

SB3331



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3331

Introduced 2/14/2020, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

New Act

Creates the State Power Purchase Agreement Act. Provides that the Smart Energy Design Assistance Center (SEDAC) is designated as the lead agency for the development and promotion of a program to facilitate the deployment of renewable energy power purchase agreements with State agencies. Provides for the selection of qualified renewable energy power purchase agreement project developers. Allows State agencies to enter into renewable energy power purchase agreements with renewable energy developers for the construction and use of solar or wind energy, or both, on State property controlled by the State agency or on which daily operations of the State agency occur. Provides further requirements concerning the awarding of contracts to developers and purchase of power under power purchase agreements. Specifies the duration of power purchase agreement contracts. Provides for third-party financing of renewable energy power purchase agreement projects. Provides for the use of moneys saved by State agencies by entering into renewable energy power purchase agreements. Provides for reporting to the Illinois Commerce Commission. Defines terms. Effective immediately.

LRB101 17702 RJF 67129 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 1. Short title. This Act may be cited as the State
5 Power Purchase Agreement Act.

6 Section 5. Purpose. The purpose of this Act is to obtain
7 long-term energy and cost-savings for State agencies by
8 facilitating engagement in Power Purchase Agreements in
9 connection with buildings, facilities, and lands owned,
10 operated, or under the supervision and control of State
11 agencies. These agreements will improve and protect the health,
12 safety, security, and welfare of the people of this State by
13 promoting renewable energy deployment, reducing air emissions,
14 and reducing costs.

15 Section 10. Definitions. As used in this Act:

16 "Renewable energy infrastructure" means solar and wind
17 energy infrastructure constructed on State property under the
18 provisions of a power purchase project agreement.

19 "Renewable energy power purchase agreement" is a long-term
20 contract between a party that generates renewable electricity
21 (typically an independent power developer) and a State agency
22 that purchases electricity.

1 "Renewable energy power purchase agreement project
2 developer" or "developer" means a person or organization with a
3 record of successful deployment and operation of renewable
4 energy power purchase agreement projects.

5 "Renewable energy project" means any system comprised of
6 equipment, devices, or fuels that enable the use or storage of
7 renewable energy sources such as wind, solar, geothermal, or
8 biofuels.

9 "State agency" has the meaning provided in Section 1-7 of
10 the Illinois State Auditing Act.

11 Section 15. Smart Energy Design Assistance Center (SEDAC).

12 (a) The Smart Energy Design Assistance Center (SEDAC) based
13 at the University of Illinois at Urbana-Champaign is hereby
14 designated to be the lead agency for the development and
15 promotion of a program to facilitate the deployment of
16 renewable energy power purchase agreements with State
17 agencies. SEDAC will coordinate its activities with the
18 Department of Central Management Services and other relevant
19 State agencies, under the direction of the Governor, and will
20 have the following duties with respect to this program:

21 (1) assistance to the Department of Central Management
22 Services to assemble a list of qualified renewable energy
23 project developers and to negotiate with such qualified
24 project developers master service contracts and pricing
25 schedules;

1 (2) development of a standardized power purchase
2 agreement contract process and standard contract
3 documents, including requests for qualifications, requests
4 for proposals, and reporting metrics and content on the
5 operations and status of the renewable energy power
6 purchase project agreement; and

7 (3) promotion of the renewable energy power purchase
8 agreements to all State agencies.

9 (b) SEDAC shall assist State agencies in identifying,
10 evaluating, and implementing cost-effective renewable energy
11 power purchase agreements at their facilities. The assistance
12 shall include: (1) notifying State agencies of this Act; (2)
13 apprising State agencies of opportunities to implement
14 renewable energy power purchase agreements; (3) providing
15 technical and analytical support, including assessment and
16 identification of site specific renewable energy
17 opportunities; (4) reviewing and verifying estimates for
18 energy savings and emissions reductions; and (5) assisting in
19 the structuring and arranging of renewable energy power
20 purchase agreements and projects.

21 (c) SEDAC is authorized to fix, charge, and collect
22 reasonable fees, not to exceed 2% of the energy cost savings of
23 the renewable energy power purchase agreement for any
24 administrative or technical support provided by SEDAC, or its
25 designee, under this subsection (c) from the State agency that
26 uses its technical support services. State agencies are

1 authorized to add the costs of these fees to the total cost of
2 the renewable energy power purchase agreement.

3 (d) The Governor is encouraged to develop and submit to the
4 General Assembly a regular or supplemental budget request for
5 the additional funds and staffing required by the Smart Energy
6 Design Assistance Center to fulfill the duties required under
7 this Section.

8 Section 20. Selection of qualified renewable energy power
9 purchase agreement project developers. The State process of
10 implementing renewable energy power purchase agreements shall
11 be as provided in this Section.

12 (a) Regarding requests for qualifications, the Department
13 Central Management Services is authorized to assemble a list of
14 qualified renewable energy power purchase agreements project
15 developers, in accordance with the provisions of the Illinois
16 Procurement Code. The Department of Central Management
17 Services shall attempt to use objective criteria in the
18 selection process. The criteria for evaluation shall include
19 substantive factors to assess the capability of the qualified
20 renewable energy power purchase agreement project developers
21 in the areas of design, engineering, installation,
22 maintenance, and repairs associated with renewable energy
23 systems. The substantive factors shall be as follows: (1)
24 experience in the design, implementation, and maintenance of
25 renewable energy systems; (2) post-installation project

1 monitoring, data collection, and reporting of savings; (3)
2 overall project experience and qualifications; (4) management
3 capability; (4) ability to access long-term financing; (5)
4 experience with projects of similar size and scope; and (6)
5 other factors determined by the State agency to be relevant and
6 appropriate and relate to the ability to perform the project.

