



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3205

Introduced 2/9/2010, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

15 ILCS 405/10.05c new
20 ILCS 3501/845-5
20 ILCS 3501/Art. 841 heading new
20 ILCS 3501/841-5 new
20 ILCS 3501/841-10 new
20 ILCS 3501/841-15 new
20 ILCS 3501/841-20 new
20 ILCS 3501/841-25 new
20 ILCS 3501/841-30 new
20 ILCS 3501/841-35 new
20 ILCS 3501/841-40 new
20 ILCS 3501/841-45 new
30 ILCS 105/5.756 new
30 ILCS 105/6z-82 new
35 ILCS 130/2 from Ch. 120, par. 453.2

Amends the Illinois Finance Authority Act and the State Finance Act. Provides that the Illinois Finance Authority must establish a financially distressed provider revolving loan program. Provides that the Authority may issue bonds in an aggregate principal amount not to exceed \$300,000,000 for the purpose of providing short-term, no-interest loans to qualified health care and human services providers. Provides that certain amounts shall be transferred from cigarette tax receipts into the Financially Distressed Provider Debt Service Fund, and amends the State Finance Act to create the Financially Distressed Provider Debt Service Fund. Amends the Cigarette Tax Act to make conforming changes. Amends the State Comptroller Act to provide that delinquent loan amounts may be offset from warrants. Effective immediately.

LRB096 20029 RCE 35527 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The State Comptroller Act is amended by adding
5 Section 10.05c as follows:

6 (15 ILCS 405/10.05c new)

7 Sec. 10.05c. Deduction from warrants and payments for
8 satisfaction of delinquent provider loans under Article 841 of
9 the Illinois Finance Authority Act. At the direction of the
10 Illinois Finance Authority, the Comptroller shall deduct from a
11 warrant or other payment described in Section 10.05 of this
12 Act, in accordance with the procedures provided in that
13 Section, and pay over to the Illinois Finance Authority the
14 amount certified as necessary to satisfy, in whole or in part,
15 delinquent or defaulted amounts due and owing from a borrower
16 on any loan entered into under Section 841-15 of the Illinois
17 Finance Authority Act. The Comptroller shall provide the
18 Authority with the address to which the warrant or other
19 payment was to be mailed.

20 Section 10. The Illinois Finance Authority Act is amended
21 by changing Section 845-5 and by adding Article 841 as follows:

1 (20 ILCS 3501/845-5)

2 Sec. 845-5. Bond limitations.

3 (a) The Authority may not have outstanding at any one time
4 bonds for any of its corporate purposes in an aggregate
5 principal amount exceeding \$28,150,000,000, excluding bonds
6 issued to refund the bonds of the Authority, ~~or~~ bonds of the
7 Predecessor Authorities, and bonds issued under Article 841 of
8 this Act.

9 (b) The Authority may not have outstanding at any one time
10 revenue bonds in an aggregate principal amount exceeding
11 \$4,000,000,000 on behalf of the Illinois Power Agency as set
12 forth in Section 825-90. Any such revenue bonds issued on
13 behalf of the Illinois Power Agency pursuant to this Act shall
14 not be counted against the bond authorization limit set forth
15 in subsection (a).

16 (Source: P.A. 94-1068, eff. 8-1-06; 95-481, eff. 8-28-07;
17 95-697, eff. 11-6-07; 95-876, eff. 8-21-08; 95-879, eff.
18 8-21-08.)

19 (20 ILCS 3501/Art. 841 heading new)

20 ARTICLE 841

21 FINANCIALLY DISTRESSED PROVIDERS

22 (20 ILCS 3501/841-5 new)

23 Sec. 841-5. Definitions. In this Article, except where the
24 context clearly requires otherwise:

1 (a) "Costs of issuance" means all reasonable costs incurred
2 in connection with the issuance of the bonds including, but not
3 limited to, legal and accounting fees and expenses, printing
4 expenses, financial consultants' fees, financing charges
5 (including underwriting and placement fees and discounts),
6 printing costs, costs incurred in connection with public
7 approvals, fees and expenses associated with obtaining a rating
8 on the bonds, costs for the preparation of any disclosure
9 document and other documents necessary for the issuance of the
10 bonds, and fees of trustees, paying agents, and other
11 fiduciaries.

12 (b) "Director" means the Director of the Governor's Office
13 of Management and Budget.

14 (c) "Financially distressed provider" means a health care
15 or human services provider that has received significant
16 amounts of funding from the State in the past, but is
17 experiencing financial difficulties or cash flow problems
18 because of inadequate or untimely State funding.

