



Sen. A. J. Wilhelmi

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LRB096 06419 MJR 38787 a

1 AMENDMENT TO SENATE BILL 388

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 388 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Finance Authority Act is amended  
5 by changing Section 825-90 as follows:

6 (20 ILCS 3501/825-90)

7 Sec. 825-90. Illinois Power Agency Bonds.

8 (a) In this Section:

9 "Agency" means the Illinois Power Agency.

10 "Agency loan agreement" means any agreement pursuant to  
11 which the Illinois Finance Authority agrees to loan the  
12 proceeds of its revenue bonds issued with respect to a specific  
13 Illinois Power Agency project to the Illinois Power Agency upon  
14 terms providing for loan repayment installments at least  
15 sufficient to pay when due all principal of, interest and  
16 premium, if any, on any revenue bonds of the Authority, if any,

1 issued with respect to the Illinois Power Agency project, and  
2 providing for maintenance, insurance, and other matters as may  
3 be deemed desirable by the Authority.

4 "Authority" means the Illinois Finance Authority.

5 "Director" means the Director of the Illinois Power Agency.

6 "Facility" means an electric generating unit or a  
7 co-generating unit that produces electricity along with  
8 related equipment necessary to connect the facility to an  
9 electric transmission or distribution system.

10 "Governmental aggregator" means one or more units of local  
11 government that individually or collectively procures  
12 electricity to serve residential retail electrical loads  
13 located within its or their jurisdiction.

14 "Local government" means a unit of local government as  
15 defined in Section 1 of Article VII of the Illinois  
16 Constitution of 1970.

17 "Project" means any project as defined in the Illinois  
18 Power Agency Act.

19 "Real property" means any interest in land, together with  
20 all structures, fixtures, and improvements thereon, including  
21 lands under water and riparian rights, any easements,  
22 covenants, licenses, leases, rights-of-way, uses, and other  
23 interests, together with any liens, judgments, mortgages, or  
24 other claims or security interests related to real property.

25 "Revenue bond" means any bond, note, or other evidence of  
26 indebtedness issued by the Illinois Finance Authority on behalf

1 of the Illinois Power Agency, the principal and interest of  
2 which is payable solely from revenues or income derived from  
3 any project or activity of the Agency.

4 (b) Powers and duties; Illinois Power Agency Program. The  
5 Authority has the power:

6 (1) To accept from time to time pursuant to an Agency  
7 loan agreement any pledge or a pledge agreement by the  
8 Agency subject to the requirements and limitations of the  
9 Illinois Power Agency Act.

10 (2) To issue revenue bonds in one or more series  
11 pursuant to one or more resolutions of the Authority to  
12 loan funds to the Agency pursuant to one or more Agency  
13 loan agreements meeting the requirements of the Illinois  
14 Power Agency Act and providing for the payment of any  
15 interest deemed necessary on those revenue bonds, paying  
16 for the cost of issuance of those revenue bonds, providing  
17 for the payment of the cost of any guarantees, letters of  
18 credit, insurance contracts or other similar credit  
19 support or liquidity instruments, or providing for the  
20 funding of any reserves deemed necessary in connection with  
21 those revenue bonds and refunding or advance refunding of  
22 any such revenue bonds and the interest and any premium  
23 thereon, pursuant to this Act. Authority for the agreements  
24 shall conform to the requirements of the Illinois Power  
25 Agency Act. The Authority may issue up to \$4,000,000,000  
26 aggregate principal amount of revenue bonds, the net

1 proceeds of which shall be loaned to the Agency pursuant to  
2 one or more Agency loan agreements. ~~No revenue bonds issued~~  
3 ~~to refund or advance refund revenue bonds issued under this~~  
4 ~~Section may mature later than the longest maturity date of~~  
5 ~~the series of bonds being refunded.~~ After the aggregate  
6 original principal amount of revenue bonds authorized in  
7 this Section has been issued, the payment of any principal  
8 amount of those revenue bonds does not authorize the  
9 issuance of additional revenue bonds (except refunding  
10 revenue bonds). Revenue refunding bonds may be issued under  
11 this Section to refund or advance refund revenue bonds  
12 issued under this Section. Any revenue refunding bond shall  
13 mature no later than 40 years after the original issuance  
14 of capital improvement revenue bonds that financed the  
15 project. Such revenue bond authorization is in addition to  
16 any other bonds authorized in this Act. All bonds issued on  
17 behalf of the Agency must be issued by the Authority and  
18 must be revenue bonds. These revenue bonds may be taxable  
19 or tax-exempt.