7 (b) Regarding requests for proposals, before entering into
8 a renewable energy power purchase agreement under this Section,
9 a State agency shall issue a request for proposals from up to 3
10 qualified renewable energy power purchase agreement project
11 developers. A State agency may thereafter award the performance
12 contract to the qualified purchase agreement project developer
13 that best meets the needs of the State agency, which need not
14 be the lowest cost provided. A cost-effective feasibility
15 analysis shall be prepared in response to the request for
16 proposals. The feasibility analysis included in the response to
17 the request for proposals shall serve as the selection document
18 for purposes of selecting a renewable energy powers purchase
19 agreement project developer to engage in final contract
20 negotiations. Factors to be included in selecting among the
21 renewable energy power purchase agreement project developers
22 include contract terms, comprehensiveness of the proposal,
23 technical feasibility, experience, and overall benefits to the
24 State agency.

25 Section 25. Renewable energy power purchase agreement

1 projects.

2 (a) Subject to the provisions of Section 20, a State agency
3 may enter into a renewable energy power purchase agreement with
4 renewable energy developers for the construction and use of
5 solar or wind energy, or both, on State property controlled by
6 the State agency or on which daily operations of the State
7 agency occur.

8 (b) State agencies choosing to enter into a renewable
9 energy power purchase agreement under subsection (a) shall
10 enter into such agreement with a developer chosen through a
11 process in accordance with Section 20 and otherwise meeting the
12 requirements of the Illinois Procurement Code regarding
13 requests for proposals. A developer bidding for a contract
14 under this Section shall include a list of potential
15 third-party investors that would be ready and willing to invest
16 in the project upon awarding of the contract. A bid made
17 without a list of potential investors shall not be accepted and
18 no contract shall be awarded.

19 (c) The developer awarded a contract under subsection (b)
20 shall be provided land and facility access to the property used
21 by the State agency for the purpose of constructing and
22 managing a renewable energy infrastructure. The State agency,
23 based upon the renewable energy power purchase agreement, shall
24 then be able to purchase the power produced by the renewable
25 energy infrastructure from the developer at a lower rate than
26 it would otherwise pay for power. The developer shall be

1 responsible for the construction and management of the
2 renewable energy infrastructure on property used by the State
3 agency.

4 (d) Upon the awarding of a contract under subsection (b),
5 and in addition to the provisions of subsection (c), the
6 potential investors listed in the developer's bid shall be
7 contacted for the purposes of investing capital toward the
8 construction and operation of a renewable energy
9 infrastructure on property used by the State agency as provided
10 under the renewable energy power purchase agreement. The
11 investor shall be compensated through a subsequent contract
12 entered into between the investor and the State agency. Failure
13 of the developer to secure an investor provided for in its bid
14 may, at the discretion of the State agency, render the contract
15 between the developer and the State agency void.

16 (e) No State agency that has entered into a renewable
17 energy power purchase agreement under this Section shall
18 purchase more power than is that State agency's normal
19 consumption for a given yearly period, nor shall that State
20 agency contract for the construction of renewable energy
21 infrastructure estimated to produce more power than is that
22 State agency's normal consumption for a given yearly period.

23 (f) Each State agency that has entered into a renewable
24 energy power purchase agreement under this Section shall,
25 within 2 years after entering into the agreement, issue a
26 report to the General Assembly on the operations and status of

1 the renewable energy power purchase agreement.

2 Section 30. Duration of contracts; financing. A renewable
3 energy power purchase agreement, and payments provided
4 thereunder, shall extend for periods of between 5 and 25 years.
5 The allowable length of the contract may also reflect the
6 useful life of renewable energy equipment and facilities. A
7 renewable energy power purchase agreement may provide for
8 financing, including tax incentives by a third party. The
9 contract for third-party financing may be separate from the
10 renewable energy power purchase agreement. A separate contract
11 for third-party financing must include a provision that the
12 third-party financier must not be granted rights or privileges
13 that exceed the rights and privileges available to the
14 renewable energy power purchase agreement project developer.

15 Section 35. Use of moneys. The State agency engaging in the
16 renewable energy power purchase agreement shall retain the
17 savings achieved by entering into the renewable energy power
18 purchase agreement contract. State agencies are encouraged to
19 reinvest savings wherever practical into additional cost
20 savings measures. Unless otherwise provided by law, a State
21 agency shall use funds designated for operating and capital
22 expenditures or utilities for any renewable energy power
23 purchase agreement.

1 Section 40. Reports. For all projects carried out under
2 this Act, the State agency shall report the name of the
3 project, the project host, the investment on the project, the
4 energy savings, the energy cost savings, and the greenhouse gas
5 emission reductions to the Illinois Commerce Commission. The
6 Illinois Commerce Commission may report energy savings and
7 greenhouse gas emission reductions to the federal Energy
8 Information Administration under the Energy Policy Act of 1992
9 reporting standards.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.