

SB2191



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2191

Introduced 2/15/2013, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/825-65
20 ILCS 3855/1-10

Amends the Illinois Finance Authority Act and the Illinois Power Agency Act. Provides that under those Acts energy efficiency measures include a reduction in the amount of heat rate. Effective immediately.

LRB098 09715 JLS 39864 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning energy.

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

4 Section 5. The Illinois Finance Authority Act is amended by
5 changing Section 825-65 as follows:

6 (20 ILCS 3501/825-65)

7 Sec. 825-65. Clean Coal, Coal, Energy Efficiency, and
8 Renewable Energy Project Financing.

9 (a) Findings and declaration of policy.

10 (i) It is hereby found and declared that Illinois has
11 abundant coal resources and, in some areas of Illinois, the
12 demand for power exceeds the generating capacity.
13 Incentives to encourage the construction of coal-fueled
14 electric generating plants in Illinois to ensure power
15 generating capacity into the future and to advance clean
16 coal technology and the use of Illinois coal are in the
17 best interests of all of the citizens of Illinois.

18 (ii) It is further found and declared that Illinois has
19 abundant potential and resources to develop renewable
20 energy resource projects and that there are many
21 opportunities to invest in cost-effective energy
22 efficiency projects throughout the State. The development
23 of those projects will create jobs and investment as well

1 as decrease environmental impacts and promote energy
2 independence in Illinois. Accordingly, the development of
3 those projects is in the best interests of all of the
4 citizens of Illinois.

5 (iii) The Authority is authorized to issue bonds to
6 help finance Clean Coal, Coal, Energy Efficiency, and
7 Renewable Energy projects pursuant to this Section.

8 (b) Definitions.

9 (i) "Clean Coal Project" means (A) "clean coal
10 facility", as defined in Section 1-10 of the Illinois Power
11 Agency Act; (B) "clean coal SNG facility", as defined in
12 Section 1-10 of the Illinois Power Agency Act; (C)
13 transmission lines and associated equipment that transfer
14 electricity from points of supply to points of delivery for
15 projects described in this subsection (b); (D) pipelines or
16 other methods to transfer carbon dioxide from the point of
17 production to the point of storage or sequestration for
18 projects described in this subsection (b); or (E) projects
19 to provide carbon abatement technology for existing
20 generating facilities.

21 (ii) "Coal Project" means new electric generating
22 facilities or new gasification facilities, as defined in
23 Section 605-332 of the Department of Commerce and Economic
24 Opportunity Law of the Civil Administrative Code of
25 Illinois, which may include mine-mouth power plants,
26 projects that employ the use of clean coal technology,

1 projects to provide scrubber technology for existing
2 energy generating plants, or projects to provide electric
3 transmission facilities or new gasification facilities.

4 (iii) "Energy Efficiency Project" means measures that
5 reduce the amount of electricity, ~~or~~ or natural gas, or heat
6 rate required to achieve a given end use, consistent with
7 Section 1-10 of the Illinois Power Agency Act.

8 (iv) "Renewable Energy Project" means (A) a project
9 that uses renewable energy resources, as defined in Section
10 1-10 of the Illinois Power Agency Act; (B) a project that
11 uses environmentally preferable technologies and practices
12 that result in improvements to the production of renewable
13 fuels, including but not limited to, cellulosic
14 conversion, water and energy conservation, fractionation,
15 alternative feedstocks, or reduced green house gas
16 emissions; (C) transmission lines and associated equipment
17 that transfer electricity from points of supply to points
18 of delivery for projects described in this subsection (b);
19 or (D) projects that use technology for the storage of
20 renewable energy, including, without limitation, the use
21 of battery or electrochemical storage technology for
22 mobile or stationary applications.

23 (c) Creation of reserve funds. The Authority may establish
24 and maintain one or more reserve funds to enhance bonds issued
25 by the Authority for a Clean Coal Project, a Coal Project, an
26 Energy Efficiency Project, or a Renewable Energy Project. There

1 may be one or more accounts in these reserve funds in which
2 there may be deposited:

3 (1) any proceeds of the bonds issued by the Authority
4 required to be deposited therein by the terms of any
5 contract between the Authority and its bondholders or any
6 resolution of the Authority;

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

9 (3) any other moneys or funds made available to the
10 Authority. Subject to the terms of any pledge to the owners
11 of any bonds, moneys in any reserve fund may be held and
12 applied to the payment of principal, premium, if any, and
13 interest of such bonds.

