- 1 AN ACT concerning utilities.
- 2 Be it enacted by the People of the State of Illinois,
- 3 represented in the General Assembly:
- 4 Section 1. Short title. This Act may be cited as the
- 5 Illinois Transmission Authority Act.
- 6 Section 5. Purpose. The purpose of this Act is to
- 7 develop new electric transmission facilities within this
- 8 State so as to ensure the provision of adequate and
- 9 economical supplies of electricity to Illinois consumers, to
- 10 promote the development of new coal based electric generation
- and to ensure that the electric transmission grid within this
- 12 State is capable of meeting existing and future electric
- 13 supply needs.
- 14 Section 10. Findings. The General Assembly finds the
- 15 following:
- 16 (1) The provision of a reliable and affordable
- 17 supply of electricity in Illinois is vital to the
- 18 well-being of Illinois' citizens and to the economy of
- 19 the State.
- 20 (2) Current and future shortages of electric
- 21 transmission capacity threaten the availability of
- reliable and affordable electric supplies.
- 23 (3) Regulatory uncertainty, the high capital cost
- of constructing high voltage electric transmission, and
- other factors have discouraged private enterprise from
- 26 constructing necessary electric transmission
- infrastructure.
- 28 (4) The creation of an Illinois Transmission
- 29 Authority is in the public interest for the purpose of
- investigating needed transmission facilities, acquiring

- the necessary rights-of-way and other property interests,

 constructing such transmission facilities and entering

 into contracts with third parties to operate and maintain

 such facilities, and to provide for the utilization of

 the transmission capacity on an open access,
- 6 non-discriminatory basis.
- 7 Section 15. Definitions. As used in this Act:
- 8 "Authority" means the Illinois Transmission Authority 9 created by this Act.
- 10 "Board" means the Board of Directors of the Authority.
- "Costs incurred in connection with the development of a 11 Transmission project" includes the cost of purchase of all 12 lands and related improvements and other property, rights, 13 easements, and rights of way that are deemed necessary for a 14 15 transmission project; costs of construction and installation of necessary equipment and facilities; financing charges; 16 17 interest costs with respect to revenue bonds, notes, and 18 other evidence of indebtedness of the Authority; engineering 19 and legal costs and expenses; the costs of plans, 20 specifications, surveys, and feasibility analyses; the cost 21 permitting and licensing and the obtaining of any 22 necessary approvals; other costs and expenses necessary or incident to determining the feasibility or practicability of 23 24 any transmission project; the costs of preparing and entering into transmission agreements; and such other expenses as may 25 26 necessary or incident to the financing, insuring, acquisition, and construction of a specific transmission 27 28 project and the placing of the transmission project in 29 operation.
- "Governmental agency" means any federal, State, or local governmental body, and any agency or instrumentality thereof, corporate or otherwise.
- "Governor" means the Governor of the State of Illinois.

1	"Person" includes without limitation any individual,
2	corporation, partnership, unincorporated association, and any
3	other legal entity, including a trustee, receiver, assignee,
4	or personal representative of the entity.
5	"Revenue bond" means any bond issued by the Authority,
6	the principal and interest of which are payable solely from
7	revenues or income derived from any transmission project.
8	"Transmission agreement" means an agreement between the
9	Authority and a third party (including but not limited to an
10	independent system operator or a regional transmission
11	organization) under which:
12	(1) the Authority sells, leases, or assigns
13	operational control of or otherwise makes the
14	transmission project available to a third party; and
15	(2) the third party commits:
16	(A) to operate and maintain the transmission
17	project in compliance with all applicable federal,
18	State, and local requirements and consistent with
19	normal and customary industry safety, operational,
20	and other standards and with appropriate indemnity
21	therefore to the Authority;
22	(B) to make the transmission project
23	transmission facilities available for public use on
24	an open access, non-discriminatory basis consistent
25	with the principles set forth in Orders No. 888,
26	889, and 2000 of the Federal Energy Regulatory
27	Commission; and
28	(C) to compensate the Authority for the
29	Authority's costs incurred in connection with the
30	development of the transmission project.
31	"Transmission project" means the construction of electric
32	transmission lines within or at the border of the State of