19 (d) "Financially Distressed Provider Debt Service Fund"
20 means the special fund created in the State treasury under the
21 State Finance Act.

22 (20 ILCS 3501/841-10 new)

23 Sec. 841-10. Financially distressed provider loan program;
24 findings and declaration of policy. The General Assembly finds
25 and declares that health care and human services providers in

1 the State of Illinois are currently experiencing serious and
2 sustained financial problems. These financial problems are
3 most severe for a group of health and human services providers
4 who receive significant amounts of funding from the State of
5 Illinois. The financial difficulties being experienced by this
6 group of health care and human services providers has been
7 significantly worsened as a result of failure by the State of
8 Illinois to provide adequate funding to support essential
9 programs and services and by the State's failure to make timely
10 payment of amounts appropriated for payment to these providers.
11 These institutions provide essential health care and human
12 services for the people of the State of Illinois. The ability
13 of these entities effectively to carry out their mission and to
14 provide these essential services, however, is being
15 significantly hampered by these financial problems.

16 (20 ILCS 3501/841-15 new)

17 Sec. 841-15. Revolving loan fund. The Authority shall
18 establish a financially distressed provider revolving loan
19 fund. The proceeds from any series of bonds issued under this
20 Article must be deposited into the fund. Qualified providers
21 may apply for short-term, zero-interest loans from the fund
22 only for the purpose of meeting the providers' operations and
23 service-related obligations. Loans shall be administered by
24 the Authority, but no loan may exceed \$200,000.

25 For the purpose of this Section, the term "qualified

1 provider" means a participating health care or human services
2 provider that demonstrates, to the reasonable written
3 satisfaction of the Director, that, for its last 3 fiscal years
4 for which audited financial statements have been prepared,
5 State funding accounted for an annual average of at least 40%
6 of its operating revenues.

7 If appropriations from the Financially Distressed Provider
8 Debt Service Fund are insufficient to cover the debt service
9 requirements on bonds issued under this Article, then moneys in
10 the financially distressed provider revolving loan fund shall
11 also be used for debt service purposes.

12 (20 ILCS 3501/841-20 new)

13 Sec. 841-20. Issuance of bonds. The Authority may issue its
14 bonds in an aggregate principal amount not to exceed
15 \$300,000,000 for the purpose of providing short-term,
16 zero-interest loans to qualified providers as provided in this
17 Article.

18 Unless specifically approved in writing by the Director,
19 costs of issuance for each issue of bonds may not exceed one
20 and one-half percent of the principal amount of the proceeds of
21 sale of each issue of bonds.

22 If any bonds are to be sold by negotiated sale, the
23 Authority, in consultation with the Director, must comply with
24 the competitive request for proposal process set forth in the
25 Illinois Procurement Code and all other applicable

1 requirements of that Code.

2 (20 ILCS 3501/841-25 new)

3 Sec. 841-25. Nature of bonds. All bonds issued under this
4 Article shall be limited obligations of the State of Illinois
5 payable from: (i) amounts appropriated to the Authority from
6 the Financially Distressed Provider Debt Service Fund, (ii) the
7 financially distressed provider revolving loan fund, and (ii)
8 amounts in any fund or account maintained pursuant to any
9 indenture or resolution securing those bonds to the extent
10 provided in the indenture or resolution. The bonds are not
11 general obligations of the State of Illinois and are not
12 secured by the full faith and credit of the State of Illinois,
13 and the holders of the bonds may not require the levy or
14 imposition of any taxes or the application of State revenues,
15 other than amounts appropriated from the Financially
16 Distressed Provider Debt Service Fund, to the payment of the
17 bonds. Each bond shall describe the limited nature of the
18 State's obligation on the face of the bond.

19 (20 ILCS 3501/841-30 new)

20 Sec. 841-30. Actions to compel payment. If the State fails
21 to appropriate required amounts from the Financially
22 Distressed Provider Debt Service Fund to the Authority, as
23 provided in Section 6z-82 of the State Finance Act, or fails to
24 make transfers from cigarette tax receipts to the Financially

1 Distressed Provider Debt Service Fund, as provided in Section
2 6z-82 of the State Finance Act, a civil action to compel that
3 appropriation or transfer may be instituted in the Circuit
4 Court of Sangamon County by the holder or holders of the bonds
5 issued under this Article. Delivery of a summons and a copy of
6 the complaint to the Attorney General constitutes sufficient
7 service to give the Circuit Court of Sangamon County
8 jurisdiction of the subject matter of such a suit and
9 jurisdiction over the State and its officers named as
10 defendants for the purpose of compelling the transfer.

