

AN ACT concerning coal.

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

Section 5. The Department of Commerce and Community
Affairs Law of the Civil Administrative Code of Illinois is
amended by changing Section 605-332 as follows:

(20 ILCS 605/605-332)

Sec. 605-332. Financial assistance to energy generation
facilities.

(a) As used in this Section:

"New electric generating facility" means a
newly-constructed electric generation plant or a newly
constructed generation capacity expansion at an existing
facility, including the transmission lines and associated
equipment that transfers electricity from points of supply to
points of delivery, and for which foundation construction
commenced not sooner than July 1, 2001, which is designed to
provide baseload electric generation operating on a
continuous basis throughout the year; and which has an
aggregate rated generating capacity of at least 400 megawatts
for all new units at one site, uses coal or gases derived
from coal as its primary fuel source, and supports the
creation of at least 150 new Illinois coal mining jobs.

"Eligible business" means an entity that proposes to
construct a new electric generating facility and that has
applied to the Department to receive financial assistance
pursuant to this Section. With respect to use and occupation
taxes, wherever there is a reference to taxes, that reference
means only those taxes paid on Illinois-mined coal used in a
new electric generating facility.

"Department" means the Illinois Department of Commerce

and Community Affairs.

(b) The Department is authorized to provide financial assistance to eligible businesses for new electric generating facilities from funds appropriated by the General Assembly as further provided in this Section.

An eligible business seeking qualification for financial assistance for a new electric generating facility, for purposes of this Section only, shall apply to the Department in the manner specified by the Department. Any projections provided by an eligible business as part of the application shall be independently verified in a manner as set forth by the Department. An application shall include, but not be limited to:

(1) the projected or actual completion date of the new electric generating facility for which financial assistance is sought;

(2) copies of documentation deemed acceptable by the Department establishing either (i) the total State occupation and use taxes paid on Illinois-mined coal used at the new electric generating facility for a minimum of 4 preceding calendar quarters or (ii) the projected amount of State occupation and use taxes paid on Illinois-mined coal used at the new electric generating facility in 4 calendar year quarters after completion of the new electric generating facility. Bond proceeds subject to this Section shall not be allocated to an eligible business until the eligible business has demonstrated the revenue stream sufficient to service the debt on the bonds; and

(3) the actual or projected amount of capital investment by the eligible business in the new electric generating facility.

The Department shall determine the maximum amount of financial assistance for eligible businesses in accordance

with this paragraph. The Department shall not provide financial assistance from general obligation bond funds to any eligible business unless it receives a written certification from the Director of the Bureau of the Budget that 80% of the State occupation and use tax receipts for a minimum of the preceding 4 calendar quarters for all eligible businesses or as included in projections on approved applications by eligible businesses equal or exceed 110% of the maximum annual debt service required with respect to general obligation bonds issued for that purpose. The Department may provide financial assistance not to exceed the amount of State general obligation debt calculated as above, the amount of actual or projected capital investment in the energy generation facility, or \$100,000,000, whichever is less. Financial assistance received pursuant to this Section may be used for capital facilities consisting of buildings, structures, durable equipment, and land at the new electric generating facility. Subject to the provisions of the agreement covering the financial assistance, a portion of the financial assistance may be required to be repaid to the State if certain conditions for the governmental purpose of the assistance were not met.

An eligible business shall file a monthly report with the Illinois Department of Revenue stating the amount of Illinois-mined coal purchased during the previous month for use in the new electric generating facility, the purchase price of that coal, the amount of State occupation and use taxes paid on that purchase to the seller of the Illinois-mined coal, and such other information as that Department may reasonably require. In sales of Illinois-mined coal between related parties, the purchase price of the coal must have been determined in an arms-length transaction. The report shall be filed with the Illinois Department of Revenue on or before the 20th day of each month

on a form provided by that Department. However, no report need be filed by an eligible business in a month when it made no reportable purchases of coal in the previous month. The Illinois Department of Revenue shall provide a summary of such reports to the Bureau of the Budget.

Upon granting financial assistance to an eligible business, the Department shall certify the name of the eligible business to the Illinois Department of Revenue. Beginning with the receipt of the first report of State occupation and use taxes paid by an eligible business and continuing for a 25-year period, the Illinois Department of Revenue shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business.

(Source: P.A. 92-12, eff. 7-1-01.)

Section 10. The Illinois Development Finance Authority Act is amended by changing Section 7.90 as follows:

(20 ILCS 3505/7.90)

Sec. 7.90. Clean Coal and Energy Project Financing.

