and conditions as the Authority shall deem reasonable and consistent with the purposes of the Act. The net proceeds from all such sales and the revenues or income from such leases shall be used to satisfy any indebtedness of the Authority with respect to such project and any balance may be used to pay any expenses of the Authority or be used for the further development, construction, acquisition or improvement of projects. In the event any project is vacated by a tenant prior to the termination of the initial leasehold period, the Authority shall sell or lease the facilities of the project on the most advantageous terms available. The net proceeds of any such disposition shall be treated in the same manner as the proceeds from sales or the revenues or income from leases subsequent to the termination of any initial leasehold period.

(i) The Authority shall have the power to make loans to persons to finance a project, to enter into loan agreements with respect thereto, and to accept guarantees from persons of its loans or the resultant evidences of obligations of the Authority.

(j) The Authority may fix, determine, charge and collect any premiums, fees, charges, costs and expenses, including, without limitation, any application fees, commitment fees, program fees, financing charges or publication fees from any person in connection with its activities under this Act.

(k) In addition to the funds established as provided herein, the Authority shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this Act and to deposit its available monies into the funds and accounts.

(l) At the request of the governing body of any unit of local government, the Authority is authorized to market such local government's revenue bond offerings by preparing bond issues for sale, advertising for sealed bids, receiving bids at its offices, making the award to the bidder that offers the most favorable terms or arranging for negotiated placements or underwritings of such securities. The Authority may, at its discretion, offer for concurrent sale the revenue bonds of several local governments. Sales by the Authority of revenue bonds under this Section shall in no way imply State guarantee of such debt issue. The Authority may require such financial

information from participating local governments as it deems necessary in order to carry out the purposes of this subsection (1).

(m) The Authority may make grants to any county to which Division 5-37 of the Counties Code is applicable to assist in the financing of capital development, construction and renovation of new or existing facilities for hospitals and health care facilities under that Act. Such grants may only be made from funds appropriated for such purposes from the Build Illinois Bond Fund.

(n) The Authority may establish an urban development action grant program for the purpose of assisting municipalities in Illinois which are experiencing severe economic distress to help stimulate economic development activities needed to aid in economic recovery. The Authority shall determine the types of activities and projects for which the urban development action grants may be used, provided that such projects and activities are broadly defined to include all reasonable projects and activities the primary objectives of which are the development of viable urban communities, including decent housing and a suitable living environment, and expansion of economic opportunity, principally for persons of low and moderate incomes. The Authority shall enter into grant agreements from monies appropriated for such purposes from the Build Illinois Bond Fund. The Authority shall monitor the use of the grants, and shall provide for audits of the funds as well as recovery

by the Authority of any funds determined to have been spent in violation of this subsection (n) or any rule or regulation promulgated hereunder. The Authority shall provide technical assistance with regard to the effective use of the urban development action grants. The Authority shall file an annual report to the General Assembly concerning the progress of the grant program.

(o) The Authority may establish a Housing Partnership Program whereby the Authority provides zero-interest loans to municipalities for the purpose of assisting in the financing of projects for the rehabilitation of affordable multi-family housing for low and moderate income residents. The Authority may provide such loans only upon a municipality's providing evidence that it has obtained private funding for the rehabilitation project. The Authority shall provide 3 State dollars for every 7 dollars obtained by the municipality from sources other than the State of Illinois. The loans shall be made from monies appropriated for such purpose from the Build Illinois Bond Fund. The total amount of loans available under the Housing Partnership Program shall not exceed \$30,000,000. State loan monies under this subsection shall be used only for the acquisition and rehabilitation of existing buildings containing 4 or more dwelling units. The terms of any loan made by the municipality under this subsection shall require repayment of the loan to the municipality upon any sale or other transfer of the project.

(p) The Authority may award grants to universities and research institutions, research consortiums and other not-for-profit entities for the purposes of: remodeling or otherwise physically altering existing laboratory or research facilities, expansion or physical additions to existing laboratory or research facilities, construction of new laboratory or research facilities or acquisition of modern equipment to support laboratory or research operations provided that such grants (i) be used solely in support of project and equipment acquisitions which enhance technology transfer, and (ii) not constitute more than 60 percent of the total project or acquisition cost.

(q) Grants may be awarded by the Authority to units of local government for the purpose of developing the appropriate infrastructure or defraying other costs to the local government in support of laboratory or research facilities provided that such grants may not exceed 40% of the cost to the unit of local government.

(r) The Authority may establish a Direct Loan Program to make loans to individuals, partnerships or corporations for the purpose of an industrial project, as defined in Section 801-10 of this Act. For the purposes of such program and not by way of limitation on any other program of the Authority, the Authority shall have the power to issue bonds, notes, or other evidences of indebtedness including commercial paper for purposes of providing a fund of capital from which it may make such loans.

