

1 AN ACT concerning regulation.

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 School
5 District Intergovernmental Cooperation Renewable Energy Act.

6 Section 5. Findings. The General Assembly finds that there
7 is a need to promote the use of renewable energy resources,
8 including facilities designed to convert wind or solar power to
9 energy, and to promote employment in the construction and
10 operation of such facilities, and further finds that a means of
11 meeting such need is to authorize school districts to join
12 together to acquire and construct facilities for such purposes.

13 Section 10. Definitions. In this Act:

14 "Agency" means a joint action agency organized and
15 operating under this Act.

16 "Applicable law" means any provision of law, including this
17 Act, authorizing school districts to issue bonds as that term
18 is defined in the Local Government Debt Reform Act.

19 "Board" means the board of directors of an agency organized
20 under this Act.

21 "Bond" means a bond as such term is defined in the Local
22 Government Debt Reform Act issued by an agency payable from one

1 or more of the agency's revenue sources and other sources as
2 the agency may lawfully pledge, which sources may include
3 school district bonds or proceeds or payments to be made
4 pursuant to an intergovernmental agreement.

5 "Eligible project" means any land or rights in land, plant,
6 works, system, facility, machinery, intellectual property, or
7 other real or personal property of any nature whatsoever,
8 together with all parts thereof and appurtenances thereto, used
9 or useful in the generation, production, such distribution or
10 transmission as may be required in a relevant electric service
11 agreement, purchase, sale, exchange, or interchange of
12 electrical energy derived from renewable energy resources as
13 defined in Section 1-10 of the Illinois Power Agency Act,
14 including wind, solar power, and other renewable resources, and
15 in the acquisition, extraction, conversion, transportation,
16 storage, or reprocessing of ancillary fuel of any kind for any
17 of those purposes, or any interest in, or right to the use,
18 services, output, or capacity of any plant, works, system, or
19 facilities.

20 "Governing body" means the school board having charge of
21 the corporate affairs of a school district.

22 "Intergovernmental agreement" means the agreement by which
23 an agency is formed by school districts pursuant to this Act.

24 "Members" means the school districts joining pursuant to
25 intergovernmental agreement to organize an agency under this
26 Act.

1 "Resolution" means a resolution duly adopted by a governing
2 body.

3 "Revenue source" means any revenue source as such term is
4 defined in the Local Government Debt Reform Act.

5 "School district" means a combined elementary district, a
6 combined high school district, a combined unit district, a unit
7 district, a combined high school unit district, an elementary
8 district, or an optional elementary unit district organized and
9 operating under the School Code of the State of Illinois, but
10 does not include any office, officer, department, division,
11 bureau, board, commission, or similar agency of the State of
12 Illinois.

13 "School district bond" means any bond as such term is
14 defined in the Local Government Debt Reform Act authorized or
15 issued by or on behalf of a school district under applicable
16 law.

17 Section 15. Powers supplemental. The provisions of this Act
18 are intended to be supplemental and, in addition to all other
19 powers or authorities granted to any school district, shall be
20 construed liberally and shall not be construed as a limitation
21 of any power or authority otherwise granted.

22 Section 20. Actions by resolution. All actions to be taken
23 by a school district or an agency pursuant to this Act shall be
24 fully effective if taken by resolution.

1 Section 25. Agency status. An agency organized under this
2 Act shall be a unit of local government of the State of
3 Illinois and a body politic and corporate.

4 Section 30. Organization. Any 2 or more school districts,
5 whether contiguous or noncontiguous, may form an agency by the
6 execution of an intergovernmental agreement authorized by
7 resolution adopted by the governing body of each school
8 district. The intergovernmental agreement shall state or may
9 state, as applicable, the following:

10 (1) the name of the agency and the date of its
11 establishment, which may be by reference to a date or the
12 dates of the resolutions adopted by the governing bodies,
13 and the duration of its existence, which may be perpetual;

14 (2) the names of the school districts that have adopted
15 the intergovernmental agreement and constitute the initial
16 members;