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

15 (1) To issue bonds in one or more series pursuant to
16 one or more resolutions of the Authority for any Clean Coal
17 Project, Coal Project, Energy Efficiency Project, or
18 Renewable Energy Project authorized under this Section,
19 within the authorization set forth in subsection (e).

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

23 (3) To pledge any funds of the Authority or funds made
24 available to the Authority that may be applied to such
25 purpose as security for any bonds or any guarantees,
26 letters of credit, insurance contracts or similar credit

1 support or liquidity instruments securing the bonds.

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

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

14 (e) Clean Coal Project, Coal Project, Energy Efficiency
15 Project, and Renewable Energy Project bond authorization and
16 financing limits. In addition to any other bonds authorized to
17 be issued under Sections 801-40(w), 825-60, 830-25 and 845-5,
18 the Authority may have outstanding, at any time, bonds for the
19 purpose enumerated in this Section 825-65 in an aggregate
20 principal amount that shall not exceed \$3,000,000,000, subject
21 to the following limitations: (i) up to \$300,000,000 may be
22 issued to finance projects, as described in clause (C) of
23 subsection (b) (i) and clause (C) of subsection (b) (iv) of this
24 Section 825-65; (ii) up to \$500,000,000 may be issued to
25 finance projects, as described in clauses (D) and (E) of
26 subsection (b) (i) of this Section 825-65; (iii) up to

1 \$2,000,000,000 may be issued to finance Clean Coal Projects, as
2 described in clauses (A) and (B) of subsection (b)(i) of this
3 Section 825-65 and Coal Projects, as described in subsection
4 (b)(ii) of this Section 825-65; and (iv) up to \$2,000,000,000
5 may be issued to finance Energy Efficiency Projects, as
6 described in subsection (b)(iii) of this Section 825-65 and
7 Renewable Energy Projects, as described in clauses (A), (B),
8 and (D) of subsection (b)(iii) of this Section 825-65. An
9 application for a loan financed from bond proceeds from a
10 borrower or its affiliates for a Clean Coal Project, a Coal
11 Project, Energy Efficiency Project, or a Renewable Energy
12 Project may not be approved by the Authority for an amount in
13 excess of \$450,000,000 for any borrower or its affiliates.
14 These bonds shall not constitute an indebtedness or obligation
15 of the State of Illinois and it shall be plainly stated on the
16 face of each bond that it does not constitute an indebtedness
17 or obligation of the State of Illinois, but is payable solely
18 from the revenues, income or other assets of the Authority
19 pledged therefor.

20 (f) The bonding authority granted under this Section is in
21 addition to and not limited by the provisions of Section 845-5.
22 (Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10;
23 96-817, eff. 1-1-10.)

24 Section 10. The Illinois Power Agency Act is amended by
25 changing Section 1-10 as follows:

1 (20 ILCS 3855/1-10)

2 Sec. 1-10. Definitions.

3 "Agency" means the Illinois Power Agency.

4 "Agency loan agreement" means any agreement pursuant to
5 which the Illinois Finance Authority agrees to loan the
6 proceeds of revenue bonds issued with respect to a project to
7 the Agency upon terms providing for loan repayment installments
8 at least sufficient to pay when due all principal of, interest
9 and premium, if any, on those revenue bonds, and providing for
10 maintenance, insurance, and other matters in respect of the
11 project.

12 "Authority" means the Illinois Finance Authority.

13 "Clean coal facility" means an electric generating
14 facility that uses primarily coal as a feedstock and that
15 captures and sequesters carbon dioxide emissions at the
16 following levels: at least 50% of the total carbon dioxide
17 emissions that the facility would otherwise emit if, at the
18 time construction commences, the facility is scheduled to
19 commence operation before 2016, at least 70% of the total
20 carbon dioxide emissions that the facility would otherwise emit
21 if, at the time construction commences, the facility is
22 scheduled to commence operation during 2016 or 2017, and at
23 least 90% of the total carbon dioxide emissions that the
24 facility would otherwise emit if, at the time construction
25 commences, the facility is scheduled to commence operation

1 after 2017. The power block of the clean coal facility shall
2 not exceed allowable emission rates for sulfur dioxide,
3 nitrogen oxides, carbon monoxide, particulates and mercury for
4 a natural gas-fired combined-cycle facility the same size as
5 and in the same location as the clean coal facility at the time
6 the clean coal facility obtains an approved air permit. All
7 coal used by a clean coal facility shall have high volatile
8 bituminous rank and greater than 1.7 pounds of sulfur per
9 million btu content, unless the clean coal facility does not
10 use gasification technology and was operating as a conventional
11 coal-fired electric generating facility on June 1, 2009 (the
12 effective date of Public Act 95-1027).

