



Rep. Kelly Burke

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LRB098 08881 HLH 46160 a

1 AMENDMENT TO SENATE BILL 1603

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1603 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Finance Authority Act is amended  
5 by changing Sections 801-10, 801-55, 825-12, 825-65, 825-95,  
6 825-110, 830-10, and 830-15 as follows:

7 (20 ILCS 3501/801-10)

8 Sec. 801-10. Definitions. The following terms, whenever  
9 used or referred to in this Act, shall have the following  
10 meanings, except in such instances where the context may  
11 clearly indicate otherwise:

12 (a) The term "Authority" means the Illinois Finance  
13 Authority created by this Act.

14 (b) The term "project" means an industrial project,  
15 conservation project, housing project, public purpose project,  
16 higher education project, health facility project, cultural

1 institution project, municipal bond program project,  
2 agricultural facility or agribusiness, and "project" may  
3 include any combination of one or more of the foregoing  
4 undertaken jointly by any person with one or more other  
5 persons.

6 (c) The term "public purpose project" means any project or  
7 facility including without limitation land, buildings,  
8 structures, machinery, equipment and all other real and  
9 personal property, which is authorized or required by law to be  
10 acquired, constructed, improved, rehabilitated, reconstructed,  
11 replaced or maintained by any unit of government or any other  
12 lawful public purpose which is authorized or required by law to  
13 be undertaken by any unit of government.

14 (d) The term "industrial project" means the acquisition,  
15 construction, refurbishment, creation, development or  
16 redevelopment of any facility, equipment, machinery, real  
17 property or personal property for use by any instrumentality of  
18 the State or its political subdivisions, for use by any person  
19 or institution, public or private, for profit or not for  
20 profit, or for use in any trade or business including, but not  
21 limited to, any industrial, manufacturing or commercial  
22 enterprise that is located within or outside the State,  
23 provided that, with respect to a project involving property  
24 located outside the State, the property must be owned,  
25 operated, leased or managed by an entity located within the  
26 State or an entity affiliated with an entity located within the

1 State, and which is (1) a capital project including but not  
2 limited to: (i) land and any rights therein, one or more  
3 buildings, structures or other improvements, machinery and  
4 equipment, whether now existing or hereafter acquired, and  
5 whether or not located on the same site or sites; (ii) all  
6 appurtenances and facilities incidental to the foregoing,  
7 including, but not limited to utilities, access roads, railroad  
8 sidings, track, docking and similar facilities, parking  
9 facilities, dockage, wharfage, railroad roadbed, track,  
10 trestle, depot, terminal, switching and signaling or related  
11 equipment, site preparation and landscaping; and (iii) all  
12 non-capital costs and expenses relating thereto or (2) any  
13 addition to, renovation, rehabilitation or improvement of a  
14 capital project or (3) any activity or undertaking within or  
15 outside the State, provided that, with respect to a project  
16 involving property located outside the State, the property must  
17 be owned, operated, leased or managed by an entity located  
18 within the State or an entity affiliated with an entity located  
19 within the State, which the Authority determines will aid,  
20 assist or encourage economic growth, development or  
21 redevelopment within the State or any area thereof, will  
22 promote the expansion, retention or diversification of  
23 employment opportunities within the State or any area thereof  
24 or will aid in stabilizing or developing any industry or  
25 economic sector of the State economy. The term "industrial  
26 project" also means the production of motion pictures.

1           (e) The term "bond" or "bonds" shall include bonds, notes  
2           (including bond, grant or revenue anticipation notes),  
3           certificates and/or other evidences of indebtedness  
4           representing an obligation to pay money, including refunding  
5           bonds.

6           (f) The terms "lease agreement" and "loan agreement" shall  
7           mean: (i) an agreement whereby a project acquired by the  
8           Authority by purchase, gift or lease is leased to any person,  
9           corporation or unit of local government which will use or cause  
10          the project to be used as a project as heretofore defined upon  
11          terms providing for lease rental payments at least sufficient  
12          to pay when due all principal of, interest and premium, if any,  
13          on any bonds of the Authority issued with respect to such  
14          project, providing for the maintenance, insuring and operation  
15          of the project on terms satisfactory to the Authority,  
16          providing for disposition of the project upon termination of  
17          the lease term, including purchase options or abandonment of  
18          the premises, and such other terms as may be deemed desirable  
19          by the Authority, or (ii) any agreement pursuant to which the  
20          Authority agrees to loan the proceeds of its bonds issued with  
21          respect to a project or other funds of the Authority to any  
22          person which will use or cause the project to be used as a  
23          project as heretofore defined upon terms providing for loan  
24          repayment installments at least sufficient to pay when due all  
25          principal of, interest and premium, if any, on any bonds of the  
26          Authority, if any, issued with respect to the project, and

1 providing for maintenance, insurance and other matters as may  
2 be deemed desirable by the Authority.

3 (g) The term "financial aid" means the expenditure of  
4 Authority funds or funds provided by the Authority through the  
5 issuance of its bonds, notes or other evidences of indebtedness  
6 or from other sources for the development, construction,  
7 acquisition or improvement of a project.

8 (h) The term "person" means an individual, corporation,  
9 unit of government, business trust, estate, trust, partnership  
10 or association, 2 or more persons having a joint or common  
11 interest, or any other legal entity.

12 (i) The term "unit of government" means the federal  
13 government, the State or unit of local government, a school  
14 district, or any agency or instrumentality, office, officer,  
15 department, division, bureau, commission, college or  
16 university thereof.

17 (j) The term "health facility" means: (a) any public or  
18 private institution, place, building, or agency required to be  
19 licensed under the Hospital Licensing Act; (b) any public or  
20 private institution, place, building, or agency required to be  
21 licensed under the Nursing Home Care Act, the Specialized  
22 Mental Health Rehabilitation Act, or the ID/DD Community Care  
23 Act; (c) any public or licensed private hospital as defined in  
24 the Mental Health and Developmental Disabilities Code; (d) any  
25 such facility exempted from such licensure when the Director of  
26 Public Health attests that such exempted facility meets the

1 statutory definition of a facility subject to licensure; (e)  
2 any other public or private health service institution, place,  
3 building, or agency which the Director of Public Health attests  
4 is subject to certification by the Secretary, U.S. Department  
5 of Health and Human Services under the Social Security Act, as  
6 now or hereafter amended, or which the Director of Public  
7 Health attests is subject to standard-setting by a recognized  
8 public or voluntary accrediting or standard-setting agency;  
9 (f) any public or private institution, place, building or  
10 agency engaged in providing one or more supporting services to  
11 a health facility; (g) any public or private institution,  
12 place, building or agency engaged in providing training in the  
13 healing arts, including but not limited to schools of medicine,  
14 dentistry, osteopathy, optometry, podiatry, pharmacy or  
15 nursing, schools for the training of x-ray, laboratory or other  
16 health care technicians and schools for the training of  
17 para-professionals in the health care field; (h) any public or  
18 private congregate, life or extended care or elderly housing  
19 facility or any public or private home for the aged or infirm,  
20 including, without limitation, any Facility as defined in the  
21 Life Care Facilities Act; (i) any public or private mental,  
22 emotional or physical rehabilitation facility or any public or  
23 private educational, counseling, or rehabilitation facility or  
24 home, for those persons with a developmental disability, those  
25 who are physically ill or disabled, the emotionally disturbed,  
26 those persons with a mental illness or persons with learning or

1 similar disabilities or problems; (j) any public or private  
2 alcohol, drug or substance abuse diagnosis, counseling  
3 treatment or rehabilitation facility, (k) any public or private  
4 institution, place, building or agency licensed by the  
5 Department of Children and Family Services or which is not so  
6 licensed but which the Director of Children and Family Services  
7 attests provides child care, child welfare or other services of  
8 the type provided by facilities subject to such licensure; (l)  
9 any public or private adoption agency or facility; and (m) any  
10 public or private blood bank or blood center. "Health facility"  
11 also means a public or private structure or structures suitable  
12 primarily for use as a laboratory, laundry, nurses or interns  
13 residence or other housing or hotel facility used in whole or  
14 in part for staff, employees or students and their families,  
15 patients or relatives of patients admitted for treatment or  
16 care in a health facility, or persons conducting business with  
17 a health facility, physician's facility, surgicenter,  
18 administration building, research facility, maintenance,  
19 storage or utility facility and all structures or facilities  
20 related to any of the foregoing or required or useful for the  
21 operation of a health facility, including parking or other  
22 facilities or other supporting service structures required or  
23 useful for the orderly conduct of such health facility. "Health  
24 facility" also means, with respect to a project located outside  
25 the State, any public or private institution, place, building,  
26 or agency which provides services similar to those described

1 above, provided that such project is owned, operated, leased or  
2 managed by a participating health institution located within  
3 the State, or a participating health institution affiliated  
4 with an entity located within the State.

5 (k) The term "participating health institution" means (i) a  
6 private corporation or association or (ii) a public entity of  
7 this State, in either case authorized by the laws of this State  
8 or the applicable state to provide or operate a health facility  
9 as defined in this Act and which, pursuant to the provisions of  
10 this Act, undertakes the financing, construction or  
11 acquisition of a project or undertakes the refunding or  
12 refinancing of obligations, loans, indebtedness or advances as  
13 provided in this Act.

14 (l) The term "health facility project", means a specific  
15 health facility work or improvement to be financed or  
16 refinanced (including without limitation through reimbursement  
17 of prior expenditures), acquired, constructed, enlarged,  
18 remodeled, renovated, improved, furnished, or equipped, with  
19 funds provided in whole or in part hereunder, any accounts  
20 receivable, working capital, liability or insurance cost or  
21 operating expense financing or refinancing program of a health  
22 facility with or involving funds provided in whole or in part  
23 hereunder, or any combination thereof.

24 (m) The term "bond resolution" means the resolution or  
25 resolutions authorizing the issuance of, or providing terms and  
26 conditions related to, bonds issued under this Act and



1 includes, where appropriate, any trust agreement, trust  
2 indenture, indenture of mortgage or deed of trust providing  
3 terms and conditions for such bonds.

4 (n) The term "property" means any real, personal or mixed  
5 property, whether tangible or intangible, or any interest  
6 therein, including, without limitation, any real estate,  
7 leasehold interests, appurtenances, buildings, easements,  
8 equipment, furnishings, furniture, improvements, machinery,  
9 rights of way, structures, accounts, contract rights or any  
10 interest therein.

11 (o) The term "revenues" means, with respect to any project,  
12 the rents, fees, charges, interest, principal repayments,  
13 collections and other income or profit derived therefrom.

14 (p) The term "higher education project" means, in the case  
15 of a private institution of higher education, an educational  
16 facility to be acquired, constructed, enlarged, remodeled,  
17 renovated, improved, furnished, or equipped, or any  
18 combination thereof.

19 (q) The term "cultural institution project" means, in the  
20 case of a cultural institution, a cultural facility to be  
21 acquired, constructed, enlarged, remodeled, renovated,  
22 improved, furnished, or equipped, or any combination thereof.

23 (r) The term "educational facility" means any property  
24 located within the State, or any property located outside the  
25 State, provided that, if the property is located outside the  
26 State, it must be owned, operated, leased or managed by an

1 entity located within the State or an entity affiliated with an  
2 entity located within the State, in each case constructed or  
3 acquired before or after the effective date of this Act, which  
4 is or will be, in whole or in part, suitable for the  
5 instruction, feeding, recreation or housing of students, the  
6 conducting of research or other work of a private institution  
7 of higher education, the use by a private institution of higher  
8 education in connection with any educational, research or  
9 related or incidental activities then being or to be conducted  
10 by it, or any combination of the foregoing, including, without  
11 limitation, any such property suitable for use as or in  
12 connection with any one or more of the following: an academic  
13 facility, administrative facility, agricultural facility,  
14 assembly hall, athletic facility, auditorium, boating  
15 facility, campus, communication facility, computer facility,  
16 continuing education facility, classroom, dining hall,  
17 dormitory, exhibition hall, fire fighting facility, fire  
18 prevention facility, food service and preparation facility,  
19 gymnasium, greenhouse, health care facility, hospital,  
20 housing, instructional facility, laboratory, library,  
21 maintenance facility, medical facility, museum, offices,  
22 parking area, physical education facility, recreational  
23 facility, research facility, stadium, storage facility,  
24 student union, study facility, theatre or utility.

25 (s) The term "cultural facility" means any property located  
26 within the State, or any property located outside the State,

1 provided that, if the property is located outside the State, it  
2 must be owned, operated, leased or managed by an entity located  
3 within the State or an entity affiliated with an entity located  
4 within the State, in each case constructed or acquired before  
5 or after the effective date of this Act, which is or will be,  
6 in whole or in part, suitable for the particular purposes or  
7 needs of a cultural institution, including, without  
8 limitation, any such property suitable for use as or in  
9 connection with any one or more of the following: an  
10 administrative facility, aquarium, assembly hall, auditorium,  
11 botanical garden, exhibition hall, gallery, greenhouse,  
12 library, museum, scientific laboratory, theater or zoological  
13 facility, and shall also include, without limitation, books,  
14 works of art or music, animal, plant or aquatic life or other  
15 items for display, exhibition or performance. The term  
16 "cultural facility" includes buildings on the National  
17 Register of Historic Places which are owned or operated by  
18 nonprofit entities.

19 (t) "Private institution of higher education" means a  
20 not-for-profit educational institution which is not owned by  
21 the State or any political subdivision, agency,  
22 instrumentality, district or municipality thereof, which is  
23 authorized by law to provide a program of education beyond the  
24 high school level and which:

25 (1) Admits as regular students only individuals having  
26 a certificate of graduation from a high school, or the

1 recognized equivalent of such a certificate;

2 (2) Provides an educational program for which it awards  
3 a bachelor's degree, or provides an educational program,  
4 admission into which is conditioned upon the prior  
5 attainment of a bachelor's degree or its equivalent, for  
6 which it awards a postgraduate degree, or provides not less  
7 than a 2-year program which is acceptable for full credit  
8 toward such a degree, or offers a 2-year program in  
9 engineering, mathematics, or the physical or biological  
10 sciences which is designed to prepare the student to work  
11 as a technician and at a semiprofessional level in  
12 engineering, scientific, or other technological fields  
13 which require the understanding and application of basic  
14 engineering, scientific, or mathematical principles or  
15 knowledge;

16 (3) Is accredited by a nationally recognized  
17 accrediting agency or association or, if not so accredited,  
18 is an institution whose credits are accepted, on transfer,  
19 by not less than 3 institutions which are so accredited,  
20 for credit on the same basis as if transferred from an  
21 institution so accredited, and holds an unrevoked  
22 certificate of approval under the Private College Act from  
23 the Board of Higher Education, or is qualified as a "degree  
24 granting institution" under the Academic Degree Act; and

25 (4) Does not discriminate in the admission of students  
26 on the basis of race or color. "Private institution of

1 higher education" also includes any "academic  
2 institution".

3 (u) The term "academic institution" means any  
4 not-for-profit institution which is not owned by the State or  
5 any political subdivision, agency, instrumentality, district  
6 or municipality thereof, which institution engages in, or  
7 facilitates academic, scientific, educational or professional  
8 research or learning in a field or fields of study taught at a  
9 private institution of higher education. Academic institutions  
10 include, without limitation, libraries, archives, academic,  
11 scientific, educational or professional societies,  
12 institutions, associations or foundations having such  
13 purposes.