Illinois and installation of appurtenant equipment to connect

such transmission lines to electric generating stations and

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- 1 to other electric transmission and distribution systems,
- 2 including the necessary study, design, and engineering of
- 3 such transmission lines, the acquisition of necessary
- 4 property and rights of way, construction of such transmission
- 5 lines, and the entering into of transmission agreements with
- 6 third parties.
- 7 Section 20. Creation of authority; board members;
- 8 officers.
- 9 (a) The Illinois Transmission Authority is created as a
- 10 political subdivision, body politic, and municipal
- 11 corporation.
- 12 (b) The governing and administrative powers of the
- 13 Authority shall be vested in its Board of Directors. The
- 14 Board of Directors shall be comprised of 5 members, each of
- whom shall be appointed by the Governor with the advice and
- 16 consent of the Senate. All persons appointed as members of
- 17 the Board shall have recognized ability and experience in one
- 18 or more of the following areas: electric utility operations
- 19 and management, engineering, public finance, or public
- development.
- 21 (c) The terms of the 5 initial appointees to the Board
- of the Authority shall commence 30 days after the effective
- 23 date of this Act. Of the Board members initially appointed,
- one shall serve until the third Monday in January 2005, 2
- 25 shall serve until the third Monday in January 2006, and 2
- 26 shall serve until the third Monday in January 2007. All
- 27 successors shall be appointed by the Governor with the advice
- 28 and consent of the Senate and hold office for a term of 3
- 29 years commencing the third Monday in January of the year in
- 30 which their term commences, except in the case of an
- 31 appointment to fill a vacancy. Vacancies shall be filled for
- 32 the remainder of the term. In case of vacancy when the Senate
- 33 is not in session, the Governor may make a temporary

- 1 appointment until the next meeting of the Senate when a
- 2 person shall be nominated to fill such office, and any person
- 3 so nominated who is confirmed by the Senate shall hold office
- 4 during the remainder of the term and until a successor shall
- 5 be appointed and qualified.
- 6 (d) Members of the Board of the Authority shall not be
- 7 entitled to compensation for their services as members, but
- 8 may be reimbursed for all necessary expenses incurred in
- 9 connection with the performance of their duties as members.
- 10 (e) The Governor may remove any member of the Board of
- 11 the Authority in case of incompetency, neglect of duty, or
- 12 malfeasance in office.
- 13 (f) The Chairperson of the Board shall be appointed by
- 14 the Governor from among the Board's members.
- 15 (g) The Board may appoint an Executive Director, who
- shall have a background in electric transmission development,
- 17 including regulatory and construction requirements;
- 18 familiarity with the legal and procedural requirements of
- 19 issuing bonds; and administration. The Executive Director
- 20 shall hold office at the discretion of the Board. The
- 21 Executive Director shall be the chief administrative and
- 22 operational officer of the Authority, shall direct and
- 23 supervise its administrative affairs and general management,
- 24 shall perform such other duties as may be prescribed by the
- 25 Board, and shall receive compensation fixed by the Board. The
- 26 Executive Director shall attend all meetings of the Board;
- 27 however, no action of the Board or of the Authority shall be
- invalid on account of the absence of the Executive Director
- 29 from a meeting. The Board may delegate to the Executive
- 30 Director such responsibilities and authority as the Board
- 31 determines appropriate for the proper functioning of the
- 32 Authority, except that the Board may not delegate to the
- 33 Executive Director such responsibilities as are specifically
- 34 assigned to the Board or the Chairperson under this Act.

