



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6589

by Rep. André Thapedi

SYNOPSIS AS INTRODUCED:

20 ILCS 687/6-3
20 ILCS 3855/1-10
20 ILCS 3855/1-80

Amends the Illinois Power Agency Act. Makes changes to the definition of "distributed renewable energy generation device" by removing language limiting hydropower under the definition to hydropower that does not involve new construction of hydropower dams from the list of sources that power a device. Makes a similar change to the list of energy sources in the definition of "renewable energy resources". In a provision concerning the duties and responsibilities of the Resource Development Bureau, provides that the first electric generation or co-generation facility that the Illinois Power Agency develops, finances, or constructs may be a facility that uses coal produced in Illinois or a renewable energy facility (rather than shall be a facility that uses coal produced in Illinois). Removes language providing that the Agency may also develop, finance, or construct renewable energy facilities after work on the first facility has commenced. Amends the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997 by making a similar change to the Act's definition of "renewable energy resources".

LRB099 22196 EGJ 49564 b

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 Renewable Energy, Energy Efficiency, and
5 Coal Resources Development Law of 1997 is amended by changing
6 Section 6-3 as follows:

7 (20 ILCS 687/6-3)

8 (Section scheduled to be repealed on December 31, 2020)

9 Sec. 6-3. Renewable energy resources program.

10 (a) The Department of Commerce and Economic Opportunity, to
11 be called the "Department" hereinafter in this Law, shall
12 administer the Renewable Energy Resources Program to provide
13 grants, loans, and other incentives to foster investment in and
14 the development and use of renewable energy resources.

15 (b) The Department shall establish eligibility criteria
16 for grants, loans, and other incentives to foster investment in
17 and the development and use of renewable energy resources.
18 These criteria shall be reviewed annually and adjusted as
19 necessary. The criteria should promote the goal of fostering
20 investment in and the development and use, in Illinois, of
21 renewable energy resources.

22 (c) The Department shall accept applications for grants,
23 loans, and other incentives to foster investment in and the

1 development and use of renewable energy resources.

2 (d) To the extent that funds are available and
3 appropriated, the Department shall provide grants, loans, and
4 other incentives to applicants that meet the criteria specified
5 by the Department.

6 (e) The Department shall conduct an annual study on the use
7 and availability of renewable energy resources in Illinois.
8 Each year, the Department shall submit a report on the study to
9 the General Assembly. This report shall include suggestions for
10 legislation which will encourage the development and use of
11 renewable energy resources.

12 (f) As used in this Law, "renewable energy resources"
13 includes energy from wind, solar thermal energy, photovoltaic
14 cells and panels, dedicated crops grown for energy production
15 and organic waste biomass, hydropower ~~that does not involve new~~
16 ~~construction or significant expansion of hydropower dams~~, and
17 other such alternative sources of environmentally preferable
18 energy. "Renewable energy resources" does not include,
19 however, energy from the incineration or burning of waste wood,
20 tires, garbage, general household, institutional and
21 commercial waste, industrial lunchroom or office waste,
22 landscape waste, or construction or demolition debris.

23 (g) There is created the Energy Efficiency Investment Fund
24 as a special fund in the State Treasury, to be administered by
25 the Department to support the development of technologies for
26 wind, biomass, and solar power in Illinois. The Department may

1 accept private and public funds, including federal funds, for
2 deposit into the Fund.

3 (Source: P.A. 94-793, eff. 5-19-06; 95-913, eff. 1-1-09.)

4 Section 10. The Illinois Power Agency Act is amended by
5 changing Sections 1-10 and 1-80 as follows:

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

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

17 "Authority" means the Illinois Finance Authority.

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

1 carbon dioxide emissions that the facility would otherwise emit
2 if, at the time construction commences, the facility is
3 scheduled to commence operation during 2016 or 2017, and at
4 least 90% of the total carbon dioxide emissions that the
5 facility would otherwise emit if, at the time construction
6 commences, the facility is scheduled to commence operation
7 after 2017. The power block of the clean coal facility shall
8 not exceed allowable emission rates for sulfur dioxide,
9 nitrogen oxides, carbon monoxide, particulates and mercury for
10 a natural gas-fired combined-cycle facility the same size as
11 and in the same location as the clean coal facility at the time
12 the clean coal facility obtains an approved air permit. All
13 coal used by a clean coal facility shall have high volatile
14 bituminous rank and greater than 1.7 pounds of sulfur per
15 million btu content, unless the clean coal facility does not
16 use gasification technology and was operating as a conventional
17 coal-fired electric generating facility on June 1, 2009 (the
18 effective date of Public Act 95-1027).