14 (v) The term "cultural institution" means any  
15 not-for-profit institution which is not owned by the State or  
16 any political subdivision, agency, instrumentality, district  
17 or municipality thereof, which institution engages in the  
18 cultural, intellectual, scientific, educational or artistic  
19 enrichment of the people of the State. Cultural institutions  
20 include, without limitation, aquaria, botanical societies,  
21 historical societies, libraries, museums, performing arts  
22 associations or societies, scientific societies and zoological  
23 societies.

24 (w) The term "affiliate" means, with respect to financing  
25 of an agricultural facility or an agribusiness, any lender, any  
26 person, firm or corporation controlled by, or under common

1 control with, such lender, and any person, firm or corporation  
2 controlling such lender.

3 (x) The term "agricultural facility" means land, any  
4 building or other improvement thereon or thereto, and any  
5 personal properties deemed necessary or suitable for use,  
6 whether or not now in existence, in farming, ranching, the  
7 production of agricultural commodities (including, without  
8 limitation, the products of aquaculture, hydroponics and  
9 silviculture) or the treating, processing or storing of such  
10 agricultural commodities when such activities are customarily  
11 engaged in by farmers as a part of farming and which land,  
12 building, improvement or personal property is located within  
13 the State, or is located outside the State, provided, that if  
14 such property is located outside the State, it must be owned,  
15 operated, leased, or managed by an entity located within the  
16 State or an entity affiliated with an entity located within the  
17 State.

18 (y) The term "lender" with respect to financing of an  
19 agricultural facility or an agribusiness, means any federal or  
20 State chartered bank, Federal Land Bank, Production Credit  
21 Association, Bank for Cooperatives, federal or State chartered  
22 savings and loan association or building and loan association,  
23 Small Business Investment Company or any other institution  
24 qualified within this State to originate and service loans,  
25 including, but without limitation to, insurance companies,  
26 credit unions and mortgage loan companies. "Lender" also means

1 a wholly owned subsidiary of a manufacturer, seller or  
2 distributor of goods or services that makes loans to businesses  
3 or individuals, commonly known as a "captive finance company".

4 (z) The term "agribusiness" means any sole proprietorship,  
5 limited partnership, co-partnership, joint venture,  
6 corporation or cooperative which operates or will operate a  
7 facility located within the State or outside the State,  
8 provided, that if any facility is located outside the State, it  
9 must be owned, operated, leased, or managed by an entity  
10 located within the State or an entity affiliated with an entity  
11 located within the State, ~~of Illinois~~ that is related to the  
12 processing of agricultural commodities (including, without  
13 limitation, the products of aquaculture, hydroponics and  
14 silviculture) or the manufacturing, production or construction  
15 of agricultural buildings, structures, equipment, implements,  
16 and supplies, or any other facilities or processes used in  
17 agricultural production. Agribusiness includes but is not  
18 limited to the following:

19 (1) grain handling and processing, including grain  
20 storage, drying, treatment, conditioning, mailing and  
21 packaging;

22 (2) seed and feed grain development and processing;

23 (3) fruit and vegetable processing, including  
24 preparation, canning and packaging;

25 (4) processing of livestock and livestock products,  
26 dairy products, poultry and poultry products, fish or

1        apiarian products, including slaughter, shearing,  
2        collecting, preparation, canning and packaging;

3            (5) fertilizer and agricultural chemical  
4        manufacturing, processing, application and supplying;

5            (6) farm machinery, equipment and implement  
6        manufacturing and supplying;

7            (7) manufacturing and supplying of agricultural  
8        commodity processing machinery and equipment, including  
9        machinery and equipment used in slaughter, treatment,  
10       handling, collecting, preparation, canning or packaging of  
11       agricultural commodities;

12           (8) farm building and farm structure manufacturing,  
13       construction and supplying;

14           (9) construction, manufacturing, implementation,  
15       supplying or servicing of irrigation, drainage and soil and  
16       water conservation devices or equipment;

17           (10) fuel processing and development facilities that  
18       produce fuel from agricultural commodities or byproducts;

19           (11) facilities and equipment for processing and  
20       packaging agricultural commodities specifically for  
21       export;

22           (12) facilities and equipment for forestry product  
23       processing and supplying, including sawmilling operations,  
24       wood chip operations, timber harvesting operations, and  
25       manufacturing of prefabricated buildings, paper, furniture  
26       or other goods from forestry products;



1           (13) facilities and equipment for research and  
2           development of products, processes and equipment for the  
3           production, processing, preparation or packaging of  
4           agricultural commodities and byproducts.

5           (aa) The term "asset" with respect to financing of any  
6           agricultural facility or any agribusiness, means, but is not  
7           limited to the following: cash crops or feed on hand; livestock  
8           held for sale; breeding stock; marketable bonds and securities;  
9           securities not readily marketable; accounts receivable; notes  
10          receivable; cash invested in growing crops; net cash value of  
11          life insurance; machinery and equipment; cars and trucks; farm  
12          and other real estate including life estates and personal  
13          residence; value of beneficial interests in trusts; government  
14          payments or grants; and any other assets.

15          (bb) The term "liability" with respect to financing of any  
16          agricultural facility or any agribusiness shall include, but  
17          not be limited to the following: accounts payable; notes or  
18          other indebtedness owed to any source; taxes; rent; amounts  
19          owed on real estate contracts or real estate mortgages;  
20          judgments; accrued interest payable; and any other liability.

21          (cc) The term "Predecessor Authorities" means those  
22          authorities as described in Section 845-75.

23          (dd) The term "housing project" means a specific work or  
24          improvement located within the State or outside the State and  
25          undertaken to provide residential dwelling accommodations,  
26          including the acquisition, construction or rehabilitation of

1 lands, buildings and community facilities and in connection  
2 therewith to provide nonhousing facilities which are part of  
3 the housing project, including land, buildings, improvements,  
4 equipment and all ancillary facilities for use for offices,  
5 stores, retirement homes, hotels, financial institutions,  
6 service, health care, education, recreation or research  
7 establishments, or any other commercial purpose which are or  
8 are to be related to a housing development, provided that any  
9 work or improvement located outside the State is owned,  
10 operated, leased or managed by an entity located within the  
11 State, or any entity affiliated with an entity located within  
12 the State.

13 (ee) The term "conservation project" means any project  
14 including the acquisition, construction, rehabilitation,  
15 maintenance, operation, or upgrade that is intended to create  
16 or expand open space or to reduce energy usage through  
17 efficiency measures. For the purpose of this definition, "open  
18 space" has the definition set forth under Section 10 of the  
19 Illinois Open Land Trust Act.

20 (ff) The term "significant presence" means the existence  
21 within the State of the national or regional headquarters of an  
22 entity or group or such other facility of an entity or group of  
23 entities where a significant amount of the business functions  
24 are performed for such entity or group of entities.

25 (gg) The term "municipal bond issuer" means the State or  
26 any other state or commonwealth of the United States, or any

1 unit of local government, school district, agency or  
2 instrumentality, office, department, division, bureau,  
3 commission, college or university thereof located in the State  
4 or any other state or commonwealth of the United States.

5 (hh) The term "municipal bond program project" means a  
6 program for the funding of the purchase of bonds, notes or  
7 other obligations issued by or on behalf of a municipal bond  
8 issuer.

9 (Source: P.A. 96-339, eff. 7-1-10; 96-1021, eff. 7-12-10;  
10 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813, eff.  
11 7-13-12.)

12 (20 ILCS 3501/801-55)

13 Sec. 801-55. Required findings for projects located  
14 outside the State. The Authority may approve an application to  
15 finance or refinance a project located outside of the State  
16 other than a municipal bond program project only after it has  
17 made the following findings with respect to such financing or  
18 refinancing, all of which shall be deemed conclusive:

19 (a) the entity financing or refinancing a project  
20 located outside the State, or an affiliate thereof, is also  
21 engaged in the financing or refinancing of a project  
22 located within the State or, alternately, the entity  
23 seeking the financing or refinancing, or an affiliate  
24 thereof, maintains a significant presence within the  
25 State;

1 (b) financing or refinancing the out-of-state project  
2 would promote the economy of the State for the benefit of  
3 the health, welfare, safety, trade, commerce, industry and  
4 economy of the people of the State by creating employment  
5 opportunities in the State or lowering the cost of  
6 accessing housing, healthcare, private education, or  
7 cultural institutions or undertaking industrial projects,  
8 housing projects, higher education projects, health  
9 facility projects, cultural institution projects,  
10 conservation projects, energy efficiency projects,  
11 agricultural facilities or agribusiness in the State by  
12 reducing the cost of financing, refinancing or operating  
13 projects; and

14 (c) after giving effect to the financing or refinancing  
15 of the out-of-state project, the Authority shall have the  
16 ability to issue at least an additional \$1,000,000,000 of  
17 bonds under Section 845-5(a) of this Act.

18 The Authority may approve an application to finance or  
19 refinance a municipal bond program project located outside of  
20 the State only after it has made the following findings with  
21 respect to such financing or refinancing, all of which shall be  
22 deemed conclusive:

23 (1) the municipal bond program project includes the  
24 purchase of bonds, notes, or obligations issued by or on  
25 behalf of the State or any agency, instrumentality, office,  
26 department, division, bureau, or commission thereof, or

1       any unit of local government, school district, college, or  
2       university of the State; and

3           (2) financing or refinancing the municipal bond  
4       program project would promote the economy of the State for  
5       the benefit of the health, welfare, safety, trade,  
6       commerce, industry, and economy of the people of the State  
7       by reducing the cost of borrowing to the State or such unit  
8       of local government, school district, agency or  
9       instrumentality, office, department, division, bureau,  
10       commission, college or university thereof.

11       The Authority shall not provide financing or refinancing  
12       for any project, or portion thereof, located outside the  
13       boundaries of the United States of America.

14       Notwithstanding any other provision of this Act, the  
15       Authority shall not provide financing or refinancing that uses  
16       State volume cap under Section 146 of the Internal Revenue Code  
17       of 1986, as amended, except as permitted under that Section  
18       146, or constitutes an indebtedness or obligation, general or  
19       moral, or a pledge of the full faith or loan of credit of the  
20       State for any project, or portion thereof, that is located  
21       outside of the State.

22       (Source: P.A. 96-1021, eff. 7-12-10.)

23           (20 ILCS 3501/825-12)

24           Sec. 825-12. Conservation projects.

25           (a) The Authority may develop a program to provide

1 low-interest loans and other financing to individuals,  
2 business entities, private organizations, and units of local  
3 government for conservation projects within the United States,  
4 provided that, if the conservation project is located outside  
5 of the State, it is owned, operated, leased or managed by an  
6 entity located within the State or any entity affiliated with  
7 an entity located within the State ~~in the State of Illinois.~~

8 (b) Projects under this Section may include, without  
9 limitation, the acquisition of land for open-space projects,  
10 preservation or recreation measures for open spaces, and energy  
11 conservation or efficiency projects that are intended to reduce  
12 energy usage and costs.

13 (c) The Authority, in cooperation with the Department of  
14 Natural Resources and the Department of Commerce and Economic  
15 Opportunity, may adopt any rules necessary for the  
16 administration of this Section. The Authority must include any  
17 information concerning the program under this Section on its  
18 Internet website.

19 (Source: P.A. 95-697, eff. 11-6-07.)

20 (20 ILCS 3501/825-65)

21 Sec. 825-65. Clean Coal, Coal, Energy Efficiency, and  
22 Renewable Energy Project Financing.

23 (a) Findings and declaration of policy.

24 (i) It is hereby found and declared that Illinois has  
25 abundant coal resources and, in some areas of Illinois, the

1 demand for power exceeds the generating capacity.  
2 Incentives to encourage the construction of coal-fueled  
3 electric generating plants in Illinois to ensure power  
4 generating capacity into the future and to advance clean  
5 coal technology and the use of Illinois coal are in the  
6 best interests of all of the citizens of Illinois.

7 (ii) It is further found and declared that Illinois has  
8 abundant potential and resources to develop renewable  
9 energy resource projects and that there are many  
10 opportunities to invest in cost-effective energy  
11 efficiency projects throughout the State. The development  
12 of those projects will create jobs and investment as well  
13 as decrease environmental impacts and promote energy  
14 independence in Illinois. Accordingly, the development of  
15 those projects is in the best interests of all of the  
16 citizens of Illinois.

17 (iii) The Authority is authorized to issue bonds to  
18 help finance Clean Coal, Coal, Energy Efficiency, and  
19 Renewable Energy projects pursuant to this Section.

20 (b) Definitions.

21 (i) "Clean Coal Project" means (A) "clean coal  
22 facility", as defined in Section 1-10 of the Illinois Power  
23 Agency Act; (B) "clean coal SNG facility", as defined in  
24 Section 1-10 of the Illinois Power Agency Act; (C)  
25 transmission lines and associated equipment that transfer  
26 electricity from points of supply to points of delivery for

1 projects described in this subsection (b); (D) pipelines or  
2 other methods to transfer carbon dioxide from the point of  
3 production to the point of storage or sequestration for  
4 projects described in this subsection (b); or (E) projects  
5 to provide carbon abatement technology for existing  
6 generating facilities.

7 (ii) "Coal Project" means new electric generating  
8 facilities or new gasification facilities, as defined in  
9 Section 605-332 of the Department of Commerce and Economic  
10 Opportunity Law of the Civil Administrative Code of  
11 Illinois, which may include mine-mouth power plants,  
12 projects that employ the use of clean coal technology,  
13 projects to provide scrubber technology for existing  
14 energy generating plants, or projects to provide electric  
15 transmission facilities or new gasification facilities.

16 (iii) "Energy Efficiency Project" means measures that  
17 reduce the amount of electricity or natural gas required to  
18 achieve a given end use, consistent with Section 1-10 of  
19 the Illinois Power Agency Act. "Energy Efficiency Project"  
20 also includes measures that reduce the total Btus of  
21 electricity and natural gas needed to meet the end use or  
22 uses consistent with Section 1-10 of the Illinois Power  
23 Agency Act.

24 (iv) "Renewable Energy Project" means (A) a project  
25 that uses renewable energy resources, as defined in Section  
26 1-10 of the Illinois Power Agency Act; (B) a project that



1 uses environmentally preferable technologies and practices  
2 that result in improvements to the production of renewable  
3 fuels, including but not limited to, cellulosic  
4 conversion, water and energy conservation, fractionation,  
5 alternative feedstocks, or reduced green house gas  
6 emissions; (C) transmission lines and associated equipment  
7 that transfer electricity from points of supply to points  
8 of delivery for projects described in this subsection (b);  
9 or (D) projects that use technology for the storage of  
10 renewable energy, including, without limitation, the use  
11 of battery or electrochemical storage technology for  
12 mobile or stationary applications.

13 (c) Creation of reserve funds. The Authority may establish  
14 and maintain one or more reserve funds to enhance bonds issued  
15 by the Authority for a Clean Coal Project, a Coal Project, an  
16 Energy Efficiency Project, or a Renewable Energy Project. There  
17 may be one or more accounts in these reserve funds in which  
18 there may be deposited:

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

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

25 (3) any other moneys or funds made available to the  
26 Authority. Subject to the terms of any pledge to the owners

1 of any bonds, moneys in any reserve fund may be held and  
2 applied to the payment of principal, premium, if any, and  
3 interest of such bonds.

