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1 AMENDMENT TO SENATE BILL 588

2 AMENDMENT NO. _____. Amend Senate Bill 588 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Southern Cook County Intergovernmental Cooperation Waste
6 Disposal and Energy Act.

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

1 Section 10. Definitions. For the purposes of this Act:

2 "Agency" means the joint action agency organized and
3 operating under this Act.

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

7 "Board" means the board of directors of the Agency
8 organized under this Act.

9 "Bonds" means bonds as that term is defined in the Local
10 Government Debt Reform Act issued by the Agency payable from
11 one or more of the Agency's enterprise revenues and other
12 sources as the Agency may lawfully pledge, which sources may
13 include governmental unit bonds or proceeds or payments to be
14 made pursuant to an intergovernmental agreement.

15 "Enterprise revenues" means the revenues of a utility or
16 revenue producing enterprise of the Agency.

17 "Governing body" means the legislative body, council,
18 board, commission, trustees, or any other body, by whatever
19 name it is known, having charge of the corporate affairs of a
20 governmental unit.

21 "Governmental unit" means a county, township,
22 municipality, municipal corporation, unit of local government,
23 school district, public university, special district, public
24 corporation, or body corporate and politic, and all other local
25 governmental agencies, including any entity created by
26 intergovernmental agreement among any of the foregoing

1 governmental units, but does not include any office, officer,
2 department, division, bureau, board, commission, or similar
3 agency of the State.

4 "Governmental unit bond" means any bond as such term is
5 defined in the Local Government Debt Reform Act authorized or
6 issued by or on behalf of a governmental unit under applicable
7 law.

8 "Intergovernmental agreement" means the agreement by which
9 the Agency is formed by the designated governmental units
10 pursuant to this Act.

11 "Members" means the governmental units joining pursuant to
12 intergovernmental agreement to organize the Agency under this
13 Act.

14 "Municipal waste" has the same meaning as in Section 3.290
15 of the Environmental Protection Act.

16 "Project" means such land or rights in land within the
17 territorial limits of Blue Island, Illinois, or within 5 miles
18 of such territorial limits, and within such limits, any plant,
19 works, system, facility, machinery, intellectual property, or
20 other real or personal property of any nature whatsoever,
21 together with all parts thereof and appurtenances thereto, used
22 or useful in the collection, transportation, transfer,
23 storage, disposal, processing, treatment, recovery, and re-use
24 of municipal waste or in the generation, production,
25 distribution, transmission, purchase, sale, exchange, or
26 interchange of electrical energy derived from renewable energy

1 resources or converting waste to energy sources, and in the
2 acquisition, extraction, conversion, transportation, storage,
3 or reprocessing of ancillary fuel of any kind for any such
4 purposes, or any interest in, or right to the use, services,
5 output, or capacity of any such plant, works, system, or
6 facilities; provided, however, the project shall not include a
7 combustion process to incinerate municipal waste.

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

10 Section 15. Powers supplemental. The provisions of this Act
11 are intended to be supplemental and in addition to all other
12 powers or authorities granted to any governmental unit, shall
13 be construed liberally, and shall not be construed as a
14 limitation of any power or authority otherwise granted.

15 Section 20. Actions by resolution. All actions to be taken
16 by a governmental unit or the Agency pursuant to this Act shall
17 be fully effective if taken by resolution, but may also be
18 taken, at the discretion of a governing body, by ordinance.

19 Section 25. Agency status. The Agency as organized under
20 this Act shall be a unit of local government of the State and a
21 body politic and corporate.

22 Section 30. Organization. Any 2 or more of the governmental

1 units named or described as follows: (a) the municipalities of
2 Blue Island, Calumet Park, Alsip, Robbins, Midlothian, and
3 Posen and (b) any municipality expressly invited by the
4 municipality of Blue Island and all or a portion of which is in
5 Cook County and any portion of which is within 5 miles of the
6 territorial limits of Blue Island, whether contiguous or
7 noncontiguous, may form the Agency authorized by this Act by
8 the execution of an intergovernmental agreement authorized by
9 resolution adopted by the governing body of each governmental
10 unit that elects to join the Agency for the purposes of
11 investigating the desirability of and necessity for providing
12 the Project and to develop the Project. The intergovernmental
13 agreement shall state or may state, as applicable, all of the
14 following:

15 (1) the name of the Agency and the date of its
16 establishment, which may be by reference to a date or the
17 dates of the resolutions adopted by the governing bodies,
18 and the duration of its existence, which may be perpetual;