17 (3) the names and addresses of the persons initially
18 appointed in the resolutions adopting the
19 intergovernmental agreement to serve as initial directors
20 on the board and provision for the organizational meeting
21 of the agency;

22 (4) provision for the terms of office of the directors
23 and for alternate directors, if so provided, but such
24 directors and alternate directors shall always be selected

1 and vacancies in their offices declared and filled by
2 resolutions adopted by the governing body of the respective
3 school districts;

4 (5) if so provided, provision for weighted voting among
5 the school districts or by the directors;

6 (6) the location by city, village, or incorporated town
7 in the State of Illinois of the principal office of the
8 agency;

9 (7) provision for amendment of the intergovernmental
10 agreement;

11 (8) if provided, initial funding for the agency, which
12 may include binding agreements of the school districts to
13 provide money or to issue school district bonds for the
14 benefit of the agency;

15 (9) provisions for the disposition, division, or
16 distribution of obligations, property, and assets of the
17 agency upon dissolution; and

18 (10) any other provisions for regulating the business
19 of the agency or the conduct of its affairs consistent with
20 this Act.

21 Section 35. Officers; board; bylaws.

22 (a) At the organizational meeting of the board, the
23 directors shall elect from their members a presiding officer to
24 preside over the meetings of the board and an alternate
25 presiding officer and may elect an executive board. The board

1 shall determine and designate in the agency's bylaws the titles
2 for the presiding officers. The directors shall also elect a
3 secretary and treasurer, who need not be directors. The board
4 may select such other officers, employees, and agents as deemed
5 to be necessary, who need not be directors or residents of any
6 of the school districts that are members. The board may
7 designate appropriate titles for all other officers,
8 employees, and agents. All persons selected by the board shall
9 hold their respective offices at the pleasure of the board, and
10 give bond as may be required by the board.

11 (b) The board is the corporate authority of the agency and
12 shall exercise all the powers and manage and control all of the
13 affairs and property of the agency. The board shall have full
14 power to pass all necessary resolutions and rules for the
15 proper management and conduct of the business of the agency and
16 for carrying into effect the objects for which the agency was
17 established. The board shall have not less than one meeting
18 each year for the election of officers and the transaction of
19 any other business. Unless otherwise provided by this Act, the
20 intergovernmental agreement, or the bylaws, an act of the
21 majority of the directors present at a meeting at which a
22 quorum is present is required for an act of the board.

23 (c) The board shall adopt bylaws that may include without
24 limitation the following provisions:

25 (1) the rights and obligations of members consistent
26 with the intergovernmental agreement and this Act;

1 (2) if not governed in the intergovernmental
2 agreement, then the manner of adding new members and the
3 rights and obligations of the members;

4 (3) the time, place, and date of the regular meeting or
5 meetings and the procedures for calling special meetings of
6 the board;

7 (4) procedural rules;

8 (5) the composition, powers, and responsibilities of
9 any committee or executive board;

10 (6) the criteria as called for in item (20) of Section
11 55 of this Act; and

12 (7) other rules or provisions for regulating the
13 affairs of the agency as the board shall determine to be
14 advisable.

15 Section 40. Filing. Within 3 months after the
16 organizational meeting, the board shall cause a certified copy
17 of the intergovernmental agreement to be filed with the
18 Secretary of State of Illinois. The Secretary of State shall
19 accept such filing and issue an acknowledgement of filing over
20 his or her signature and the Great Seal of the State. The
21 Secretary of State shall make and keep a register of agencies
22 established under this Act.

23 Section 45. Place of business. Every agency shall maintain
24 an office in the State of Illinois to be known as its principal

1 office. When an agency desires to change the location of such
2 office, it shall file with the Secretary of State a certificate
3 of change of location, stating the new address and the
4 effective date of change. Meetings of the board may be held at
5 any place within the State of Illinois designated by the board
6 after notice.