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

5 (1) To issue bonds in one or more series pursuant to  
6 one or more resolutions of the Authority for any Clean Coal  
7 Project, Coal Project, Energy Efficiency Project, or  
8 Renewable Energy Project authorized under this Section,  
9 within the authorization set forth in subsection (e).

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

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

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

1 Act.

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

4 (e) Clean Coal Project, Coal Project, Energy Efficiency  
5 Project, and Renewable Energy Project bond authorization and  
6 financing limits. In addition to any other bonds authorized to  
7 be issued under Sections 801-40(w), 825-60, 830-25 and 845-5,  
8 the Authority may have outstanding, at any time, bonds for the  
9 purpose enumerated in this Section 825-65 in an aggregate  
10 principal amount that shall not exceed \$3,000,000,000, subject  
11 to the following limitations: (i) up to \$300,000,000 may be  
12 issued to finance projects, as described in clause (C) of  
13 subsection (b)(i) and clause (C) of subsection (b)(iv) of this  
14 Section 825-65; (ii) up to \$500,000,000 may be issued to  
15 finance projects, as described in clauses (D) and (E) of  
16 subsection (b)(i) of this Section 825-65; (iii) up to  
17 \$2,000,000,000 may be issued to finance Clean Coal Projects, as  
18 described in clauses (A) and (B) of subsection (b)(i) of this  
19 Section 825-65 and Coal Projects, as described in subsection  
20 (b)(ii) of this Section 825-65; and (iv) up to \$2,000,000,000  
21 may be issued to finance Energy Efficiency Projects, as  
22 described in subsection (b)(iii) of this Section 825-65 and  
23 Renewable Energy Projects, as described in clauses (A), (B),  
24 and (D) of subsection (b)(iii) of this Section 825-65. An  
25 application for a loan financed from bond proceeds from a  
26 borrower or its affiliates for a Clean Coal Project, a Coal

1 Project, Energy Efficiency Project, or a Renewable Energy  
2 Project may not be approved by the Authority for an amount in  
3 excess of \$450,000,000 for any borrower or its affiliates. A  
4 Clean Coal Project or a Coal Project must be located within the  
5 State. An Energy Efficiency Project may be located within the  
6 State or outside the State, provided that, if the Energy  
7 Efficiency Project is located outside the State, it must be  
8 owned, operated, leased, or managed by an entity located within  
9 the State or an entity affiliated with an entity located within  
10 the State. These bonds shall not constitute an indebtedness or  
11 obligation of the State of Illinois and it shall be plainly  
12 stated on the face of each bond that it does not constitute an  
13 indebtedness or obligation of the State of Illinois, but is  
14 payable solely from the revenues, income or other assets of the  
15 Authority pledged therefor.

16 (f) The bonding authority granted under this Section is in  
17 addition to and not limited by the provisions of Section 845-5.  
18 (Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10;  
19 96-817, eff. 1-1-10.)

20 (20 ILCS 3501/825-95)

21 Sec. 825-95. Emerald ash borer revolving loan program.

22 (a) The Illinois Finance Authority may ~~shall~~ administer an  
23 emerald ash borer revolving loan program. The program shall  
24 provide low-interest or zero-interest loans to units of local  
25 government for the treatment of standing trees and replanting

1 of trees on public lands that are within emerald ash borer  
2 quarantine areas as established by the Illinois Department of  
3 Agriculture. The Authority may ~~shall~~ make loans based on the  
4 recommendation of the Department of Agriculture. For the  
5 purposes of this Section, "treatment" means the  
6 administration, by environmentally sensitive processes and  
7 methods, of products and materials proven by academic research  
8 to protect ash trees from the invasive Emerald Ash Borer in  
9 order to prevent or reverse the damage and preserve the trees.

10 (b) The loan funds, subject to appropriation, must be paid  
11 out of the Emerald Ash Borer Revolving Loan Fund, a special  
12 fund created in the State treasury. The moneys in the Fund  
13 consist of any moneys transferred or appropriated into the Fund  
14 as well as all repayments of loans made under this program.  
15 Moneys in the Fund may be used only for loans to units of local  
16 government for the treatment of standing trees and replanting  
17 of trees within emerald ash borer quarantine areas established  
18 by the Department of Agriculture and for no other purpose. All  
19 interest earned on moneys in the Fund must be deposited into  
20 the Fund.

21 (c) A loan for the treatment of standing trees and  
22 replanting of trees on public lands within emerald ash borer  
23 quarantine areas established by the Department of Agriculture  
24 may not exceed \$5,000,000 to any one unit of local government.  
25 The repayment period for the loan may not exceed 20 years. The  
26 unit of local government shall repay, each year, at least 5% of

1 the principal amount borrowed or the remaining balance of the  
2 loan, whichever is less. All repayments of loans must be  
3 deposited into the Emerald Ash Borer Revolving Loan Fund.

4 (d) Any loan under this Section to a unit of local  
5 government may not exceed the moneys that the unit of local  
6 government expends or dedicates for the reforestation project  
7 for which the loan is made.

8 (e) The Department of Agriculture may enter into agreements  
9 with a unit of local government under which the unit of local  
10 government is authorized to assist the Department in carrying  
11 out its duties in a quarantined area, including inspection and  
12 eradication of any dangerous insect or dangerous plant disease,  
13 and including the transportation, processing, and disposal of  
14 diseased material. The Department is authorized to provide  
15 compensation or financial assistance to the unit of local  
16 government for its costs.

17 (f) The Authority, with the assistance of the Department of  
18 Agriculture and the Department of Natural Resources, shall  
19 adopt rules to administer the program under this Section.

20 (Source: P.A. 95-588, eff. 9-4-07; 95-876, eff. 8-21-08.)

21 (20 ILCS 3501/825-110)

22 Sec. 825-110. Implementation of ARRA provisions regarding  
23 qualified energy conservation bonds.

24 (a) Definitions.

1 (i) "Affected local government" means any county or  
2 municipality within the State if the county or municipality  
3 has a population of 100,000 or more, as defined in Section  
4 54D(e) (2) (C) of the Code.

5 (ii) "Allocation amount" means the \$133,846,000 amount  
6 of qualified energy conservation bonds authorized under  
7 ARRA for the financing of qualifying projects located  
8 within the State and the sub-allocation of those amounts  
9 among each affected local government.

10 (iii) "ARRA" means, collectively, the American  
11 Recovery and Reinvestment Act of 2009, including, without  
12 limitation, Section 54D of the Code; the guidance provided  
13 by the Internal Revenue Service applicable to qualified  
14 energy conservation bonds; and any legislation  
15 subsequently adopted by the United States Congress to  
16 extend or expand the economic development bond financing  
17 incentives authorized by ARRA.

18 (iv) "ARRA implementing regulations" means the  
19 regulations promulgated by the Authority as further  
20 described in subdivision (c)(iv) of this Section to  
21 implement the provisions of this Section.

22 (v) "Code" means the Internal Revenue Code of 1986, as  
23 amended.

24 (vi) "Qualified energy conservation bond" means any  
25 qualified energy conservation bond issued pursuant to  
26 Section 54D of the Code.

1           (vii) "Qualified energy conservation bond allocation"  
2 means an allocation of authority to issue qualified energy  
3 conservation bonds granted pursuant to Section 54D of the  
4 Code.

5           (viii) "Regional authority" means the Central Illinois  
6 Economic Development Authority, Eastern Illinois Economic  
7 Development Authority, Joliet Arsenal Development  
8 Authority, Quad Cities Regional Economic Development  
9 Authority, Riverdale Development Authority, Southeastern  
10 Illinois Economic Development Authority, Southern Illinois  
11 Development Authority, Southwestern Illinois Development  
12 Authority, Tri-County River Valley Development Authority,  
13 Upper Illinois River Valley Development Authority,  
14 Illinois Urban Development Authority, Western Illinois  
15 Economic Development Authority, or Will-Kankakee Regional  
16 Development Authority.

17           (ix) "Sub-allocation" means the portion of the  
18 allocation amount allocated to each affected local  
19 government.

20           (x) "Waived qualified energy conservation bond  
21 allocation" means the amount of the qualified energy  
22 conservation bond allocation that an affected local  
23 government elects to reallocate to the State pursuant to  
24 Section 54D(e) (2) (B) of the Code.

25           (xi) "Waiver agreement" means an agreement between the  
26 Authority and an affected local government providing for



1 the reallocation, in whole or in part, of that affected  
2 local government's sub-allocation to the Authority. The  
3 waiver agreement may provide for the payment of an affected  
4 local government's reasonable fees and costs as determined  
5 by the Authority in connection with the affected local  
6 government's reallocation of its sub-allocation.

7 (b) Findings.

8 It is found and declared that:

9 (i) it is in the public interest and for the benefit of  
10 the State to maximize the use of economic development  
11 incentives authorized by ARRA;

12 (ii) those incentives include the maximum use of the  
13 allocation amount for the issuance of qualified energy  
14 conservation bonds to promote energy conservation under  
15 the applicable provisions of ARRA; and

16 (iii) those incentives also include the issuance by the  
17 Authority of qualified energy conservation bonds for the  
18 purposes of financing qualifying projects to be financed  
19 with proceeds of qualified energy conservation bonds.

20 (c) Powers of Authority.

21 (i) In order to carry out the provisions of ARRA and  
22 further the purposes of this Section, the Authority has:

23 (A) the power to receive from any affected local  
24 government its sub-allocation that it voluntarily

1 waives to the Authority, in whole or in part, for  
2 allocation by the Authority to a regional authority  
3 specifically designated by that affected local  
4 government, and the Authority shall reallocate that  
5 waived qualified energy conservation bond allocation  
6 to the regional authority specifically designated by  
7 that affected local government; provided that (1) the  
8 affected local government must take official action by  
9 resolution or ordinance, as applicable, to waive the  
10 sub-allocation to the Authority and specifically  
11 designate that its waived qualified energy  
12 conservation bond allocation should be reallocated to  
13 a regional authority; (2) the regional authority must  
14 use the sub-allocation to issue qualified energy  
15 conservation bonds on or before August 16, 2010 and, if  
16 qualified energy conservation bonds are not issued on  
17 or before August 16, 2010, the sub-allocation shall be  
18 deemed waived to the Authority for reallocation by the  
19 Authority to qualifying projects; and (3) the proceeds  
20 of the qualified energy conservation bonds must be used  
21 for qualified projects within the jurisdiction of the  
22 applicable regional authority;

23 (B) at the Authority's sole discretion, the power  
24 to reallocate any sub-allocation deemed waived to the  
25 Authority pursuant to subsection (c) (i) (A) (2) back to  
26 the Regional Authority that had the sub-allocation;

1 (C) the power to enter into waiver agreements with  
2 affected local governments to provide for the  
3 reallocation, in whole or in part, of their  
4 sub-allocations, to receive waived qualified energy  
5 conservation bond allocations from those affected  
6 local governments, and to use those waived qualified  
7 energy conservation bond allocations, in whole or in  
8 part, to issue qualified energy conservation bonds of  
9 the Authority for qualifying projects or to reallocate  
10 those qualified energy conservation bond allocations,  
11 in whole or in part, to a county or municipality to  
12 issue its own energy conservation bonds for qualifying  
13 projects; and

14 (D) the power to issue qualified energy  
15 conservation bonds for any project authorized to be  
16 financed with proceeds thereof under the applicable  
17 provisions of ARRA.

18 (ii) In addition to the powers set forth in item (i),  
19 the Authority shall be the sole recipient, on behalf of the  
20 State, of any waived qualified energy conservation bond  
21 allocations. Qualified energy conservation bond  
22 allocations can be reallocated to the Authority only by  
23 voluntary waiver as provided in this Section.

24 (iii) In addition to the powers set forth in items (i)  
25 and (ii), the Authority has any powers otherwise enjoyed by  
26 the Authority in connection with the issuance of its bonds

1 if those powers are not in conflict with any provisions  
2 with respect to qualified energy conservation bonds set  
3 forth in ARRA.

4 (iv) The Authority has the power to adopt regulations  
5 providing for the implementation of any of the provisions  
6 contained in this Section, including the provisions  
7 regarding waiver agreements and reallocation of all or any  
8 portion of the allocation amount and sub-allocations and  
9 the issuance of qualified energy conservation bonds;  
10 except that those regulations shall not (1) provide any  
11 waiver or reallocation of an affected local government's  
12 sub-allocation other than a voluntary waiver as described  
13 in subsection (c) or (2) be inconsistent with the  
14 provisions of subsection (c)(i). Regulations adopted by  
15 the Authority for determining reallocation of all or any  
16 portion of a waived qualified energy conservation  
17 allocation may include, but are not limited to, (1) the  
18 ability of the county or municipality to issue qualified  
19 energy conservation bonds by the end of a given calendar  
20 year, (2) the amount of jobs that will be retained or  
21 created, or both, by the qualifying project to be financed  
22 by qualified energy conservation bonds, and (3) the  
23 geographical proximity of the qualifying project to be  
24 financed by qualified energy conservation bonds to a  
25 municipality or county that reallocated its sub-allocation  
26 to the Authority.

1 (d) Established dates for notice.

2 Any affected local government or regional authority that  
3 has issued qualified energy conservation bonds on or before the  
4 effective date of this Section must report its issuance of  
5 qualified energy conservation bonds to the Authority within 30  
6 days after the effective date of this Section. After the  
7 effective date of this Section, any affected local government  
8 or any regional authority must report its issuance of qualified  
9 energy conservation bonds to the Authority not less than 30  
10 days after those bonds are issued.

11 (e) Reports to the General Assembly.

12 Starting 60 days after the effective date of this Section  
13 and ending when there is no longer any allocation amount, the  
14 Authority shall file a report before the end ~~15th day~~ of each  
15 fiscal year ~~month~~ with the General Assembly detailing its  
16 implementation of this Section, including but not limited to  
17 the dollar amount of the allocation amount that has been  
18 reallocated by the Authority pursuant to this Section, the  
19 qualified energy conservation bonds issued in the State as of  
20 the date of the report, and descriptions of the qualifying  
21 projects financed by those qualified energy conservation  
22 bonds.

23 (Source: P.A. 96-1020, eff. 7-12-10.)

1 (20 ILCS 3501/830-10)

2 Sec. 830-10. (a) The Authority may ~~shall~~ establish a Farm  
3 Debt Relief Program to help provide eligible Illinois farmers  
4 with State assistance in meeting their farming-related debts.

5 (b) To be eligible for the program, a person must (1) be  
6 actively engaged in farming in this State, (2) have  
7 farming-related debts in an amount equal to at least 55% of the  
8 person's total assets, and (3) demonstrate that he can secure  
9 credit from a conventional lender for the 1986 crop year.

10 (c) An eligible person may apply to the Authority, in such  
11 manner as the Authority may specify, for a one-time farm debt  
12 relief payment of up to 2% of the person's outstanding  
13 farming-related debt. If the Authority determines that the  
14 applicant is eligible for a payment under this Section, it may  
15 then approve a payment to the applicant. Such payment shall  
16 consist of a payment made by the Authority directly to one or  
17 more of the applicant's farming-related creditors, to be  
18 applied to the reduction of the applicant's farming-related  
19 debt. The applicant shall be entitled to select the creditor or  
20 creditors to receive the payment, unless the applicant is  
21 subject to the jurisdiction of a bankruptcy court, in which  
22 case the selection of the court shall control.