13 "Clean coal SNG brownfield facility" means a facility that
14 (1) has commenced construction by July 1, 2015 on an urban
15 brownfield site in a municipality with at least 1,000,000
16 residents; (2) uses a gasification process to produce
17 substitute natural gas; (3) uses coal as at least 50% of the
18 total feedstock over the term of any sourcing agreement with a
19 utility and the remainder of the feedstock may be either
20 petroleum coke or coal, with all such coal having a high
21 bituminous rank and greater than 1.7 pounds of sulfur per
22 million Btu content unless the facility reasonably determines
23 that it is necessary to use additional petroleum coke to
24 deliver additional consumer savings, in which case the facility
25 shall use coal for at least 35% of the total feedstock over the
26 term of any sourcing agreement; and (4) captures and sequesters

1 at least 85% of the total carbon dioxide emissions that the
2 facility would otherwise emit.

3 "Clean coal SNG facility" means a facility that uses a
4 gasification process to produce substitute natural gas, that
5 sequesters at least 90% of the total carbon dioxide emissions
6 that the facility would otherwise emit, that uses at least 90%
7 coal as a feedstock, with all such coal having a high
8 bituminous rank and greater than 1.7 pounds of sulfur per
9 million btu content, and that has a valid and effective permit
10 to construct emission sources and air pollution control
11 equipment and approval with respect to the federal regulations
12 for Prevention of Significant Deterioration of Air Quality
13 (PSD) for the plant pursuant to the federal Clean Air Act;
14 provided, however, a clean coal SNG brownfield facility shall
15 not be a clean coal SNG facility.

16 "Commission" means the Illinois Commerce Commission.

17 "Costs incurred in connection with the development and
18 construction of a facility" means:

19 (1) the cost of acquisition of all real property,
20 fixtures, and improvements in connection therewith and
21 equipment, personal property, and other property, rights,
22 and easements acquired that are deemed necessary for the
23 operation and maintenance of the facility;

24 (2) financing costs with respect to bonds, notes, and
25 other evidences of indebtedness of the Agency;

26 (3) all origination, commitment, utilization,

1 facility, placement, underwriting, syndication, credit
2 enhancement, and rating agency fees;

3 (4) engineering, design, procurement, consulting,
4 legal, accounting, title insurance, survey, appraisal,
5 escrow, trustee, collateral agency, interest rate hedging,
6 interest rate swap, capitalized interest, contingency, as
7 required by lenders, and other financing costs, and other
8 expenses for professional services; and

9 (5) the costs of plans, specifications, site study and
10 investigation, installation, surveys, other Agency costs
11 and estimates of costs, and other expenses necessary or
12 incidental to determining the feasibility of any project,
13 together with such other expenses as may be necessary or
14 incidental to the financing, insuring, acquisition, and
15 construction of a specific project and starting up,
16 commissioning, and placing that project in operation.

17 "Department" means the Department of Commerce and Economic
18 Opportunity.

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

20 "Demand-response" means measures that decrease peak
21 electricity demand or shift demand from peak to off-peak
22 periods.

23 "Distributed renewable energy generation device" means a
24 device that is:

25 (1) powered by wind, solar thermal energy,
26 photovoltaic cells and panels, biodiesel, crops and

1 untreated and unadulterated organic waste biomass, tree
2 waste, and hydropower that does not involve new
3 construction or significant expansion of hydropower dams;

4 (2) interconnected at the distribution system level of
5 either an electric utility as defined in this Section, an
6 alternative retail electric supplier as defined in Section
7 16-102 of the Public Utilities Act, a municipal utility as
8 defined in Section 3-105 of the Public Utilities Act, or a
9 rural electric cooperative as defined in Section 3-119 of
10 the Public Utilities Act;

11 (3) located on the customer side of the customer's
12 electric meter and is primarily used to offset that
13 customer's electricity load; and

14 (4) limited in nameplate capacity to no more than 2,000
15 kilowatts.

16 "Energy efficiency" means measures that reduce the amount
17 of electricity, ~~or~~ natural gas, or heat rate required to
18 achieve a given end use.

19 "Electric utility" has the same definition as found in
20 Section 16-102 of the Public Utilities Act.

21 "Facility" means an electric generating unit or a
22 co-generating unit that produces electricity along with
23 related equipment necessary to connect the facility to an
24 electric transmission or distribution system.

25 "Governmental aggregator" means one or more units of local
26 government that individually or collectively procure

1 electricity to serve residential retail electrical loads
2 located within its or their jurisdiction.