19 (2) the names of the governmental units, from those
20 permitted to join as provided in this Act, that have
21 adopted the intergovernmental agreement and constitute the
22 initial members;

23 (3) the names and addresses of the persons initially
24 appointed in the resolutions adopting the
25 intergovernmental agreement to serve as initial directors
26 on the board and provision for the organizational meeting

1 of the Agency;

2 (4) provision for the terms of office of the directors
3 and for alternate directors, if so provided, but those
4 directors and alternate directors shall always be selected
5 and vacancies in their offices declared and filled by
6 resolutions adopted by the governing body of the respective
7 governmental units;

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

10 (6) the location by city, village, or incorporated town
11 in the State of the principal office of the Agency;

12 (7) provision for amendment of the intergovernmental
13 agreement;

14 (8) if so provided, initial funding for the Agency,
15 which may include binding agreements of the governmental
16 units to provide money or to issue governmental unit bonds
17 for the benefit of the Agency, in connection with the
18 Project;

19 (9) provisions for the disposition, division, or
20 distribution of obligations, property, and assets of the
21 Agency upon dissolution; and

22 (10) any other provisions for regulating the business
23 of the Agency or the conduct of its affairs consistent with
24 this Act.

25 Section 35. Officers; board; bylaws.

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

15 (b) The board is the corporate authority of the Agency and
16 shall exercise all the powers and manage and control all of the
17 affairs and property of the Agency. The board shall have full
18 power to pass all necessary resolutions, rules, and regulations
19 for the proper management and conduct of the business of the
20 Agency and for carrying into effect the objects for which the
21 Agency was established. The board shall have not less than one
22 meeting each year for the election of officers and the
23 transaction of any other business. Unless otherwise provided by
24 this Act, the intergovernmental agreement, or the bylaws, an
25 act of the majority of the directors present at a meeting at
26 which a quorum is present is the act of the board.

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

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

5 (2) if not governed in the intergovernmental
6 agreement, then the manner of adding new members, from
7 those permitted to join as provided in this Act, and the
8 rights and obligations of such members;

9 (3) the time, place, and date of the regular meeting or
10 meetings and the procedures for calling special meetings of
11 the board;

12 (4) procedural rules;

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

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

17 (7) other rules or provisions for regulating the
18 affairs of the Agency as the board shall determine to be
19 advisable.

20 Section 40. Filing. Within 3 months after the
21 organizational meeting, the board shall cause a certified copy
22 of the intergovernmental agreement to be filed with the
23 Secretary of State. The Secretary of State shall accept the
24 filing and issue a certificate of approval over his or her
25 signature and the Great Seal of the State.

1 Section 45. Place of business. The Agency shall maintain an
2 office in the State to be known as its principal office. If the
3 Agency desires to change the location of that office, then it
4 shall file with the Secretary of State a certificate of change
5 of location, stating the new address and the effective date of
6 change. Meetings of the board may be held at any place within
7 the State, designated by the board, after notice.

8 Section 50. Lawful expense of governmental unit. Each
9 member shall have full power and authority to appropriate money
10 from its general or corporate fund, by whatever name known, for
11 the payment of the expenses of the Agency and of its
12 representative in exercising its functions as a member of the
13 Agency. Each member shall have full power and authority,
14 subject to the provisions of applicable law, to agree to the
15 issuance and delivery of governmental unit bonds to aid the
16 Agency.

17 Section 55. Powers and duties.

18 (a) The Agency shall have all the powers and duties
19 enumerated in this Section in furtherance of the purposes of
20 this Act. In the exercise of those powers and duties it shall
21 be deemed to be performing an essential governmental function
22 and exercising a part of the sovereign powers of the State,
23 separate and distinct from member governmental units and shall

1 have the privileges, immunities, and rights of a public body
2 politic and corporate, municipal corporation, and unit of local
3 government, but shall not have taxing power. All powers of the
4 Agency shall be exercised by its board unless otherwise
5 provided by the bylaws.

6 (b) The Agency may plan, finance, acquire, construct,
7 reconstruct, own, lease, operate, maintain, repair, improve,
8 extend, or otherwise participate in, individually or jointly,
9 with other persons or other entities of any type, the Project,
10 as proposed, existing, or under construction, acquire any
11 interest in or any right to products and services of the
12 Project, purchase, own, sell, dispose of, or otherwise
13 participate in securities issued in connection with the
14 financing of the Project or any portion thereof, and may act as
15 agent, or designate one or more persons, public agencies, or
16 other entities of any type, whether or not participating in the
17 Project, to act as its agent, in connection with the planning,
18 financing, acquisition, construction, reconstruction,
19 ownership, lease, operation, maintenance, repair, extension,
20 or improvement of the Project.