11 (20 ILCS 3501/841-35 new)

12 Sec. 841-35. Covenants with bondholders. The State of
13 Illinois irrevocably covenants and agrees with the holders of
14 bonds issued under this Article that the State will not alter
15 or limit: (i) the basis on which transfers are required to be
16 made from cigarette tax receipts to the Distressed Provider
17 Debt Service Fund, pursuant to Section 6z-82 of the State
18 Finance Act; (ii) the basis on which appropriations are
19 required to be made from the Distressed Provider Debt Service
20 Fund to the Authority; or (iii) the provisions of this Act or
21 the State Finance Act so as to impair, in any of the foregoing
22 respects, the obligations of contract incurred in favor of the
23 holders of bonds issued under this Article. The covenant and
24 agreement set forth in this Section may be included in a trust
25 indenture, resolution, or bond issued under this Article.

1 (20 ILCS 3501/841-40 new)

2 Sec. 841-40. Tax exemption. The exercise of the powers
3 granted in this Article are in all respects for the benefit of
4 the people of Illinois. In consideration of that benefit, the
5 bonds issued under this Article and the income from those bonds
6 are free from all taxation by the State or its political
7 subdivisions, except for estate, transfer, and inheritance
8 taxes. For purposes of Section 250 of the Illinois Income Tax
9 Act, the exemption of the income from bonds issued under those
10 Sections terminates after all of the bonds have been fully
11 paid. The amount of that income to be added to and then
12 subtracted from federal adjusted gross income or federal
13 taxable income on the Illinois income tax return of a taxpayer,
14 as provided in Section 203 of the Illinois Income Tax Act, in
15 computing Illinois base income shall be the interest net of any
16 bond premium amortization.

17 (20 ILCS 3501/841-45 new)

18 Sec. 841-45. Generally applicable provisions. Except as
19 specifically provided for in this Article, all bonds issued
20 under this Article are subject to this Act in the same manner
21 and to the same extent as other bonds issued under this Act.

22 Section 15. The State Finance Act is amended by adding
23 Sections 5.756 and 6z-82 as follows:

1 (30 ILCS 105/5.756 new)

2 Sec. 5.756. The Financially Distressed Provider Debt
3 Service Fund.

4 (30 ILCS 105/6z-82 new)

5 Sec. 6z-82. Financially Distressed Provider Debt Service
6 Fund.

7 (a) The Financially Distressed Provider Debt Service Fund
8 is created as a special fund in the State treasury. Amounts in
9 the Fund shall be appropriated to the Illinois Finance
10 Authority for the purpose of paying its debt service
11 obligations with respect to bonds issued under Article 841 of
12 the Illinois Finance Authority Act.

13 (b) Beginning with the first month to occur not less than
14 30 days after the effective date of this amendatory Act of the
15 96th General Assembly, and on the first day of each month
16 thereafter, the Director of the Governor's Office of Management
17 and Budget shall certify to the State Treasurer and the State
18 Comptroller the debt service reserve requirement actually
19 established in connection with all bonds issued under Article
20 841 of the Illinois Finance Authority Act. The State
21 Comptroller shall direct and the State Treasurer shall transfer
22 the amount certified from cigarette tax receipts, as provided
23 in Section 2 of the Cigarette Tax Act, to the Financially
24 Distressed Provider Debt Service Fund.

1 Section 20. The Cigarette Tax Act is amended by changing
2 Section 2 as follows:

3 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

4 Sec. 2. Tax imposed; rate; collection, payment, and
5 distribution; discount.

6 (a) A tax is imposed upon any person engaged in business as
7 a retailer of cigarettes in this State at the rate of 5 1/2
8 mills per cigarette sold, or otherwise disposed of in the
9 course of such business in this State. In addition to any other
10 tax imposed by this Act, a tax is imposed upon any person
11 engaged in business as a retailer of cigarettes in this State
12 at a rate of 1/2 mill per cigarette sold or otherwise disposed
13 of in the course of such business in this State on and after
14 January 1, 1947, and shall be paid into the Metropolitan Fair
15 and Exposition Authority Reconstruction Fund or as otherwise
16 provided in Section 29. On and after December 1, 1985, in
17 addition to any other tax imposed by this Act, a tax is imposed
18 upon any person engaged in business as a retailer of cigarettes
19 in this State at a rate of 4 mills per cigarette sold or
20 otherwise disposed of in the course of such business in this
21 State. Of the additional tax imposed by this amendatory Act of
22 1985, \$9,000,000 of the moneys received by the Department of
23 Revenue pursuant to this Act shall be paid each month into the
24 Common School Fund. On and after the effective date of this