The Authority shall have the power to use any appropriations from the State made especially for the Authority's Direct Loan Program for additional capital to make such loans or for the purposes of reserve funds or pledged funds which secure the Authority's obligations of repayment of any bond, note or other form of indebtedness established for the purpose of providing capital for which it intends to make such loans under the Direct Loan Program. For the purpose of obtaining such capital, the Authority may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. Loans made under the Direct Loan Program may be in an amount not to exceed \$300,000 and shall be made for a portion of an industrial project which does not exceed 50% of the total project. No loan may be made by the Authority unless approved by the affirmative vote of at least 8 members of the board. The Authority shall establish procedures and publish rules which shall provide for the submission, review, and analysis of each direct loan application and which shall preserve the ability of each board member to reach an individual business judgment regarding the propriety of making each direct loan. The collective discretion of the board to approve or disapprove each loan shall be unencumbered. The Authority may establish and collect such fees and charges, determine and enforce such terms and conditions, and charge such interest rates as it determines to be necessary and appropriate to the successful administration of the Direct

Loan Program. The Authority may require such interests in collateral and such guarantees as it determines are necessary to project the Authority's interest in the repayment of the principal and interest of each loan made under the Direct Loan Program.

(s) The Authority may guarantee private loans to third parties up to a specified dollar amount in order to promote economic development in this State.

(t) The Authority may adopt rules and regulations as may be necessary or advisable to implement the powers conferred by this Act.

(u) The Authority shall have the power to issue bonds, notes or other evidences of indebtedness, which may be used to make loans to units of local government which are authorized to enter into loan agreements and other documents and to issue bonds, notes and other evidences of indebtedness for the purpose of financing the protection of storm sewer outfalls, the construction of adequate storm sewer outfalls, and the provision for flood protection of sanitary sewage treatment plans, in counties that have established a stormwater management planning committee in accordance with Section 5-1062 of the Counties Code. Any such loan shall be made by the Authority pursuant to the provisions of Section 820-5 to 820-60 of this Act. The unit of local government shall pay back to the Authority the principal amount of the loan, plus annual interest as determined by the Authority. The Authority shall

have the power, subject to appropriations by the General Assembly, to subsidize or buy down a portion of the interest on such loans, up to 4% per annum.

(v) The Authority may accept security interests as provided in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

(w) Moral Obligation. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on its bonds during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal of and interest on the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply only to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact shall also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal or interest on those bonds, the Chairperson of the Authority, as soon as practicable, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or

indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section. In addition to any other bonds authorized to be issued under Sections 825-60, 825-65(e), 830-25 and 845-5, the principal amount of Authority bonds outstanding issued under this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS 360/2-6(c), which have been assumed by the Authority, shall not exceed \$150,000,000.

(x) The Authority may enter into agreements or contracts with any person necessary or appropriate to place the payment obligations of the Authority under any of its bonds in whole or in part on any interest rate basis, cash flow basis, or other basis desired by the Authority, including without limitation agreements or contracts commonly known as "interest rate swap agreements", "forward payment conversion agreements", and "futures", or agreements or contracts to exchange cash flows or a series of payments, or agreements or contracts, including without limitation agreements or contracts commonly known as "options", "puts", or "calls", to hedge payment, rate spread, or similar exposure; provided that any such agreement or contract shall not constitute an obligation for borrowed money and shall not be taken into account under Section 845-5 of this Act or any other debt limit of the Authority or the State of

Illinois.

(Source: P.A. 93-205, eff. 1-1-04; 94-91, eff. 7-1-05.)

(20 ILCS 3501/801-50 new)

Sec. 801-50. Pledge of revenues by the Authority; non-impairment. Any pledge of revenues or other moneys made by the Authority shall be binding from the time the pledge is made. Revenues and other moneys so pledged shall be held outside of the State treasury and in the custody of either the Treasurer of the Authority or a trustee or a depository appointed by the Authority. Revenues or other moneys so pledged and thereafter received by the Authority or trustee or depository shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be binding against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the Authority. The State pledges and agrees with the holders of bonds or other obligations of the Authority that the State will not limit or restrict the rights hereby vested in the Authority to purchase, acquire, hold, sell, or dispose of investments or to establish and collect such fees or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of operation to the

Authority, and to fulfill the terms of any agreement made with the holders of the bonds or other obligations of the Authority or in any way impair the rights or remedies of the holders of those bonds or other obligations of the Authority until such bonds or other obligations are fully paid and discharged or provision for their payment has been made.

