



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4664

by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

New Act
735 ILCS 30/15-5-45 new

Creates the Intergovernmental Cooperation Renewable Energy Act. Permits the creation of an agency by intergovernmental agreement for the purpose of investigating the desirability of and necessity for providing waste disposal or electrical energy from renewable sources and to develop means for providing waste disposal or electrical energy from renewable sources. Contains the findings of the General Assembly. Provides that (1) powers specified under the Act are supplemental to existing powers under law and (2) actions taken by specified parties may be done so by resolution. Specifies (1) the status and (2) organization of an agency under the Act. Contains provisions concerning the officers, board composition, and bylaws of an agency. Contains provisions concerning actions of an agency in relation with the Secretary of State. Specifies the powers and duties of an agency. Specifies the manner in which an agency may issue bonds. Specifies which charges an agency may collect for specified activities. Provides that governmental units may contract. Amends the Eminent Domain Act to authorize eminent domain powers under the Act. Contains a severability clause. Effective immediately.

LRB096 15067 MJR 30066 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning renewable energy.

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 Intergovernmental Cooperation Renewable Energy Act.

6 Section 5. Findings. The General Assembly finds that there
7 is a need to promote the use of renewable energy resources, the
8 availability of waste disposal facilities, including
9 facilities designed to convert waste to energy, and employment
10 in the construction and operation of those facilities. The
11 General Assembly further finds that a means of meeting that
12 need is to authorize governmental units to join together to
13 acquire and construct facilities for those purposes.

14 Section 10. Definitions. In this Act:

15 "Agency" means a joint action agency organized and
16 operating under this Act.

17 "Applicable law" means any provision of law, including this
18 Act, authorizing governmental units to issue bonds as the term
19 is defined in the Local Government Debt Reform Act.

20 "Board" means the board of directors of an agency organized
21 under this Act.

22 "Bonds" means bonds as that term is defined in the Local

1 Government Debt Reform Act issued by an agency payable from one
2 or more of the agency's enterprise revenues and other sources
3 as the agency may lawfully pledge, which sources may include
4 governmental unit bonds or proceeds or payments to be made
5 pursuant to an intergovernmental agreement.

6 "Eligible project" means any land or rights in land, plant,
7 works, system, facility, machinery, intellectual property, or
8 other real or personal property of any nature whatsoever,
9 together with all parts thereof and appurtenances thereto, used
10 or useful in the collection, transportation, transfer,
11 storage, disposal, processing, treatment, recovery, and re-use
12 of waste, or in the generation, production, distribution,
13 transmission, purchase, sale, exchange, or interchange of
14 electrical energy derived from renewable or waste to energy
15 sources, and in the acquisition, extraction, conversion,
16 transportation, storage, or reprocessing of ancillary fuel of
17 any kind for any such purposes, or any interest in, or right to
18 the use, services, output, or capacity of any such plant,
19 works, system, or facilities.

20 "Enterprise revenues" means the revenues of a utility or
21 revenue producing enterprise.

22 "Governing body" means the legislative body, council,
23 board, commission, trustees, or any other body, by whatever
24 name it is known, having charge of the corporate affairs of a
25 governmental unit.

26 "Governmental unit" means a county, township,

1 municipality, municipal corporation, unit of local government,
2 school district, public university, special district, public
3 corporation, or body corporate and politic, and all other local
4 governmental agencies, including any entity created by
5 intergovernmental agreement among any of the foregoing
6 governmental units, but does not include any office, officer,
7 department, division, bureau, board, commission, or similar
8 agency of the State.

9 "Governmental unit bond" means any bond as such term is
10 defined in the Local Government Debt Reform Act authorized or
11 issued by or on behalf of a governmental unit under applicable
12 law.

13 "Intergovernmental agreement" means the agreement by which
14 an agency is formed by governmental units pursuant to this Act.

15 "Members" means the governmental units joining pursuant to
16 intergovernmental agreement to organize an agency under this
17 Act.

18 "Resolution" means a resolution or ordinance, as may be
19 applicable, duly adopted by a governing body.

20 "Waste" means garbage; general household, commercial,
21 industrial, chemical, toxic, liquid, landscape, construction
22 waste; and all other materials by whatever name called that are
23 in need of disposal.