1 amendatory Act of 1989, in addition to any other tax imposed by
2 this Act, a tax is imposed upon any person engaged in business
3 as a retailer of cigarettes at the rate of 5 mills per
4 cigarette sold or otherwise disposed of in the course of such
5 business in this State. On and after the effective date of this
6 amendatory Act of 1993, in addition to any other tax imposed by
7 this Act, a tax is imposed upon any person engaged in business
8 as a retailer of cigarettes at the rate of 7 mills per
9 cigarette sold or otherwise disposed of in the course of such
10 business in this State. On and after December 15, 1997, in
11 addition to any other tax imposed by this Act, a tax is imposed
12 upon any person engaged in business as a retailer of cigarettes
13 at the rate of 7 mills per cigarette sold or otherwise disposed
14 of in the course of such business of this State. All of the
15 moneys received by the Department of Revenue pursuant to this
16 Act and the Cigarette Use Tax Act from the additional taxes
17 imposed by this amendatory Act of 1997, shall be paid each
18 month into the Common School Fund. On and after July 1, 2002,
19 in addition to any other tax imposed by this Act, a tax is
20 imposed upon any person engaged in business as a retailer of
21 cigarettes at the rate of 20.0 mills per cigarette sold or
22 otherwise disposed of in the course of such business in this
23 State. The payment of such taxes shall be evidenced by a stamp
24 affixed to each original package of cigarettes, or an
25 authorized substitute for such stamp imprinted on each original
26 package of such cigarettes underneath the sealed transparent

1 outside wrapper of such original package, as hereinafter
2 provided. However, such taxes are not imposed upon any activity
3 in such business in interstate commerce or otherwise, which
4 activity may not under the Constitution and statutes of the
5 United States be made the subject of taxation by this State.

6 Beginning on the effective date of this amendatory Act of
7 the 92nd General Assembly and through June 30, 2006, all of the
8 moneys received by the Department of Revenue pursuant to this
9 Act and the Cigarette Use Tax Act, other than the moneys that
10 are dedicated to the Common School Fund, shall be distributed
11 each month as follows: first, there shall be paid into the
12 General Revenue Fund an amount which, when added to the amount
13 paid into the Common School Fund for that month, equals
14 \$33,300,000, except that in the month of August of 2004, this
15 amount shall equal \$83,300,000; then, from the moneys
16 remaining, if any amounts required to be paid into the General
17 Revenue Fund in previous months remain unpaid, those amounts
18 shall be paid into the General Revenue Fund; then, beginning on
19 April 1, 2003, from the moneys remaining, \$5,000,000 per month
20 shall be paid into the School Infrastructure Fund; then, from
21 the moneys remaining, all untransferred amounts certified
22 under Section 6z-82 of the State Finance Act shall be paid into
23 the Financially Distressed Provider Debt Service Fund; then, if
24 any amounts required to be paid into the School Infrastructure
25 Fund in previous months remain unpaid, those amounts shall be
26 paid into the School Infrastructure Fund; then the moneys

1 remaining, if any, shall be paid into the Long-Term Care
2 Provider Fund. To the extent that more than \$25,000,000 has
3 been paid into the General Revenue Fund and Common School Fund
4 per month for the period of July 1, 1993 through the effective
5 date of this amendatory Act of 1994 from combined receipts of
6 the Cigarette Tax Act and the Cigarette Use Tax Act,
7 notwithstanding the distribution provided in this Section, the
8 Department of Revenue is hereby directed to adjust the
9 distribution provided in this Section to increase the next
10 monthly payments to the Long Term Care Provider Fund by the
11 amount paid to the General Revenue Fund and Common School Fund
12 in excess of \$25,000,000 per month and to decrease the next
13 monthly payments to the General Revenue Fund and Common School
14 Fund by that same excess amount.

15 Beginning on July 1, 2006, all of the moneys received by
16 the Department of Revenue pursuant to this Act and the
17 Cigarette Use Tax Act, other than the moneys that are dedicated
18 to the Common School Fund, shall be distributed each month as
19 follows: first, there shall be paid into the General Revenue
20 Fund an amount that, when added to the amount paid into the
21 Common School Fund for that month, equals \$29,200,000; then,
22 from the moneys remaining, if any amounts required to be paid
23 into the General Revenue Fund in previous months remain unpaid,
24 those amounts shall be paid into the General Revenue Fund; then
25 from the moneys remaining, \$5,000,000 per month shall be paid
26 into the School Infrastructure Fund; then, if any amounts

1 required to be paid into the School Infrastructure Fund in
2 previous months remain unpaid, those amounts shall be paid into
3 the School Infrastructure Fund; then the moneys remaining, if
4 any, shall be paid into the Long-Term Care Provider Fund.