20 (3) To provide for the funding of any reserves or other  
21 funds or accounts deemed necessary by the Authority on  
22 behalf of the Agency in connection with its issuance of  
23 Agency revenue bonds.

24 (4) To accept the pledge of any Agency revenue,  
25 including any payments thereon, and any other property or  
26 funds of the Agency or funds made available to the

1 Authority through the applicable Agency loan agreement  
2 with the Agency that may be applied to such purpose, as  
3 security for any revenue bonds or any guarantees, letters  
4 of credit, insurance contracts, or similar credit support  
5 or liquidity instruments securing the revenue bonds.

6 (5) To enter into agreements or contracts with third  
7 parties, whether public or private, including without  
8 limitation the United States of America, the State, or any  
9 department or agency thereof, to obtain any grants, loans,  
10 or guarantees that are deemed necessary or desirable by the  
11 Authority. Any such guarantee, agreement, or contract may  
12 contain terms and provisions necessary or desirable in  
13 connection with the program, subject to the requirements  
14 established by this Article.

15 (6) To charge reasonable fees to defray the cost of  
16 obtaining letters of credit, insurance contracts, or other  
17 similar documents, and to charge such other reasonable fees  
18 to defray the cost of trustees, depositories, paying  
19 agents, legal counsel, bond registrars, escrow agents, and  
20 other administrative expenses. Any such fees shall be  
21 payable by the Agency, in such amounts and at such times as  
22 the Authority shall determine.

23 (7) To obtain and maintain guarantees, letters of  
24 credit, insurance contracts, or similar credit support or  
25 liquidity instruments that are deemed necessary or  
26 desirable in connection with any revenue bonds or other

1 obligations of the Authority for any Agency revenue bonds.

2 (8) To provide technical assistance, at the request of  
3 the Agency, with respect to the financing or refinancing  
4 for any public purpose.

5 (9) To sell, transfer, or otherwise defease revenue  
6 bonds issued on behalf of the Agency at the request and  
7 authorization of the Agency.

8 (10) To enter into agreements or contracts with any  
9 person necessary or appropriate to place the payment  
10 obligations of the Agency relating to revenue bonds in  
11 whole or in part on any interest rate basis, cash flow  
12 basis, or other basis desired by the Authority, including  
13 without limitation agreements or contracts commonly known  
14 as "interest rate swap agreements", "forward payment  
15 conversion agreements", and "futures", or agreements or  
16 contracts to exchange cash flows or a series of payments,  
17 or agreements or contracts, including without limitation  
18 agreements or contracts commonly known as "options",  
19 "puts" or "calls", to hedge payment, rate spread, or  
20 similar exposure; provided, that any such agreement or  
21 contract shall not constitute an obligation for borrowed  
22 money, and shall not be taken into account under Section  
23 845-5 of this Act or any other debt limit of the Authority  
24 or the State of Illinois.

25 (11) To make and enter into all other agreements and  
26 contracts and execute all instruments necessary or

1 incidental to performance of its duties and the execution  
2 of its powers under this Article.

3 (12) To contract for and finance the costs of audits  
4 and to contract for and finance the cost of project  
5 monitoring. Any such contract shall be executed only after  
6 it has been jointly negotiated by the Authority and the  
7 Agency.

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

10 (c) Illinois Power Agency participation. The Agency is  
11 authorized to voluntarily participate in this program as  
12 described in the Illinois Power Agency Act. The Authority may  
13 issue revenue bonds on behalf of the Agency pursuant to an  
14 Agency loan agreement entered into by the parties as set forth  
15 in the Illinois Power Agency Act. Any proceeds from the sale of  
16 those revenue bonds shall be deposited into the Illinois Power  
17 Agency Facilities Fund to be used by the Agency for the  
18 purposes set forth in the Illinois Power Agency Act.

