

# SB2365



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB2365

Introduced 2/15/2013, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

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

Amends the Illinois Power Agency Act. Includes references to the reduction of thermal load in the definitions of "energy efficiency" and "renewable energy resources". Makes corresponding changes to the definition of "Energy Efficiency Project" in the Illinois Finance Authority Act. Effective immediately.

LRB098 06614 MGM 36657 b

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 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~~ natural gas, or  
6 thermal load required to achieve a given end use,  
7 consistent with Section 1-10 of the Illinois Power Agency  
8 Act.

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

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

1 Energy Efficiency Project, or a Renewable Energy Project. There  
2 may be one or more accounts in these reserve funds in which  
3 there may be deposited:

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

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

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

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

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

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

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

1 letters of credit, insurance contracts or similar credit  
2 support or liquidity instruments securing the bonds.

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

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

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

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

21 (f) The bonding authority granted under this Section is in  
22 addition to and not limited by the provisions of Section 845-5.  
23 (Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10;  
24 96-817, eff. 1-1-10.)

25 Section 10. The Illinois Power Agency Act is amended by

1 changing Section 1-10 as follows:

2 (20 ILCS 3855/1-10)

3 Sec. 1-10. Definitions.

4 "Agency" means the Illinois Power Agency.

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

13 "Authority" means the Illinois Finance Authority.

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



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

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

1 term of any sourcing agreement; and (4) captures and sequesters  
2 at least 85% of the total carbon dioxide emissions that the  
3 facility would otherwise emit.

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

17 "Commission" means the Illinois Commerce Commission.

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

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

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

1           (3) all origination, commitment, utilization,  
2           facility, placement, underwriting, syndication, credit  
3           enhancement, and rating agency fees;

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

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

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

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

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

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

26                 (1) powered by wind, solar thermal energy,

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

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

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

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

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

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

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

26 "Governmental aggregator" means one or more units of local

1 government that individually or collectively procure  
2 electricity to serve residential retail electrical loads  
3 located within its or their jurisdiction.

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

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

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

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

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

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

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

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

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

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

1 coal facility, a clean coal SNG facility, a clean coal SNG  
2 brownfield facility, or a party with which a clean coal  
3 facility, clean coal SNG facility, or clean coal SNG brownfield  
4 facility has contracted for such purposes.

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

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

23 "Total resource cost test" or "TRC test" means a standard  
24 that is met if, for an investment in energy efficiency or  
25 demand-response measures, the benefit-cost ratio is greater  
26 than one. The benefit-cost ratio is the ratio of the net

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

18 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;  
19 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff.  
20 7-13-11; 97-239, eff. 8-2-11; 97-491, eff. 8-22-11; 97-616,  
21 eff. 10-26-11; 97-813, eff. 7-13-12.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.