

SB2939



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2939

Introduced 2/18/2016, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/825-65
20 ILCS 3855/1-10

Amends the Illinois Finance Authority Act. In the definition of "Energy Efficiency Project", includes measures that decrease the heat rate in the generation of electricity. Amends the Illinois Power Agency Act. In the definition of "energy efficiency", includes measures that decrease the heat rate in the generation of electricity. Effective immediately.

LRB099 19038 EGJ 43427 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Finance Authority Act is amended by
5 changing Section 825-65 as follows:

6 (20 ILCS 3501/825-65)

7 Sec. 825-65. Clean Coal, Coal, Energy Efficiency, and
8 Renewable Energy Project Financing.

9 (a) Findings and declaration of policy.

10 (i) It is hereby found and declared that Illinois has
11 abundant coal resources and, in some areas of Illinois, the
12 demand for power exceeds the generating capacity.
13 Incentives to encourage the construction of coal-fueled
14 electric generating plants in Illinois to ensure power
15 generating capacity into the future and to advance clean
16 coal technology and the use of Illinois coal are in the
17 best interests of all of the citizens of Illinois.

18 (ii) It is further found and declared that Illinois has
19 abundant potential and resources to develop renewable
20 energy resource projects and that there are many
21 opportunities to invest in cost-effective energy
22 efficiency projects throughout the State. The development
23 of those projects will create jobs and investment as well

1 as decrease environmental impacts and promote energy
2 independence in Illinois. Accordingly, the development of
3 those projects is in the best interests of all of the
4 citizens of Illinois.

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

8 (b) Definitions.

9 (i) "Clean Coal Project" means (A) "clean coal
10 facility", as defined in Section 1-10 of the Illinois Power
11 Agency Act; (B) "clean coal SNG facility", as defined in
12 Section 1-10 of the Illinois Power Agency Act; (C)
13 transmission lines and associated equipment that transfer
14 electricity from points of supply to points of delivery for
15 projects described in this subsection (b); (D) pipelines or
16 other methods to transfer carbon dioxide from the point of
17 production to the point of storage or sequestration for
18 projects described in this subsection (b); or (E) projects
19 to provide carbon abatement technology for existing
20 generating facilities.

21 (ii) "Coal Project" means new electric generating
22 facilities or new gasification facilities, as defined in
23 Section 605-332 of the Department of Commerce and Economic
24 Opportunity Law of the Civil Administrative Code of
25 Illinois, which may include mine-mouth power plants,
26 projects that employ the use of clean coal technology,

1 projects to provide scrubber technology for existing
2 energy generating plants, or projects to provide electric
3 transmission facilities or new gasification facilities.

4 (iii) "Energy Efficiency Project" means measures that
5 reduce the amount of electricity or natural gas required to
6 achieve a given end use, consistent with Section 1-10 of
7 the Illinois Power Agency Act. "Energy Efficiency Project"
8 also includes measures that reduce the total Btus of
9 electricity and natural gas needed to meet the end use or
10 uses and measures that decrease the heat rate in the
11 generation of electricity consistent with Section 1-10 of
12 the Illinois Power Agency Act.

13 (iv) "Renewable Energy Project" means (A) a project
14 that uses renewable energy resources, as defined in Section
15 1-10 of the Illinois Power Agency Act; (B) a project that
16 uses environmentally preferable technologies and practices
17 that result in improvements to the production of renewable
18 fuels, including but not limited to, cellulosic
19 conversion, water and energy conservation, fractionation,
20 alternative feedstocks, or reduced green house gas
21 emissions; (C) transmission lines and associated equipment
22 that transfer electricity from points of supply to points
23 of delivery for projects described in this subsection (b);
24 or (D) projects that use technology for the storage of
25 renewable energy, including, without limitation, the use
26 of battery or electrochemical storage technology for

1 mobile or stationary applications.

2 (c) Creation of reserve funds. The Authority may establish
3 and maintain one or more reserve funds to enhance bonds issued
4 by the Authority for a Clean Coal Project, a Coal Project, an
5 Energy Efficiency Project, or a Renewable Energy Project. There
6 may be one or more accounts in these reserve funds in which
7 there may be deposited:

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

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

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

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

20 (1) To issue bonds in one or more series pursuant to
21 one or more resolutions of the Authority for any Clean Coal
22 Project, Coal Project, Energy Efficiency Project, or
23 Renewable Energy Project authorized under this Section,
24 within the authorization set forth in subsection (e).

25 (2) To provide for the funding of any reserves or other
26 funds or accounts deemed necessary by the Authority in

1 connection with any bonds issued by the Authority.