(20 ILCS 3501/825-65)

Sec. 825-65. Clean Coal and Energy Project Financing.

(a) Findings and declaration of policy. It is hereby found and declared that Illinois has abundant coal resources and, in some areas of Illinois, the demand for power exceeds the generating capacity. Incentives to encourage the construction of coal-fired electric generating plants in Illinois to ensure power generating capacity into the future and to advance clean coal technology and the use of Illinois coal are in the best interests of all of the citizens of Illinois. The Authority is authorized to issue bonds to help finance Clean Coal and Energy projects pursuant to this Section.

(b) Definition. "Clean Coal and Energy projects" means new electric generating facilities or new gasification facilities, as defined in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, which may include mine-mouth power plants, projects that employ the use of clean coal technology, projects to provide scrubber technology for existing energy generating

plants, or projects to provide electric transmission facilities or new gasification facilities.

(c) Creation of reserve funds. The Authority may establish and maintain one or more reserve funds to enhance bonds issued by the Authority for Clean Coal and Energy projects ~~to develop alternative energy sources, including renewable energy projects, projects to provide scrubber technology for existing energy generating plants or projects to provide electric transmission facilities~~. There may be one or more accounts in these reserve funds in which there may be deposited:

(1) any proceeds of the bonds issued by the Authority required to be deposited therein by the terms of any contract between the Authority and its bondholders or any resolution of the Authority;

(2) any other moneys or funds of the Authority that it may determine to deposit therein from any other source; and

(3) any other moneys or funds made available to the Authority. Subject to the terms of any pledge to the owners of any bonds, moneys in any reserve fund may be held and applied to the payment of principal, premium, if any, and interest of such bonds.

(d) Powers and duties. The Authority has the power:

(1) To issue bonds in one or more series pursuant to one or more resolutions of the Authority for any Clean Coal and Energy projects authorized under this Section, within the authorization set forth in subsections (e) and (f).

(2) To provide for the funding of any reserves or other funds or accounts deemed necessary by the Authority in connection with any bonds issued by the Authority.

(3) To pledge any funds of the Authority or funds made available to the Authority that may be applied to such purpose as security for any bonds or any guarantees, letters of credit, insurance contracts or similar credit support or liquidity instruments securing the bonds.

(4) To enter into agreements or contracts with third parties, whether public or private, including, without limitation, the United States of America, the State or any department or agency thereof, to obtain any appropriations, grants, loans or guarantees that are deemed necessary or desirable by the Authority. Any such guarantee, agreement or contract may contain terms and provisions necessary or desirable in connection with the program, subject to the requirements established by the Act.

(5) To exercise such other powers as are necessary or incidental to the foregoing.

(e) Clean Coal and Energy bond authorization and financing limits. In addition to any other bonds authorized to be issued under Sections 801-40(w), 825-60, 830-25 and 845-5, the Authority may have outstanding, at any time, bonds for the purpose enumerated in this Section 825-65 in an aggregate principal amount that shall not exceed \$2,700,000,000, of which

no more than \$300,000,000 may be issued to finance transmission facilities, no more than \$500,000,000 may be issued to finance scrubbers at existing generating plants, no more than \$500,000,000 may be issued to finance alternative energy sources, including renewable energy projects and no more than \$1,400,000,000 may be issued to finance new electric generating facilities or new gasification facilities, as defined in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, ~~which may include mine mouth power plants~~. An application for a loan financed from bond proceeds from a borrower or its affiliates for a Clean Coal and Energy project may not be approved by the Authority for an amount in excess of \$450,000,000 for any borrower or its affiliates. These bonds shall not constitute an indebtedness or obligation of the State of Illinois and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness or obligation of the State of Illinois, but is payable solely from the revenues, income or other assets of the Authority pledged therefor.

(f) Additional Clean Coal and Energy bond authorization and financing limits. In addition to any other bonds authorized to be issued under this Act, the Authority may issue bonds for the purpose enumerated in this Section 825-65 in an aggregate principal amount that shall not exceed \$300,000,000.

(Source: P.A. 93-205, eff. 1-1-04.)

(20 ILCS 3501/825-75)

Sec. 825-75. Additional Security. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on any bonds issued by the Authority under Sections 825-65 through 825-75 of this Act for new electric generating facilities or new gasification facilities ~~for energy generation projects that advance clean coal technology and the use of Illinois coal~~ during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal, premium, if any, and interest on such bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall ~~not~~ apply to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall ~~not~~ apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact should also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal, premium, if any, and interest on such bonds, the Chairman of the Authority, as soon as practicable, shall certify to the

Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section.

(Source: P.A. 93-205, eff. 1-1-04.)

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