23 (d) Payments shall be made from the Farm Emergency  
24 Assistance Fund, which is hereby established as a special fund  
25 in the State treasury, from funds appropriated to the Authority  
26 for that purpose. No grant may exceed the lesser of (1) 2% of

1 the applicant's outstanding farm-related debt, or (2) \$2000.  
2 Not more than one grant under this Section may be made to any  
3 one person, or to any one household, or to any single farming  
4 operation.

5 (e) Payments to applicants having farming-related debts in  
6 an amount equal to at least 55% of the person's total assets,  
7 but less than 70%, shall be repaid by the applicant to the  
8 Authority for deposit into the Farm Emergency Assistance Fund  
9 within five years from the date the payment was made. Repayment  
10 shall be made in equal installments during the five-year period  
11 with no additional interest charge and may be prepaid in whole  
12 or in part at any time. Applicants having farming-related debts  
13 in an amount equal to at least 70% of the person's total assets  
14 shall not be required to make any repayment. Assets shall  
15 include, but not be limited to, the following: cash crops or  
16 feed on hand; livestock held for sale; breeding stock;  
17 marketable bonds and securities; securities not readily  
18 marketable; accounts receivable; notes receivable; cash  
19 invested in growing crops; net cash value of life insurance;  
20 machinery and equipment; cars and trucks; farm and other real  
21 estate including life estates and personal residence; value of  
22 beneficial interests in trusts; government payments or grants;  
23 and any other assets. Debts shall include, but not be limited  
24 to, the following: accounts payable; notes or other  
25 indebtedness owed to any source; taxes; rent; amounts owed on  
26 real estate contracts or real estate mortgages; judgments;

1 accrued interest payable; and any other liability.

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

3 (20 ILCS 3501/830-15)

4 Sec. 830-15. Interest-buy-back program.

5 (a) The Authority may ~~shall~~ establish an interest-buy-back  
6 program to subsidize the interest cost on certain loans to  
7 Illinois farmers.

8 (b) To be eligible an applicant must (i) be a resident of  
9 Illinois; (ii) be a principal operator of a farm or land; (iii)  
10 derive at least 50% of annual gross income from farming; and  
11 (iv) have a net worth of at least \$10,000. The Authority shall  
12 establish minimum and maximum financial requirements, maximum  
13 payment amounts, starting and ending dates for the program, and  
14 other criteria.

15 (c) Lenders may apply on behalf of eligible applicants on  
16 forms provided by the Authority. Lenders may submit requests  
17 for payment on forms provided by the Authority. Lenders and  
18 applicants shall be responsible for any fees or charges the  
19 Authority may require.

20 (d) The Authority shall make payments to lenders from  
21 available appropriations from the General Revenue Fund.

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

23 Section 10. The Illinois Environmental Facilities  
24 Financing Act is amended by changing Sections 2 and 3 and by



1 adding Section 7.5 as follows:

2 (20 ILCS 3515/2) (from Ch. 127, par. 722)

3 Sec. 2. Declaration of necessity and purpose - Liberal  
4 construction. (a) The General Assembly finds:

5 (i) that environmental damage seriously endangers the  
6 public health and welfare;

7 (ii) that such environmental damage results from air,  
8 water, and other resource pollution and from public water  
9 supply, solid waste disposal, noise, surface mining and other  
10 environmental problems;

11 (iii) that to reduce, control and prevent such pollution  
12 and problems, quality and land reclamation standards have been  
13 established necessitating the employment of anti-pollution and  
14 reclamation devices, equipment and facilities and stringent  
15 time schedules have been and will be imposed for compliance  
16 with such standards;

17 (iv) that it is desirable to provide additional and  
18 alternative methods of financing the costs of the acquisition  
19 and installation of the devices, equipment and facilities  
20 required to comply with the quality and land reclamation  
21 standards;

22 (v) that the alternative method of financing provided in  
23 this Act is therefore in the public interest and serves a  
24 public purpose in protecting and promoting the health and  
25 welfare of the citizens of this state by reducing, controlling

1 and preventing environmental damage;

2 (vi) that it is desirable to promote the use of Illinois  
3 coal in a manner that is consistent with air quality and land  
4 reclamation standards; ~~and~~

5 (vii) that it is desirable to promote the use of  
6 alternative methods for managing hazardous wastes and to  
7 provide additional and alternative methods of financing the  
8 costs of establishing the recycling, incineration, physical,  
9 chemical and biological treatment, and other facilities  
10 necessary to meet the requirements of the Environmental  
11 Protection Act; and

12 (viii) that the environmental damage and pollution that  
13 occurs within this State often results from sources in other  
14 states, and that providing financing alternatives for  
15 environmental facilities that are located outside the State  
16 that are owned, operated, leased, managed by, or otherwise  
17 affiliated with, institutions located within the State can  
18 reduce, control, or prevent environmental damage and pollution  
19 within this State.

20 (b) It is the purpose of this Act, as more specifically  
21 described in later sections, to authorize the State authority  
22 to acquire, construct, reconstruct, repair, alter, improve,  
23 extend, own, finance, lease, sell and otherwise dispose of  
24 pollution control and surface mined land reclamation  
25 facilities to the end that the State authority may be able to  
26 promote the health and welfare of the people of this State and

1 to vest such State authority with all powers to enable such  
2 State authority to accomplish such purpose; it is not intended  
3 by this Act that the State authority shall itself be authorized  
4 to operate any such pollution control, hazardous waste  
5 treatment or surface mined land reclamation facilities; nor  
6 shall any such facilities be geographically located outside the  
7 State of Illinois, except as otherwise provided in this Act. It  
8 is the intent of the General Assembly that access to the  
9 benefits of the financing herein provided for shall be equally  
10 available to all persons.

11 (c) It is the intent of the General Assembly that the State  
12 authority shall give special consideration to small businesses  
13 as defined in paragraph (i) of Section 3 of this Act in  
14 authorizing the issuance of bonds for the financing of  
15 pollution control or hazardous waste treatment facilities in  
16 order to assist small businesses in surviving the economic  
17 burdens imposed by the required financing of such facilities.

18 (d) Notwithstanding paragraph (b) of this Section, it is  
19 the intent of the General Assembly that with respect to  
20 applications involving environmental facilities for new  
21 coal-fired electric steam generating plants and new coal-fired  
22 industrial boilers as defined in paragraph (j) of Section 3 of  
23 this Act, the State authority shall only finance such  
24 facilities where Illinois coal will be used as the primary  
25 source of fuel. The Authority shall impose appropriate  
26 financial penalties on any person who receives financing from

1 the State Authority for environmental facilities based on a  
2 commitment to use Illinois coal as the primary source of fuel  
3 at a new coal-fired electric utility steam generating plant or  
4 new coal-fired industrial boiler and later uses a non-Illinois  
5 coal as the primary source of fuel.

6 (e) It is the intent of the General Assembly that the  
7 Authority give special consideration to projects which involve  
8 a reduction in volume of hazardous waste products generated, or  
9 the recycling, re-use, reclamation, or treatment of hazardous  
10 waste.

11 (f) This Act shall be liberally construed to accomplish  
12 the intentions expressed herein.

13 (Source: P.A. 83-1362; 83-1442.)

14 (20 ILCS 3515/3) (from Ch. 127, par. 723)

15 Sec. 3. Definitions. In this Act, unless the context  
16 otherwise clearly requires, the terms used herein shall have  
17 the meanings ascribed to them as follows:

18 (a) "Bonds" means any bonds, notes, debentures, temporary,  
19 interim or permanent certificates of indebtedness or other  
20 obligations evidencing indebtedness.

21 (b) "Directing body" means the members of the State  
22 authority.

23 (c) "Environmental facility" or "facilities" means any  
24 land, interest in land, building, structure, facility, system,  
25 fixture, improvement, appurtenance, machinery, equipment or

1 any combination thereof, and all real and personal property  
2 deemed necessary therewith, having to do with or the primary  
3 purpose of which is, reducing, controlling or preventing  
4 pollution, or reclaiming surface mined land. Environmental  
5 facilities may be located anywhere in this State and may  
6 include those facilities or processes used to (i) remove  
7 potential pollutants from coal prior to combustion, (ii) reduce  
8 the volume or composition of hazardous waste by changing or  
9 replacing manufacturing equipment or processes, (iii) recycle  
10 hazardous waste, or (iv) recover resources from hazardous  
11 waste. Environmental facilities may also include (i) solar  
12 collectors, solar storage mechanisms and solar energy systems,  
13 as defined in Section 10-5 of the Property Tax Code; (ii)  
14 facilities designed to collect, store, transfer, or  
15 distribute, for residential, commercial or industrial use,  
16 heat energy which is a by-product of industrial or energy  
17 generation processes and which would otherwise be wasted; (iii)  
18 facilities designed to remove pollutants from emissions that  
19 result from the combustion of coal; and (iv) facilities for the  
20 combustion of coal in a fluidized bed boiler. Environmental  
21 facilities may be located outside of the State, provided that  
22 the environmental facility must either (i) be owned, operated,  
23 leased, or managed by an entity located within the State or an  
24 entity affiliated with an entity located within the State or  
25 (ii) substantially reduce, control, and prevent the  
26 environmental damage and pollution within the State.

1 Environmental facilities include landfill gas recovery  
2 facilities, as defined in the Illinois Environmental  
3 Protection Act.

4 Environmental facilities do not include any land, interest  
5 in land, buildings, structure, facility, system, fixture,  
6 improvement, appurtenance, machinery, equipment or any  
7 combination thereof, and all real and personal property deemed  
8 necessary therewith, having to do with a hazardous waste  
9 disposal site, except where such land, interest in land,  
10 buildings, structure, facility, system, fixture, improvement,  
11 appurtenance, machinery, equipment, real or personal property  
12 are used for the management or recovery of gas generated by a  
13 hazardous waste disposal site or are used for recycling,  
14 reclamation, tank storage or treatment in tanks which occurs on  
15 the same site as a hazardous waste disposal site.

16 (d) "Finance" or "financing" means the issuing of revenue  
17 bonds pursuant to Section 9 of this Act by the State authority  
18 for the purpose of using the proceeds to pay project costs for  
19 an environmental or hazardous waste treatment facility  
20 including one in or to which title at all times remains in a  
21 person other than the State authority, in which case the bonds  
22 of the Authority are secured by a pledge of one or more notes,  
23 debentures, bonds or other obligations, secured or unsecured,  
24 of any person.

25 (e) "Person" means any individual, partnership,  
26 copartnership, firm, company, corporation (including public

1 utilities), association, joint stock company, trust, estate,  
2 political subdivision, state agency, or any other legal entity,  
3 or their legal representative, agent or assigns.

4 (f) "Pollution" means any form of environmental pollution  
5 including, but not limited to, water pollution, air pollution,  
6 land pollution, solid waste pollution, thermal pollution,  
7 radiation contamination, or noise pollution as determined by  
8 the various standards prescribed by this state or the federal  
9 government and including but not limited to, anything which is  
10 considered as pollution or environmental damage in the  
11 Environmental Protection Act, approved June 29, 1970, as now or  
12 hereafter amended.

13 (g) "Project costs" as applied to environmental or  
14 hazardous waste treatment facilities financed under this Act  
15 means and includes the sum total of all reasonable or necessary  
16 costs incidental to the acquisition, construction,  
17 reconstruction, repair, alteration, improvement and extension  
18 of such environmental or hazardous waste treatment facilities  
19 including without limitation the cost of studies and surveys;  
20 plans, specifications, architectural and engineering services;  
21 legal, organization, marketing or other special services;  
22 financing, acquisition, demolition, construction, equipment  
23 and site development of new and rehabilitated buildings;  
24 rehabilitation, reconstruction, repair or remodeling of  
25 existing buildings and all other necessary and incidental  
26 expenses including an initial bond and interest reserve

1 together with interest on bonds issued to finance such  
2 environmental or hazardous waste treatment facilities to a date  
3 6 months subsequent to the estimated date of completion.

4 (h) "State authority" or "authority" means the Illinois  
5 Finance Authority created by the Illinois Finance Authority  
6 Act.

7 (i) "Small business" or "small businesses" means those  
8 commercial and manufacturing entities which at the time of  
9 their application to the authority meet those criteria, as  
10 interpreted and applied by the State authority, for definition  
11 as a "small business" established for the Small Business  
12 Administration and set forth as Section 121.3-10 of Part 121 of  
13 Title 13 of the Code of Federal Regulations as such Section is  
14 in effect on the effective date of this amendatory Act of 1975.

15 (j) "New coal-fired electric utility steam generating  
16 plants" and "new coal-fired industrial boilers" means those  
17 plants and boilers on which construction begins after the  
18 effective date of this amendatory Act of 1981.

19 (k) "Hazardous waste treatment facility" means any land,  
20 interest in land, building, structure, facility, system,  
21 fixture, improvement, appurtenance, machinery, equipment, or  
22 any combination thereof, and all real and personal property  
23 deemed necessary therewith, the primary purpose of which is to  
24 recycle, incinerate, or physically, chemically, biologically  
25 or otherwise treat hazardous wastes, or to reduce the  
26 production of hazardous wastes by changing or replacing



1 manufacturing equipment or processes, and which meets the  
2 requirements of the Environmental Protection Act and all  
3 regulations adopted thereunder.

4 (1) The term "significant presence" means the existence  
5 within the State of the national or regional headquarters of an  
6 entity or group or such other facility of an entity or group of  
7 entities where a significant amount of the business functions  
8 are performed for such entity or group of entities.

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

10 (20 ILCS 3515/7.5 new)

11 Sec. 7.5. Required findings for environmental facilities  
12 located outside the State. The State authority may approve an  
13 application to finance or refinance environmental facilities  
14 located outside of the State only after it has made either of  
15 the following findings with respect to such financing or  
16 refinancing, all of which shall be deemed conclusive:

17 (1) that all of the following conditions exist:

18 (A) the entity financing or refinancing an  
19 environmental facility located outside the State, or  
20 an affiliate thereof, is also engaged in the financing  
21 or refinancing of an environmental facility located  
22 within the State or, alternately, the entity seeking  
23 the financing or refinancing, or an affiliate thereof,  
24 maintains a significant presence within the State;

25 (B) financing or refinancing the out-of-state

1 environmental facility would promote the interests of  
2 the State for the benefit of the health, welfare,  
3 safety, trade, commerce, industry, and economy of the  
4 people of the State by reducing, controlling, or  
5 preventing environmental damage and pollution within  
6 the State or lowering the cost of environmental  
7 facilities within the State by reducing the cost of  
8 financing, refinancing, or operating environmental  
9 facilities; and

10 (C) after giving effect to the financing or  
11 refinancing of the out-of-state environmental  
12 facility, the State authority shall have the ability to  
13 issue at least an additional \$250,000,000 in bonds  
14 under Section 9 of this Act; or

15 (2) that financing or refinancing the out-of-state  
16 environmental facility will substantially reduce, control,  
17 or prevent environmental damage within the State.

18 The State authority shall not provide financing or  
19 refinancing for any project, or portion thereof, located  
20 outside the boundaries of the United States of America.