19 "Clean coal SNG brownfield facility" means a facility that
20 (1) has commenced construction by July 1, 2015 on an urban
21 brownfield site in a municipality with at least 1,000,000
22 residents; (2) uses a gasification process to produce
23 substitute natural gas; (3) uses coal as at least 50% of the
24 total feedstock over the term of any sourcing agreement with a
25 utility and the remainder of the feedstock may be either
26 petroleum coke or coal, with all such coal having a high

1 bituminous rank and greater than 1.7 pounds of sulfur per
2 million Btu content unless the facility reasonably determines
3 that it is necessary to use additional petroleum coke to
4 deliver additional consumer savings, in which case the facility
5 shall use coal for at least 35% of the total feedstock over the
6 term of any sourcing agreement; and (4) captures and sequesters
7 at least 85% of the total carbon dioxide emissions that the
8 facility would otherwise emit.

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

22 "Commission" means the Illinois Commerce Commission.

23 "Costs incurred in connection with the development and
24 construction of a facility" means:

25 (1) the cost of acquisition of all real property,
26 fixtures, and improvements in connection therewith and

1 equipment, personal property, and other property, rights,
2 and easements acquired that are deemed necessary for the
3 operation and maintenance of the facility;

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

6 (3) all origination, commitment, utilization,
7 facility, placement, underwriting, syndication, credit
8 enhancement, and rating agency fees;

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

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

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

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

26 "Demand-response" means measures that decrease peak

1 electricity demand or shift demand from peak to off-peak
2 periods.

3 "Distributed renewable energy generation device" means a
4 device that is:

5 (1) powered by wind, solar thermal energy,
6 photovoltaic cells and panels, biodiesel, crops and
7 untreated and unadulterated organic waste biomass, tree
8 waste, and hydropower ~~that does not involve new~~
9 ~~construction or significant expansion of hydropower dams;~~

10 (2) interconnected at the distribution system level of
11 either an electric utility as defined in this Section, an
12 alternative retail electric supplier as defined in Section
13 16-102 of the Public Utilities Act, a municipal utility as
14 defined in Section 3-105 of the Public Utilities Act, or a
15 rural electric cooperative as defined in Section 3-119 of
16 the Public Utilities Act;

17 (3) located on the customer side of the customer's
18 electric meter and is primarily used to offset that
19 customer's electricity load; and

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

22 "Energy efficiency" means measures that reduce the amount
23 of electricity or natural gas required to achieve a given end
24 use. "Energy efficiency" also includes measures that reduce the
25 total Btus of electricity and natural gas needed to meet the
26 end use or uses.

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

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

7 "Governmental aggregator" means one or more units of local
8 government that individually or collectively procure
9 electricity to serve residential retail electrical loads
10 located within its or their jurisdiction.

11 "Local government" means a unit of local government as
12 defined in Section 1 of Article VII of the Illinois
13 Constitution.

14 "Municipality" means a city, village, or incorporated
15 town.

16 "Person" means any natural person, firm, partnership,
17 corporation, either domestic or foreign, company, association,
18 limited liability company, joint stock company, or association
19 and includes any trustee, receiver, assignee, or personal
20 representative thereof.

21 "Project" means the planning, bidding, and construction of
22 a facility.

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

25 "Real property" means any interest in land together with
26 all structures, fixtures, and improvements thereon, including

1 lands under water and riparian rights, any easements,
2 covenants, licenses, leases, rights-of-way, uses, and other
3 interests, together with any liens, judgments, mortgages, or
4 other claims or security interests related to real property.

5 "Renewable energy credit" means a tradable credit that
6 represents the environmental attributes of a certain amount of
7 energy produced from a renewable energy resource.

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

24 "Revenue bond" means any bond, note, or other evidence of
25 indebtedness issued by the Authority, the principal and
26 interest of which is payable solely from revenues or income

1 derived from any project or activity of the Agency.

2 "Sequester" means permanent storage of carbon dioxide by
3 injecting it into a saline aquifer, a depleted gas reservoir,
4 or an oil reservoir, directly or through an enhanced oil
5 recovery process that may involve intermediate storage,
6 regardless of whether these activities are conducted by a clean
7 coal facility, a clean coal SNG facility, a clean coal SNG
8 brownfield facility, or a party with which a clean coal
9 facility, clean coal SNG facility, or clean coal SNG brownfield
10 facility has contracted for such purposes.

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

25 "Substitute natural gas" or "SNG" means a gas manufactured
26 by gasification of hydrocarbon feedstock, which is

1 substantially interchangeable in use and distribution with
2 conventional natural gas.