- 1 (h) The Board may appoint such other officers as the 2 Board determines appropriate for the conduct of the affairs
- 3 of the Authority.
- 4 (i) The Authority may engage the services of such other
- 5 agents and employees as the Authority determines necessary,
- 6 including attorneys, appraisers, engineers, accountants,
- 7 credit analysts, and other consultants and may prescribe
- 8 their duties and fix their compensation.
- 9 (j) The Board shall meet on the call of its Chairperson
- 10 or upon written notice of 3 members of the Board. The Board
- 11 may conduct meetings by telephonic or other electronic medium
- 12 so long as all Board members can hear and be heard by one
- another.
- 14 Section 25. Actions and duties of the Authority. All
- official acts of the Authority shall require the affirmative
- vote of at least 3 members of the Board at which the members
- 17 casting those affirmative votes are present in person or
- 18 participating by electronic media. It is the duty of the
- 19 Authority to develop new electric transmission lines within
- 20 the State where needed and feasible and as otherwise in
- 21 compliance with the standards set forth in this Act.
- 22 Section 30. Powers. The Authority possesses all powers
- of a body corporate necessary and convenient to accomplish
- 24 the purpose of this Act, including without limitation all of
- 25 the following:
- 26 (1) To enter into loans, contracts, agreements, and
- 27 mortgages in any matter connected with any of its
- corporate purpose and to invest its funds.
- 29 (2) To sue and be sued.
- 30 (3) To employ agents and employees necessary to
- 31 carry out its purposes.
- 32 (4) To have and use a common seal and alter the

1 same at its discretion.

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- (5) To adopt all needful resolutions, ordinances, by-laws, and rules for the conduct of its business and affairs and for the development, management, and use of transmission projects.
 - (6) To designate the fiscal year for the Authority.
- (7) To accept and expend appropriations.
- (8) To have and exercise all powers and be subject to all duties usually incident to corporations.
 - (9) To acquire, own, lease, sell, or otherwise dispose of interests in and to real property within and without the State of Illinois and improvements situated thereon and in personal property necessary to fulfill the purposes of the Authority.
 - (10) To engage in any activity or operation that is incidental to and in furtherance of efficient operation to accomplish the Authority's primary purpose.
 - (11) To determine the locations of, develop, design, establish, construct, erect, acquire, own, repair, reconstruct, renovate, remodel, add to, extend, improve, equip, operate, regulate, and maintain transmission projects and to enter into transmission agreements.
 - (12) To accept and expend appropriations.
 - (13) To borrow money from any source for any corporate purpose, including working capital for its operations, reserve funds, or interest, and to mortgage, pledge or otherwise encumber property or funds of the Authority, and to contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers, and to issue revenue bonds, notes, or other evidence of indebtedness as provided in Section 35 of this Act to evidence the obligation of the Authority to

- 2 Section 35. Revenue bonds.
- 3 The Authority shall have the continuing power to issue revenue bonds, notes, or other evidence of indebtedness 4 5 in an aggregate amount not to exceed \$500,000,000 for the purpose of developing, constructing, acquiring, improving, or 6 7 maintaining transmission projects, for acquiring, improving, 8 and maintaining any property in connection therewith, otherwise for the purposes for which the Authority was 9 10 created. For the purpose of evidencing the obligations of the Authority to repay any money borrowed, the Authority may, 11 pursuant to ordinance adopted by the Board, from time to time 12 issue and dispose of its interest bearing revenue bonds, 13 14 notes, or other evidences of indebtedness and may also from 15 time to time issue and dispose of such bonds, notes, or other evidences of indebtedness to refund, at maturity, at a 16 17 redemption date, or in advance of either, any revenue bonds, 18 notes, or other evidences of indebtedness pursuant to redemption provisions or at any time before maturity. All 19 2.0 such revenue bonds, notes, or other evidences of indebtedness 21 shall be payable solely from the revenues or income to be 22 derived from the lease or sale of rights by the Authority to third persons to maintain, operate, and use the electric 23 24 transmission provided by the transmission projects pursuant to transmission agreements or from any lease, sale, or other 25 disposition of the transmission projects. The revenue bonds, 26 notes, or other evidences of indebtedness may bear such date, 2.7 28 may mature at such time not exceeding 40 years from their 29 respective dates, may bear interest at such rate or rates not 30 exceeding the maximum rate permitted by the 31 Authorization Act, may be in such form, may carry such registration privileges, may be executed in such manner, may 32 33 be payable at such place or places, may be made subject to