21 Notwithstanding any other provision of this Act, the  
22 Authority shall not provide financing or refinancing that uses  
23 State volume cap under Section 146 of the Internal Revenue Code  
24 of 1986, as amended, except as permitted under said Section  
25 146, or constitutes an indebtedness or obligation, general or  
26 moral, or a pledge of the full faith or loan of credit of the

1 State for any project, or portion thereof, that is located  
2 outside of the State.

3 Section 13. The Illinois Power Agency Act is amended by  
4 changing Section 1-10 as follows:

5 (20 ILCS 3855/1-10)

6 Sec. 1-10. Definitions.

7 "Agency" means the Illinois Power Agency.

8 "Agency loan agreement" means any agreement pursuant to  
9 which the Illinois Finance Authority agrees to loan the  
10 proceeds of revenue bonds issued with respect to a project to  
11 the Agency upon terms providing for loan repayment installments  
12 at least sufficient to pay when due all principal of, interest  
13 and premium, if any, on those revenue bonds, and providing for  
14 maintenance, insurance, and other matters in respect of the  
15 project.

16 "Authority" means the Illinois Finance Authority.

17 "Clean coal facility" means an electric generating  
18 facility that uses primarily coal as a feedstock and that  
19 captures and sequesters carbon dioxide emissions at the  
20 following levels: at least 50% of the total carbon dioxide  
21 emissions that the facility would otherwise emit if, at the  
22 time construction commences, the facility is scheduled to  
23 commence operation before 2016, at least 70% of the total  
24 carbon dioxide emissions that the facility would otherwise emit

1 if, at the time construction commences, the facility is  
2 scheduled to commence operation during 2016 or 2017, and at  
3 least 90% of the total carbon dioxide emissions that the  
4 facility would otherwise emit if, at the time construction  
5 commences, the facility is scheduled to commence operation  
6 after 2017. The power block of the clean coal facility shall  
7 not exceed allowable emission rates for sulfur dioxide,  
8 nitrogen oxides, carbon monoxide, particulates and mercury for  
9 a natural gas-fired combined-cycle facility the same size as  
10 and in the same location as the clean coal facility at the time  
11 the clean coal facility obtains an approved air permit. All  
12 coal used by a clean coal facility shall have high volatile  
13 bituminous rank and greater than 1.7 pounds of sulfur per  
14 million btu content, unless the clean coal facility does not  
15 use gasification technology and was operating as a conventional  
16 coal-fired electric generating facility on June 1, 2009 (the  
17 effective date of Public Act 95-1027).

18 "Clean coal SNG brownfield facility" means a facility that  
19 (1) has commenced construction by July 1, 2015 on an urban  
20 brownfield site in a municipality with at least 1,000,000  
21 residents; (2) uses a gasification process to produce  
22 substitute natural gas; (3) uses coal as at least 50% of the  
23 total feedstock over the term of any sourcing agreement with a  
24 utility and the remainder of the feedstock may be either  
25 petroleum coke or coal, with all such coal having a high  
26 bituminous rank and greater than 1.7 pounds of sulfur per

1 million Btu content unless the facility reasonably determines  
2 that it is necessary to use additional petroleum coke to  
3 deliver additional consumer savings, in which case the facility  
4 shall use coal for at least 35% of the total feedstock over the  
5 term of any sourcing agreement; and (4) captures and sequesters  
6 at least 85% of the total carbon dioxide emissions that the  
7 facility would otherwise emit.

8 "Clean coal SNG facility" means a facility that uses a  
9 gasification process to produce substitute natural gas, that  
10 sequesters at least 90% of the total carbon dioxide emissions  
11 that the facility would otherwise emit, that uses at least 90%  
12 coal as a feedstock, with all such coal having a high  
13 bituminous rank and greater than 1.7 pounds of sulfur per  
14 million btu content, and that has a valid and effective permit  
15 to construct emission sources and air pollution control  
16 equipment and approval with respect to the federal regulations  
17 for Prevention of Significant Deterioration of Air Quality  
18 (PSD) for the plant pursuant to the federal Clean Air Act;  
19 provided, however, a clean coal SNG brownfield facility shall  
20 not be a clean coal SNG facility.

21 "Commission" means the Illinois Commerce Commission.

22 "Costs incurred in connection with the development and  
23 construction of a facility" means:

24 (1) the cost of acquisition of all real property,  
25 fixtures, and improvements in connection therewith and  
26 equipment, personal property, and other property, rights,

1 and easements acquired that are deemed necessary for the  
2 operation and maintenance of the facility;

3 (2) financing costs with respect to bonds, notes, and  
4 other evidences of indebtedness of the Agency;

5 (3) all origination, commitment, utilization,  
6 facility, placement, underwriting, syndication, credit  
7 enhancement, and rating agency fees;

8 (4) engineering, design, procurement, consulting,  
9 legal, accounting, title insurance, survey, appraisal,  
10 escrow, trustee, collateral agency, interest rate hedging,  
11 interest rate swap, capitalized interest, contingency, as  
12 required by lenders, and other financing costs, and other  
13 expenses for professional services; and

14 (5) the costs of plans, specifications, site study and  
15 investigation, installation, surveys, other Agency costs  
16 and estimates of costs, and other expenses necessary or  
17 incidental to determining the feasibility of any project,  
18 together with such other expenses as may be necessary or  
19 incidental to the financing, insuring, acquisition, and  
20 construction of a specific project and starting up,  
21 commissioning, and placing that project in operation.

22 "Department" means the Department of Commerce and Economic  
23 Opportunity.

24 "Director" means the Director of the Illinois Power Agency.

25 "Demand-response" means measures that decrease peak  
26 electricity demand or shift demand from peak to off-peak

1 periods.

2 "Distributed renewable energy generation device" means a  
3 device that is:

4 (1) powered by wind, solar thermal energy,  
5 photovoltaic cells and panels, biodiesel, crops and  
6 untreated and unadulterated organic waste biomass, tree  
7 waste, and hydropower that does not involve new  
8 construction or significant expansion of hydropower dams;

9 (2) interconnected at the distribution system level of  
10 either an electric utility as defined in this Section, an  
11 alternative retail electric supplier as defined in Section  
12 16-102 of the Public Utilities Act, a municipal utility as  
13 defined in Section 3-105 of the Public Utilities Act, or a  
14 rural electric cooperative as defined in Section 3-119 of  
15 the Public Utilities Act;

16 (3) located on the customer side of the customer's  
17 electric meter and is primarily used to offset that  
18 customer's electricity load; and

19 (4) limited in nameplate capacity to no more than 2,000  
20 kilowatts.

21 "Energy efficiency" means measures that reduce the amount  
22 of electricity or natural gas required to achieve a given end  
23 use. "Energy efficiency" also includes measures that reduce the  
24 total Btus of electricity and natural gas needed to meet the  
25 end use or uses.

26 "Electric utility" has the same definition as found in

1 Section 16-102 of the Public Utilities Act.

2 "Facility" means an electric generating unit or a  
3 co-generating unit that produces electricity along with  
4 related equipment necessary to connect the facility to an  
5 electric transmission or distribution system.

6 "Governmental aggregator" means one or more units of local  
7 government that individually or collectively procure  
8 electricity to serve residential retail electrical loads  
9 located within its or their jurisdiction.

10 "Local government" means a unit of local government as  
11 defined in Section 1 of Article VII of the Illinois  
12 Constitution.

13 "Municipality" means a city, village, or incorporated  
14 town.

15 "Person" means any natural person, firm, partnership,  
16 corporation, either domestic or foreign, company, association,  
17 limited liability company, joint stock company, or association  
18 and includes any trustee, receiver, assignee, or personal  
19 representative thereof.

20 "Project" means the planning, bidding, and construction of  
21 a facility.

22 "Public utility" has the same definition as found in  
23 Section 3-105 of the Public Utilities Act.

24 "Real property" means any interest in land together with  
25 all structures, fixtures, and improvements thereon, including  
26 lands under water and riparian rights, any easements,



1 covenants, licenses, leases, rights-of-way, uses, and other  
2 interests, together with any liens, judgments, mortgages, or  
3 other claims or security interests related to real property.

4 "Renewable energy credit" means a tradable credit that  
5 represents the environmental attributes of a certain amount of  
6 energy produced from a renewable energy resource.

7 "Renewable energy resources" includes energy and its  
8 associated renewable energy credit or renewable energy credits  
9 from wind, solar thermal energy, photovoltaic cells and panels,  
10 biodiesel, anaerobic digestion, crops and untreated and  
11 unadulterated organic waste biomass, tree waste, hydropower  
12 that does not involve new construction or significant expansion  
13 of hydropower dams, and other alternative sources of  
14 environmentally preferable energy. For purposes of this Act,  
15 landfill gas produced in the State is considered a renewable  
16 energy resource. "Renewable energy resources" does not include  
17 the incineration or burning of tires, garbage, general  
18 household, institutional, and commercial waste, industrial  
19 lunchroom or office waste, landscape waste other than tree  
20 waste, railroad crossties, utility poles, or construction or  
21 demolition debris, other than untreated and unadulterated  
22 waste wood.

23 "Revenue bond" means any bond, note, or other evidence of  
24 indebtedness issued by the Authority, the principal and  
25 interest of which is payable solely from revenues or income  
26 derived from any project or activity of the Agency.

1 "Sequester" means permanent storage of carbon dioxide by  
2 injecting it into a saline aquifer, a depleted gas reservoir,  
3 or an oil reservoir, directly or through an enhanced oil  
4 recovery process that may involve intermediate storage,  
5 regardless of whether these activities are conducted by a clean  
6 coal facility, a clean coal SNG facility, a clean coal SNG  
7 brownfield facility, or a party with which a clean coal  
8 facility, clean coal SNG facility, or clean coal SNG brownfield  
9 facility has contracted for such purposes.

10 "Sourcing agreement" means (i) in the case of an electric  
11 utility, an agreement between the owner of a clean coal  
12 facility and such electric utility, which agreement shall have  
13 terms and conditions meeting the requirements of paragraph (3)  
14 of subsection (d) of Section 1-75, (ii) in the case of an  
15 alternative retail electric supplier, an agreement between the  
16 owner of a clean coal facility and such alternative retail  
17 electric supplier, which agreement shall have terms and  
18 conditions meeting the requirements of Section 16-115(d)(5) of  
19 the Public Utilities Act, and (iii) in case of a gas utility,  
20 an agreement between the owner of a clean coal SNG brownfield  
21 facility and the gas utility, which agreement shall have the  
22 terms and conditions meeting the requirements of subsection  
23 (h-1) of Section 9-220 of the Public Utilities Act.

24 "Substitute natural gas" or "SNG" means a gas manufactured  
25 by gasification of hydrocarbon feedstock, which is  
26 substantially interchangeable in use and distribution with

1 conventional natural gas.

2 "Total resource cost test" or "TRC test" means a standard  
3 that is met if, for an investment in energy efficiency or  
4 demand-response measures, the benefit-cost ratio is greater  
5 than one. The benefit-cost ratio is the ratio of the net  
6 present value of the total benefits of the program to the net  
7 present value of the total costs as calculated over the  
8 lifetime of the measures. A total resource cost test compares  
9 the sum of avoided electric utility costs, representing the  
10 benefits that accrue to the system and the participant in the  
11 delivery of those efficiency measures, as well as other  
12 quantifiable societal benefits, including avoided natural gas  
13 utility costs, to the sum of all incremental costs of end-use  
14 measures that are implemented due to the program (including  
15 both utility and participant contributions), plus costs to  
16 administer, deliver, and evaluate each demand-side program, to  
17 quantify the net savings obtained by substituting the  
18 demand-side program for supply resources. In calculating  
19 avoided costs of power and energy that an electric utility  
20 would otherwise have had to acquire, reasonable estimates shall  
21 be included of financial costs likely to be imposed by future  
22 regulations and legislation on emissions of greenhouse gases.

23 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;  
24 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff.  
25 7-13-11; 97-239, eff. 8-2-11; 97-491, eff. 8-22-11; 97-616,  
26 eff. 10-26-11; 97-813, eff. 7-13-12.)

1           Section 15. The Illinois Procurement Code is amended by  
2 changing Sections 1-10 and 53-25 as follows:

3           (30 ILCS 500/1-10)

4           Sec. 1-10. Application.

5           (a) This Code applies only to procurements for which  
6 contractors were first solicited on or after July 1, 1998. This  
7 Code shall not be construed to affect or impair any contract,  
8 or any provision of a contract, entered into based on a  
9 solicitation prior to the implementation date of this Code as  
10 described in Article 99, including but not limited to any  
11 covenant entered into with respect to any revenue bonds or  
12 similar instruments. All procurements for which contracts are  
13 solicited between the effective date of Articles 50 and 99 and  
14 July 1, 1998 shall be substantially in accordance with this  
15 Code and its intent.

16           (b) This Code shall apply regardless of the source of the  
17 funds with which the contracts are paid, including federal  
18 assistance moneys. This Code shall not apply to:

19           (1) Contracts between the State and its political  
20 subdivisions or other governments, or between State  
21 governmental bodies except as specifically provided in  
22 this Code.

23           (2) Grants, except for the filing requirements of  
24 Section 20-80.

1           (3) Purchase of care.

2           (4) Hiring of an individual as employee and not as an  
3 independent contractor, whether pursuant to an employment  
4 code or policy or by contract directly with that  
5 individual.

6           (5) Collective bargaining contracts.

7           (6) Purchase of real estate, except that notice of this  
8 type of contract with a value of more than \$25,000 must be  
9 published in the Procurement Bulletin within 7 days after  
10 the deed is recorded in the county of jurisdiction. The  
11 notice shall identify the real estate purchased, the names  
12 of all parties to the contract, the value of the contract,  
13 and the effective date of the contract.

14           (7) Contracts necessary to prepare for anticipated  
15 litigation, enforcement actions, or investigations,  
16 provided that the chief legal counsel to the Governor shall  
17 give his or her prior approval when the procuring agency is  
18 one subject to the jurisdiction of the Governor, and  
19 provided that the chief legal counsel of any other  
20 procuring entity subject to this Code shall give his or her  
21 prior approval when the procuring entity is not one subject  
22 to the jurisdiction of the Governor.

23           (8) Contracts for services to Northern Illinois  
24 University by a person, acting as an independent  
25 contractor, who is qualified by education, experience, and  
26 technical ability and is selected by negotiation for the

1 purpose of providing non-credit educational service  
2 activities or products by means of specialized programs  
3 offered by the university.

4 (9) Procurement expenditures by the Illinois  
5 Conservation Foundation when only private funds are used.

6 (10) Procurement expenditures by the Illinois Health  
7 Information Exchange Authority involving private funds  
8 from the Health Information Exchange Fund. "Private funds"  
9 means gifts, donations, and private grants.

10 (11) Public-private agreements entered into according  
11 to the procurement requirements of Section 20 of the  
12 Public-Private Partnerships for Transportation Act and  
13 design-build agreements entered into according to the  
14 procurement requirements of Section 25 of the  
15 Public-Private Partnerships for Transportation Act.

16 (12) Contracts entered into on or before December 31,  
17 2018 by the Illinois Finance Authority for financing  
18 transactions in which the State of Illinois is not  
19 obligated. Such contracts shall be awarded through a  
20 competitive process authorized by the Board of the Illinois  
21 Finance Authority and are subject to Sections 5-30, 20-160,  
22 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the  
23 final approval by the Board of Illinois Finance Authority  
24 of the terms of the contract.