7 Section 50. Lawful expense of school district. Each member
8 shall have full power and authority to appropriate money from
9 its operation and maintenance fund, by whatever name now or
10 hereafter known, for the payment of the expenses of the agency
11 and of its representative in exercising its functions as a
12 member of the agency, which expenses may include payment of
13 principal of and interest on bonds of the agency for a period
14 not greater than 40 years after the dated date of any bonds.
15 Each member shall have full power and authority, subject to the
16 provisions of applicable law, to agree to the issuance and
17 delivery of school district bonds to aid the agency.

18 Section 55. Powers and duties generally. An agency shall
19 have all the powers and duties enumerated in this Section in
20 furtherance of the purposes of this Act. In the exercise
21 thereof it shall be deemed to be performing an essential
22 governmental function and exercising a part of the sovereign
23 powers of the State of Illinois, separate and distinct from
24 member school districts, and shall have the privileges,

1 immunities, and rights of a public body politic and corporate,
2 municipal corporation, and unit of local government, but shall
3 not have taxing power. All powers of the agency shall be
4 exercised by its board unless otherwise provided by the bylaws.

5 (1) An agency may plan, finance, acquire, construct,
6 reconstruct, own, lease, operate, maintain, repair,
7 improve, extend, or otherwise participate in, individually
8 or jointly with other persons or other entities of any
9 type, one or more eligible projects, proposed, existing, or
10 under construction, within or without the State of
11 Illinois, acquire any interest in or any right to products
12 and services of an eligible project, purchase, own, sell,
13 dispose of, or otherwise participate in securities issued
14 in connection with the financing of an eligible project or
15 any portion thereof, create such subsidiary entity or
16 entities of any type as may be necessary or desirable, and
17 may act as agent, or designate one or more persons, public
18 agencies, or other entities of any type, whether or not
19 participating in an eligible project, to act as its agent,
20 in connection with the planning, financing, acquisition,
21 construction, reconstruction, ownership, lease, operation,
22 maintenance, repair, extension, or improvement of the
23 eligible project.

24 (2) An agency may investigate the desirability of and
25 necessity for additional means of providing electrical
26 energy from wind sources of any kind for such purpose and

1 make studies, surveys, and estimates as may be necessary to
2 determine its feasibility and cost.

3 (3) An agency may cooperate with other persons, public
4 agencies, or other entities of any type in the development
5 of means of providing electrical energy from wind sources
6 of any kind for those purposes and give assistance with
7 personnel and equipment in any eligible project.

8 (4) An agency may structure the ownership and
9 investment in an eligible project in such a way as to
10 maximize the use of any available United States federal
11 incentives for such projects, including, but not limited
12 to, New Markets Tax Credits under Section 45D of the
13 Internal Revenue Code of 1986, as amended, or any successor
14 provision.

15 (5) An agency may apply for consents, authorizations,
16 or approvals required for any eligible project within its
17 powers and take all actions necessary to comply with the
18 conditions thereof.

19 (6) An agency may perform any act authorized by this
20 Act through, or by means of, its officers, agents, or
21 employees or by contract with others, including without
22 limitation the employment of engineers, architects,
23 attorneys, appraisers, financial advisors, and such other
24 consultants and employees as may be required in the
25 judgment of the agency, and fix and pay their compensation
26 from funds available to the agency.

1 (7) An agency may, individually or jointly with other
2 persons, public agencies, or other entities of any type,
3 acquire, hold, use, and dispose of income, revenues, funds,
4 and money.

5 (8) An agency may, individually or jointly with other
6 persons, public agencies, or other entities of any type,
7 acquire, own, hire, use, operate and dispose of personal
8 property and any interest therein.

9 (9) An agency may, individually or jointly with other
10 persons, public agencies, or other entities of any type,
11 acquire, own, use, lease as lessor or lessee, operate, and
12 dispose of real property and interests in real property,
13 including eligible projects existing, proposed, or under
14 construction, and make improvements thereon.

15 (10) An agency may grant the use by franchise, lease,
16 or otherwise and make charges for the use of any property
17 or facility owned or controlled by it.

18 (11) An agency may borrow money and issue negotiable
19 bonds, secured or unsecured, in accordance with this Act.