21 (c) The Agency may investigate the desirability of and
22 necessity for the Project and may make studies, surveys, and
23 estimates as may be necessary to determine the feasibility and
24 cost of the Project.

25 (d) The Agency may cooperate with other persons, public
26 agencies, or other entities of any type in the development of

1 the Project.

2 (e) The Agency may apply for consents, authorizations, or
3 approvals required for the Project within its powers and take
4 all actions necessary to comply with the required conditions.

5 (f) The Agency may perform any act authorized by this Act
6 through, or by means of, its officers, agents, or employees or
7 by contract with others, including, without limitation, the
8 employment of engineers, architects, attorneys, appraisers,
9 financial advisors, and other consultants and employees as may
10 be required in the judgment of the Agency, and fix, and pay
11 their compensation from funds available to the Agency. The
12 Agency may create subsidiary entities, such as corporations, to
13 aid in the conduct of its business in connection with the
14 Project.

15 (g) The Agency may, individually or jointly with other
16 persons, public agencies, or other entities of any type,
17 acquire, hold, use, and dispose of income, revenues, funds, and
18 money in connection with the Project.

19 (h) The Agency may, individually or jointly with other
20 persons, public agencies, or other entities of any type,
21 acquire, own, hire, use, operate, and dispose of personal
22 property and any interest therein in connection with the
23 Project.

24 (i) The Agency may, individually or jointly with other
25 persons, public agencies, or other entities of any type,
26 acquire, own, use, lease as lessor or lessee, operate and

1 dispose of real property and interests in real property in
2 connection with the Project.

3 (j) The Agency may grant the use by franchise, lease, or
4 otherwise and make charges for the use of any property or
5 facility owned or controlled by it.

6 (k) The Agency may borrow money and issue negotiable bonds,
7 secured or unsecured, in accordance with this Act.

8 (l) The Agency may invest money of the Agency not required
9 for immediate use, including proceeds from the sale of any
10 bonds, in such obligations, securities, and other investments
11 as authorized by the provisions of the Public Funds Investment
12 Act.

13 (m) Subject to the limitations provided in this Section,
14 the Agency may exercise the power of eminent domain in the
15 manner provided in the Eminent Domain Act in connection with
16 the Project and within the designated territorial limit of the
17 Project. Any acquisition of the Agency by eminent domain is
18 limited in that it shall not be exercised, under any
19 circumstances, in the taking of any property, real or personal,
20 of a public agency, corporation, company, limited liability
21 company, or other entity of any type, including an electric
22 cooperative, as defined in Section 3.4 of the Electric Supplier
23 Act, that owns, operates or controls any plant, building, land,
24 or equipment for or that is used or useful in the generation,
25 transmission, or distribution of electric power and energy in
26 connection with the furnishing thereof for sale or resale.

1 (n) Within the designated territorial limit, the Agency may
2 determine the location and character of, and all other matters
3 in connection with the Project.

4 (o) The Agency may contract with any persons, public
5 agencies, or other entities of any type for the planning,
6 development, construction, or operation of the Project or for
7 the sale, transmission, or distribution of the products and
8 services of the Project, or for any interest in the products or
9 services or any right to such products and services, on terms
10 and for a period not in excess of 50 years of time as its board
11 shall determine.

12 (p) The Agency may enter into any contract or agreement
13 necessary, appropriate or incidental to the effectuation of its
14 lawful purposes in connection with the Project and the exercise
15 of the powers granted by this Act with respect to the Project
16 for a period not in excess of 50 years in time, including,
17 without limitation, contracts or agreements for the receipt and
18 disposal of municipal waste under this Act and the purchase,
19 sale, exchange, interchange, wheeling, pooling, transmission,
20 distribution, or storage of electrical energy and fuel of any
21 kind for any purposes in connection with the Project, within
22 and outside of the State, in amounts as it shall determine to
23 be necessary and appropriate to make the most effective use of
24 the Project and to meet its responsibilities, on terms and for
25 such period of time as its board determines. Any contract or
26 agreement may include provisions for requirements purchases,

1 restraints on resale or other dealings, exclusive dealing,
2 pricing, territorial division, and other conduct or
3 arrangements that may have an anti-competitive effect.
4 Provided, however, that the production, interconnection,
5 transmission, distribution, and sale at wholesale or retail of
6 electric energy generated by the Project must be in accordance
7 with all laws, regulations, and rules applicable to generators
8 of electricity, alternative retail electric suppliers,
9 municipal utilities, or electric cooperatives, as applicable,
10 but further provided that this provision does not affect any
11 exemption otherwise available under the Public Utilities Act.

