

1 AN ACT concerning public utilities.

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

4 Section 5. The Illinois Power Agency Act is amended by  
5 changing Section 1-56 as follows:

6 (20 ILCS 3855/1-56)

7 Sec. 1-56. Illinois Power Agency Renewable Energy  
8 Resources Fund.

9 (a) The Illinois Power Agency Renewable Energy Resources  
10 Fund is created as a special fund in the State treasury.

11 (b) The Illinois Power Agency Renewable Energy Resources  
12 Fund shall be administered by the Agency to procure renewable  
13 energy resources. Prior to June 1, 2011, resources procured  
14 pursuant to this Section shall be procured from facilities  
15 located in Illinois, provided the resources are available from  
16 those facilities. If resources are not available in Illinois,  
17 then they shall be procured in states that adjoin Illinois. If  
18 resources are not available in Illinois or in states that  
19 adjoin Illinois, then they may be purchased elsewhere.  
20 Beginning June 1, 2011, resources procured pursuant to this  
21 Section shall be procured from facilities located in Illinois  
22 or states that adjoin Illinois. If resources are not available  
23 in Illinois or in states that adjoin Illinois, then they may be

1 procured elsewhere. To the extent available, at least 75% of  
2 these renewable energy resources shall come from wind  
3 generation. Of the renewable energy resources procured  
4 pursuant to this Section at least the following specified  
5 percentages shall come from photovoltaics on the following  
6 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by  
7 June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the  
8 renewable energy resources procured pursuant to this Section,  
9 at least the following percentages shall come from distributed  
10 renewable energy generation devices: 0.5% by June 1, 2013,  
11 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.  
12 To the extent available, half of the renewable energy resources  
13 procured from distributed renewable energy generation shall  
14 come from devices of less than 25 kilowatts in nameplate  
15 capacity. Renewable energy resources procured from distributed  
16 generation devices may also count towards the required  
17 percentages for wind and solar photovoltaics. Procurement of  
18 renewable energy resources from distributed renewable energy  
19 generation devices shall be done on an annual basis through  
20 multi-year contracts of no less than 5 years, and shall consist  
21 solely of renewable energy credits.

22 The Agency shall create credit requirements for suppliers  
23 of distributed renewable energy. In order to minimize the  
24 administrative burden on contracting entities, the Agency  
25 shall solicit the use of third-party organizations to aggregate  
26 distributed renewable energy into groups of no less than one

1 megawatt in installed capacity. These third-party  
2 organizations shall administer contracts with individual  
3 distributed renewable energy generation device owners. An  
4 individual distributed renewable energy generation device  
5 owner shall have the ability to measure the output of his or  
6 her distributed renewable energy generation device.

7 (c) The Agency shall procure renewable energy resources at  
8 least once each year in conjunction with a procurement event  
9 for electric utilities required to comply with Section 1-75 of  
10 the Act and shall, whenever possible, enter into long-term  
11 contracts on an annual basis for a portion of the incremental  
12 requirement for the given procurement year.

13 (d) The price paid to procure renewable energy credits  
14 using monies from the Illinois Power Agency Renewable Energy  
15 Resources Fund shall not exceed the winning bid prices paid for  
16 like resources procured for electric utilities required to  
17 comply with Section 1-75 of this Act.

18 (e) All renewable energy credits procured using monies from  
19 the Illinois Power Agency Renewable Energy Resources Fund shall  
20 be permanently retired.

21 (f) The procurement process described in this Section is  
22 exempt from the requirements of the Illinois Procurement Code,  
23 pursuant to Section 20-10 of that Code.

24 (g) All disbursements from the Illinois Power Agency  
25 Renewable Energy Resources Fund shall be made only upon  
26 warrants of the Comptroller drawn upon the Treasurer as

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

7 (h) The Illinois Power Agency Renewable Energy Resources  
8 Fund shall not be subject to sweeps, administrative charges, or  
9 chargebacks, including, but not limited to, those authorized  
10 under Section 8h of the State Finance Act, that would in any  
11 way result in the transfer of any funds from this Fund to any  
12 other fund of this State or in having any such funds utilized  
13 for any purpose other than the express purposes set forth in  
14 this Section.

15 (i) Supplemental procurement process.

16 (1) Within 90 days after the effective date of this  
17 amendatory Act of the 98th General Assembly, the Agency  
18 shall develop a one-time supplemental procurement plan  
19 limited to the procurement of renewable energy credits, if  
20 available, from new or existing photovoltaics, including,  
21 but not limited to, distributed photovoltaic generation.  
22 Nothing in this subsection (i) requires procurement of wind  
23 generation through the supplemental procurement.

