

SB2078



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2078

Introduced 2/15/2019, by Sen. Michael E. Hastings

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.

LRB101 09506 JRG 54604 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, PACE, 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, PACE, 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 greenhouse 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, a PACE Project, or a Renewable
6 Energy Project. There may be one or more accounts in these
7 reserve funds in which 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, PACE
23 Project, or Renewable Energy Project authorized under this
24 Section, within the authorization set forth in subsection
25 (e).

26 (2) To provide for the funding of any reserves or other

1 funds or accounts deemed necessary by the Authority in
2 connection with any bonds issued by the Authority.

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

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

18 (4.5) To make loans under subsection (i) of Section
19 801-40 to finance loans for PACE Projects.

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

22 (e) Clean Coal Project, Coal Project, Energy Efficiency
23 Project, PACE Project, and Renewable Energy Project bond
24 authorization and financing limits. In addition to any other
25 bonds authorized to be issued under Sections 801-40(w), 825-60,
26 830-25 and 845-5, the Authority may have outstanding, at any

1 time, bonds for the purpose enumerated in this Section 825-65
2 in an aggregate principal amount that shall not exceed
3 \$3,000,000,000, subject to the following limitations: (i) up to
4 \$300,000,000 may be issued to finance projects, as described in
5 clause (C) of subsection (b) (i) and clause (C) of subsection
6 (b) (iv) of this Section 825-65; (ii) up to \$500,000,000 may be
7 issued to finance projects, as described in clauses (D) and (E)
8 of subsection (b) (i) of this Section 825-65; (iii) up to
9 \$2,000,000,000 may be issued to finance Clean Coal Projects, as
10 described in clauses (A) and (B) of subsection (b) (i) of this
11 Section 825-65 and Coal Projects, as described in subsection
12 (b) (ii) of this Section 825-65; and (iv) up to \$2,000,000,000
13 may be issued to finance Energy Efficiency Projects, as
14 described in subsection (b) (iii) of this Section 825-65,
15 Renewable Energy Projects, as described in clauses (A), (B),
16 and (D) of subsection (b) (iv) of this Section 825-65, and PACE
17 Projects. An application for a loan financed from bond proceeds
18 from a borrower or its affiliates for a Clean Coal Project, a
19 Coal Project, Energy Efficiency Project, PACE Project, or a
20 Renewable Energy Project may not be approved by the Authority
21 for an amount in excess of \$450,000,000 for any borrower or its
22 affiliates. A Clean Coal Project, Coal Project, or PACE Project
23 must be located within the State. An Energy Efficiency Project
24 may be located within the State or outside the State, provided
25 that, if the Energy Efficiency Project is located outside of
26 the State, it must be owned, operated, leased, or managed by an

1 entity located within the State or any entity affiliated with
2 an entity located within the State. These bonds shall not
3 constitute an indebtedness or obligation of the State of
4 Illinois and it shall be plainly stated on the face of each
5 bond that it does not constitute an indebtedness or obligation
6 of the State of Illinois, but is payable solely from the
7 revenues, income or other assets of the Authority pledged
8 therefor.

9 (f) The bonding authority granted under this Section is in
10 addition to and not limited by the provisions of Section 845-5.
11 (Source: P.A. 100-201, eff. 8-18-17; 100-919, eff. 8-17-18.)

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

14 (20 ILCS 3855/1-10)

15 Sec. 1-10. Definitions.

16 "Agency" means the Illinois Power Agency.

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

1 "Authority" means the Illinois Finance Authority.