19 (d) Pledge of revenues by the Agency. Any pledge of  
20 revenues or other moneys made by the Agency shall be binding  
21 from the time the pledge is made. Revenues and other moneys so  
22 pledged shall be held in the Illinois Power Agency Facilities  
23 Fund, Illinois Power Agency Debt Service Fund, or other funds  
24 as directed by the Agency loan agreement. Revenues or other  
25 moneys so pledged and thereafter received by the State  
26 Treasurer shall immediately be subject to the lien of the

1 pledge without any physical delivery thereof or further act,  
2 and the lien of any pledge shall be binding against all parties  
3 having claims of any kind of tort, contract, or otherwise  
4 against the Authority, irrespective of whether the parties have  
5 notice thereof. Neither the resolution nor any other instrument  
6 by which a pledge is created need be filed or recorded except  
7 in the records of the Authority. The State pledges to and  
8 agrees with the holders of revenue bonds, and the beneficial  
9 owners of the revenue bonds issued on behalf of the Agency,  
10 that the State shall not limit or restrict the rights hereby  
11 vested in the Authority to purchase, acquire, hold, sell, or  
12 defease revenue bonds or other investments or to establish and  
13 collect such fees or other charges as may be convenient or  
14 necessary to produce sufficient revenues to meet the expenses  
15 of operation of the Authority, and to fulfill the terms of any  
16 agreement made with the holders of the revenue bonds issued by  
17 the Authority on behalf of the Agency or in any way impair the  
18 rights or remedies of the holders of those revenue bonds or the  
19 beneficial owners of the revenue bonds until those revenue  
20 bonds are fully paid and discharged or provision for their  
21 payment has been made. The revenue bonds shall not be a debt of  
22 the State, the Authority, any political subdivision thereof  
23 (other than the Agency to the extent provided therein), any  
24 governmental aggregator as defined in the Illinois Power Agency  
25 Act, or any local government, and neither the State, the  
26 Authority, any political subdivision thereof (other than the



1 Agency to the extent provided therein), any governmental  
2 aggregator, nor any local government shall be liable thereon.  
3 The Authority shall not have the power to pledge the credit,  
4 the revenues, or the taxing power of the State, any political  
5 subdivision thereof (other than the Agency to the extent  
6 provided in the Agency loan agreement relating to the revenue  
7 bonds in question), any governmental aggregator, or of any  
8 local government, and neither the credit, the revenues, nor the  
9 taxing power of the State, any political subdivision thereof  
10 (other than the Agency to the extent provided in the Agency  
11 loan agreement relating to the revenue bonds in question), any  
12 governmental aggregator, or of any local government shall be,  
13 or shall be deemed to be, pledged to the payment of any revenue  
14 bonds, or obligations of the Agency.

15 (e) Exemption from taxation. The creation of the Illinois  
16 Power Agency is in all respects for the benefit of the people  
17 of Illinois and for the improvement of their health, safety,  
18 welfare, comfort, and security, and its purposes are public  
19 purposes. In consideration thereof, the revenue bonds issued on  
20 behalf of the Agency pursuant to this Act and the income from  
21 these revenue bonds may be free from all taxation by the State  
22 or its political subdivisions, except for estate, transfer, and  
23 inheritance taxes. The exemption from taxation provided by the  
24 preceding sentence shall apply to the income on any revenue  
25 bonds issued on behalf of the Agency only if the Authority with  
26 concurrence of the Agency in its sole judgment determines that

1 the exemption enhances the marketability of the revenue bonds  
2 or reduces the interest rates that would otherwise be borne by  
3 the revenue bonds and that the project for which the revenue  
4 bonds will be issued will be owned by the Agency or another  
5 governmental entity and that the project is used for public  
6 consumption. For purposes of Section 250 of the Illinois Income  
7 Tax Act, the exemption of the Agency shall terminate after all  
8 of the revenue bonds have been paid. The amount of the income  
9 that shall be added and then subtracted on the Illinois income  
10 tax return of a taxpayer, subject to Section 203 of the  
11 Illinois Income Tax Act, from federal adjusted gross income or  
12 federal taxable income in computing Illinois base income shall  
13 be the interest net of any bond premium amortization.