24 Section 15. Powers supplemental. The provisions of this Act
25 are intended to be supplemental and in addition to all other

1 powers or authorities granted to any governmental unit, shall
2 be construed liberally, and shall not be construed as a
3 limitation of any power or authority otherwise granted.

4 Section 20. Actions by resolution. All actions to be taken
5 by a governmental unit or an agency pursuant to this Act shall
6 be fully effective if taken by resolution, but may also be
7 taken, at the discretion of a governing body, by ordinance.

8 Section 25. Agency status. An agency organized under this
9 Act shall be a unit of local government of the State and a body
10 politic and corporate.

11 Section 30. Organization. Any 2 or more governmental units,
12 contiguous or noncontiguous, may form an agency by the
13 execution of an intergovernmental agreement authorized by
14 resolution adopted by the governing body of each governmental
15 unit for the purpose of investigating the desirability of and
16 necessity for providing waste disposal or electrical energy
17 from renewable sources and to develop means for providing waste
18 disposal or electrical energy from renewable sources. The
19 intergovernmental agreement shall state or may state, as
20 applicable, all of the following:

21 (1) the name of the agency and the date of its
22 establishment, which may be by reference to a date or the
23 dates of the resolutions adopted by the governing bodies,

1 and the duration of its existence, which may be perpetual;

2 (2) the names of the governmental units that have
3 adopted the intergovernmental agreement and constitute the
4 initial members;

5 (3) the names and addresses of the persons initially
6 appointed in the resolutions adopting the
7 intergovernmental agreement to serve as initial directors
8 on the board and provision for the organizational meeting
9 of the agency;

10 (4) provision for the terms of office of the directors
11 and for alternate directors, if so provided, but those
12 directors and alternate directors shall always be selected
13 and vacancies in their offices declared and filled by
14 resolutions adopted by the governing body of the respective
15 governmental units;

16 (5) if so provided, provision for weighted voting among
17 the governmental units or by the directors;

18 (6) the location by city, village, or incorporated town
19 in the State of the principal office of the agency;

20 (7) provision for amendment of the intergovernmental
21 agreement;

22 (8) if so provided, initial funding for the agency,
23 which may include binding agreements of the governmental
24 units to provide money or to issue governmental unit bonds
25 for the benefit of the agency;

26 (9) provisions for the disposition, division, or

1 distribution of obligations, property, and assets of the
2 agency upon dissolution; and

3 (10) any other provisions for regulating the business
4 of the agency or the conduct of its affairs consistent with
5 this Act.

6 Section 35. Officers; board; bylaws.

7 (a) At the organizational meeting of the board, the
8 directors shall elect from their members a presiding officer to
9 preside over the meetings of the board and an alternate
10 presiding officer and may elect an executive board. The board
11 shall determine and designate in the agency's bylaws the titles
12 for the presiding officers. The directors shall also elect a
13 secretary and treasurer, who need not be directors. The board
14 may select other officers, employees, and agents as deemed to
15 be necessary, who need not be directors or residents of any of
16 the governmental units that are members. The board may
17 designate appropriate titles for all other officers,
18 employees, and agents. All persons selected by the board shall
19 hold their respective offices at the pleasure of the board and
20 give bond as may be required by the board.

21 (b) The board is the corporate authority of the agency and
22 shall exercise all the powers and manage and control all of the
23 affairs and property of the agency. The board shall have full
24 power to pass all necessary resolutions, rules, and regulations
25 for the proper management and conduct of the business of the

1 agency and for carrying into effect the objects for which the
2 agency was established. The board shall have not less than one
3 meeting each year for the election of officers and the
4 transaction of any other business. Unless otherwise provided by
5 this Act, the intergovernmental agreement, or the bylaws, an
6 act of the majority of the directors present at a meeting at
7 which a quorum is present is the act of the board.

8 (c) The board shall adopt bylaws that may include, without
9 limitation, the following provisions:

10 (1) the rights and obligations of members, consistent
11 with the intergovernmental agreement and this Act;

12 (2) if not governed in the intergovernmental
13 agreement, then the manner of adding new members and the
14 rights and obligations of such members;

15 (3) the time, place, and date of the regular meeting or
16 meetings and the procedures for calling special meetings of
17 the board;

18 (4) procedural rules;

19 (5) the composition, powers, and responsibilities of
20 any committee or executive board;

21 (6) the criteria as called for in subsection (u) of
22 Section 55 of this Act; and

23 (7) other rules or provisions for regulating the
24 affairs of the agency as the board shall determine to be
25 advisable.