24 Renewable energy credits procured from new  
25 photovoltaics, including, but not limited to, distributed  
26 photovoltaic generation, under this subsection (i) must be

1 procured from devices installed by a qualified person. In  
2 its supplemental procurement plan, the Agency shall  
3 establish contractually enforceable mechanisms for  
4 ensuring that the installation of new photovoltaics is  
5 performed by a qualified person.

6 For the purposes of this paragraph (1), "qualified  
7 person" means a person who performs installations of  
8 photovoltaics, including, but not limited to, distributed  
9 photovoltaic generation, and who: (A) has completed an  
10 apprenticeship as a journeyman electrician from a United  
11 States Department of Labor registered electrical  
12 apprenticeship and training program and received a  
13 certification of satisfactory completion; or (B) does not  
14 currently meet the criteria under clause (A) of this  
15 paragraph (1), but is enrolled in a United States  
16 Department of Labor registered electrical apprenticeship  
17 program, provided that the person is directly supervised by  
18 a person who meets the criteria under clause (A) of this  
19 paragraph (1); or (C) has obtained one of the following  
20 credentials in addition to attesting to satisfactory  
21 completion of at least 5 years or 8,000 hours of documented  
22 hands-on electrical experience: (i) a North American Board  
23 of Certified Energy Practitioners (NABCEP) Installer  
24 Certificate for Solar PV; (ii) an Underwriters  
25 Laboratories (UL) PV Systems Installer Certificate; (iii)  
26 an Electronics Technicians Association, International

1 (ETAI) Level 3 PV Installer Certificate; or (iv) an  
2 Associate in Applied Science degree from an Illinois  
3 Community College Board approved community college program  
4 in renewable energy or a distributed generation  
5 technology.

6 For the purposes of this paragraph (1), "directly  
7 supervised" means that there is a qualified person who  
8 meets the qualifications under clause (A) of this paragraph  
9 (1) and who is available for supervision and consultation  
10 regarding the work performed by persons under clause (B) of  
11 this paragraph (1), including a final inspection of the  
12 installation work that has been directly supervised to  
13 ensure safety and conformity with applicable codes.

14 For the purposes of this paragraph (1), "install" means  
15 the major activities and actions required to connect, in  
16 accordance with applicable building and electrical codes,  
17 the conductors, connectors, and all associated fittings,  
18 devices, power outlets, or apparatuses mounted at the  
19 premises that are directly involved in delivering energy to  
20 the premises' electrical wiring from the photovoltaics,  
21 including, but not limited to, to distributed photovoltaic  
22 generation.

23 The renewable energy credits procured pursuant to the  
24 supplemental procurement plan shall be procured using up to  
25 \$30,000,000 from the Illinois Power Agency Renewable  
26 Energy Resources Fund. The Agency shall not plan to use

1 funds from the Illinois Power Agency Renewable Energy  
2 Resources Fund in excess of the monies on deposit in such  
3 fund or projected to be deposited into such fund. The  
4 supplemental procurement plan shall ensure adequate,  
5 reliable, affordable, efficient, and environmentally  
6 sustainable renewable energy resources (including credits)  
7 at the lowest total cost over time, taking into account any  
8 benefits of price stability.

9 To the extent available, 50% of the renewable energy  
10 credits procured from distributed renewable energy  
11 generation shall come from devices of less than 25  
12 kilowatts in nameplate capacity. Procurement of renewable  
13 energy credits from distributed renewable energy  
14 generation devices shall be done through multi-year  
15 contracts of no less than 5 years. The Agency shall create  
16 credit requirements for counterparties. In order to  
17 minimize the administrative burden on contracting  
18 entities, the Agency shall solicit the use of third parties  
19 to aggregate distributed renewable energy. These third  
20 parties shall enter into and administer contracts with  
21 individual distributed renewable energy generation device  
22 owners. An individual distributed renewable energy  
23 generation device owner shall have the ability to measure  
24 the output of his or her distributed renewable energy  
25 generation device.