3 "Local government" means a unit of local government as
4 defined in Section 1 of Article VII of the Illinois
5 Constitution.

6 "Municipality" means a city, village, or incorporated
7 town.

8 "Person" means any natural person, firm, partnership,
9 corporation, either domestic or foreign, company, association,
10 limited liability company, joint stock company, or association
11 and includes any trustee, receiver, assignee, or personal
12 representative thereof.

13 "Project" means the planning, bidding, and construction of
14 a facility.

15 "Public utility" has the same definition as found in
16 Section 3-105 of the Public Utilities Act.

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

23 "Renewable energy credit" means a tradable credit that
24 represents the environmental attributes of a certain amount of
25 energy produced from a renewable energy resource.

26 "Renewable energy resources" includes energy and its

1 associated renewable energy credit or renewable energy credits
2 from wind, solar thermal energy, photovoltaic cells and panels,
3 biodiesel, anaerobic digestion, crops and untreated and
4 unadulterated organic waste biomass, tree waste, hydropower
5 that does not involve new construction or significant expansion
6 of hydropower dams, and other alternative sources of
7 environmentally preferable energy. For purposes of this Act,
8 landfill gas produced in the State is considered a renewable
9 energy resource. "Renewable energy resources" does not include
10 the incineration or burning of tires, garbage, general
11 household, institutional, and commercial waste, industrial
12 lunchroom or office waste, landscape waste other than tree
13 waste, railroad crossties, utility poles, or construction or
14 demolition debris, other than untreated and unadulterated
15 waste wood.

16 "Revenue bond" means any bond, note, or other evidence of
17 indebtedness issued by the Authority, the principal and
18 interest of which is payable solely from revenues or income
19 derived from any project or activity of the Agency.

20 "Sequester" means permanent storage of carbon dioxide by
21 injecting it into a saline aquifer, a depleted gas reservoir,
22 or an oil reservoir, directly or through an enhanced oil
23 recovery process that may involve intermediate storage,
24 regardless of whether these activities are conducted by a clean
25 coal facility, a clean coal SNG facility, a clean coal SNG
26 brownfield facility, or a party with which a clean coal

1 facility, clean coal SNG facility, or clean coal SNG brownfield
2 facility has contracted for such purposes.

3 "Sourcing agreement" means (i) in the case of an electric
4 utility, an agreement between the owner of a clean coal
5 facility and such electric utility, which agreement shall have
6 terms and conditions meeting the requirements of paragraph (3)
7 of subsection (d) of Section 1-75, (ii) in the case of an
8 alternative retail electric supplier, an agreement between the
9 owner of a clean coal facility and such alternative retail
10 electric supplier, which agreement shall have terms and
11 conditions meeting the requirements of Section 16-115(d) (5) of
12 the Public Utilities Act, and (iii) in case of a gas utility,
13 an agreement between the owner of a clean coal SNG brownfield
14 facility and the gas utility, which agreement shall have the
15 terms and conditions meeting the requirements of subsection
16 (h-1) of Section 9-220 of the Public Utilities Act.

17 "Substitute natural gas" or "SNG" means a gas manufactured
18 by gasification of hydrocarbon feedstock, which is
19 substantially interchangeable in use and distribution with
20 conventional natural gas.

21 "Total resource cost test" or "TRC test" means a standard
22 that is met if, for an investment in energy efficiency or
23 demand-response measures, the benefit-cost ratio is greater
24 than one. The benefit-cost ratio is the ratio of the net
25 present value of the total benefits of the program to the net
26 present value of the total costs as calculated over the

1 lifetime of the measures. A total resource cost test compares
2 the sum of avoided electric utility costs, representing the
3 benefits that accrue to the system and the participant in the
4 delivery of those efficiency measures, as well as other
5 quantifiable societal benefits, including avoided natural gas
6 utility costs, to the sum of all incremental costs of end-use
7 measures that are implemented due to the program (including
8 both utility and participant contributions), plus costs to
9 administer, deliver, and evaluate each demand-side program, to
10 quantify the net savings obtained by substituting the
11 demand-side program for supply resources. In calculating
12 avoided costs of power and energy that an electric utility
13 would otherwise have had to acquire, reasonable estimates shall
14 be included of financial costs likely to be imposed by future
15 regulations and legislation on emissions of greenhouse gases.
16 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;
17 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff.
18 7-13-11; 97-239, eff. 8-2-11; 97-491, eff. 8-22-11; 97-616,
19 eff. 10-26-11; 97-813, eff. 7-13-12.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.