1 Section 40. Filing. Within 3 months after the
2 organizational meeting, the board shall cause a certified copy
3 of the intergovernmental agreement to be filed with the
4 Secretary of State. The Secretary of State shall accept the
5 filing and issue a certificate of approval over his or her
6 signature and the Great Seal of the State. The Secretary of
7 State shall make and keep a register of agencies established
8 under this Act.

9 Section 45. Place of business. Every agency shall maintain
10 an office in the State to be known as its principal office. If
11 an agency desires to change the location of that office, then
12 it shall file with the Secretary of State a certificate of
13 change of location, stating the new address and the effective
14 date of change. Meetings of the board may be held at any place
15 within the State, designated by the board, after notice.

16 Section 50. Lawful expense of governmental unit. Each
17 member shall have full power and authority to appropriate money
18 from its general or corporate fund, by whatever name known, for
19 the payment of the expenses of the agency and of its
20 representative in exercising its functions as a member of the
21 agency. Each member shall have full power and authority,
22 subject to the provisions of applicable law, to agree to the
23 issuance and delivery of governmental unit bonds to aid the
24 agency.

1 Section 55. Powers and duties.

2 (a) An agency shall have all the powers and duties
3 enumerated in this Section in furtherance of the purposes of
4 this Act. In the exercise of those powers and duties it shall
5 be deemed to be performing an essential governmental function
6 and exercising a part of the sovereign powers of the State,
7 separate and distinct from member governmental units and shall
8 have the privileges, immunities, and rights of a public body
9 politic and corporate, municipal corporation, and unit of local
10 government, but shall not have taxing power. All powers of the
11 agency shall be exercised by its board unless otherwise
12 provided by the bylaws.

13 (b) An agency may plan, finance, acquire, construct,
14 reconstruct, own, lease, operate, maintain, repair, improve,
15 extend, or otherwise participate in, individually or jointly,
16 with other persons or other entities of any type, one or more
17 eligible projects, proposed, existing, or under construction,
18 within or outside of the State, acquire any interest in or any
19 right to products and services of an eligible project,
20 purchase, own, sell, dispose of, or otherwise participate in
21 securities issued in connection with the financing of an
22 eligible project or any portion thereof, and may act as agent,
23 or designate one or more persons, public agencies, or other
24 entities of any type, whether or not participating in an
25 eligible project, to act as its agent, in connection with the

1 planning, financing, acquisition, construction,
2 reconstruction, ownership, lease, operation, maintenance,
3 repair, extension, or improvement of the eligible project.

4 (c) An agency may investigate the desirability of and
5 necessity for additional means of providing waste disposal or
6 electrical energy from renewable sources of any kind for such
7 purpose and may make studies, surveys, and estimates as may be
8 necessary to determine the feasibility and cost of those
9 activities.

10 (d) An agency may cooperate with other persons, public
11 agencies, or other entities of any type in the development of
12 means of providing waste disposal or electrical energy from
13 renewable sources of any kind for those purposes and may give
14 assistance with personnel and equipment in any eligible
15 project.

16 (e) An agency may apply for consents, authorizations, or
17 approvals required for any eligible project within its powers
18 and take all actions necessary to comply with the required
19 conditions.

20 (f) An agency may perform any act authorized by this Act
21 through, or by means of, its officers, agents, or employees or
22 by contract with others, including, without limitation, the
23 employment of engineers, architects, attorneys, appraisers,
24 financial advisors, and other consultants and employees as may
25 be required in the judgment of the agency, and fix, and pay
26 their compensation from funds available to the agency.

1 (g) An agency may, individually or jointly with other
2 persons, public agencies, or other entities of any type,
3 acquire, hold, use, and dispose of income, revenues, funds, and
4 money.

5 (h) An agency may, individually or jointly with other
6 persons, public agencies, or other entities of any type,
7 acquire, own, hire, use, operate, and dispose of personal
8 property and any interest therein.

9 (i) An agency may, individually or jointly with other
10 persons, public agencies, or other entities of any type,
11 acquire, own, use, lease as lessor or lessee, operate and
12 dispose of real property and interests in real property,
13 including eligible projects existing, proposed, or under
14 construction, and make improvements upon the real property.

15 (j) An agency may grant the use by franchise, lease, or
16 otherwise and make charges for the use of any property or
17 facility owned or controlled by it.