20 (12) An agency may invest money of the agency not
21 required for immediate use, including proceeds from the
22 sale of any bonds, in such obligations, securities, and
23 other investments as authorized by the provisions of the
24 Public Funds Investment Act.

25 (13) An agency may determine the location and character
26 of, and all other matters in connection with, any and all

1 eligible projects it is authorized to acquire, hold,
2 establish, effectuate, operate, or control.

3 (14) An agency may contract with any persons, public
4 agencies, or other entities of any type for the planning,
5 development, construction, or operation of any eligible
6 project or for the sale, transmission, or distribution of
7 the products and services of any eligible project, or for
8 any interest therein or any right to the products and
9 services thereof, on such terms and for such period not in
10 excess of 50 years of time as its board shall determine.

11 (15) An agency may enter into any contract or agreement
12 necessary, appropriate, or incidental to the effectuation
13 of its lawful purposes and the exercise of the powers
14 granted by this Act for a period not in excess of 50 years
15 in time, including without limitation contracts or
16 agreements for the purchase, sale, exchange, interchange,
17 wheeling, pooling, transmission, distribution, or storage
18 of electrical energy and fuel of any kind for any such
19 purposes, within and without the State of Illinois, in such
20 amounts as it shall determine to be necessary and
21 appropriate to make the most effective use of its powers
22 and to meet its responsibilities, on such terms and for
23 such period of time as its board determines. Any such
24 contract or agreement may include provisions for
25 requirements purchases, restraints on resale or other
26 dealings, exclusive dealing, pricing, territorial

1 division, and other conduct or arrangements that do not
2 have an anti-competitive effect. Provided, however, that
3 the production, interconnection, transmission,
4 distribution, and sale at wholesale or retail of electric
5 energy generated by the eligible project must be in
6 accordance with all laws, regulations, and rules
7 applicable to generators of electricity, alternative
8 retail electric suppliers, municipal utilities, or
9 electric cooperatives, as applicable, but further provided
10 that this provision does not affect any exemption otherwise
11 available under the Public Utilities Act.

12 (16) An agency may procure insurance against any losses
13 in connection with its property, operations, or assets in
14 such amounts and from such insurers as it deems desirable
15 or may self-insure or enter into pooled insurance
16 arrangements with other school districts against such
17 losses.

18 (17) An agency may contract for and accept any gifts or
19 grants or loans of funds or property or financial or other
20 aid in any form from any source and may comply, subject to
21 the provisions of this Act, with the terms and conditions
22 thereof.

23 (18) An agency may mortgage, pledge, or grant a
24 security interest in any or all of its real and personal
25 property to secure the payment of its bonds or contracts.

26 (19) That part of an eligible project owned by an

1 agency shall be exempt from property taxes.

2 (20) An agency shall not be subject to any taxes of the
3 State of Illinois based on or measured by income or
4 receipts or revenue.

5 (21) An agency may adopt a corporate seal and may sue
6 and be sued.

7 (22) An agency may exercise all other powers not
8 inconsistent with the Constitution of the State of Illinois
9 or the United States Constitution, which powers may be
10 reasonably necessary or appropriate for or incidental to
11 effectuate its authorized purposes or to the exercise of
12 any of the powers enumerated in this Act.

13 Section 60. Bonds. An agency may issue bonds pursuant to
14 applicable law and the following provisions:

15 (1) An agency may from time to time issue its bonds in
16 such principal amounts as the agency shall deem necessary
17 to provide sufficient funds to carry out any of its
18 corporate purposes and powers, including without
19 limitation the acquisition, construction, or termination
20 of any eligible project to be owned or leased, as lessor or
21 lessee, by the agency, or the acquisition of any interest
22 therein or any right to the products or services thereof,
23 the funding or refunding of the principal of, redemption
24 premium, if any, and interest on, any bonds issued by it
25 whether or not such bonds or interest to be funded or

1 refunded have or have not become due, the payment of
2 engineering, legal and other expenses, together with
3 interest for a period of 3 years or to a date one year
4 subsequent to the estimated date of completion of the
5 project, whichever period is longer, the establishment or
6 increase of reserves to secure or to pay such bonds or
7 interest thereon, the providing of working capital and the
8 payment of all other costs or expenses of the agency
9 incident to and necessary or convenient to carry out its
10 corporate purposes and powers.