2 "Brownfield site photovoltaic project" means photovoltaics
3 that are:

4 (1) interconnected to an electric utility as defined in
5 this Section, a municipal utility as defined in this
6 Section, a public utility as defined in Section 3-105 of
7 the Public Utilities Act, or an electric cooperative, as
8 defined in Section 3-119 of the Public Utilities Act; and

9 (2) located at a site that is regulated by any of the
10 following entities under the following programs:

11 (A) the United States Environmental Protection
12 Agency under the federal Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980, as
14 amended;

15 (B) the United States Environmental Protection
16 Agency under the Corrective Action Program of the
17 federal Resource Conservation and Recovery Act, as
18 amended;

19 (C) the Illinois Environmental Protection Agency
20 under the Illinois Site Remediation Program; or

21 (D) the Illinois Environmental Protection Agency
22 under the Illinois Solid Waste Program.

23 "Clean coal facility" means an electric generating
24 facility that uses primarily coal as a feedstock and that
25 captures and sequesters carbon dioxide emissions at the
26 following levels: at least 50% of the total carbon dioxide

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

22 "Clean coal SNG brownfield facility" means a facility that
23 (1) has commenced construction by July 1, 2015 on an urban
24 brownfield site in a municipality with at least 1,000,000
25 residents; (2) uses a gasification process to produce
26 substitute natural gas; (3) uses coal as at least 50% of the

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

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

25 "Commission" means the Illinois Commerce Commission.

26 "Community renewable generation project" means an electric

1 generating facility that:

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

7 (2) is interconnected at the distribution system level
8 of an electric utility as defined in this Section, a
9 municipal utility as defined in this Section that owns or
10 operates electric distribution facilities, a public
11 utility as defined in Section 3-105 of the Public Utilities
12 Act, or an electric cooperative, as defined in Section
13 3-119 of the Public Utilities Act;

14 (3) credits the value of electricity generated by the
15 facility to the subscribers of the facility; and

16 (4) is limited in nameplate capacity to less than or
17 equal to 2,000 kilowatts.

18 "Costs incurred in connection with the development and
19 construction of a facility" means:

20 (1) the cost of acquisition of all real property,
21 fixtures, and improvements in connection therewith and
22 equipment, personal property, and other property, rights,
23 and easements acquired that are deemed necessary for the
24 operation and maintenance of the facility;

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

1 (3) all origination, commitment, utilization,
2 facility, placement, underwriting, syndication, credit
3 enhancement, and rating agency fees;

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

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

18 "Delivery services" has the same definition as found in
19 Section 16-102 of the Public Utilities Act.

20 "Delivery year" means the consecutive 12-month period
21 beginning June 1 of a given year and ending May 31 of the
22 following year.

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

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

26 "Demand-response" means measures that decrease peak

1 electricity demand or shift demand from peak to off-peak
2 periods.

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

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

10 (2) interconnected at the distribution system level of
11 either an electric utility as defined in this Section, a
12 municipal utility as defined in this Section that owns or
13 operates electric distribution facilities, or a rural
14 electric cooperative as defined in Section 3-119 of the
15 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 less than or equal
20 to 2,000 kilowatts.

21 "Energy efficiency" means measures that reduce the amount
22 of electricity or natural gas consumed in order to achieve a
23 given end use. "Energy efficiency" includes voltage
24 optimization measures that optimize the voltage at points on
25 the electric distribution voltage system and thereby reduce
26 electricity consumption by electric customers' end use

1 devices. "Energy efficiency" also includes measures that
2 reduce the total Btus of electricity, natural gas, and other
3 fuels needed to meet the end use or uses and measures that
4 decrease the heat rate in the generation of electricity.

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

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

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

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

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

20 "Municipal utility" means a public utility owned and
21 operated by any subdivision or municipal corporation of this
22 State.

23 "Nameplate capacity" means the aggregate inverter
24 nameplate capacity in kilowatts AC.

25 "Person" means any natural person, firm, partnership,
26 corporation, either domestic or foreign, company, association,

1 limited liability company, joint stock company, or association
2 and includes any trustee, receiver, assignee, or personal
3 representative thereof.

4 "Project" means the planning, bidding, and construction of
5 a facility.

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

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

14 "Renewable energy credit" means a tradable credit that
15 represents the environmental attributes of one megawatt hour of
16 energy produced from a renewable energy resource.