18 (k) An agency may borrow money and issue negotiable bonds,
19 secured or unsecured, in accordance with this Act.

20 (l) An agency may invest money of the agency not required
21 for immediate use, including proceeds from the sale of any
22 bonds, in such obligations, securities, and other investments
23 as authorized by the provisions of the Public Funds Investment
24 Act.

25 (m) An agency may exercise the power of eminent domain in
26 the manner provided in the Eminent Domain Act. Any acquisition

1 by eminent domain under this subsection (m) is limited in that
2 it shall not be exercised in the taking of any property, real
3 or personal, of a public agency or other entity of any type,
4 including an electric cooperative, as defined in Section 3.4 of
5 the Electric Supplier Act, that owns, operates or controls any
6 plant or equipment for the generation, transmission, or
7 distribution of electric power and energy in connection with
8 the furnishing thereof for sale or resale.

9 (n) An agency may determine the location and character of,
10 and all other matters in connection with any and all eligible
11 projects it is authorized to acquire, hold, establish,
12 effectuate, operate, or control.

13 (o) An agency may contract with any persons, public
14 agencies, or other entities of any type for the planning,
15 development, construction, or operation of any eligible
16 project or for the sale, transmission, or distribution of the
17 products and services of any eligible project, or for any
18 interest in the products or services or any right to the
19 products and services, on terms and for a period not in excess
20 of 50 years of time as its board shall determine.

21 (p) An agency may enter into any contract or agreement
22 necessary, appropriate or incidental to the effectuation of its
23 lawful purposes and the exercise of the powers granted by this
24 Act for a period not in excess of 50 years in time, including,
25 without limitation, contracts or agreements for the receipt and
26 disposal of waste and the purchase, sale, exchange,

1 interchange, wheeling, pooling, transmission, distribution, or
2 storage of electrical energy and fuel of any kind for any
3 purposes, within and outside of the State, in amounts as it
4 shall determine to be necessary and appropriate to make the
5 most effective use of its powers and to meet its
6 responsibilities, on terms and for such period of time as its
7 board determines. Any contract or agreement may include
8 provisions for requirements purchases, restraints on resale or
9 other dealings, exclusive dealing, pricing, territorial
10 division, and other conduct or arrangements that may have an
11 anti-competitive effect.

12 (q) An agency may procure insurance against any losses in
13 connection with its property, operations, or assets in such
14 amounts and from such insurers as it deems desirable, or may
15 self-insure or enter into pooled insurance arrangements with
16 other governmental units against those losses.

17 (r) An agency may contract for and accept any gifts or
18 grants or loans of funds or property or financial or other aid
19 in any form from any source and may comply, subject to the
20 provisions of this Act, with the terms and conditions of the
21 contract.

22 (s) An agency may mortgage, pledge, and grant a security
23 interest in any or all of its real and personal property to
24 secure the payment of its bonds or contracts.

25 (t) That part of an eligible project owned by an agency
26 shall be exempt from property taxes. Each agency owning all or

1 any part of an eligible project shall, in lieu of property
2 taxes, pay to any governmental unit authorized to levy property
3 taxes the amount that would be assessed as taxes on real
4 property of an eligible project if such eligible project were
5 otherwise subject to valuation and assessment. Payments in lieu
6 of taxes shall be due and shall bear interest if unpaid, as in
7 the cases of taxes on other property. Payments in lieu of taxes
8 made under this Act shall be treated in the same manner as
9 taxes for purposes of all procedural and substantive provisions
10 of law, except that no lien may be placed upon such property to
11 enforce the payment of those taxes. The remedy for such payment
12 shall be limited to mandamus or other civil action requesting
13 an order directing the agency to pay those taxes and interest,
14 if any.

15 (u) An agency shall not be subject to any taxes of the
16 State based on or measured by income, receipts, or revenue.
17 Each agency shall allocate 2% of the total net enterprise
18 revenues, calculated in accordance with generally accepted
19 accounting principles for municipal enterprise funds, and not
20 including any revenues or receipts not derived from the
21 enterprise, for educational purposes to one or more of a public
22 or private not-for-profit elementary or secondary school,
23 college, university, or technical, vocational, or trade school
24 to be named from time to time by the board located in the
25 governmental unit or units that comprise the agency. The board
26 shall distribute the stated revenues to the recipients

1 according to criteria as may be established in the agency's
2 bylaws.