25 Notwithstanding any other provision of law, contracts  
26 entered into under item (12) of this subsection (b) shall be

1 published in the Procurement Bulletin within 14 days after  
2 contract execution. The chief procurement officer shall  
3 prescribe the form and content of the notice. The Illinois  
4 Finance Authority shall provide the chief procurement officer,  
5 on a monthly basis, in the form and content prescribed by the  
6 chief procurement officer, a report of contracts that are  
7 related to the procurement of goods and services identified in  
8 item (12) of this subsection (b). At a minimum, this report  
9 shall include the name of the contractor, a description of the  
10 supply or service provided, the total amount of the contract,  
11 the term of the contract, and the exception to the Code  
12 utilized. A copy of each of these contracts shall be made  
13 available to the chief procurement officer immediately upon  
14 request. The chief procurement officer shall submit a report to  
15 the Governor and General Assembly no later than November 1 of  
16 each year that shall include, at a minimum, an annual summary  
17 of the monthly information reported to the chief procurement  
18 officer.

19 (c) This Code does not apply to the electric power  
20 procurement process provided for under Section 1-75 of the  
21 Illinois Power Agency Act and Section 16-111.5 of the Public  
22 Utilities Act.

23 (d) Except for Section 20-160 and Article 50 of this Code,  
24 and as expressly required by Section 9.1 of the Illinois  
25 Lottery Law, the provisions of this Code do not apply to the  
26 procurement process provided for under Section 9.1 of the

1 Illinois Lottery Law.

2 (e) This Code does not apply to the process used by the  
3 Capital Development Board to retain a person or entity to  
4 assist the Capital Development Board with its duties related to  
5 the determination of costs of a clean coal SNG brownfield  
6 facility, as defined by Section 1-10 of the Illinois Power  
7 Agency Act, as required in subsection (h-3) of Section 9-220 of  
8 the Public Utilities Act, including calculating the range of  
9 capital costs, the range of operating and maintenance costs, or  
10 the sequestration costs or monitoring the construction of clean  
11 coal SNG brownfield facility for the full duration of  
12 construction.

13 (f) This Code does not apply to the process used by the  
14 Illinois Power Agency to retain a mediator to mediate sourcing  
15 agreement disputes between gas utilities and the clean coal SNG  
16 brownfield facility, as defined in Section 1-10 of the Illinois  
17 Power Agency Act, as required under subsection (h-1) of Section  
18 9-220 of the Public Utilities Act.

19 (g) This Code does not apply to the processes used by the  
20 Illinois Power Agency to retain a mediator to mediate contract  
21 disputes between gas utilities and the clean coal SNG facility  
22 and to retain an expert to assist in the review of contracts  
23 under subsection (h) of Section 9-220 of the Public Utilities  
24 Act. This Code does not apply to the process used by the  
25 Illinois Commerce Commission to retain an expert to assist in  
26 determining the actual incurred costs of the clean coal SNG



1 facility and the reasonableness of those costs as required  
2 under subsection (h) of Section 9-220 of the Public Utilities  
3 Act.

4 (h) This Code does not apply to the process to procure or  
5 contracts entered into in accordance with Sections 11-5.2 and  
6 11-5.3 of the Illinois Public Aid Code.

7 (i) ~~(h)~~ Each chief procurement officer may access records  
8 necessary to review whether a contract, purchase, or other  
9 expenditure is or is not subject to the provisions of this  
10 Code, unless such records would be subject to attorney-client  
11 privilege.

12 (Source: P.A. 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10;  
13 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502, eff. 8-23-11;  
14 97-689, eff. 6-14-12; 97-813, eff. 7-13-12; 97-895, eff.  
15 8-3-12; revised 8-23-12.)

16 (30 ILCS 500/53-25)

17 Sec. 53-25. Public institutions of higher education.

18 (a) Each public institution of higher education may enter  
19 into concessions, including the assignment, license, sale, or  
20 transfer of interests in or rights to discoveries, inventions,  
21 patents, or copyrightable works, for property, whether  
22 tangible or intangible, over which it has jurisdiction.  
23 Concessions shall be reduced to writing and shall be awarded at  
24 the discretion of the institution with jurisdiction over the  
25 property. ~~The duration and terms of concessions and leases~~

1 ~~shall be at the discretion of the institution with jurisdiction~~  
2 ~~over the property.~~ Notice of the award of a concession shall be  
3 published in the higher education volume of the Illinois  
4 Procurement Bulletin.

5 (b) The duration and terms of concessions and leases for  
6 personal property, tangible or intangible, shall be at the  
7 discretion of the institution with jurisdiction over the  
8 property.

9 (c) Notwithstanding any other provision of law, if the  
10 Illinois Finance Authority issues bonds for the financing of  
11 buildings, structures, or facilities that are determined by the  
12 governing board of a public institution of higher education to  
13 be either required by or necessary for the use or benefit of  
14 that public institution of higher education, then the duration  
15 of any lease for real property entered into by that public  
16 institution of higher education, as lessee or lessor, in  
17 connection with the issuance of those bonds shall be at the  
18 discretion of that public institution of higher education.

19 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

20 Section 20. The Illinois Municipal Code is amended by  
21 changing Section 11-20-12 as follows:

22 (65 ILCS 5/11-20-12) (from Ch. 24, par. 11-20-12)

23 Sec. 11-20-12. Removal of infected trees.

24 (a) The corporate authorities of each municipality may

1 provide for the treatment or removal of elm trees infected with  
2 Dutch elm disease or ash trees infected with the emerald ash  
3 borer (*Agrilus planipennis* Fairmaire) from any parcel of  
4 private property within the municipality if the owners of that  
5 parcel, after reasonable notice, refuse or neglect to treat or  
6 remove the infected trees. The municipality may collect, from  
7 the owners of the parcel, the reasonable removal cost.

8 (b) The municipality's removal cost under this Section is a  
9 lien upon the underlying parcel in accordance with Section  
10 11-20-15.

11 (c) For the purpose of this Section, "removal cost" means  
12 the total cost of the removal of the infected trees.  
13 "Treatment" means the administration, by environmentally  
14 sensitive processes and methods, of products and materials  
15 proven by academic research to protect elm and ash trees from  
16 an invasive disease in order to prevent or reverse the damage  
17 and preserve the trees.

18 (d) In the case of an abandoned residential property as  
19 defined in Section 11-20-15.1, the municipality may elect to  
20 obtain a lien for the removal cost pursuant to Section  
21 11-20-15.1, in which case the provisions of Section 11-20-15.1  
22 shall be the exclusive remedy for the removal cost.

23 The provisions of this subsection (d), other than this  
24 sentence, are inoperative upon certification by the Secretary  
25 of the Illinois Department of Financial and Professional  
26 Regulation, after consultation with the United States

1 Department of Housing and Urban Development, that the Mortgage  
2 Electronic Registration System program is effectively  
3 registering substantially all mortgaged residential properties  
4 located in the State of Illinois, is available for access by  
5 all municipalities located in the State of Illinois without  
6 charge to them, and such registration includes the telephone  
7 number for the mortgage servicer.

8 (Source: P.A. 95-183, eff. 8-14-07; 96-462, eff. 8-14-09;  
9 96-856, eff. 3-1-10.)

10 Section 25. The Public Utilities Act is amended by changing  
11 Sections 8-103 and 8-104 as follows:

12 (220 ILCS 5/8-103)

13 Sec. 8-103. Energy efficiency and demand-response  
14 measures.

15 (a) It is the policy of the State that electric utilities  
16 are required to use cost-effective energy efficiency and  
17 demand-response measures to reduce delivery load. Requiring  
18 investment in cost-effective energy efficiency and  
19 demand-response measures will reduce direct and indirect costs  
20 to consumers by decreasing environmental impacts and by  
21 avoiding or delaying the need for new generation, transmission,  
22 and distribution infrastructure. It serves the public interest  
23 to allow electric utilities to recover costs for reasonably and  
24 prudently incurred expenses for energy efficiency and

1 demand-response measures. As used in this Section,  
2 "cost-effective" means that the measures satisfy the total  
3 resource cost test. The low-income measures described in  
4 subsection (f)(4) of this Section shall not be required to meet  
5 the total resource cost test. For purposes of this Section, the  
6 terms "energy-efficiency", "demand-response", "electric  
7 utility", and "total resource cost test" shall have the  
8 meanings set forth in the Illinois Power Agency Act. For  
9 purposes of this Section, the amount per kilowatthour means the  
10 total amount paid for electric service expressed on a per  
11 kilowatthour basis. For purposes of this Section, the total  
12 amount paid for electric service includes without limitation  
13 estimated amounts paid for supply, transmission, distribution,  
14 surcharges, and add-on-taxes.

15 (b) Electric utilities shall implement cost-effective  
16 energy efficiency measures to meet the following incremental  
17 annual energy savings goals:

18 (1) 0.2% of energy delivered in the year commencing  
19 June 1, 2008;

20 (2) 0.4% of energy delivered in the year commencing  
21 June 1, 2009;

22 (3) 0.6% of energy delivered in the year commencing  
23 June 1, 2010;

24 (4) 0.8% of energy delivered in the year commencing  
25 June 1, 2011;

26 (5) 1% of energy delivered in the year commencing June

1 1, 2012;

2 (6) 1.4% of energy delivered in the year commencing  
3 June 1, 2013;

4 (7) 1.8% of energy delivered in the year commencing  
5 June 1, 2014; and

6 (8) 2% of energy delivered in the year commencing June  
7 1, 2015 and each year thereafter.

8 Electric utilities may comply with this subsection (b) by  
9 meeting the annual incremental savings goal in the applicable  
10 year or by showing that total savings associated with measures  
11 implemented on or after May 31, 2014 were equal to the sum of  
12 each annual incremental savings goal on or after June 1, 2014  
13 through the end of the applicable year.

14 (c) Electric utilities shall implement cost-effective  
15 demand-response measures to reduce peak demand by 0.1% over the  
16 prior year for eligible retail customers, as defined in Section  
17 16-111.5 of this Act, and for customers that elect hourly  
18 service from the utility pursuant to Section 16-107 of this  
19 Act, provided those customers have not been declared  
20 competitive. This requirement commences June 1, 2008 and  
21 continues for 10 years.

22 (d) Notwithstanding the requirements of subsections (b)  
23 and (c) of this Section, an electric utility shall reduce the  
24 amount of energy efficiency and demand-response measures  
25 implemented over ~~in~~ any 3-year period ~~single year~~ by an amount  
26 necessary to limit the estimated average annual increase in the

1 amounts paid by retail customers in connection with electric  
2 service due to the cost of those measures to:

3 (1) in 2008, no more than 0.5% of the amount paid per  
4 kilowatthour by those customers during the year ending May  
5 31, 2007;

6 (2) in 2009, the greater of an additional 0.5% of the  
7 amount paid per kilowatthour by those customers during the  
8 year ending May 31, 2008 or 1% of the amount paid per  
9 kilowatthour by those customers during the year ending May  
10 31, 2007;

11 (3) in 2010, the greater of an additional 0.5% of the  
12 amount paid per kilowatthour by those customers during the  
13 year ending May 31, 2009 or 1.5% of the amount paid per  
14 kilowatthour by those customers during the year ending May  
15 31, 2007;

16 (4) in 2011, the greater of an additional 0.5% of the  
17 amount paid per kilowatthour by those customers during the  
18 year ending May 31, 2010 or 2% of the amount paid per  
19 kilowatthour by those customers during the year ending May  
20 31, 2007; and

21 (5) thereafter, the amount of energy efficiency and  
22 demand-response measures implemented for any single year  
23 shall be reduced by an amount necessary to limit the  
24 estimated average net increase due to the cost of these  
25 measures included in the amounts paid by eligible retail  
26 customers in connection with electric service to no more

1           than the greater of 2.015% of the amount paid per  
2           kilowatthour by those customers during the year ending May  
3           31, 2007 or the incremental amount per kilowatthour paid  
4           for these measures in 2011.

5           No later than June 30, 2011, the Commission shall review  
6           the limitation on the amount of energy efficiency and  
7           demand-response measures implemented pursuant to this Section  
8           and report to the General Assembly its findings as to whether  
9           that limitation unduly constrains the procurement of energy  
10          efficiency and demand-response measures.

11          (e) Electric utilities shall be responsible for overseeing  
12          the design, development, and filing of energy efficiency and  
13          demand-response plans with the Commission. Electric utilities  
14          shall implement 100% of the demand-response measures in the  
15          plans. Electric utilities shall implement 75% of the energy  
16          efficiency measures approved by the Commission, and may, as  
17          part of that implementation, outsource various aspects of  
18          program development and implementation. The remaining 25% of  
19          those energy efficiency measures approved by the Commission  
20          shall be implemented by the Department of Commerce and Economic  
21          Opportunity, and must be designed in conjunction with the  
22          utility and the filing process. The Department may outsource  
23          development and implementation of energy efficiency measures.  
24          A minimum of 10% of the entire portfolio of cost-effective  
25          energy efficiency measures shall be procured from units of  
26          local government, municipal corporations, school districts,



1 and community college districts. The Department shall  
2 coordinate the implementation of these measures.

3 The apportionment of the dollars to cover the costs to  
4 implement the Department's share of the portfolio of energy  
5 efficiency measures shall be made to the Department once the  
6 Department has executed rebate agreements, grants, or  
7 contracts for energy efficiency measures and provided  
8 supporting documentation for those rebate agreements, grants,  
9 and contracts to the utility. The Department is authorized to  
10 adopt any rules necessary and prescribe procedures in order to  
11 ensure compliance by applicants in carrying out the purposes of  
12 rebate agreements for energy efficiency measures implemented  
13 by the Department made under this Section.

14 The details of the measures implemented by the Department  
15 shall be submitted by the Department to the Commission in  
16 connection with the utility's filing regarding the energy  
17 efficiency and demand-response measures that the utility  
18 implements.

19 A utility providing approved energy efficiency and  
20 demand-response measures in the State shall be permitted to  
21 recover costs of those measures through an automatic adjustment  
22 clause tariff filed with and approved by the Commission. The  
23 tariff shall be established outside the context of a general  
24 rate case. Each year the Commission shall initiate a review to  
25 reconcile any amounts collected with the actual costs and to  
26 determine the required adjustment to the annual tariff factor

1 to match annual expenditures.

2 Each utility shall include, in its recovery of costs, the  
3 costs estimated for both the utility's and the Department's  
4 implementation of energy efficiency and demand-response  
5 measures. Costs collected by the utility for measures  
6 implemented by the Department shall be submitted to the  
7 Department pursuant to Section 605-323 of the Civil  
8 Administrative Code of Illinois, shall be deposited into the  
9 Energy Efficiency Portfolio Standards Fund, and shall be used  
10 by the Department solely for the purpose of implementing these  
11 measures. A utility shall not be required to advance any moneys  
12 to the Department but only to forward such funds as it has  
13 collected. The Department shall report to the Commission on an  
14 annual basis regarding the costs actually incurred by the  
15 Department in the implementation of the measures. Any changes  
16 to the costs of energy efficiency measures as a result of plan  
17 modifications shall be appropriately reflected in amounts  
18 recovered by the utility and turned over to the Department.

19 The portfolio of measures, administered by both the  
20 utilities and the Department, shall, in combination, be  
21 designed to achieve the annual savings targets described in  
22 subsections (b) and (c) of this Section, as modified by  
23 subsection (d) of this Section.