26 In developing the supplemental procurement plan, the

1 Agency shall hold at least one workshop open to the public  
2 within 90 days after the effective date of this amendatory  
3 Act of the 98th General Assembly and shall consider any  
4 comments made by stakeholders or the public. Upon  
5 development of the supplemental procurement plan within  
6 this 90-day period, copies of the supplemental procurement  
7 plan shall be posted and made publicly available on the  
8 Agency's and Commission's websites. All interested parties  
9 shall have 14 days following the date of posting to provide  
10 comment to the Agency on the supplemental procurement plan.  
11 All comments submitted to the Agency shall be specific,  
12 supported by data or other detailed analyses, and, if  
13 objecting to all or a portion of the supplemental  
14 procurement plan, accompanied by specific alternative  
15 wording or proposals. All comments shall be posted on the  
16 Agency's and Commission's websites. Within 14 days  
17 following the end of the 14-day review period, the Agency  
18 shall revise the supplemental procurement plan as  
19 necessary based on the comments received and file its  
20 revised supplemental procurement plan with the Commission  
21 for approval.

22 (2) Within 5 days after the filing of the supplemental  
23 procurement plan at the Commission, any person objecting to  
24 the supplemental procurement plan shall file an objection  
25 with the Commission. Within 10 days after the filing, the  
26 Commission shall determine whether a hearing is necessary.

1       The Commission shall enter its order confirming or  
2       modifying the supplemental procurement plan within 90 days  
3       after the filing of the supplemental procurement plan by  
4       the Agency.

5           (3) The Commission shall approve the supplemental  
6       procurement plan of renewable energy credits to be procured  
7       from new or existing photovoltaics, including, but not  
8       limited to, distributed photovoltaic generation, if the  
9       Commission determines that it will ensure adequate,  
10       reliable, affordable, efficient, and environmentally  
11       sustainable electric service in the form of renewable  
12       energy credits at the lowest total cost over time, taking  
13       into account any benefits of price stability.

14           (4) The supplemental procurement process under this  
15       subsection (i) shall include each of the following  
16       components:

17           (A) Procurement administrator. The Agency may  
18       retain a procurement administrator in the manner set  
19       forth in item (2) of subsection (a) of Section 1-75 of  
20       this Act to conduct the supplemental procurement or may  
21       elect to use the same procurement administrator  
22       administering the Agency's annual procurement under  
23       Section 1-75.

24           (B) Procurement monitor. The procurement monitor  
25       retained by the Commission pursuant to Section  
26       16-111.5 of the Public Utilities Act shall:

1           (i) monitor interactions among the procurement  
2           administrator and bidders and suppliers;

3           (ii) monitor and report to the Commission on  
4           the progress of the supplemental procurement  
5           process;

6           (iii) provide an independent confidential  
7           report to the Commission regarding the results of  
8           the procurement events;

9           (iv) assess compliance with the procurement  
10          plan approved by the Commission for the  
11          supplemental procurement process;

12          (v) preserve the confidentiality of supplier  
13          and bidding information in a manner consistent  
14          with all applicable laws, rules, regulations, and  
15          tariffs;

16          (vi) provide expert advice to the Commission  
17          and consult with the procurement administrator  
18          regarding issues related to procurement process  
19          design, rules, protocols, and policy-related  
20          matters;

21          (vii) consult with the procurement  
22          administrator regarding the development and use of  
23          benchmark criteria, standard form contracts,  
24          credit policies, and bid documents; and

25          (viii) perform, with respect to the  
26          supplemental procurement process, any other

1           procurement monitor duties specifically delineated  
2           within subsection (i) of this Section.

3           (C) Solicitation, pre-qualification, and  
4           registration of bidders. The procurement administrator  
5           shall disseminate information to potential bidders to  
6           promote a procurement event, notify potential bidders  
7           that the procurement administrator may enter into a  
8           post-bid price negotiation with bidders that meet the  
9           applicable benchmarks, provide supply requirements,  
10           and otherwise explain the competitive procurement  
11           process. In addition to such other publication as the  
12           procurement administrator determines is appropriate,  
13           this information shall be posted on the Agency's and  
14           the Commission's websites. The procurement  
15           administrator shall also administer the  
16           prequalification process, including evaluation of  
17           credit worthiness, compliance with procurement rules,  
18           and agreement to the standard form contract developed  
19           pursuant to item (D) of this paragraph (4). The  
20           procurement administrator shall then identify and  
21           register bidders to participate in the procurement  
22           event.