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

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

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

19 (e) Clean Coal Project, Coal Project, Energy Efficiency
20 Project, and Renewable Energy Project bond authorization and
21 financing limits. In addition to any other bonds authorized to
22 be issued under Sections 801-40(w), 825-60, 830-25 and 845-5,
23 the Authority may have outstanding, at any time, bonds for the
24 purpose enumerated in this Section 825-65 in an aggregate
25 principal amount that shall not exceed \$3,000,000,000, subject
26 to the following limitations: (i) up to \$300,000,000 may be

1 issued to finance projects, as described in clause (C) of
2 subsection (b) (i) and clause (C) of subsection (b) (iv) of this
3 Section 825-65; (ii) up to \$500,000,000 may be issued to
4 finance projects, as described in clauses (D) and (E) of
5 subsection (b) (i) of this Section 825-65; (iii) up to
6 \$2,000,000,000 may be issued to finance Clean Coal Projects, as
7 described in clauses (A) and (B) of subsection (b) (i) of this
8 Section 825-65 and Coal Projects, as described in subsection
9 (b) (ii) of this Section 825-65; and (iv) up to \$2,000,000,000
10 may be issued to finance Energy Efficiency Projects, as
11 described in subsection (b) (iii) of this Section 825-65 and
12 Renewable Energy Projects, as described in clauses (A), (B),
13 and (D) of subsection (b) (iii) of this Section 825-65. An
14 application for a loan financed from bond proceeds from a
15 borrower or its affiliates for a Clean Coal Project, a Coal
16 Project, Energy Efficiency Project, or a Renewable Energy
17 Project may not be approved by the Authority for an amount in
18 excess of \$450,000,000 for any borrower or its affiliates. A
19 Clean Coal Project or Coal Project must be located within the
20 State. An Energy Efficiency Project may be located within the
21 State or outside the State, provided that, if the Energy
22 Efficiency Project is located outside of the State, it must be
23 owned, operated, leased, or managed by an entity located within
24 the State or any entity affiliated with an entity located
25 within the State. These bonds shall not constitute an
26 indebtedness or obligation of the State of Illinois and it

1 shall be plainly stated on the face of each bond that it does
2 not constitute an indebtedness or obligation of the State of
3 Illinois, but is payable solely from the revenues, income or
4 other assets of the Authority pledged therefor.

5 (f) The bonding authority granted under this Section is in
6 addition to and not limited by the provisions of Section 845-5.
7 (Source: P.A. 98-90, eff. 7-15-13.)

8 Section 10. The Illinois Power Agency Act is amended by
9 changing Section 1-10 as follows:

10 (20 ILCS 3855/1-10)

11 Sec. 1-10. Definitions.

12 "Agency" means the Illinois Power Agency.

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

21 "Authority" means the Illinois Finance Authority.

22 "Clean coal facility" means an electric generating
23 facility that uses primarily coal as a feedstock and that
24 captures and sequesters carbon dioxide emissions at the

1 following levels: at least 50% of the total carbon dioxide
2 emissions that the facility would otherwise emit if, at the
3 time construction commences, the facility is scheduled to
4 commence operation before 2016, at least 70% of the total
5 carbon dioxide emissions that the facility would otherwise emit
6 if, at the time construction commences, the facility is
7 scheduled to commence operation during 2016 or 2017, and at
8 least 90% of the total carbon dioxide emissions that the
9 facility would otherwise emit if, at the time construction
10 commences, the facility is scheduled to commence operation
11 after 2017. The power block of the clean coal facility shall
12 not exceed allowable emission rates for sulfur dioxide,
13 nitrogen oxides, carbon monoxide, particulates and mercury for
14 a natural gas-fired combined-cycle facility the same size as
15 and in the same location as the clean coal facility at the time
16 the clean coal facility obtains an approved air permit. All
17 coal used by a clean coal facility shall have high volatile
18 bituminous rank and greater than 1.7 pounds of sulfur per
19 million btu content, unless the clean coal facility does not
20 use gasification technology and was operating as a conventional
21 coal-fired electric generating facility on June 1, 2009 (the
22 effective date of Public Act 95-1027).

23 "Clean coal SNG brownfield facility" means a facility that
24 (1) has commenced construction by July 1, 2015 on an urban
25 brownfield site in a municipality with at least 1,000,000
26 residents; (2) uses a gasification process to produce

1 substitute natural gas; (3) uses coal as at least 50% of the
2 total feedstock over the term of any sourcing agreement with a
3 utility and the remainder of the feedstock may be either
4 petroleum coke or coal, with all such coal having a high
5 bituminous rank and greater than 1.7 pounds of sulfur per
6 million Btu content unless the facility reasonably determines
7 that it is necessary to use additional petroleum coke to
8 deliver additional consumer savings, in which case the facility
9 shall use coal for at least 35% of the total feedstock over the
10 term of any sourcing agreement; and (4) captures and sequesters
11 at least 85% of the total carbon dioxide emissions that the
12 facility would otherwise emit.

