

1 AMENDMENT TO HOUSE BILL 2866

2 AMENDMENT NO. _____. Amend House Bill 2866, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

8 (20 ILCS 605/605-332)

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

11 (a) As used in this Section:

12 "New electric generating facility" means a
13 newly-constructed electric generation plant or a newly
14 constructed generation capacity expansion at an existing
15 facility, including the transmission lines and associated
16 equipment that transfers electricity from points of supply to
17 points of delivery, and for which foundation construction
18 commenced not sooner than July 1, 2001, which is designed to
19 provide baseload electric generation operating on a
20 continuous basis throughout the year; and which has an
21 aggregate rated generating capacity of at least 400 megawatts
22 for all new units at one site, uses coal or gases derived

1 from coal as its primary fuel source, and supports the
2 creation of at least 150 new Illinois coal mining jobs.

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

10 "Department" means the Illinois Department of Commerce
11 and Community Affairs.

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

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

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

27 (2) copies of documentation deemed acceptable by
28 the Department establishing either (i) the total State
29 occupation and use taxes paid on Illinois-mined coal used
30 at the new electric generating facility for a minimum of
31 4 preceding calendar quarters or (ii) the projected
32 amount of State occupation and use taxes paid on
33 Illinois-mined coal used at the new electric generating
34 facility in 4 calendar year quarters after completion of

1 the new electric generating facility. Bond proceeds
2 subject to this Section shall not be allocated to an
3 eligible business until the eligible business has
4 demonstrated the revenue stream sufficient to service the
5 debt on the bonds; and

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

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

33 An eligible business shall file a monthly report with the
34 Illinois Department of Revenue stating the amount of

1 Illinois-mined coal purchased during the previous month for
2 use in the new electric generating facility, the purchase
3 price of that coal, the amount of State occupation and use
4 taxes paid on that purchase to the seller of the
5 Illinois-mined coal, and such other information as that
6 Department may reasonably require. In sales of
7 Illinois-mined coal between related parties, the purchase
8 price of the coal must have been determined in an arms-length
9 transaction. The report shall be filed with the Illinois
10 Department of Revenue on or before the 20th day of each month
11 on a form provided by that Department. However, no report
12 need be filed by an eligible business in a month when it made
13 no reportable purchases of coal in the previous month. The
14 Illinois Department of Revenue shall provide a summary of
15 such reports to the Bureau of the Budget.

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

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

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

29 (20 ILCS 3505/7.90)

30 Sec. 7.90. Clean Coal and Energy Project Financing.

31 (a) Findings and declaration of policy. It is hereby
32 found and declared that Illinois has abundant coal resources

1 and, in some areas of Illinois, the demand for power exceeds
2 the generating capacity. Incentives to encourage the
3 construction of coal-fired electric generating plants in
4 Illinois to ensure power-generating capacity into the future
5 are in the best interests of all of the citizens of Illinois.
6 The Authority is authorized to issue bonds to help finance
7 Clean Coal and Energy projects pursuant to this Section and
8 under this Act.

9 (b) Definition. "Clean Coal and Energy projects" means
10 new electric generating facilities, as defined in Section
11 605-332 of the Department of Commerce and Community Affairs
12 Law of the Civil Administrative Code of Illinois, which may
13 include mine-mouth power plants, projects that employ the use
14 of clean coal technology, projects to develop alternative
15 energy sources, including renewable energy projects, projects
16 to provide scrubber technology for existing energy generating
17 plants, or projects to provide electric transmission
18 facilities.

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

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

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

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

34 Subject to the terms of any pledge to the owners of any

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

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

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

10 (2) To provide for the funding of any reserves or
11 other funds or accounts deemed necessary by the Authority
12 in connection with any bonds issued by the Authority.

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

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

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

30 (e) Clean Coal and Energy bond authorization and
31 financing limits. In addition to any other bonds authorized
32 to be issued under this Act, the Authority may have
33 outstanding, at any time, bonds for the purpose enumerated in
34 this subsection (e) Section in an aggregate principal amount

1 that shall not exceed \$3,000,000,000, of which no more than
2 \$300,000,000 may be issued to finance transmission
3 facilities, no more than \$500,000,000 may be issued to
4 finance scrubbers at existing generating plants, no more than
5 \$500,000,000 may be issued to finance alternative energy
6 sources, including renewable energy projects, and no more
7 than \$1,700,000,000 may be issued to finance new electric
8 generating facilities, as defined in Section 605-332 of the
9 Department of Commerce and Community Affairs Law of the Civil
10 Administrative Code of Illinois, which may include mine-mouth
11 power plants. An application for a loan financed from bond
12 proceeds from a borrower or its affiliates for a Clean Coal
13 and Energy project may not be approved by the Authority for
14 an amount in excess of \$450,000,000 for any borrower or its
15 affiliates. These bonds shall not constitute an indebtedness
16 or obligation of the State of Illinois and it shall be
17 plainly stated on the face of each bond that it does not
18 constitute an indebtedness or obligation of the State of
19 Illinois but is payable solely from the revenues, income, or
20 other assets of the Authority pledged therefor.

21 (e-5) Additional Clean Coal and Energy bond authorization
22 and financing limits. In addition to any other bonds
23 authorized to be issued under subsection (e), the Authority
24 may issue bonds for the purposes enumerated in subsection (e)
25 in an aggregate principal amount that shall not exceed
26 \$300,000,000.

27 In the event that the Authority determines that the funds
28 pledged, intercepted, or otherwise received or to be received
29 by the Authority for the payment of the principal, premium,
30 if any, and interest during the next State fiscal year on any
31 bonds issued by the Authority under this subsection (e-5) for
32 the specific purposes identified in this subsection (e-5)
33 will not be sufficient for those payments, the Chairman, as
34 soon as is practical, shall certify to the Governor the

1 amount required by the Authority to enable it to pay the
2 principal, premium, if any, and interest falling due on the
3 bonds. The Governor shall submit the amount so certified to
4 the General Assembly as soon as practical, but no later than
5 the end of the current State fiscal year. This paragraph
6 shall not apply to any bonds as to which the Authority shall
7 have determined, in the resolution authorizing their
8 issuance, that this paragraph shall not apply. Whenever the
9 Authority makes such a determination, that fact shall be
10 plainly stated on the face of the bonds and that fact shall
11 also be reported to the Governor.

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

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

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

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