24 The utility and the Department shall agree upon a  
25 reasonable portfolio of measures and determine the measurable  
26 corresponding percentage of the savings goals associated with

1 measures implemented by the utility or Department.

2 No utility shall be assessed a penalty under subsection (f)  
3 of this Section for failure to make a timely filing if that  
4 failure is the result of a lack of agreement with the  
5 Department with respect to the allocation of responsibilities  
6 or related costs or target assignments. In that case, the  
7 Department and the utility shall file their respective plans  
8 with the Commission and the Commission shall determine an  
9 appropriate division of measures and programs that meets the  
10 requirements of this Section.

11 If the Department is unable to meet incremental annual  
12 performance goals for the portion of the portfolio implemented  
13 by the Department, then the utility and the Department shall  
14 jointly submit a modified filing to the Commission explaining  
15 the performance shortfall and recommending an appropriate  
16 course going forward, including any program modifications that  
17 may be appropriate in light of the evaluations conducted under  
18 item (7) of subsection (f) of this Section. In this case, the  
19 utility obligation to collect the Department's costs and turn  
20 over those funds to the Department under this subsection (e)  
21 shall continue only if the Commission approves the  
22 modifications to the plan proposed by the Department.

23 (f) No later than November 15, 2007, each electric utility  
24 shall file an energy efficiency and demand-response plan with  
25 the Commission to meet the energy efficiency and  
26 demand-response standards for 2008 through 2010. No later than

1 October 1, 2010, each electric utility shall file an energy  
2 efficiency and demand-response plan with the Commission to meet  
3 the energy efficiency and demand-response standards for 2011  
4 through 2013. Every 3 years thereafter, each electric utility  
5 shall file, no later than September 1, an energy efficiency and  
6 demand-response plan with the Commission. If a utility does not  
7 file such a plan by September 1 of an applicable year, it shall  
8 face a penalty of \$100,000 per day until the plan is filed.  
9 Each utility's plan shall set forth the utility's proposals to  
10 meet the utility's portion of the energy efficiency standards  
11 identified in subsection (b) and the demand-response standards  
12 identified in subsection (c) of this Section as modified by  
13 subsections (d) and (e), taking into account the unique  
14 circumstances of the utility's service territory. The  
15 Commission shall seek public comment on the utility's plan and  
16 shall issue an order approving or disapproving each plan within  
17 5 months after its submission. If the Commission disapproves a  
18 plan, the Commission shall, within 30 days, describe in detail  
19 the reasons for the disapproval and describe a path by which  
20 the utility may file a revised draft of the plan to address the  
21 Commission's concerns satisfactorily. If the utility does not  
22 refile with the Commission within 60 days, the utility shall be  
23 subject to penalties at a rate of \$100,000 per day until the  
24 plan is filed. This process shall continue, and penalties shall  
25 accrue, until the utility has successfully filed a portfolio of  
26 energy efficiency and demand-response measures. Penalties

1 shall be deposited into the Energy Efficiency Trust Fund. In  
2 submitting proposed energy efficiency and demand-response  
3 plans and funding levels to meet the savings goals adopted by  
4 this Act the utility shall:

5 (1) Demonstrate that its proposed energy efficiency  
6 and demand-response measures will achieve the requirements  
7 that are identified in subsections (b) and (c) of this  
8 Section, as modified by subsections (d) and (e).

9 (2) Present specific proposals to implement new  
10 building and appliance standards that have been placed into  
11 effect.

12 (3) Present estimates of the total amount paid for  
13 electric service expressed on a per kilowatthour basis  
14 associated with the proposed portfolio of measures  
15 designed to meet the requirements that are identified in  
16 subsections (b) and (c) of this Section, as modified by  
17 subsections (d) and (e).

18 (4) Coordinate with the Department to present a  
19 portfolio of energy efficiency measures proportionate to  
20 the share of total annual utility revenues in Illinois from  
21 households at or below 150% of the poverty level. The  
22 energy efficiency programs shall be targeted to households  
23 with incomes at or below 80% of area median income.

24 (5) Demonstrate that its overall portfolio of energy  
25 efficiency and demand-response measures, not including  
26 programs covered by item (4) of this subsection (f), are

1 cost-effective using the total resource cost test and  
2 represent a diverse cross-section of opportunities for  
3 customers of all rate classes to participate in the  
4 programs.

5 (6) Include a proposed cost-recovery tariff mechanism  
6 to fund the proposed energy efficiency and demand-response  
7 measures and to ensure the recovery of the prudently and  
8 reasonably incurred costs of Commission-approved programs.

9 (7) Provide for an annual independent evaluation of the  
10 performance of the cost-effectiveness of the utility's  
11 portfolio of measures and the Department's portfolio of  
12 measures, as well as a full review of the 3-year results of  
13 the broader net program impacts and, to the extent  
14 practical, for adjustment of the measures on a  
15 going-forward basis as a result of the evaluations. The  
16 resources dedicated to evaluation shall not exceed 3% of  
17 portfolio resources in any given year.

18 (g) No more than 3% of energy efficiency and  
19 demand-response program revenue may be allocated for  
20 demonstration of breakthrough equipment and devices.

21 (h) This Section does not apply to an electric utility that  
22 on December 31, 2005 provided electric service to fewer than  
23 100,000 customers in Illinois.

24 (i) If, after 2 years, an electric utility fails to meet  
25 the efficiency standard specified in subsection (b) of this  
26 Section, as modified by subsections (d) and (e), it shall make

1 a contribution to the Low-Income Home Energy Assistance  
2 Program. The combined total liability for failure to meet the  
3 goal shall be \$1,000,000, which shall be assessed as follows: a  
4 large electric utility shall pay \$665,000, and a medium  
5 electric utility shall pay \$335,000. If, after 3 years, an  
6 electric utility fails to meet the efficiency standard  
7 specified in subsection (b) of this Section, as modified by  
8 subsections (d) and (e), it shall make a contribution to the  
9 Low-Income Home Energy Assistance Program. The combined total  
10 liability for failure to meet the goal shall be \$1,000,000,  
11 which shall be assessed as follows: a large electric utility  
12 shall pay \$665,000, and a medium electric utility shall pay  
13 \$335,000. In addition, the responsibility for implementing the  
14 energy efficiency measures of the utility making the payment  
15 shall be transferred to the Illinois Power Agency if, after 3  
16 years, or in any subsequent 3-year period, the utility fails to  
17 meet the efficiency standard specified in subsection (b) of  
18 this Section, as modified by subsections (d) and (e). The  
19 Agency shall implement a competitive procurement program to  
20 procure resources necessary to meet the standards specified in  
21 this Section as modified by subsections (d) and (e), with costs  
22 for those resources to be recovered in the same manner as  
23 products purchased through the procurement plan as provided in  
24 Section 16-111.5. The Director shall implement this  
25 requirement in connection with the procurement plan as provided  
26 in Section 16-111.5.

1           For purposes of this Section, (i) a "large electric  
2 utility" is an electric utility that, on December 31, 2005,  
3 served more than 2,000,000 electric customers in Illinois; (ii)  
4 a "medium electric utility" is an electric utility that, on  
5 December 31, 2005, served 2,000,000 or fewer but more than  
6 100,000 electric customers in Illinois; and (iii) Illinois  
7 electric utilities that are affiliated by virtue of a common  
8 parent company are considered a single electric utility.

9           (j) If, after 3 years, or any subsequent 3-year period, the  
10 Department fails to implement the Department's share of energy  
11 efficiency measures required by the standards in subsection  
12 (b), then the Illinois Power Agency may assume responsibility  
13 for and control of the Department's share of the required  
14 energy efficiency measures. The Agency shall implement a  
15 competitive procurement program to procure resources necessary  
16 to meet the standards specified in this Section, with the costs  
17 of these resources to be recovered in the same manner as  
18 provided for the Department in this Section.

19           (k) No electric utility shall be deemed to have failed to  
20 meet the energy efficiency standards to the extent any such  
21 failure is due to a failure of the Department or the Agency.

22           (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;  
23 96-1000, eff. 7-2-10; 97-616, eff. 10-26-11; 97-841, eff.  
24 7-20-12.)



1           Sec. 8-104. Natural gas energy efficiency programs.

2           (a) It is the policy of the State that natural gas  
3 utilities and the Department of Commerce and Economic  
4 Opportunity are required to use cost-effective energy  
5 efficiency to reduce direct and indirect costs to consumers. It  
6 serves the public interest to allow natural gas utilities to  
7 recover costs for reasonably and prudently incurred expenses  
8 for cost-effective energy efficiency measures.

9           (b) For purposes of this Section, "energy efficiency" means  
10 measures that reduce the amount of energy required to achieve a  
11 given end use. "Energy efficiency" also includes measures that  
12 reduce the total Btus of electricity and natural gas needed to  
13 meet the end use or uses. "Cost-effective" and ~~"cost-effective"~~  
14 means that the measures satisfy the total resource cost test  
15 which, for purposes of this Section, means a standard that is  
16 met if, for an investment in energy efficiency, the  
17 benefit-cost ratio is greater than one. The benefit-cost ratio  
18 is the ratio of the net present value of the total benefits of  
19 the measures to the net present value of the total costs as  
20 calculated over the lifetime of the measures. The total  
21 resource cost test compares the sum of avoided natural gas  
22 utility costs, representing the benefits that accrue to the  
23 system and the participant in the delivery of those efficiency  
24 measures, as well as other quantifiable societal benefits,  
25 including avoided electric utility costs, to the sum of all  
26 incremental costs of end use measures (including both utility

1 and participant contributions), plus costs to administer,  
2 deliver, and evaluate each demand-side measure, to quantify the  
3 net savings obtained by substituting demand-side measures for  
4 supply resources. In calculating avoided costs, reasonable  
5 estimates shall be included for financial costs likely to be  
6 imposed by future regulation of emissions of greenhouse gases.  
7 The low-income programs described in item (4) of subsection (f)  
8 of this Section shall not be required to meet the total  
9 resource cost test.

10 (c) Natural gas utilities shall implement cost-effective  
11 energy efficiency measures to meet at least the following  
12 natural gas savings requirements, which shall be based upon the  
13 total amount of gas delivered to retail customers, other than  
14 the customers described in subsection (m) of this Section,  
15 during calendar year 2009 multiplied by the applicable  
16 percentage. Natural gas utilities may comply with this Section  
17 by meeting the annual incremental savings goal in the  
18 applicable year or by showing that total savings associated  
19 with measures implemented after May 31, 2011 were equal to the  
20 sum of each annual incremental savings requirement from May 31,  
21 2011 through the end of the applicable year:

22 (1) 0.2% by May 31, 2012;

23 (2) an additional 0.4% by May 31, 2013, increasing  
24 total savings to .6%;

25 (3) an additional 0.6% by May 31, 2014, increasing  
26 total savings to 1.2%;

1           (4) an additional 0.8% by May 31, 2015, increasing  
2 total savings to 2.0%;

3           (5) an additional 1% by May 31, 2016, increasing total  
4 savings to 3.0%;

5           (6) an additional 1.2% by May 31, 2017, increasing  
6 total savings to 4.2%;

7           (7) an additional 1.4% by May 31, 2018, increasing  
8 total savings to 5.6%;

9           (8) an additional 1.5% by May 31, 2019, increasing  
10 total savings to 7.1%; and

11           (9) an additional 1.5% in each 12-month period  
12 thereafter.

13           (d) Notwithstanding the requirements of subsection (c) of  
14 this Section, a natural gas utility shall limit the amount of  
15 energy efficiency implemented in any 3-year reporting period  
16 established by subsection (f) of Section 8-104 of this Act, by  
17 an amount necessary to limit the estimated average increase in  
18 the amounts paid by retail customers in connection with natural  
19 gas service to no more than 2% in the applicable 3-year  
20 reporting period. The energy savings requirements in  
21 subsection (c) of this Section may be reduced by the Commission  
22 for the subject plan, if the utility demonstrates by  
23 substantial evidence that it is highly unlikely that the  
24 requirements could be achieved without exceeding the  
25 applicable spending limits in any 3-year reporting period. No  
26 later than September 1, 2013, the Commission shall review the

1 limitation on the amount of energy efficiency measures  
2 implemented pursuant to this Section and report to the General  
3 Assembly, in the report required by subsection (k) of this  
4 Section, its findings as to whether that limitation unduly  
5 constrains the procurement of energy efficiency measures.

6 (e) Natural gas utilities shall be responsible for  
7 overseeing the design, development, and filing of their  
8 efficiency plans with the Commission. The utility shall utilize  
9 75% of the available funding associated with energy efficiency  
10 programs approved by the Commission, and may outsource various  
11 aspects of program development and implementation. The  
12 remaining 25% of available funding shall be used by the  
13 Department of Commerce and Economic Opportunity to implement  
14 energy efficiency measures that achieve no less than 20% of the  
15 requirements of subsection (c) of this Section. Such measures  
16 shall be designed in conjunction with the utility and approved  
17 by the Commission. The Department may outsource development and  
18 implementation of energy efficiency measures. A minimum of 10%  
19 of the entire portfolio of cost-effective energy efficiency  
20 measures shall be procured from local government, municipal  
21 corporations, school districts, and community college  
22 districts. Five percent of the entire portfolio of  
23 cost-effective energy efficiency measures may be granted to  
24 local government and municipal corporations for market  
25 transformation initiatives. The Department shall coordinate  
26 the implementation of these measures and shall integrate

1 delivery of natural gas efficiency programs with electric  
2 efficiency programs delivered pursuant to Section 8-103 of this  
3 Act, unless the Department can show that integration is not  
4 feasible.

5 The apportionment of the dollars to cover the costs to  
6 implement the Department's share of the portfolio of energy  
7 efficiency measures shall be made to the Department once the  
8 Department has executed rebate agreements, grants, or  
9 contracts for energy efficiency measures and provided  
10 supporting documentation for those rebate agreements, grants,  
11 and contracts to the utility. The Department is authorized to  
12 adopt any rules necessary and prescribe procedures in order to  
13 ensure compliance by applicants in carrying out the purposes of  
14 rebate agreements for energy efficiency measures implemented  
15 by the Department made under this Section.

16 The details of the measures implemented by the Department  
17 shall be submitted by the Department to the Commission in  
18 connection with the utility's filing regarding the energy  
19 efficiency measures that the utility implements.

20 A utility providing approved energy efficiency measures in  
21 this State shall be permitted to recover costs of those  
22 measures through an automatic adjustment clause tariff filed  
23 with and approved by the Commission. The tariff shall be  
24 established outside the context of a general rate case and  
25 shall be applicable to the utility's customers other than the  
26 customers described in subsection (m) of this Section. Each

1 year the Commission shall initiate a review to reconcile any  
2 amounts collected with the actual costs and to determine the  
3 required adjustment to the annual tariff factor to match annual  
4 expenditures.