14 (Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

15 Section 10. The Illinois Power Agency Act is amended by  
16 changing Sections 1-20, 1-45, and 1-57 as follows:

17 (20 ILCS 3855/1-20)

18 Sec. 1-20. General powers of the Agency.

19 (a) The Agency is authorized to do each of the following:

20 (1) Develop electricity procurement plans to ensure  
21 adequate, reliable, affordable, efficient, and  
22 environmentally sustainable electric service at the lowest  
23 total cost over time, taking into account any benefits of  
24 price stability, for electric utilities that on December

1 31, 2005 provided electric service to at least 100,000  
2 customers in Illinois. The procurement plans shall be  
3 updated on an annual basis and shall include electricity  
4 generated from renewable resources sufficient to achieve  
5 the standards specified in this Act.

6 (2) Conduct competitive procurement processes to  
7 procure the supply resources identified in the procurement  
8 plan, pursuant to Section 16-111.5 of the Public Utilities  
9 Act.

10 (3) Develop electric generation and co-generation  
11 facilities that use indigenous coal or renewable  
12 resources, or both, financed with bonds issued by the  
13 Illinois Finance Authority.

14 (4) If an electric generation facility is owned and  
15 operated by the Agency, then supply ~~Supply~~ electricity from  
16 the facility ~~Agency's facilities~~ at cost to one or more of  
17 the following: municipal electric systems, governmental  
18 aggregators, or rural electric cooperatives in Illinois.

19 (b) Except as otherwise limited by this Act, the Agency has  
20 all of the powers necessary or convenient to carry out the  
21 purposes and provisions of this Act, including without  
22 limitation, each of the following:

23 (1) To have a corporate seal, and to alter that seal at  
24 pleasure, and to use it by causing it or a facsimile to be  
25 affixed or impressed or reproduced in any other manner.

26 (2) To use the services of the Illinois Finance

1 Authority necessary to carry out the Agency's purposes.

2 (3) To negotiate and enter into loan agreements and  
3 other agreements with the Illinois Finance Authority.

4 (4) To obtain and employ personnel and hire consultants  
5 that are necessary to fulfill the Agency's purposes, and to  
6 make expenditures for that purpose within the  
7 appropriations for that purpose.

8 (5) To purchase, receive, take by grant, gift, devise,  
9 bequest, or otherwise, lease, or otherwise acquire, own,  
10 hold, improve, employ, use, and otherwise deal in and with,  
11 real or personal property whether tangible or intangible,  
12 or any interest therein, within the State.

13 (6) To acquire real or personal property, whether  
14 tangible or intangible, including without limitation  
15 property rights, interests in property, franchises,  
16 obligations, contracts, and debt and equity securities,  
17 and to do so by the exercise of the power of eminent domain  
18 in accordance with Section 1-21; except that any real  
19 property acquired by the exercise of the power of eminent  
20 domain must be located within the State.

21 (7) To sell, convey, lease, exchange, transfer,  
22 abandon, or otherwise dispose of, or mortgage, pledge, or  
23 create a security interest in, any of its assets,  
24 properties, or any interest therein, wherever situated.

25 (8) To purchase, take, receive, subscribe for, or  
26 otherwise acquire, hold, make a tender offer for, vote,

1 employ, sell, lend, lease, exchange, transfer, or  
2 otherwise dispose of, mortgage, pledge, or grant a security  
3 interest in, use, and otherwise deal in and with, bonds and  
4 other obligations, shares, or other securities (or  
5 interests therein) issued by others, whether engaged in a  
6 similar or different business or activity.

7 (9) To make and execute agreements, contracts, and  
8 other instruments necessary or convenient in the exercise  
9 of the powers and functions of the Agency under this Act,  
10 including contracts with any person, local government,  
11 State agency, or other entity; and all State agencies and  
12 all local governments are authorized to enter into and do  
13 all things necessary to perform any such agreement,  
14 contract, or other instrument with the Agency. No such  
15 agreement, contract, or other instrument shall exceed 40  
16 years.

17 (10) To lend money, invest and reinvest its funds in  
18 accordance with the Public Funds Investment Act, and take  
19 and hold real and personal property as security for the  
20 payment of funds loaned or invested.