- redemption in such manner and upon such terms, with or without premium as is stated on the face thereof, may be authenticated in such manner, and may contain such terms and covenants as may be provided by an applicable ordinance.
- 5 (b) The holder of any revenue bonds, notes, or other 6 evidences of indebtedness issued by the Authority may bring 7 at law or proceedings in equity to compel 8 performance and observance by any corporation or person or by 9 the Authority or any of its agents or employees of contract or covenant made with the holders of such revenue 10 11 bonds, notes, or other evidences of indebtedness, to compel 12 such corporation, person, the Authority, and any agents or employees thereof to perform any duties required to 13 performed for the benefit of the holders of any such revenue 14 15 bonds, notes, or other evidences of indebtedness by the 16 provision of the ordinance authorizing their issuance or by such contract or covenant, and to enjoin such corporation, 17 person, the Authority, and any of its agents or employees 18 19 from taking any action in conflict with any such ordinance, contract, or covenant. 20
 - (c) If the Authority fails to pay the principal of or interest on any of the revenue bonds or premium, if any, as the same becomes due, a civil action to compel payment may be instituted in the appropriate circuit court by the holder or holders of the revenue bonds on which such default or payment exists or by an indenture trustee acting on behalf of such holders. Delivery of a summons and a copy of the complaint to the Chairperson of the Board shall constitute sufficient service to give the circuit court jurisdiction over the Authority and its officers named as defendants for the purpose of compelling such payment. Any case, controversy, or cause of action concerning the validity of this Act relates to the revenue of the State of Illinois.

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(d) Notwithstanding the form and tenor of any such

1 revenue bonds, notes, or other evidences of indebtedness and 2 in the absence of any express recital on the face of any such revenue bond, note, or other evidences of indebtedness that 3 4 it is non-negotiable, all such revenue bonds, notes, 5 of indebtedness shall be negotiable evidences 6 instruments. Pending the preparation and execution of any 7 notes, revenue bonds, or other evidences of 8 indebtedness, temporary revenue bonds, notes, or 9 evidences of indebtedness may be issued as provided by ordinance adopted by the Board. 10

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- (e) To secure the payment of any or all of such revenue notes, or other evidences of indebtedness, the bonds, revenues to be received by the Authority from any lease, sale, or other disposition of the transmission projects or rights to use transmission in the transmission projects shall be pledged, and for the purpose of setting forth the covenants and undertakings of the Authority in connection with the issuance thereof and the issuance of any additional revenue bonds, notes or other evidences of indebtedness payable from the revenues, income, or other funds to be derived from the transmission projects, the Authority may, pursuant to resolution of the Board, execute and deliver a mortgage or trust agreement. A remedy for any breach or default of the terms of any such mortgage or trust agreement by the Authority may be by mandamus proceedings in the appropriate circuit court to compel the performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf the action may be instituted.
- 29 (f) The revenue bonds or notes shall be secured as 30 provided in the authorizing ordinance which may, 31 notwithstanding any other provision of this Act, include, in 32 addition to any other security, a specific pledge or 33 assignment of and lien on or security interest in any or all 34 revenues or money of the Authority from whatever source that

- 1 may by law be used for debt service purposes and a specific
- 2 pledge or assignment of and lien on or security interest in
- any funds or accounts established or provided for by the 3
- 4 ordinance authorizing the issuance of such revenue bonds or
- 5 notes.