3 (v) An agency may adopt a corporate seal, and may sue and
4 be sued.

5 (w) An agency may exercise all other powers not
6 inconsistent with the Constitution of the State of Illinois or
7 the United States Constitution that may be reasonably necessary
8 or appropriate for or incidental to effectuate its authorized
9 purposes or to the exercise of any of the powers enumerated in
10 this Act.

11 Section 60. Bonds. An agency may issue bonds pursuant to
12 applicable law and the following provisions:

13 (1) An agency may from time to time issue its bonds in
14 such principal amounts as the agency shall deem necessary
15 to provide sufficient funds to carry out any of its
16 corporate purposes and powers, including, without
17 limitation, the acquisition, construction, or termination
18 of any eligible project to be owned or leased, as lessor or
19 lessee, by the agency, or the acquisition of any interest
20 therein or any right to the products or services thereof,
21 the funding or refunding of the principal of, redemption
22 premium, if any, and interest on, any bonds issued by it
23 whether or not the bonds or interest to be funded or
24 refunded have or have not become due, the payment of
25 engineering, legal and other expenses, together with

1 interest for a period of 3 years or to a date one year
2 subsequent to the estimated date of completion of the
3 project, whichever period is longer, the establishment or
4 increase of reserves to secure or to pay these bonds or
5 interest, the providing of working capital and the payment
6 of all other costs or expenses of the agency incident to
7 and necessary or convenient to carry out its corporate
8 purposes and powers.

9 (2) Every issue of bonds of that agency shall be
10 payable out of the revenues or funds available to the
11 agency, subject to any agreements with the holders of
12 particular bonds pledging any particular revenues or
13 funds. An agency may issue those types of bonds as it may
14 determine, including bonds as to which the principal and
15 interest are payable exclusively from the revenues from one
16 or more projects, or from an interest or a right to the
17 products and services thereof, or from one or more revenue
18 producing contracts made by the agency, or its revenues
19 generally. Any bonds may be additionally secured by a
20 pledge of any grant, subsidy, or contribution from any
21 source or a pledge of any income or revenues, funds, or
22 moneys of the agency from any source whatsoever.

23 (3) All bonds of an agency shall have all the qualities
24 of negotiable instruments under the laws of this State.

25 (4) Bonds of an agency shall be authorized by
26 resolution of its board and may be issued under a

1 resolution or under a trust indenture or other security
2 agreement, in one or more series, and shall bear such date
3 or dates, mature at such time or times within the estimated
4 period of usefulness of the project involved and in any
5 event not more than 40 years after the date thereof, bear
6 interest at such rate or rates without regard to any
7 limitation in any other law, be in those denominations, be
8 in a form, either coupon or registered, carry the
9 conversion, registration, and exchange privileges, have a
10 rank or priority, be executed in such manner, be payable in
11 a medium of payment at such place or places within or
12 outside of the State, be subject to the terms of redemption
13 with or without premium, and contain or be subject to other
14 terms as the resolution, trust indenture, or other security
15 agreement may provide, and shall not be restricted by the
16 provisions of any other law limiting the amounts,
17 maturities, interest rates, or other terms of obligations
18 of units of local government or private parties. The bonds
19 shall be sold in such manner and at prices as the board
20 shall determine, at private or public sale.

21 (5) Bonds of an agency may be issued under the
22 provisions of this Act without obtaining the consent of any
23 department, division, commission, board, bureau, or agency
24 of the State or of any member, except as may be limited in
25 an intergovernmental agreement, and without any other
26 proceeding or the happening of any other condition or

1 occurrence except as specifically required by this Act.

2 (6) The resolution, trust indenture, or other security
3 agreement under which any bonds are issued shall constitute
4 a contract with the holders of the bonds and may contain
5 provisions, among others, prescribing any of the
6 following:

7 (A) the terms and provisions of the bonds;

8 (B) the mortgage or pledge of and the grant of a
9 security interest in any real or personal property and
10 all or any part of the revenue from any project or any
11 revenue producing contract made by the agency to secure
12 the payment of bonds, subject to any agreements with
13 the holders of bonds which might then exist;

14 (C) the custody, collection, securing,
15 investments, and payment of any revenues, assets,
16 money, funds, or property with respect to which the
17 agency may have any rights or interest;