21 (11) To borrow money at such rate or rates of interest  
22 as the Agency may determine, issue its notes, bonds, or  
23 other obligations to evidence that indebtedness, and  
24 secure any of its obligations by mortgage or pledge of its  
25 real or personal property, machinery, equipment,  
26 structures, fixtures, inventories, revenues, grants, and

1 other funds as provided or any interest therein, wherever  
2 situated.

3 (12) To enter into agreements with the Illinois Finance  
4 Authority to issue bonds whether or not the income  
5 therefrom is exempt from federal taxation.

6 (13) To procure insurance against any loss in  
7 connection with its properties or operations in such amount  
8 or amounts and from such insurers, including the federal  
9 government, as it may deem necessary or desirable, and to  
10 pay any premiums therefor.

11 (14) To negotiate and enter into agreements with  
12 trustees or receivers appointed by United States  
13 bankruptcy courts or federal district courts or in other  
14 proceedings involving adjustment of debts and authorize  
15 proceedings involving adjustment of debts and authorize  
16 legal counsel for the Agency to appear in any such  
17 proceedings.

18 (15) (Blank) ~~To file a petition under Chapter 9 of~~  
19 ~~Title 11 of the United States Bankruptcy Code or take other~~  
20 ~~similar action for the adjustment of its debts.~~

21 (16) To enter into management agreements for the  
22 operation of any of the property or facilities owned by the  
23 Agency.

24 (17) To enter into an agreement to transfer and to  
25 transfer any land, facilities, fixtures, or equipment of  
26 the Agency to one or more municipal electric systems,

1 governmental aggregators, or rural electric agencies or  
2 cooperatives, for such consideration and upon such terms as  
3 the Agency may determine to be in the best interest of the  
4 citizens of Illinois.

5 (18) To enter upon any lands and within any building  
6 whenever in its judgment it may be necessary for the  
7 purpose of making surveys and examinations to accomplish  
8 any purpose authorized by this Act.

9 (19) To maintain an office or offices at such place or  
10 places in the State as it may determine.

11 (20) To request information, and to make any inquiry,  
12 investigation, survey, or study that the Agency may deem  
13 necessary to enable it effectively to carry out the  
14 provisions of this Act.

15 (21) To accept and expend appropriations.

16 (22) To engage in any activity or operation that is  
17 incidental to and in furtherance of efficient operation to  
18 accomplish the Agency's purposes.

19 (23) To adopt, revise, amend, and repeal rules with  
20 respect to its operations, properties, and facilities as  
21 may be necessary or convenient to carry out the purposes of  
22 this Act, subject to the provisions of the Illinois  
23 Administrative Procedure Act and Sections 1-22 and 1-35 of  
24 this Act.

25 (24) To establish and collect charges and fees as  
26 described in this Act.

1           (25) To manage procurement of substitute natural gas  
2           from a facility that meets the criteria specified in  
3           subsection (a) of Section 1-58 ~~1-56~~ of this Act, on terms  
4           and conditions that may be approved by the Agency pursuant  
5           to subsection (d) of Section 1-58 ~~1-56~~ of this Act, to  
6           support the operations of State agencies and local  
7           governments that agree to such terms and conditions. This  
8           procurement process is not subject to the Procurement Code.  
9           (Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09;  
10          revised 10-13-09.)

11           (20 ILCS 3855/1-45)

12           Sec. 1-45. Illinois Power Agency Facilities Fund.

13           (a) The Illinois Power Agency Facilities Fund is created as  
14           a special fund in the State treasury.

15           (b) The Illinois Power Agency Facilities Fund shall be  
16           administered by the Agency for costs incurred in connection  
17           with the development and construction of a facility by the  
18           Agency as well as costs incurred in connection with the  
19           operation and maintenance of an Agency facility.

20           (c) (Blank) ~~All moneys used by the Agency from the Illinois~~  
21 ~~Power Agency Facilities Fund are subject to appropriation by~~  
22 ~~the General Assembly.~~

23           (d) (Blank) ~~All disbursements from the Illinois Power~~  
24 ~~Agency Facilities Fund shall be made only upon warrants of the~~  
25 ~~State Comptroller drawn upon the State Treasurer as custodian~~



1 ~~of the Fund upon vouchers signed by the Director or by the~~  
2 ~~person or persons designated by the Director for that purpose.~~  
3 ~~The Comptroller is authorized to draw the warrant upon vouchers~~  
4 ~~so signed. The State Treasurer shall accept all warrants so~~  
5 ~~signed and shall be released from liability for all payments~~  
6 ~~made on those warrants.~~

7 (Source: P.A. 95-481, eff. 8-28-07.)