17 "Renewable energy resources" includes energy and its
18 associated renewable energy credit or renewable energy credits
19 from wind, solar thermal energy, photovoltaic cells and panels,
20 biodiesel, anaerobic digestion, crops and untreated and
21 unadulterated organic waste biomass, tree waste, and
22 hydropower that does not involve new construction or
23 significant expansion of hydropower dams. For purposes of this
24 Act, landfill gas produced in the State is considered a
25 renewable energy resource. "Renewable energy resources" does
26 not include the incineration or burning of tires, garbage,

1 general household, institutional, and commercial waste,
2 industrial lunchroom or office waste, landscape waste other
3 than tree waste, railroad crossties, utility poles, or
4 construction or demolition debris, other than untreated and
5 unadulterated waste wood.

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

8 "Revenue bond" means any bond, note, or other evidence of
9 indebtedness issued by the Authority, the principal and
10 interest of which is payable solely from revenues or income
11 derived from any project or activity of the Agency.

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

21 "Service area" has the same definition as found in Section
22 16-102 of the Public Utilities Act.

23 "Sourcing agreement" means (i) in the case of an electric
24 utility, an agreement between the owner of a clean coal
25 facility and such electric utility, which agreement shall have
26 terms and conditions meeting the requirements of paragraph (3)

1 of subsection (d) of Section 1-75, (ii) in the case of an
2 alternative retail electric supplier, an agreement between the
3 owner of a clean coal facility and such alternative retail
4 electric supplier, which agreement shall have terms and
5 conditions meeting the requirements of Section 16-115(d)(5) of
6 the Public Utilities Act, and (iii) in case of a gas utility,
7 an agreement between the owner of a clean coal SNG brownfield
8 facility and the gas utility, which agreement shall have the
9 terms and conditions meeting the requirements of subsection
10 (h-1) of Section 9-220 of the Public Utilities Act.

11 "Subscriber" means a person who (i) takes delivery service
12 from an electric utility, and (ii) has a subscription of no
13 less than 200 watts to a community renewable generation project
14 that is located in the electric utility's service area. No
15 subscriber's subscriptions may total more than 40% of the
16 nameplate capacity of an individual community renewable
17 generation project. Entities that are affiliated by virtue of a
18 common parent shall not represent multiple subscriptions that
19 total more than 40% of the nameplate capacity of an individual
20 community renewable generation project.

21 "Subscription" means an interest in a community renewable
22 generation project expressed in kilowatts, which is sized
23 primarily to offset part or all of the subscriber's electricity
24 usage.

25 "Substitute natural gas" or "SNG" means a gas manufactured
26 by gasification of hydrocarbon feedstock, which is

1 substantially interchangeable in use and distribution with
2 conventional natural gas.

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

1 In discounting future societal costs and benefits for the
2 purpose of calculating net present values, a societal discount
3 rate based on actual, long-term Treasury bond yields should be
4 used. Notwithstanding anything to the contrary, the TRC test
5 shall not include or take into account a calculation of market
6 price suppression effects or demand reduction induced price
7 effects.

8 "Utility-scale solar project" means an electric generating
9 facility that:

10 (1) generates electricity using photovoltaic cells;

11 and

12 (2) has a nameplate capacity that is greater than 2,000
13 kilowatts.

14 "Utility-scale wind project" means an electric generating
15 facility that:

16 (1) generates electricity using wind; and

17 (2) has a nameplate capacity that is greater than 2,000
18 kilowatts.

19 "Zero emission credit" means a tradable credit that
20 represents the environmental attributes of one megawatt hour of
21 energy produced from a zero emission facility.

22 "Zero emission facility" means a facility that: (1) is
23 fueled by nuclear power; and (2) is interconnected with PJM
24 Interconnection, LLC or the Midcontinent Independent System
25 Operator, Inc., or their successors.

26 (Source: P.A. 98-90, eff. 7-15-13; 99-906, eff. 6-1-17.)