



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3712

Introduced 1/21/2022, 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.

LRB102 23141 RJF 32301 b

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  
12 health, safety, security, and welfare of the people of this  
13 State by promoting renewable energy deployment, reducing air  
14 emissions, 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  
3 a 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)  
13 based at the University of Illinois at Urbana-Champaign is  
14 hereby designated to be the lead agency for the development  
15 and 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  
4 the General Assembly a regular or supplemental budget request  
5 for the additional funds and staffing required by the Smart  
6 Energy Design Assistance Center to fulfill the duties required  
7 under 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  
14 of qualified renewable energy power purchase agreements  
15 project developers, in accordance with the provisions of the  
16 Illinois Procurement Code. The Department of Central  
17 Management Services shall attempt to use objective criteria in  
18 the selection process. The criteria for evaluation shall  
19 include substantive factors to assess the capability of the  
20 qualified renewable energy power purchase agreement project  
21 developers 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  
6 and appropriate and relate to the ability to perform the  
7 project.

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

1 Section 25. Renewable energy power purchase agreement  
2 projects.

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

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

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

1 rate than it would otherwise pay for power. The developer  
2 shall be responsible for the construction and management of  
3 the renewable energy infrastructure on property used by the  
4 State agency.

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

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

25 (f) Each State agency that has entered into a renewable  
26 energy power purchase agreement under this Section shall,



1 within 2 years after entering into the agreement, issue a  
2 report to the General Assembly on the operations and status of  
3 the renewable energy power purchase agreement.

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

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

1 purchase agreement.

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

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