18 (D) the rates or charges for the products or
19 services rendered by the agency, the amount to be
20 raised by the rates or charges, and the use and
21 disposition of any or all revenue;

22 (E) the creation of reserves or sinking funds and
23 the regulation and disposition thereof;

24 (F) the purposes to which the proceeds from the
25 sale of any bonds then or thereafter to be issued may
26 be applied, and the pledge of revenues to secure the

1 payment of the bonds;

2 (G) the limitations on the issuance of any
3 additional bonds, the terms upon which additional
4 bonds may be issued and secured, and the refunding of
5 outstanding bonds;

6 (H) the rank or priority of any bonds with respect
7 to any lien or security;

8 (I) the creation of special funds or moneys to be
9 held in trust or otherwise for operational expenses,
10 payment, or redemption of bonds, reserves or other
11 purposes, and the use and disposition of moneys held in
12 those funds;

13 (J) the procedure by which the terms of any
14 contract with or for the benefit of the holders of
15 bonds may be amended or revised, the amount of bonds
16 the holders of which must consent thereto, and the
17 manner in which consent may be given;

18 (K) the definition of the acts or omissions to act
19 that shall constitute a default in the duties of the
20 agency to holders of its bonds, and the rights and
21 remedies of the holders in the event of default,
22 including, if the agency so determines, the right to
23 accelerate the due date of the bonds or the right to
24 appoint a receiver or receivers of the property or
25 revenues subject to the lien of the resolution, trust
26 indenture, or other security agreement;

1 (L) any other or additional agreements with or for
2 the benefit of the holders of bonds or any covenants or
3 restrictions necessary or desirable to safeguard the
4 interests of the holders;

5 (M) the custody of its properties or investments,
6 the safekeeping thereof, the insurance to be carried
7 thereon, and the use and disposition of insurance
8 proceeds;

9 (N) the vesting in a trustee or trustees, within or
10 outside of the State, of such properties, rights,
11 powers and duties in trust as the agency may determine;
12 or the limiting or abrogating of the rights of the
13 holders of any bonds to appoint a trustee, or the
14 limiting of the rights, powers, and duties of the
15 trustee; or

16 (O) the appointment of and the establishment of the
17 duties and obligations of any paying agent or other
18 fiduciary within or outside of the State.

19 (7) For the security of bonds issued or to be issued by
20 an agency, the agency may mortgage or execute deeds of
21 trust of the whole or any part of its property and
22 franchises. Any pledge of revenues, securities, contract
23 rights, or other personal property made by an agency
24 pursuant to this Act shall be valid and binding from the
25 date the pledge is made. The revenues, securities, contract
26 rights, or other personal property so pledged and then held

1 or thereafter received by the agency or any fiduciary shall
2 immediately be subject to the lien of the pledge without
3 any physical delivery thereof or further act, and the lien
4 of the pledge shall be valid and binding as against all
5 parties having claims of any kind in tort, contract, or
6 otherwise against the agency without regard to whether the
7 parties have notice. The resolution, trust indenture,
8 security agreement, or other instrument by which a pledge
9 is created shall be recorded in the county in which the
10 principal office is located in the manner provided by law.

11 (8) Neither the officials, the directors, nor the
12 members of an agency nor any person executing bonds shall
13 be liable personally on the bonds or be subject to any
14 personal liability or accountability by reason of the
15 issuance thereof. An agency shall have power to indemnify
16 and to purchase and maintain insurance on behalf of any
17 director, officer, employee, or agent of the agency, in
18 connection with any threatened, pending, or completed
19 action, suit, or proceeding.

20 (9) An agency shall have power to purchase out of any
21 available funds, bonds, and to hold for re-issuance,
22 pledge, cancel, or retire the bonds and coupons prior to
23 maturity, subject to and in accordance with any agreements
24 with the holders.

25 (10) The principal of and interest upon any bonds
26 issued by an agency shall be payable solely from the

1 enterprise revenues or funds pledged or available for their
2 payment as authorized in this Act. Each bond shall contain
3 a statement that it constitutes an obligation of the agency
4 issuing the bond, that the principal and interest are
5 payable solely from revenues or funds of the agency and
6 that neither the State nor any political subdivision
7 thereof, except the issuer, nor any governmental unit which
8 is a member of the agency, is obligated to pay the
9 principal or interest on the bonds and that neither the
10 faith and credit nor the taxing power of the State or any
11 political subdivision or of any governmental unit is
12 pledged to the payment of the principal of or the interest
13 on the bonds.