23           (D) Standard contract forms and credit terms and  
24           instruments. The procurement administrator, in  
25           consultation with the Agency, the Commission, and  
26           other interested parties and subject to Commission

1 oversight, shall develop and provide standard contract  
2 forms for the supplier contracts that meet generally  
3 accepted industry practices as well as include any  
4 applicable State of Illinois terms and conditions that  
5 are required for contracts entered into by an agency of  
6 the State of Illinois. Standard credit terms and  
7 instruments that meet generally accepted industry  
8 practices shall be similarly developed. Contracts for  
9 new photovoltaics shall include a provision attesting  
10 that the supplier will use a qualified person for the  
11 installation of the device pursuant to paragraph (1) of  
12 subsection (i) of this Section. The procurement  
13 administrator shall make available to the Commission  
14 all written comments it receives on the contract forms,  
15 credit terms, or instruments. If the procurement  
16 administrator cannot reach agreement with the parties  
17 as to the contract terms and conditions, the  
18 procurement administrator must notify the Commission  
19 of any disputed terms and the Commission shall resolve  
20 the dispute. The terms of the contracts shall not be  
21 subject to negotiation by winning bidders, and the  
22 bidders must agree to the terms of the contract in  
23 advance so that winning bids are selected solely on the  
24 basis of price.

25 (E) Requests for proposals; competitive  
26 procurement process. The procurement administrator

1       shall design and issue requests for proposals to supply  
2       renewable energy credits in accordance with the  
3       supplemental procurement plan, as approved by the  
4       Commission. The requests for proposals shall set forth  
5       a procedure for sealed, binding commitment bidding  
6       with pay-as-bid settlement, and provision for  
7       selection of bids on the basis of price, provided,  
8       however, that no bid shall be accepted if it exceeds  
9       the benchmark developed pursuant to item (F) of this  
10       paragraph (4).

11       (F) Benchmarks. Benchmarks for each product to be  
12       procured shall be developed by the procurement  
13       administrator in consultation with Commission staff,  
14       the Agency, and the procurement monitor for use in this  
15       supplemental procurement.

16       (G) A plan for implementing contingencies in the  
17       event of supplier default, Commission rejection of  
18       results, or any other cause.

19       (5) Within 2 business days after opening the sealed  
20       bids, the procurement administrator shall submit a  
21       confidential report to the Commission. The report shall  
22       contain the results of the bidding for each of the products  
23       along with the procurement administrator's recommendation  
24       for the acceptance and rejection of bids based on the price  
25       benchmark criteria and other factors observed in the  
26       process. The procurement monitor also shall submit a

1 confidential report to the Commission within 2 business  
2 days after opening the sealed bids. The report shall  
3 contain the procurement monitor's assessment of bidder  
4 behavior in the process as well as an assessment of the  
5 procurement administrator's compliance with the  
6 procurement process and rules. The Commission shall review  
7 the confidential reports submitted by the procurement  
8 administrator and procurement monitor and shall accept or  
9 reject the recommendations of the procurement  
10 administrator within 2 business days after receipt of the  
11 reports.

12 (6) Within 3 business days after the Commission  
13 decision approving the results of a procurement event, the  
14 Agency shall enter into binding contractual arrangements  
15 with the winning suppliers using the standard form  
16 contracts.

17 (7) The names of the successful bidders and the average  
18 of the winning bid prices for each contract type and for  
19 each contract term shall be made available to the public  
20 within 2 days after the supplemental procurement event. The  
21 Commission, the procurement monitor, the procurement  
22 administrator, the Agency, and all participants in the  
23 procurement process shall maintain the confidentiality of  
24 all other supplier and bidding information in a manner  
25 consistent with all applicable laws, rules, regulations,  
26 and tariffs. Confidential information, including the

1 confidential reports submitted by the procurement  
2 administrator and procurement monitor pursuant to this  
3 Section, shall not be made publicly available and shall not  
4 be discoverable by any party in any proceeding, absent a  
5 compelling demonstration of need, nor shall those reports  
6 be admissible in any proceeding other than one for law  
7 enforcement purposes.

8 (8) The supplemental procurement provided in this  
9 subsection (i) shall not be subject to the requirements and  
10 limitations of subsections (c) and (d) of this Section.

11 (9) Expenses incurred in connection with the  
12 procurement process held pursuant to this Section,  
13 including, but not limited to, the cost of developing the  
14 supplemental procurement plan, the procurement  
15 administrator, procurement monitor, and the cost of the  
16 retirement of renewable energy credits purchased pursuant  
17 to the supplemental procurement shall be paid for from the  
18 Illinois Power Agency Renewable Energy Resources Fund. The  
19 Agency shall enter into an interagency agreement with the  
20 Commission to reimburse the Commission for its costs  
21 associated with the procurement monitor for the  
22 supplemental procurement process.

23 (Source: P.A. 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10;  
24 96-1437, eff. 8-17-10; 97-616, eff. 10-26-11.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.