12 (q) The 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) The 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) The 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 the Project owned by the Agency shall be
26 exempt from property taxes. The Agency shall, in lieu of

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

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

1 shall distribute the stated revenues to the recipients
2 according to criteria as may be established in the Agency's
3 bylaws.

4 (v) The Agency may adopt a corporate seal, and may sue and
5 be sued.

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

12 Section 60. Bonds. The Agency may issue bonds pursuant to
13 applicable law and the following provisions:

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

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

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

24 (3) All bonds of the Agency shall have all the
25 qualities of negotiable instruments under the laws of this
26 State.

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

24 (5) Bonds of the Agency may be issued under the
25 provisions of this Act without obtaining the consent of any
26 department, division, commission, board, bureau, or agency

1 of the State or of any member, except as may be limited in
2 an intergovernmental agreement, and without any other
3 proceeding or the happening of any other condition or
4 occurrence except as specifically required by this Act.

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

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

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

17 (C) the custody, collection, securing,
18 investments, and payment of any revenues, assets,
19 money, funds, or property with respect to which the
20 Agency may have any rights or interest;

21 (D) the rates or charges for the products or
22 services rendered by the Agency, the amount to be
23 raised by the rates or charges, and the use and
24 disposition of any or all revenue;

25 (E) the creation of reserves or sinking funds and
26 the regulation and disposition thereof;

1 (F) the purposes to which the proceeds from the
2 sale of any bonds then or thereafter to be issued may
3 be applied, and the pledge of revenues to secure the
4 payment of the bonds;

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

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

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

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

21 (K) the definition of the acts or omissions to act
22 that shall constitute a default in the duties of the
23 Agency to holders of its bonds, and the rights and
24 remedies of the holders in the event of default,
25 including, if the Agency so determines, the right to
26 accelerate the due date of the bonds or the right to

1 appoint a receiver or receivers of the property or
2 revenues subject to the lien of the resolution, trust
3 indenture, or other security agreement;

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

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

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

19 (O) the appointment of and the establishment of the
20 duties and obligations of any paying agent or other
21 fiduciary within or outside of the State.

22 (7) For the security of bonds issued or to be issued by
23 the Agency, the Agency may mortgage or execute deeds of
24 trust of the whole or any part of its property and
25 franchises. Any pledge of revenues, securities, contract
26 rights, or other personal property made by the Agency

1 pursuant to this Act shall be valid and binding from the
2 date the pledge is made. The revenues, securities, contract
3 rights, or other personal property so pledged and then held
4 or thereafter received by the Agency or any fiduciary shall
5 immediately be subject to the lien of the pledge without
6 any physical delivery thereof or further act, and the lien
7 of the pledge shall be valid and binding as against all
8 parties having claims of any kind in tort, contract, or
9 otherwise against the Agency without regard to whether the
10 parties have notice. The resolution, trust indenture,
11 security agreement, or other instrument by which a pledge
12 is created shall be recorded in the county in which the
13 principal office is located in the manner provided by law.

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

23 (9) The Agency shall have power to purchase out of any
24 available funds, bonds, and to hold for re-issuance,
25 pledge, cancel, or retire the bonds and coupons prior to
26 maturity, subject to and in accordance with any agreements

1 with the holders.

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

16 Section 65. Charges. The Agency may establish, levy, and
17 collect or may authorize, by contract, franchise, lease, or
18 otherwise, the establishment, levying, and collection of
19 rents, rates, and other charges for the products and services
20 afforded by the Agency or by or in connection with all or any
21 part of the Project that it may construct, acquire, own,
22 operate, or control or with respect to which it may have any
23 interest or any right to the products and services thereof as
24 it may deem necessary, proper, desirable or reasonable except
25 that such Agency shall not sell electricity to retail customers

1 otherwise than in accordance with the provisions of the Public
2 Utilities Act, but further provided that this provision does
3 not affect any exemption otherwise available under the Public
4 Utilities Act. Rents, rates, and other charges shall be
5 established so as to be sufficient to meet the operation,
6 maintenance and other expenses thereof, including reasonable
7 reserves, interest, principal payments, and payments into one
8 or more sinking funds for the retirement of principal. The
9 Agency may pledge its rates, rents, and other revenue, or any
10 part thereof, as security for the repayment, with interest and
11 premium, if any, of any moneys borrowed by it or advanced to it
12 for any of its authorized purposes and as security for the
13 payment of amounts due and owing by it under any contract.