11 (2) Every issue of bonds of the agency shall be payable
12 out of the revenues or funds available to the agency,
13 subject to any agreements with the holders of particular
14 bonds pledging any particular revenues or funds. An agency
15 may issue types of bonds as it may determine, including
16 bonds as to which the principal and interest are payable
17 exclusively from the revenues from one or more projects, or
18 from an interest therein or a right to the products and
19 services thereof, or from one or more revenue producing
20 contracts made by the agency, or its revenues generally.
21 Any such bonds may be additionally secured by a pledge of
22 any grant, subsidy, or contribution from any source or a
23 pledge of any income or revenues, funds, or moneys of the
24 agency from any source whatsoever.

25 (3) All bonds of an agency shall have all the qualities
26 of negotiable instruments under the laws of this State.

1 (4) Bonds of an agency shall be authorized by
2 resolution of its board and may be issued under such
3 resolution or under a trust indenture or other security
4 agreement, in one or more series, and shall bear the date
5 or dates, mature at a time or times within the estimated
6 period of usefulness of the project involved and in any
7 event not more than 40 years after the date thereof, bear
8 interest at such rate or rates without regard to any
9 limitation in any other law, be in such denominations, be
10 in such form, either coupon or registered, carry such
11 conversion, registration, and exchange privileges, have
12 such rank or priority, be executed in such manner, be
13 payable in such medium of payment at such place or places
14 within or without the State of Illinois, be subject to such
15 terms of redemption with or without premium, and contain or
16 be subject to such other terms as the resolution, trust
17 indenture, or other security agreement may provide, and
18 shall not be restricted by the provisions of any other law
19 limiting the amounts, maturities, interest rates, or other
20 terms of obligations of units of local government or
21 private parties. The bonds shall be sold in a manner and at
22 such price as the board shall determine at private or
23 public sale.

24 (5) Bonds of an agency may be issued under the
25 provisions of this Act without obtaining the consent of any
26 department, division, commission, board, bureau, or agency

1 of the State of Illinois or of any member, except as may be
2 limited in an intergovernmental agreement, and without any
3 other proceeding or the happening of any other condition or
4 occurrence except as specifically required by this Act.

5 (6) The resolution, trust indenture, or other security
6 agreement under which any bonds are issued shall constitute
7 a contract with the holders of the bonds and may contain
8 provisions, among others, prescribing:

9 (A) the terms and provisions of the bonds;

10 (B) the mortgage or pledge of and the grant of a
11 security interest in any real or personal property and
12 all or any part of the revenue from any project or any
13 revenue producing contract made by the agency to secure
14 the payment of bonds, subject to any agreements with
15 the holders of bonds which might then exist;

16 (C) the custody, collection, securing,
17 investments, and payment of any revenues, assets,
18 money, funds, or property with respect to which the
19 agency may have any rights or interest;

20 (D) the rates or charges for the products or
21 services rendered by the agency, the amount to be
22 raised by the rates or charges, and the use and
23 disposition of any or all revenue;

24 (E) the creation of reserves or sinking funds and
25 the regulation and disposition thereof;

26 (F) the purposes to which the proceeds from the

1 sale of any bonds then or thereafter to be issued may
2 be applied, and the pledge of revenues to secure the
3 payment of the bonds;

4 (G) the limitations on the issuance of any
5 additional bonds, the terms upon which additional
6 bonds may be issued and secured, and the refunding of
7 outstanding bonds;

8 (H) the rank or priority of any bonds with respect
9 to any lien or security;

10 (I) the creation of special funds or moneys to be
11 held in trust or otherwise for operational expenses,
12 payment, or redemption of bonds, reserves or other
13 purposes, and the use and disposition of moneys held in
14 such funds;