8 (20 ILCS 3855/1-57)

9 Sec. 1-57. Facility financing.

10 (a) The Agency shall have the power (1) to borrow from the  
11 Authority, through one or more Agency loan agreements, the net  
12 proceeds of revenue bonds for costs incurred in connection with  
13 the development and construction of a facility, provided that  
14 the stated maturity date of any of those revenue bonds shall  
15 not exceed 40 years from their respective issuance dates, (2)  
16 to accept prepayments from purchasers of electric energy from a  
17 project and to apply the same to costs incurred in connection  
18 with the development and construction of a facility, subject to  
19 any obligation to refund the same under the circumstances  
20 specified in the purchasers' contract for the purchase and sale  
21 of electric energy from that project, (3) to enter into leases  
22 or similar arrangements to finance the property constituting a  
23 part of a project and associated costs incurred in connection  
24 with the development and construction of a facility, provided  
25 that the term of any such lease or similar arrangement shall

1 not exceed 40 years from its inception, and (4) to enter into  
2 agreements for the sale of revenue bonds that bear interest at  
3 a rate or rates not exceeding the maximum rate permitted by the  
4 Bond Authorization Act. ~~All Agency loan agreements shall  
5 include terms making the obligations thereunder subject to  
6 redemption before maturity.~~

7 (b) The Agency may from time to time engage the services of  
8 the Authority, attorneys, appraisers, architects, engineers,  
9 accountants, credit analysts, bond underwriters, bond  
10 trustees, credit enhancement providers, and other financial  
11 professionals and consultants, if the Agency deems it  
12 advisable.

13 (c) The Agency may pledge, as security for the payment of  
14 its revenue bonds in respect of a project, (1) revenues derived  
15 from the operation of the project in whole or in part,  
16 including moneys derived from any power purchase agreements  
17 that require the power purchaser to make payments whether or  
18 not the project is operating or operable ~~revenues derived from~~  
19 ~~the operation of the project in part or whole,~~ (2) the real and  
20 personal property, machinery, equipment, structures, fixtures,  
21 and inventories directly associated with the project, (3)  
22 grants or other revenues or taxes expected to be received by  
23 the Agency directly linked to the project, (4) payments to be  
24 made by another governmental unit or other entity pursuant to a  
25 service, user, or other similar agreement with that  
26 governmental unit or other entity that is a result of the

1 project, (5) any other revenues or moneys deposited or to be  
2 deposited directly linked to the project, (6) all design,  
3 engineering, procurement, construction, installation,  
4 management, and operation agreements associated with the  
5 project, (7) any reserve or debt service funds created under  
6 the agreements governing the indebtedness, (8) the Illinois  
7 Power Agency Facilities Fund or the Illinois Power Agency Debt  
8 Service Fund, (9) moneys derived from any power purchase  
9 agreements or arrangements, or (10) ~~(9)~~ any combination  
10 thereof. Any such pledge shall be authorized in a writing,  
11 signed by the Director of the Agency, and then signed by the  
12 Governor of Illinois. At no time shall the funds contained in  
13 the Illinois Power Agency Trust Fund be pledged or used in any  
14 way to pay for the indebtedness of the Agency. The Director  
15 shall not authorize the issuance or grant of any pledge until  
16 he or she has certified that any associated project or proposed  
17 project is or will be in full compliance with Sections 1-85  
18 and 1-86 of this Act. The certification shall be duly attached  
19 or referenced in the agreements reflecting the pledge. Any such  
20 pledge made by the Agency shall be valid and binding from the  
21 time the pledge is made. The revenues, property, or funds that  
22 are pledged and thereafter received by the Agency shall  
23 immediately be subject to the lien of the pledge without any  
24 physical delivery thereof or further act; and, subject only to  
25 the provisions of prior liens, the lien of the pledge shall be  
26 valid and binding as against all parties having claims of any

1 kind in tort, contract, or otherwise against the Agency  
2 irrespective of whether the parties have notice thereof. All  
3 bonds issued on behalf of the Agency must be issued by the  
4 Authority and must be revenue bonds. These revenue bonds may be  
5 taxable or tax-exempt.