5 When any tax imposed herein terminates or has terminated,
6 distributors who have bought stamps while such tax was in
7 effect and who therefore paid such tax, but who can show, to
8 the Department's satisfaction, that they sold the cigarettes to
9 which they affixed such stamps after such tax had terminated
10 and did not recover the tax or its equivalent from purchasers,
11 shall be allowed by the Department to take credit for such
12 absorbed tax against subsequent tax stamp purchases from the
13 Department by such distributor.

14 The impact of the tax levied by this Act is imposed upon
15 the retailer and shall be prepaid or pre-collected by the
16 distributor for the purpose of convenience and facility only,
17 and the amount of the tax shall be added to the price of the
18 cigarettes sold by such distributor. Collection of the tax
19 shall be evidenced by a stamp or stamps affixed to each
20 original package of cigarettes, as hereinafter provided.

21 Each distributor shall collect the tax from the retailer at
22 or before the time of the sale, shall affix the stamps as
23 hereinafter required, and shall remit the tax collected from
24 retailers to the Department, as hereinafter provided. Any
25 distributor who fails to properly collect and pay the tax
26 imposed by this Act shall be liable for the tax. Any

1 distributor having cigarettes to which stamps have been affixed
2 in his possession for sale on the effective date of this
3 amendatory Act of 1989 shall not be required to pay the
4 additional tax imposed by this amendatory Act of 1989 on such
5 stamped cigarettes. Any distributor having cigarettes to which
6 stamps have been affixed in his or her possession for sale at
7 12:01 a.m. on the effective date of this amendatory Act of
8 1993, is required to pay the additional tax imposed by this
9 amendatory Act of 1993 on such stamped cigarettes. This
10 payment, less the discount provided in subsection (b), shall be
11 due when the distributor first makes a purchase of cigarette
12 tax stamps after the effective date of this amendatory Act of
13 1993, or on the first due date of a return under this Act after
14 the effective date of this amendatory Act of 1993, whichever
15 occurs first. Any distributor having cigarettes to which stamps
16 have been affixed in his possession for sale on December 15,
17 1997 shall not be required to pay the additional tax imposed by
18 this amendatory Act of 1997 on such stamped cigarettes.

19 Any distributor having cigarettes to which stamps have been
20 affixed in his or her possession for sale on July 1, 2002 shall
21 not be required to pay the additional tax imposed by this
22 amendatory Act of the 92nd General Assembly on those stamped
23 cigarettes.

24 The amount of the Cigarette Tax imposed by this Act shall
25 be separately stated, apart from the price of the goods, by
26 both distributors and retailers, in all advertisements, bills

1 and sales invoices.

2 (b) The distributor shall be required to collect the taxes
3 provided under paragraph (a) hereof, and, to cover the costs of
4 such collection, shall be allowed a discount during any year
5 commencing July 1st and ending the following June 30th in
6 accordance with the schedule set out hereinbelow, which
7 discount shall be allowed at the time of purchase of the stamps
8 when purchase is required by this Act, or at the time when the
9 tax is remitted to the Department without the purchase of
10 stamps from the Department when that method of paying the tax
11 is required or authorized by this Act. Prior to December 1,
12 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
13 and including the first \$700,000 paid hereunder by such
14 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
15 the next \$700,000 of tax or any part thereof, paid hereunder by
16 such distributor to the Department during any such year; 1% of
17 the next \$700,000 of tax, or any part thereof, paid hereunder
18 by such distributor to the Department during any such year, and
19 $\frac{2}{3}$ of 1% of the amount of any additional tax paid hereunder by
20 such distributor to the Department during any such year shall
21 apply. On and after December 1, 1985, a discount equal to 1.75%
22 of the amount of the tax payable under this Act up to and
23 including the first \$3,000,000 paid hereunder by such
24 distributor to the Department during any such year and 1.5% of
25 the amount of any additional tax paid hereunder by such
26 distributor to the Department during any such year shall apply.

1 Two or more distributors that use a common means of
2 affixing revenue tax stamps or that are owned or controlled by
3 the same interests shall be treated as a single distributor for
4 the purpose of computing the discount.

5 (c) The taxes herein imposed are in addition to all other
6 occupation or privilege taxes imposed by the State of Illinois,
7 or by any political subdivision thereof, or by any municipal
8 corporation.

9 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
10 eff. 6-6-06.)

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