5 Each utility shall include, in its recovery of costs, the  
6 costs estimated for both the utility's and the Department's  
7 implementation of energy efficiency measures. Costs collected  
8 by the utility for measures implemented by the Department shall  
9 be submitted to the Department pursuant to Section 605-323 of  
10 the Civil Administrative Code of Illinois, shall be deposited  
11 into the Energy Efficiency Portfolio Standards Fund, and shall  
12 be used by the Department solely for the purpose of  
13 implementing these measures. A utility shall not be required to  
14 advance any moneys to the Department but only to forward such  
15 funds as it has collected. The Department shall report to the  
16 Commission on an annual basis regarding the costs actually  
17 incurred by the Department in the implementation of the  
18 measures. Any changes to the costs of energy efficiency  
19 measures as a result of plan modifications shall be  
20 appropriately reflected in amounts recovered by the utility and  
21 turned over to the Department.

22 The portfolio of measures, administered by both the  
23 utilities and the Department, shall, in combination, be  
24 designed to achieve the annual energy savings requirements set  
25 forth in subsection (c) of this Section, as modified by  
26 subsection (d) of this Section.

1           The utility and the Department shall agree upon a  
2 reasonable portfolio of measures and determine the measurable  
3 corresponding percentage of the savings goals associated with  
4 measures implemented by the Department.

5           No utility shall be assessed a penalty under subsection (f)  
6 of this Section for failure to make a timely filing if that  
7 failure is the result of a lack of agreement with the  
8 Department with respect to the allocation of responsibilities  
9 or related costs or target assignments. In that case, the  
10 Department and the utility shall file their respective plans  
11 with the Commission and the Commission shall determine an  
12 appropriate division of measures and programs that meets the  
13 requirements of this Section.

14           If the Department is unable to meet performance  
15 requirements for the portion of the portfolio implemented by  
16 the Department, then the utility and the Department shall  
17 jointly submit a modified filing to the Commission explaining  
18 the performance shortfall and recommending an appropriate  
19 course going forward, including any program modifications that  
20 may be appropriate in light of the evaluations conducted under  
21 item (8) of subsection (f) of this Section. In this case, the  
22 utility obligation to collect the Department's costs and turn  
23 over those funds to the Department under this subsection (e)  
24 shall continue only if the Commission approves the  
25 modifications to the plan proposed by the Department.

26           (f) No later than October 1, 2010, each gas utility shall

1 file an energy efficiency plan with the Commission to meet the  
2 energy efficiency standards through May 31, 2014. Every 3 years  
3 thereafter, each utility shall file, no later than October 1,  
4 an energy efficiency plan with the Commission. If a utility  
5 does not file such a plan by October 1 of the applicable year,  
6 then it shall face a penalty of \$100,000 per day until the plan  
7 is filed. Each utility's plan shall set forth the utility's  
8 proposals to meet the utility's portion of the energy  
9 efficiency standards identified in subsection (c) of this  
10 Section, as modified by subsection (d) of this Section, taking  
11 into account the unique circumstances of the utility's service  
12 territory. The Commission shall seek public comment on the  
13 utility's plan and shall issue an order approving or  
14 disapproving each plan. If the Commission disapproves a plan,  
15 the Commission shall, within 30 days, describe in detail the  
16 reasons for the disapproval and describe a path by which the  
17 utility may file a revised draft of the plan to address the  
18 Commission's concerns satisfactorily. If the utility does not  
19 refile with the Commission within 60 days after the  
20 disapproval, the utility shall be subject to penalties at a  
21 rate of \$100,000 per day until the plan is filed. This process  
22 shall continue, and penalties shall accrue, until the utility  
23 has successfully filed a portfolio of energy efficiency  
24 measures. Penalties shall be deposited into the Energy  
25 Efficiency Trust Fund and the cost of any such penalties may  
26 not be recovered from ratepayers. In submitting proposed energy



1 efficiency plans and funding levels to meet the savings goals  
2 adopted by this Act the utility shall:

3 (1) Demonstrate that its proposed energy efficiency  
4 measures will achieve the requirements that are identified  
5 in subsection (c) of this Section, as modified by  
6 subsection (d) of this Section.

7 (2) Present specific proposals to implement new  
8 building and appliance standards that have been placed into  
9 effect.

10 (3) Present estimates of the total amount paid for gas  
11 service expressed on a per therm basis associated with the  
12 proposed portfolio of measures designed to meet the  
13 requirements that are identified in subsection (c) of this  
14 Section, as modified by subsection (d) of this Section.

15 (4) Coordinate with the Department to present a  
16 portfolio of energy efficiency measures proportionate to  
17 the share of total annual utility revenues in Illinois from  
18 households at or below 150% of the poverty level. Such  
19 programs shall be targeted to households with incomes at or  
20 below 80% of area median income.

21 (5) Demonstrate that its overall portfolio of energy  
22 efficiency measures, not including programs covered by  
23 item (4) of this subsection (f), are cost-effective using  
24 the total resource cost test and represent a diverse cross  
25 section of opportunities for customers of all rate classes  
26 to participate in the programs.

1           (6) Demonstrate that a gas utility affiliated with an  
2 electric utility that is required to comply with Section  
3 8-103 of this Act has integrated gas and electric  
4 efficiency measures into a single program that reduces  
5 program or participant costs and appropriately allocates  
6 costs to gas and electric ratepayers. The Department shall  
7 integrate all gas and electric programs it delivers in any  
8 such utilities' service territories, unless the Department  
9 can show that integration is not feasible or appropriate.

10           (7) Include a proposed cost recovery tariff mechanism  
11 to fund the proposed energy efficiency measures and to  
12 ensure the recovery of the prudently and reasonably  
13 incurred costs of Commission-approved programs.

14           (8) Provide for quarterly status reports tracking  
15 implementation of and expenditures for the utility's  
16 portfolio of measures and the Department's portfolio of  
17 measures, an annual independent review, and a full  
18 independent evaluation of the 3-year results of the  
19 performance and the cost-effectiveness of the utility's  
20 and Department's portfolios of measures and broader net  
21 program impacts and, to the extent practical, for  
22 adjustment of the measures on a going forward basis as a  
23 result of the evaluations. The resources dedicated to  
24 evaluation shall not exceed 3% of portfolio resources in  
25 any given 3-year period.

26           (g) No more than 3% of expenditures on energy efficiency

1 measures may be allocated for demonstration of breakthrough  
2 equipment and devices.

3 (h) Illinois natural gas utilities that are affiliated by  
4 virtue of a common parent company may, at the utilities'  
5 request, be considered a single natural gas utility for  
6 purposes of complying with this Section.

7 (i) If, after 3 years, a gas utility fails to meet the  
8 efficiency standard specified in subsection (c) of this Section  
9 as modified by subsection (d), then it shall make a  
10 contribution to the Low-Income Home Energy Assistance Program.  
11 The total liability for failure to meet the goal shall be  
12 assessed as follows:

13 (1) a large gas utility shall pay \$600,000;

14 (2) a medium gas utility shall pay \$400,000; and

15 (3) a small gas utility shall pay \$200,000.

16 For purposes of this Section, (i) a "large gas utility" is  
17 a gas utility that on December 31, 2008, served more than  
18 1,500,000 gas customers in Illinois; (ii) a "medium gas  
19 utility" is a gas utility that on December 31, 2008, served  
20 fewer than 1,500,000, but more than 500,000 gas customers in  
21 Illinois; and (iii) a "small gas utility" is a gas utility that  
22 on December 31, 2008, served fewer than 500,000 and more than  
23 100,000 gas customers in Illinois. The costs of this  
24 contribution may not be recovered from ratepayers.

25 If a gas utility fails to meet the efficiency standard  
26 specified in subsection (c) of this Section, as modified by

1 subsection (d) of this Section, in any 2 consecutive 3-year  
2 planning periods, then the responsibility for implementing the  
3 utility's energy efficiency measures shall be transferred to an  
4 independent program administrator selected by the Commission.  
5 Reasonable and prudent costs incurred by the independent  
6 program administrator to meet the efficiency standard  
7 specified in subsection (c) of this Section, as modified by  
8 subsection (d) of this Section, may be recovered from the  
9 customers of the affected gas utilities, other than customers  
10 described in subsection (m) of this Section. The utility shall  
11 provide the independent program administrator with all  
12 information and assistance necessary to perform the program  
13 administrator's duties including but not limited to customer,  
14 account, and energy usage data, and shall allow the program  
15 administrator to include inserts in customer bills. The utility  
16 may recover reasonable costs associated with any such  
17 assistance.

18 (j) No utility shall be deemed to have failed to meet the  
19 energy efficiency standards to the extent any such failure is  
20 due to a failure of the Department.

21 (k) Not later than January 1, 2012, the Commission shall  
22 develop and solicit public comment on a plan to foster  
23 statewide coordination and consistency between statutorily  
24 mandated natural gas and electric energy efficiency programs to  
25 reduce program or participant costs or to improve program  
26 performance. Not later than September 1, 2013, the Commission

1 shall issue a report to the General Assembly containing its  
2 findings and recommendations.

3 (l) This Section does not apply to a gas utility that on  
4 January 1, 2009, provided gas service to fewer than 100,000  
5 customers in Illinois.

6 (m) Subsections (a) through (k) of this Section do not  
7 apply to customers of a natural gas utility that have a North  
8 American Industry Classification System code number that is  
9 22111 or any such code number beginning with the digits 31, 32,  
10 or 33 and (i) annual usage in the aggregate of 4 million therms  
11 or more within the service territory of the affected gas  
12 utility or with aggregate usage of 8 million therms or more in  
13 this State and complying with the provisions of item (l) of  
14 this subsection (m); or (ii) using natural gas as feedstock and  
15 meeting the usage requirements described in item (i) of this  
16 subsection (m), to the extent such annual feedstock usage is  
17 greater than 60% of the customer's total annual usage of  
18 natural gas.

19 (1) Customers described in this subsection (m) of this  
20 Section shall apply, on a form approved on or before  
21 October 1, 2009 by the Department, to the Department to be  
22 designated as a self-directing customer ("SDC") or as an  
23 exempt customer using natural gas as a feedstock from which  
24 other products are made, including, but not limited to,  
25 feedstock for a hydrogen plant, on or before the 1st day of  
26 February, 2010. Thereafter, application may be made not

1 less than 6 months before the filing date of the gas  
2 utility energy efficiency plan described in subsection (f)  
3 of this Section; however, a new customer that commences  
4 taking service from a natural gas utility after February 1,  
5 2010 may apply to become a SDC or exempt customer up to 30  
6 days after beginning service. Such application shall  
7 contain the following:

8 (A) the customer's certification that, at the time  
9 of its application, it qualifies to be a SDC or exempt  
10 customer described in this subsection (m) of this  
11 Section;

12 (B) in the case of a SDC, the customer's  
13 certification that it has established or will  
14 establish by the beginning of the utility's 3-year  
15 planning period commencing subsequent to the  
16 application, and will maintain for accounting  
17 purposes, an energy efficiency reserve account and  
18 that the customer will accrue funds in said account to  
19 be held for the purpose of funding, in whole or in  
20 part, energy efficiency measures of the customer's  
21 choosing, which may include, but are not limited to,  
22 projects involving combined heat and power systems  
23 that use the same energy source both for the generation  
24 of electrical or mechanical power and the production of  
25 steam or another form of useful thermal energy or the  
26 use of combustible gas produced from biomass, or both;

1           (C) in the case of a SDC, the customer's  
2 certification that annual funding levels for the  
3 energy efficiency reserve account will be equal to 2%  
4 of the customer's cost of natural gas, composed of the  
5 customer's commodity cost and the delivery service  
6 charges paid to the gas utility, or \$150,000, whichever  
7 is less;

8           (D) in the case of a SDC, the customer's  
9 certification that the required reserve account  
10 balance will be capped at 3 years' worth of accruals  
11 and that the customer may, at its option, make further  
12 deposits to the account to the extent such deposit  
13 would increase the reserve account balance above the  
14 designated cap level;

15           (E) in the case of a SDC, the customer's  
16 certification that by October 1 of each year, beginning  
17 no sooner than October 1, 2012, the customer will  
18 report to the Department information, for the 12-month  
19 period ending May 31 of the same year, on all deposits  
20 and reductions, if any, to the reserve account during  
21 the reporting year, and to the extent deposits to the  
22 reserve account in any year are in an amount less than  
23 \$150,000, the basis for such reduced deposits; reserve  
24 account balances by month; a description of energy  
25 efficiency measures undertaken by the customer and  
26 paid for in whole or in part with funds from the

1           reserve account; an estimate of the energy saved, or to  
2           be saved, by the measure; and that the report shall  
3           include a verification by an officer or plant manager  
4           of the customer or by a registered professional  
5           engineer or certified energy efficiency trade  
6           professional that the funds withdrawn from the reserve  
7           account were used for the energy efficiency measures;

8           (F) in the case of an exempt customer, the  
9           customer's certification of the level of gas usage as  
10          feedstock in the customer's operation in a typical year  
11          and that it will provide information establishing this  
12          level, upon request of the Department;

13          (G) in the case of either an exempt customer or a  
14          SDC, the customer's certification that it has provided  
15          the gas utility or utilities serving the customer with  
16          a copy of the application as filed with the Department;

17          (H) in the case of either an exempt customer or a  
18          SDC, certification of the natural gas utility or  
19          utilities serving the customer in Illinois including  
20          the natural gas utility accounts that are the subject  
21          of the application; and

22          (I) in the case of either an exempt customer or a  
23          SDC, a verification signed by a plant manager or an  
24          authorized corporate officer attesting to the  
25          truthfulness and accuracy of the information contained  
26          in the application.



1           (2) The Department shall review the application to  
2 determine that it contains the information described in  
3 provisions (A) through (I) of item (1) of this subsection  
4 (m), as applicable. The review shall be completed within 30  
5 days after the date the application is filed with the  
6 Department. Absent a determination by the Department  
7 within the 30-day period, the applicant shall be considered  
8 to be a SDC or exempt customer, as applicable, for all  
9 subsequent 3-year planning periods, as of the date of  
10 filing the application described in this subsection (m). If  
11 the Department determines that the application does not  
12 contain the applicable information described in provisions  
13 (A) through (I) of item (1) of this subsection (m), it  
14 shall notify the customer, in writing, of its determination  
15 that the application does not contain the required  
16 information and identify the information that is missing,  
17 and the customer shall provide the missing information  
18 within 15 working days after the date of receipt of the  
19 Department's notification.

20           (3) The Department shall have the right to audit the  
21 information provided in the customer's application and  
22 annual reports to ensure continued compliance with the  
23 requirements of this subsection. Based on the audit, if the  
24 Department determines the customer is no longer in  
25 compliance with the requirements of items (A) through (I)  
26 of item (1) of this subsection (m), as applicable, the

1 Department shall notify the customer in writing of the  
2 noncompliance. The customer shall have 30 days to establish  
3 its compliance, and failing to do so, may have its status  
4 as a SDC or exempt customer revoked by the Department. The  
5 Department shall treat all information provided by any  
6 customer seeking SDC status or exemption from the  
7 provisions of this Section as strictly confidential.

8 (4) Upon request, or on its own motion, the Commission  
9 may open an investigation, no more than once every 3 years  
10 and not before October 1, 2014, to evaluate the  
11 effectiveness of the self-directing program described in  
12 this subsection (m).

13 (n) The applicability of this Section to customers  
14 described in subsection (m) of this Section is conditioned on  
15 the existence of the SDC program. In no event will any  
16 provision of this Section apply to such customers after January  
17 1, 2020.

18 (Source: P.A. 96-33, eff. 7-10-09; 97-813, eff. 7-13-12;  
19 97-841, eff. 7-20-12.)

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