14 Section 65. Charges. An agency may establish, levy, and
15 collect or may authorize, by contract, franchise, lease, or
16 otherwise, the establishment, levying, and collection of
17 rents, rates, and other charges for the products and services
18 afforded by the agency or by or in connection with any eligible
19 project or properties that it may construct, acquire, own,
20 operate, or control or with respect to which it may have any
21 interest or any right to the products and services thereof as
22 it may deem necessary, proper, desirable or reasonable. Rents,
23 rates, and other charges shall be established so as to be
24 sufficient to meet the operation, maintenance and other
25 expenses thereof, including reasonable reserves, interest,

1 principal payments, and payments into one or more sinking funds
2 for the retirement of principal. An agency may pledge its
3 rates, rents, and other revenue, or any part thereof, as
4 security for the repayment, with interest and premium, if any,
5 of any moneys borrowed by it or advanced to it for any of its
6 authorized purposes and as security for the payment of amounts
7 due and owing by it under any contract.

8 Section 70. Governmental units may contract.

9 (a) In order to accomplish the purposes of this Act, a
10 governmental unit may enter into and carry out contracts and
11 agreements for the sale, lease, or other use of property, real
12 or personal, cooperative provision of services, such as police
13 services, the delivery of waste to, or the purchase of power
14 from, an agency, collection, or transmission services,
15 development services and other services. Contracts must comply
16 with the following:

17 (1) Any contract and agreement shall be for a period
18 not to exceed 50 years and shall contain other terms,
19 conditions, and provisions consistent with the provisions
20 of this Act, as the governing body of such governmental
21 unit shall approve, including, without limitation,
22 provisions in which the governmental unit is obligated to
23 pay for the products and services of an agency without
24 set-off or counterclaim and irrespective of whether such
25 products or services are furnished, made available, or

1 delivered to the governmental unit or whether any project
2 contemplated by any such contract and agreement is
3 completed, operable, or operating, and notwithstanding
4 suspension, interruption, interference, reduction, or
5 curtailment of the products and services of the project.

6 (2) Any contract and agreement may be pledged by the
7 agency to secure its obligations and may provide that, if
8 one or more governmental units defaults in the payment of
9 its obligations under the contract and agreement, the
10 remaining governmental units having the contracts and
11 agreements shall be required to pay for and shall be
12 entitled proportionately to use or otherwise dispose of the
13 products and services that were to be purchased by the
14 defaulting governmental unit.

15 (3) Any contract and agreement providing for payments
16 by a governmental unit shall be an obligation of such
17 governmental unit payable from and secured by such lawfully
18 available funds as may be made pursuant to applicable law.
19 Notwithstanding the sources of funds pledged, any contract
20 between the agency and its members with respect to an
21 eligible project shall not constitute an indebtedness of
22 such members within any statutory limitation.

23 (4) Nothing in this Act shall be construed to preclude
24 a governmental unit from appropriating and using taxes and
25 other revenues received in any year to make payments due or
26 to comply with covenants to be performed during that year

1 under any contract or agreement for a term of years entered
2 into as contemplated in this Act, subject to the provisions
3 of applicable law.

4 (b) Any contract or agreement may include provisions for
5 requirements purchases, restraints on resale, or other
6 dealings, exclusive dealing, pricing, territorial division,
7 and other conduct or arrangements which may have an
8 anti-competitive effect.

9 (c) Notwithstanding the provisions of any other law, in the
10 making of a contract or agreement between an agency and a
11 member, the director of the agency who represents the member
12 must recuse himself or herself from participation in
13 discussions or voting as director, but may participate and vote
14 in his or her capacity as an officer of the governing body of
15 such member, and the participation and voting shall not be a
16 conflict of interest.

17 Section 90. The Eminent Domain Act is amended by adding
18 Section 15-5-45 as follows:

19 (735 ILCS 30/15-5-45 new)

20 Sec. 15-5-45. Eminent domain powers in New Acts. The
21 following provisions of law may include express grants of the
22 power to acquire property by condemnation or eminent domain:

23 Intergovernmental Cooperation Renewable Energy Act; agencies;

1 for purposes of using renewable energy resources.

2 Section 97. Severability. The provisions of this Act are
3 severable under Section 1.31 of the Statute on Statutes.

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