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The State of Illinois pledges to and agrees with the (g)7 holders of the revenues bonds and notes of the Authority issued pursuant to this Section that the State will not limit 8 9 or alter the rights and powers vested in the Authority by this Act so as to impair the terms of any contract made by 10 11 the Authority with such holders or in any way impair the rights and remedies of such holders until such revenue bonds 12 and notes, together with the interest thereon, with interest 13 on any unpaid installments of interest, and all costs and 14 15 expenses in connection with any action or proceedings by or 16 on behalf of such holders, are fully met and discharged. The

Authority is authorized to include these pledges

revenue bonds or notes issued pursuant to this Section.

agreements of the State in any contract with the holders of

- 20 The revenue bonds, notes, and other evidences of (h) 21 indebtedness authorized by this Act are not, and shall not be 22 construed to be, State debt within the meaning of Section 9 23 of Article IX of the Illinois Constitution, are not secured by the full faith and credit of the State, and are not 24 25 required to be repaid, directly or indirectly, from tax revenue. 26
- Section 40. Acquisition of property. The Authority may 27 28 acquire in its own name, by gift, purchase, eminent domain 29 (by complaint filed pursuant to Article VII of the Code of Civil Procedure), immediate vesting of title (commonly 30 31 referred to as "quick take," pursuant to Sections 7-103 through 7-112 of the Code of Civil Procedure), or otherwise 32 33 real or personal property that is necessary or convenient to

- 1 carry out its corporate purposes.
- 2 Section 45. Transmission projects.
- 3 (a) The Authority shall, within one year of the 4 enactment of this Act, conduct a comprehensive study of
- 5 electric transmission needs within the State of Illinois.
- 6 (b) If the Authority determines that additional
- 7 transmission projects are needed in order to ensure an
- 8 adequate and reliable supply of electricity in Illinois, the
- 9 Authority may undertake the following activities to ensure
- 10 that it is able to develop such transmission projects in an
- 11 expeditious and economical fashion:
- 12 (1) Identify suitable sites for the transmission
- projects, taking into account engineering, economic,
- environmental, and community factors.
- 15 (2) Secure rights to the sites identified
- including transmission rights-of-way or acquisition of
- options for such rights-of-way.
- 18 (3) Conduct any studies that may be necessary to
- 19 construct and operate the transmission projects,
- 20 including but not limited to engineering and economic
- 21 studies.
- 22 (4) Apply for permits, licenses, or other local,
- 23 State, or federal approvals.
- 24 (c) The Authority may not commit funds for construction
- of a transmission project until the Authority has entered
- into a transmission agreement related to the transmission
- 27 project.
- 28 Section 50. Designation of depository. The Authority
- 29 shall biennially designate a national or State bank or banks
- 30 located within the State of Illinois as depositories of its
- 31 money. Those depositories shall be designated upon condition
- 32 that bonds approved as to form and surety by the Authority

2 be on deposit at any one time shall be first given by the depositories to the Authority, those bonds to be conditioned 3 4 for the safekeeping and prompt repayment of the deposits. When any of the funds of the Authority shall be deposited by 5 6 the treasurer in any such depository, the treasurer and the sureties on his official bond shall, to that extent, be 7 exempt from liability for the loss of any of the deposited 8 9 funds by reason of the failure, bankruptcy, or any other or default of the depository. However, the Authority may 10 11 accept assignments of collateral by and conditioned in the

and at least equal in amount to the maximum sum expected to

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Section 55. Reports. The Authority shall annually submit
a report of its finances to the Auditor General. The
Authority shall annually submit a report of its activities to
the Governor and General Assembly.

to secure deposits of the funds of any city.

same manner as assignments of collateral are permitted by law

- Section 60. Public utility. The Authority is not and shall not be deemed to be a public utility or electric supplier for purposes of the laws of this State or otherwise.
- Section 65. Exemption from taxation. All property, real, personal, or mixed, owned by the Authority that is located in the State of Illinois is exempt from taxation under the laws of the State of Illinois to the extent such property is used for the public purpose of developing transmission projects.