14 Section 70. Governmental units may contract.

15 (a) In order to accomplish the purposes of this Act, a
16 governmental unit may enter into and carry out contracts and
17 agreements for the sale, lease, or other use of property, real
18 or personal, cooperative provision of services, such as police
19 services, the delivery of such municipal waste or the purchase
20 of power from the Agency, collection or transmission services,
21 development services, and other services. Contracts must
22 comply with the following:

23 (1) Any contract and agreement shall be for a period
24 not to exceed 50 years and shall contain other terms,
25 conditions, and provisions consistent with the provisions

1 of this Act, as the governing body of such governmental
2 unit shall approve, including, without limitation,
3 provisions in which the governmental unit is obligated to
4 pay for the products and services of the Agency without
5 set-off or counterclaim and irrespective of whether such
6 products or services are furnished, made available, or
7 delivered to the governmental unit or whether the Project
8 or any portion thereof contemplated by any such contract
9 and agreement is completed, operable, or operating, and
10 notwithstanding suspension, interruption, interference,
11 reduction, or curtailment of the products and services of
12 the project.

13 (2) Any contract and agreement may be pledged by the
14 Agency to secure its obligations and may provide that, if
15 one or more governmental units defaults in the payment of
16 its obligations under the contract and agreement, the
17 remaining governmental units having the contracts and
18 agreements shall be required to pay for and shall be
19 entitled proportionately to use or otherwise dispose of the
20 products and services that were to be purchased by the
21 defaulting governmental unit.

22 (3) Any contract and agreement providing for payments
23 by a governmental unit shall be an obligation of such
24 governmental unit payable from and secured by such lawfully
25 available funds as may be made pursuant to applicable law.
26 Notwithstanding the sources of funds pledged, any contract

1 between the Agency and its members with respect to the
2 Project shall not constitute an indebtedness of such
3 members within any statutory limitation.

4 (4) Nothing in this Act shall be construed to preclude
5 a governmental unit from appropriating and using taxes and
6 other revenues received in any year to make payments due or
7 to comply with covenants to be performed during that year
8 under any contract or agreement for a term of years entered
9 into as contemplated in this Act, subject to the provisions
10 of applicable law.

11 (b) Any contract or agreement may include provisions for
12 requirements purchases, restraints on resale, or other
13 dealings, exclusive dealing, pricing, territorial division,
14 and other conduct or arrangements that may have an
15 anti-competitive effect. Provided, however, that the
16 production, interconnection, transmission, distribution, and
17 sale at wholesale or retail of electric energy generated by the
18 Project must be in accordance with all laws, regulations, and
19 rules applicable to generators of electricity, alternative
20 retail electric suppliers, municipal utilities, or electric
21 cooperatives, as applicable, but further provided that this
22 provision does not affect any exemption otherwise available
23 under the Public Utilities Act.

24 (c) Notwithstanding the provisions of any other law, in the
25 making of a contract or agreement between the Agency and a
26 member, the director of the Agency who represents the member

1 must recuse himself or herself from participation in
2 discussions or voting as director, but may participate and vote
3 in his or her capacity as an officer of the governing body of
4 such member, and the participation and voting shall not be a
5 conflict of interest.

6 Section 75. Obligations under federal or State law.
7 Notwithstanding any other provisions of this Act, nothing in
8 this Act shall affect obligations or authority under any
9 federal or State environmental statute or regulation,
10 including without limitation the Environmental Protection Act,
11 the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.),
12 the Federal Water Pollution Control Act (33 U.S.C. 1251 et
13 seq.), the federal Clean Air Act (42 U.S.C. 7401 et seq.), as
14 now or hereafter amended, and rules and regulations adopted
15 thereunder.

16 Section 90. The Eminent Domain Act is amended by adding
17 Section 15-5-50 as follows:

18 (735 ILCS 30/15-5-50 new)

19 Sec. 15-5-50. Eminent domain powers in New Acts. The
20 following provisions of law may include express grants of the
21 power to acquire property by condemnation or eminent domain:

22 Southern Cook County Intergovernmental Cooperation Waste

1 Disposal and Energy Act.

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.".