3 "Total resource cost test" or "TRC test" means a standard
4 that is met if, for an investment in energy efficiency or
5 demand-response measures, the benefit-cost ratio is greater
6 than one. The benefit-cost ratio is the ratio of the net
7 present value of the total benefits of the program to the net
8 present value of the total costs as calculated over the
9 lifetime of the measures. A total resource cost test compares
10 the sum of avoided electric utility costs, representing the
11 benefits that accrue to the system and the participant in the
12 delivery of those efficiency measures, as well as other
13 quantifiable societal benefits, including avoided natural gas
14 utility costs, to the sum of all incremental costs of end-use
15 measures that are implemented due to the program (including
16 both utility and participant contributions), plus costs to
17 administer, deliver, and evaluate each demand-side program, to
18 quantify the net savings obtained by substituting the
19 demand-side program for supply resources. In calculating
20 avoided costs of power and energy that an electric utility
21 would otherwise have had to acquire, reasonable estimates shall
22 be included of financial costs likely to be imposed by future
23 regulations and legislation on emissions of greenhouse gases.
24 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,
25 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;
26 98-90, eff. 7-15-13.)

1 (20 ILCS 3855/1-80)

2 Sec. 1-80. Resource Development Bureau. The Resource
3 Development Bureau has the following duties and
4 responsibilities:

5 (a) At the Agency's discretion, conduct feasibility
6 studies on the construction of any facility. Funding for a
7 study shall come from either:

8 (i) fees assessed by the Agency on municipal
9 electric systems, governmental aggregators, unit or
10 units of local government, or rural electric
11 cooperatives requesting the feasibility study; or

12 (ii) an appropriation from the General Assembly.

13 (b) If the Agency undertakes the construction of a
14 facility, moneys generated from the sale of revenue bonds
15 by the Authority for the facility shall be used to
16 reimburse the source of the money used for the facility's
17 feasibility study.

18 (c) The Agency may develop, finance, construct, or
19 operate electric generation and co-generation facilities
20 that use indigenous coal or renewable resources, or both,
21 financed with bonds issued by the Authority on behalf of
22 the Agency. Any such facility that uses coal must be a
23 clean coal facility and must be constructed in a location
24 where the geology is suitable for carbon sequestration. The
25 Agency may also develop, finance, construct, or operate a

1 carbon sequestration facility.

2 (1) The Agency may enter into contractual
3 arrangements with private and public entities,
4 including but not limited to municipal electric
5 systems, governmental aggregators, and rural electric
6 cooperatives, to plan, site, construct, improve,
7 rehabilitate, and operate those electric generation
8 and co-generation facilities. No contract shall be
9 entered into by the Agency that would jeopardize the
10 tax-exempt status of any bond issued in connection with
11 a project for which the Agency entered into the
12 contract.

13 (2) The Agency shall hold at least one public
14 hearing before entering into any such contractual
15 arrangements. At least 30-days' notice of the hearing
16 shall be given by publication once in each week during
17 that period in 6 newspapers within the State, at least
18 one of which has a circulation area that includes the
19 location of the proposed facility.

20 (3) The first facility that the Agency develops,
21 finances, or constructs may ~~shall~~ be a facility that
22 uses coal produced in Illinois or a renewable energy
23 facility. ~~The Agency may, however, also develop,~~
24 ~~finance, or construct renewable energy facilities~~
25 ~~after work on the first facility has commenced.~~

26 (4) The Agency may not develop, finance, or

1 construct a nuclear power plant.

2 (5) The Agency shall assess fees to applicants
3 seeking to partner with the Agency on projects.

4 (d) Use of electricity generated by the Agency's
5 facilities. The Agency may supply electricity produced by
6 the Agency's facilities to municipal electric systems,
7 governmental aggregators, or rural electric cooperatives
8 in Illinois. The electricity shall be supplied at cost.

9 (1) Contracts to supply power and energy from the
10 Agency's facilities shall provide for the effectuation
11 of the policies set forth in this Act.

12 (2) The contracts shall also provide that,
13 notwithstanding any provision in the Public Utilities
14 Act, entities supplied with power and energy from an
15 Agency facility shall supply the power and energy to
16 retail customers at the same price paid to purchase
17 power and energy from the Agency.

18 (e) Electric utilities shall not be required to purchase
19 electricity directly or indirectly from facilities developed
20 or sponsored by the Agency.

21 (f) The Agency may sell excess capacity and excess energy
22 into the wholesale electric market at prevailing market rates;
23 provided, however, the Agency may not sell excess capacity or
24 excess energy through the procurement process described in
25 Section 16-111.5 of the Public Utilities Act.

26 (g) The Agency shall not directly sell electric power and

1 energy to retail customers. Nothing in this paragraph shall be
2 construed to prohibit sales to municipal electric systems,
3 governmental aggregators, or rural electric cooperatives.
4 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)