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

26 "Commission" means the Illinois Commerce Commission.

1 "Costs incurred in connection with the development and
2 construction of a facility" means:

3 (1) the cost of acquisition of all real property,
4 fixtures, and improvements in connection therewith and
5 equipment, personal property, and other property, rights,
6 and easements acquired that are deemed necessary for the
7 operation and maintenance of the facility;

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

10 (3) all origination, commitment, utilization,
11 facility, placement, underwriting, syndication, credit
12 enhancement, and rating agency fees;

13 (4) engineering, design, procurement, consulting,
14 legal, accounting, title insurance, survey, appraisal,
15 escrow, trustee, collateral agency, interest rate hedging,
16 interest rate swap, capitalized interest, contingency, as
17 required by lenders, and other financing costs, and other
18 expenses for professional services; and

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

1 "Department" means the Department of Commerce and Economic
2 Opportunity.

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

4 "Demand-response" means measures that decrease peak
5 electricity demand or shift demand from peak to off-peak
6 periods.

7 "Distributed renewable energy generation device" means a
8 device that is:

9 (1) powered by wind, solar thermal energy,
10 photovoltaic cells and panels, biodiesel, crops and
11 untreated and unadulterated organic waste biomass, tree
12 waste, and hydropower that does not involve new
13 construction or significant expansion of hydropower dams;

14 (2) interconnected at the distribution system level of
15 either an electric utility as defined in this Section, an
16 alternative retail electric supplier as defined in Section
17 16-102 of the Public Utilities Act, a municipal utility as
18 defined in Section 3-105 of the Public Utilities Act, or a
19 rural electric cooperative as defined in Section 3-119 of
20 the Public Utilities Act;

21 (3) located on the customer side of the customer's
22 electric meter and is primarily used to offset that
23 customer's electricity load; and

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

26 "Energy efficiency" means measures that reduce the amount

1 of electricity or natural gas required to achieve a given end
2 use. "Energy efficiency" also includes measures that reduce the
3 total Btus of electricity and natural gas needed to meet the
4 end use or uses and measures that decrease the heat rate in the
5 generation of electricity.

6 "Electric utility" has the same definition as found in
7 Section 16-102 of the Public Utilities Act.

8 "Facility" means an electric generating unit or a
9 co-generating unit that produces electricity along with
10 related equipment necessary to connect the facility to an
11 electric transmission or distribution system.

12 "Governmental aggregator" means one or more units of local
13 government that individually or collectively procure
14 electricity to serve residential retail electrical loads
15 located within its or their jurisdiction.

16 "Local government" means a unit of local government as
17 defined in Section 1 of Article VII of the Illinois
18 Constitution.

19 "Municipality" means a city, village, or incorporated
20 town.

21 "Person" means any natural person, firm, partnership,
22 corporation, either domestic or foreign, company, association,
23 limited liability company, joint stock company, or association
24 and includes any trustee, receiver, assignee, or personal
25 representative thereof.

26 "Project" means the planning, bidding, and construction of

1 a facility.

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

4 "Real property" means any interest in land together with
5 all structures, fixtures, and improvements thereon, including
6 lands under water and riparian rights, any easements,
7 covenants, licenses, leases, rights-of-way, uses, and other
8 interests, together with any liens, judgments, mortgages, or
9 other claims or security interests related to real property.

10 "Renewable energy credit" means a tradable credit that
11 represents the environmental attributes of a certain amount of
12 energy produced from a renewable energy resource.

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

1 demolition debris, other than untreated and unadulterated
2 waste wood.

3 "Revenue bond" means any bond, note, or other evidence of
4 indebtedness issued by the Authority, the principal and
5 interest of which is payable solely from revenues or income
6 derived from any project or activity of the Agency.

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

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

1 facility and the gas utility, which agreement shall have the
2 terms and conditions meeting the requirements of subsection
3 (h-1) of Section 9-220 of the Public Utilities Act.

4 "Substitute natural gas" or "SNG" means a gas manufactured
5 by gasification of hydrocarbon feedstock, which is
6 substantially interchangeable in use and distribution with
7 conventional natural gas.

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

1 be included of financial costs likely to be imposed by future
2 regulations and legislation on emissions of greenhouse gases.

3 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,
4 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;
5 98-90, eff. 7-15-13.)

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