6 (d) All indebtedness issued by or on behalf of the Agency,  
7 including, without limitation, any revenue bonds issued by the  
8 Authority on behalf of the Agency, shall not be a debt of the  
9 State, the Authority, any political subdivision thereof (other  
10 than the Agency to the extent provided in agreements governing  
11 the indebtedness), any local government, any governmental  
12 aggregator as defined in the this Act, or any local government,  
13 and none of the State, the Authority, any political subdivision  
14 thereof (other than the Agency to the extent provided in  
15 agreements governing the indebtedness), any local government,  
16 or any government aggregator shall be liable thereon. Neither  
17 the Authority nor the Agency shall have the power to pledge the  
18 credit, the revenues, or the taxing power of the State, any  
19 political subdivision thereof (other than the Agency), any  
20 governmental aggregator, or of any local government, and  
21 neither the credit, the revenues, nor the taxing power of the  
22 State, any political subdivision thereof (other than the  
23 Agency), any governmental aggregator, or any local government  
24 shall be, or shall be deemed to be, pledged to the payment of  
25 any revenue bonds, notes, or other obligations of the Agency.  
26 In addition, the agreements governing any issue of indebtedness

1 shall provide that all holders of that indebtedness, by virtue  
2 of their acquisition thereof, have agreed to waive and release  
3 all claims and causes of action against the State of Illinois  
4 in respect of the indebtedness or any project associated  
5 therewith based on any theory of law. However, the waiver shall  
6 not prohibit the holders of indebtedness issued on behalf of  
7 the Agency from filing any cause of action against or  
8 recovering damages from the Agency, recovering from any  
9 property or funds pledged to secure the indebtedness, or  
10 recovering from any property or funds to which the Agency holds  
11 title, provided the property or funds are directly associated  
12 with the project for which the indebtedness was specifically  
13 issued. Each evidence of indebtedness of the Agency, including  
14 the revenue bonds issued by the Authority on behalf of the  
15 Agency, shall contain a clear and explicit statement of the  
16 provisions of this Section.

17 (e) The Agency may from time to time enter into an  
18 agreement or agreements to defease indebtedness issued on its  
19 behalf or to refund, at maturity, at a redemption date or in  
20 advance of either, any indebtedness issued on its behalf or  
21 pursuant to redemption provisions or at any time before  
22 maturity. All such refunding indebtedness shall be subject to  
23 the requirements set forth in subsections (a), (c), and (d) of  
24 this Section. Any refunding bond shall mature no later than 40  
25 years after the original issuance of capital improvements bonds  
26 that financed the project. ~~No revenue bonds issued to refund or~~

1 ~~advance refund revenue bonds issued under this Section may~~  
2 ~~mature later than the longest maturity date of the series of~~  
3 ~~bonds being refunded. After the aggregate original principal~~  
4 ~~amount of revenue bonds authorized in this Section has been~~  
5 ~~issued, the payment of any principal amount of those revenue~~  
6 ~~bonds does not authorize the issuance of additional revenue~~  
7 ~~bonds (except refunding revenue bonds).~~

8 (f) If the Agency fails to pay the principal of, interest,  
9 or premium, if any, on any indebtedness as the same becomes  
10 due, a civil action to compel payment may be instituted in the  
11 appropriate circuit court by the holder or holders of the  
12 indebtedness on which the default of payment exists or by any  
13 administrative agent, collateral agent, or indenture trustee  
14 acting on behalf of those holders. Delivery of a summons and a  
15 copy of the complaint to the Director of the Agency shall  
16 constitute sufficient service to give the circuit court  
17 jurisdiction over the subject matter of the suit and  
18 jurisdiction over the Agency and its officers named as  
19 defendants for the purpose of compelling that payment. Any  
20 case, controversy, or cause of action concerning the validity  
21 of this Act shall relate to the revenue of the Agency. Any such  
22 claims and related proceedings are subject in all respects to  
23 the provisions of subsection (d) of this Section. The State of  
24 Illinois shall not be liable or in any other way financially  
25 responsible for any indebtedness issued by or on behalf of the  
26 Agency or the performance or non-performance of any covenants