15 (J) the procedure by which the terms of any
16 contract with or for the benefit of the holders of
17 bonds may be amended or revised, the amount of bonds
18 the holders of which must consent thereto, and the
19 manner in which consent may be given;

20 (K) the definition of the acts or omissions to act
21 that shall constitute a default in the duties of the
22 agency to holders of its bonds, and the rights and
23 remedies of the holders in the event of default,
24 including, if the agency so determines, the right to
25 accelerate the due date of the bonds or the right to
26 appoint a receiver or receivers of the property or

1 revenues subject to the lien of the resolution, trust
2 indenture, or other security agreement;

3 (L) any other or additional agreements with or for
4 the benefit of the holders of bonds or any covenants or
5 restrictions necessary or desirable to safeguard the
6 interests of the holders;

7 (M) the custody of its properties or investments,
8 the safekeeping thereof, the insurance to be carried
9 thereon, and the use and disposition of insurance
10 proceeds;

11 (N) the vesting in a trustee or trustees, within or
12 without the State of Illinois, of such properties,
13 rights, powers, and duties in trust as the agency may
14 determine; or the limiting or abrogating of the rights
15 of the holders of any bonds to appoint a trustee, or
16 the limiting of the rights, powers, and duties of such
17 trustee; or

18 (O) the appointment of and the establishment of the
19 duties and obligations of any paying agent or other
20 fiduciary within or without the State of Illinois.

21 (7) For the security of bonds issued or to be issued by
22 an agency, the agency may mortgage or execute deeds of
23 trust of the whole or any part of its property and
24 franchises. Any pledge of revenues, securities, contract
25 rights, or other personal property made by an agency
26 pursuant to this Act shall be valid and binding from the

1 date the pledge is made. The revenues, securities, contract
2 rights, or other personal property so pledged and then held
3 or thereafter received by the agency or any fiduciary shall
4 immediately be subject to the lien of the pledge without
5 any physical delivery thereof or further act, and the lien
6 of the pledge shall be valid and binding as against all
7 parties having claims of any kind in tort, contract, or
8 otherwise against the agency without regard to whether the
9 parties have notice. The resolution, trust indenture,
10 security agreement, or other instrument by which a pledge
11 is created shall be recorded in the county in which the
12 principal office is located in the manner provided by law.

13 (8) Neither the officials, the directors, nor the
14 members of an agency nor any person executing bonds shall
15 be liable personally on the bonds or be subject to any
16 personal liability or accountability by reason of the
17 issuance thereof. An agency shall have power to indemnify
18 and to purchase and maintain insurance on behalf of any
19 director, officer, employee, or agent of the agency, in
20 connection with any threatened, pending, or completed
21 action, suit, or proceeding.

22 (9) An agency shall have power to purchase out of any
23 funds available therefor, bonds, and to hold for
24 re-issuance, pledge, cancel, or retire the bonds and
25 coupons prior to maturity, subject to and in accordance
26 with any agreements with the holders.

1 (10) The principal of and interest upon any bonds
2 issued by an agency shall be payable solely from the
3 revenue sources or funds pledged or available for their
4 payment as authorized in this Act. Each bond shall contain
5 a statement that it constitutes an obligation of the agency
6 issuing the bond, that its principal and interest are
7 payable solely from revenues or funds of the agency and
8 that neither the State of Illinois nor any political
9 subdivision thereof, except the issuer, nor any school
10 district that is a member of the agency, is obligated to
11 pay the principal or interest on the bonds and that neither
12 the faith and credit nor the taxing power of the State of
13 Illinois or any such political subdivision thereof or of
14 any such school district is pledged to the payment of the
15 principal of or the interest on the bonds.