(a) Findings and declaration of policy. It is hereby found and declared that Illinois has abundant coal resources and, in some areas of Illinois, the demand for power exceeds the generating capacity. Incentives to encourage the construction of coal-fired electric generating plants in Illinois to ensure power-generating capacity into the future are in the best interests of all of the citizens of Illinois. The Authority is authorized to issue bonds to help finance Clean Coal and Energy projects pursuant to this Section and under this Act.

(b) Definition. "Clean Coal and Energy projects" means new electric generating facilities, as defined in Section

605-332 of the Department of Commerce and Community Affairs Law of the Civil Administrative Code of Illinois, which may include mine-mouth power plants, projects that employ the use of clean coal technology, projects to develop alternative energy sources, including renewable energy projects, projects to provide scrubber technology for existing energy generating plants, or projects to provide electric transmission facilities.

(c) Creation of reserve funds. The Authority may establish and maintain one or more reserve funds to enhance bonds issued by the Authority for Clean Coal and Energy projects under this Section. There may be one or more accounts in these reserve funds in which there may be deposited:

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

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

(3) any other moneys or funds made available to the Authority.

Subject to the terms of any pledge to the owners of any bonds, moneys in any reserve fund may be held and applied to the payment of the interest, premium, if any, or principal of bonds or for any other purpose authorized by the Authority.

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

(1) To issue bonds in one or more series pursuant to one or more resolutions of the Authority for any Clean Coal and Energy projects authorized under this Section, within the authorization set forth in subsections subsection (e) and (e-5).

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

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

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

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

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

(e) Clean Coal and Energy bond authorization and financing limits. In addition to any other bonds authorized to be issued under this Act, the Authority may have outstanding, at any time, bonds for the purpose enumerated in this subsection (e) ~~Section~~ in an aggregate principal amount that shall not exceed \$3,000,000,000, of which no more than \$300,000,000 may be issued to finance transmission facilities, no more than \$500,000,000 may be issued to finance scrubbers at existing generating plants, no more than \$500,000,000 may be issued to finance alternative energy sources, including renewable energy projects, and no more than \$1,700,000,000 may be issued to finance new electric generating facilities, as defined in Section 605-332 of the Department of Commerce and Community Affairs Law of the Civil Administrative Code of Illinois, which may include mine-mouth

power plants. An application for a loan financed from bond proceeds from a borrower or its affiliates for a Clean Coal and Energy project may not be approved by the Authority for an amount in excess of \$450,000,000 for any borrower or its affiliates. These bonds shall not constitute an indebtedness or obligation of the State of Illinois and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness or obligation of the State of Illinois but is payable solely from the revenues, income, or other assets of the Authority pledged therefor.

(e-5) Additional Clean Coal and Energy bond authorization and financing limits. In addition to any other bonds authorized to be issued under subsection (e), the Authority may issue bonds for the purposes enumerated in subsection (e) in an aggregate principal amount that shall not exceed \$300,000,000.

In the event that the Authority determines that the funds pledged, intercepted, or otherwise received or to be received by the Authority for the payment of the principal, premium, if any, and interest during the next State fiscal year on any bonds issued by the Authority under this subsection (e-5) for the specific purposes identified in this subsection (e-5) will not be sufficient for those payments, the Chairman, as soon as is practical, shall certify to the Governor the amount required by the Authority to enable it to pay the principal, premium, if any, and interest falling due on the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practical, but no later than the end of the current State fiscal year. This paragraph shall not apply to any bonds as to which the Authority shall have determined, in the resolution authorizing their issuance, that this paragraph shall not apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds and that fact shall

also be reported to the Governor.

In the event of a withdrawal of moneys from a debt service reserve fund established with respect to any issue or issues of bonds of the Authority under this subsection (e-5) to pay principal and interest on those bonds, the Chairman, as soon as is practical, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practical, but not later than the end of the current State fiscal year.

(f) Criteria for participation in the program. Applications to the Authority for financing of any Clean Coal and Energy project shall be reviewed by the Authority. Upon submission of any such application, the Authority staff shall review the application for its completeness and may, at the discretion of the Authority staff, request such additional information as it deems necessary or advisable to aid in review. If the Authority receives applications for financing for Clean Coal and Energy projects in excess of the bond authorization available for such financing at any one time, it shall consider applications in the order of priority as it shall determine, in consultation with other State agencies.

(Source: P.A. 92-12, eff. 7-1-01.)

Section 99. Effective date. This Act takes effect on July 1, 2003.