1 associated with any such indebtedness. The foregoing statement  
2 shall not prohibit the holders of any indebtedness issued on  
3 behalf of the Agency from filing any cause of action against or  
4 recovering damages from the Agency recovering from any property  
5 pledged to secure that indebtedness or recovering from any  
6 property or funds to which the Agency holds title provided such  
7 property or funds are directly associated with the project for  
8 which the indebtedness is specifically issued.

9 (g) Upon each delivery of the revenue bonds authorized to  
10 be issued by the Authority under this Act, the Agency shall  
11 compute and certify to the State Comptroller the total amount  
12 of principal of and interest on the Agency loan agreement  
13 supporting the revenue bonds issued that will be payable in  
14 order to retire those revenue bonds and the amount of principal  
15 of and interest on the Agency loan agreement that will be  
16 payable on each payment date during the then current and each  
17 succeeding fiscal year. ~~As soon as possible after the first day~~  
18 ~~of each month, beginning on the date set forth in the Agency~~  
19 ~~loan agreement where that date specifies when the Agency shall~~  
20 ~~begin setting aside revenues and other moneys for repayment of~~  
21 ~~the revenue bonds per the agreed to schedule, the Agency shall~~  
22 ~~certify to the Comptroller and the Comptroller shall order~~  
23 ~~transferred and the Treasurer shall transfer from the Illinois~~  
24 ~~Power Agency Facilities Fund to the Illinois Power Agency Debt~~  
25 ~~Service Fund for each month remaining in the State fiscal year~~  
26 ~~a sum of money, appropriated for that purpose, equal to the~~

1 ~~result of the amount of principal of and interest on those~~  
2 ~~revenue bonds payable on the next payment date divided by the~~  
3 ~~number of full calendar months between the date of those~~  
4 ~~revenue bonds, and the first such payment date, and thereafter~~  
5 ~~divided by the number of months between each succeeding payment~~  
6 ~~date after the first. The Comptroller is authorized and~~  
7 ~~directed to draw warrants on the State Treasurer from the~~  
8 ~~Illinois Power Agency Facilities Fund and the Illinois Power~~  
9 ~~Agency Debt Service Fund for the amount of all payments of~~  
10 ~~principal and interest on the Agency loan agreement relating to~~  
11 ~~the Authority revenue bonds issued under this Act. The State~~  
12 ~~Treasurer or the State Comptroller shall deposit or cause to be~~  
13 ~~deposited any amount of grants or other revenues expected to be~~  
14 ~~received by the Agency that the Agency has pledged to the~~  
15 ~~payment of revenue bonds directly into the Illinois Power~~  
16 ~~Agency Debt Service Fund.~~

17 (h) The State of Illinois pledges to and agrees with the  
18 holders of the bonds and notes of the Agency and the Illinois  
19 Finance Authority issued pursuant to this Act or the Illinois  
20 Finance Authority Act that the State will not limit or alter  
21 the rights and powers vested in the Agency or the Authority by  
22 this Act so as to impair the terms of any contract made by the  
23 Agency with such holders or in any way impair the rights and  
24 remedies of such holders until such bonds and notes, together  
25 with interest thereon, with interest on any unpaid installments  
26 of interest, and all costs and expenses in connection with any



1 action or proceedings by or on behalf of such holders, are  
2 fully met and discharged. In addition, the State pledges to and  
3 agrees with the holders of the bonds and notes of the Agency  
4 and the Authority issued pursuant to this Act that the State  
5 will not limit or alter the basis on which State funds are to  
6 be allocated, deposited, and paid to the Agency as provided in  
7 this Act, or the use of such funds, so as to impair the terms of  
8 any such contract. The Authority and the Agency are authorized  
9 to include these pledges and agreements of the State in any  
10 contract with the holders of bonds or notes issued pursuant to  
11 this Section.

12 (Source: P.A. 95-481, eff. 8-28-07.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law."