16 Section 65. Charges. An agency may establish, levy, and
17 collect or may authorize, by contract, franchise, lease, or
18 otherwise, the establishment, levying, and collection of
19 rents, rates, and other charges for the products and services
20 afforded by the agency or by or in connection with any eligible
21 project or properties that it may construct, acquire, own,
22 operate, or control or with respect to which it may have any
23 interest or any right to the products and services thereof as
24 it may deem necessary, proper, desirable, or reasonable, except
25 that such agency shall not sell electricity to end-use

1 customers otherwise than in accordance with the provisions of
2 the Public Utilities Act, but further provided that this
3 provision does not affect any exemption otherwise available to
4 the agency under the Public Utilities Act. Rents, rates, and
5 other charges shall be established so as to be sufficient to
6 meet the operation, maintenance, and other expenses thereof,
7 including reasonable reserves, interest, and principal
8 payments, including payments into one or more sinking funds for
9 the retirement of principal. An agency may pledge its rates,
10 rents, and other revenue, or any part thereof, as security for
11 the repayment, with interest and premium, if any, of any moneys
12 borrowed by it or advanced to it for any of its authorized
13 purposes and as security for the payment of amounts due and
14 owing by it under any contract.

15 Section 70. School districts may contract.

16 (a) In order to accomplish the purposes of this Act, a
17 school district may enter into and carry out contracts and
18 agreements for the sale, lease, or other use of property, real
19 or personal, cooperative provision of services, such as police
20 services, or the purchase of power from an agency, or
21 transmission services, development services, and other
22 services.

23 (b) Any contract and agreement shall be for a period not to
24 exceed 50 years and shall contain other terms, conditions, and
25 provisions that are not inconsistent with the provisions of

1 this Act as the governing body of such school district shall
2 approve, including without limitation provisions whereby the
3 school district is obligated to pay for the products and
4 services of an agency without set-off or counterclaim and
5 irrespective of whether such products or services are
6 furnished, made available, or delivered to the school district,
7 or whether any project contemplated by any such contract and
8 agreement is completed, operable or operating, and
9 notwithstanding suspension, interruption, interference,
10 reduction, or curtailment of the products and services of the
11 project.

12 (c) Any contract and agreement may be pledged by the agency
13 to secure its obligations and may provide that if one or more
14 school districts defaults in the payment of its obligations
15 under such contract and agreement, the remaining school
16 districts having such contracts and agreements shall be
17 required to pay for and shall be entitled proportionately to
18 use or otherwise dispose of the products and services that were
19 to be purchased by the defaulting school district.

20 (d) Any contract and agreement providing for payments by a
21 school district shall be an obligation of the school district
22 payable from and secured by such lawfully available funds as
23 may be made pursuant to applicable law. Notwithstanding the
24 sources of funds pledged, any contract between the agency and
25 its members with respect to an eligible project shall not
26 constitute an indebtedness of such members within any statutory

1 limitation.

2 (e) Nothing in this Act shall be construed to preclude a
3 school district from appropriating and using taxes and other
4 revenues received in any year to make payments due or to comply
5 with covenants to be performed during that year under any
6 contract or agreement for a term of years entered into as
7 contemplated in this Act, subject to the provisions of
8 applicable law.

9 (f) Any contract or agreement may include provisions for
10 requirements purchases, restraints on resale or other
11 dealings, exclusive dealing, pricing, territorial division,
12 and other conduct or arrangements that do not have an
13 anti-competitive effect. Provided, however, that the
14 production, interconnection, transmission, distribution, and
15 sale at wholesale or retail of electric energy generated by the
16 eligible project must be in accordance with all laws,
17 regulations, and rules applicable to generators of
18 electricity, alternative retail electric suppliers, municipal
19 utilities, or electric cooperatives, as applicable, but
20 further provided that this provision does not affect any
21 exemption otherwise available under the Public Utilities Act.

22 (g) Notwithstanding the provisions of any other law, in the
23 making of a contract or agreement between an agency and a
24 member, the director of the agency who represents such member
25 must recuse himself or herself from participation in
26 discussions or voting as director, but may participate and vote

1 in his or her capacity as an officer of the governing body of
2 such member, and such participation and voting shall not be a
3 conflict of interest.

4 Section 97. Severability. The provisions of this Act are
5 severable under Section 1.31 of the Statute on Statutes.

6 Section 999. Effective date. This Act takes effect upon
7 becoming law.