

1 AN ACT concerning coal.

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

4 Section 5. The Department of Commerce and Community
5 Affairs Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a
12 newly-constructed electric generation plant or a newly
13 constructed generation capacity expansion at an existing
14 facility, including the transmission lines and associated
15 equipment that transfers electricity from points of supply to
16 points of delivery, and for which foundation construction
17 commenced not sooner than July 1, 2001, which is designed to
18 provide baseload electric generation operating on a
19 continuous basis throughout the year; and which has an
20 aggregate rated generating capacity of at least 400 megawatts
21 for all new units at one site, uses coal or gases derived
22 from coal as its primary fuel source, and supports the
23 creation of at least 150 new Illinois coal mining jobs.

24 "Eligible business" means an entity that proposes to
25 construct a new electric generating facility and that has
26 applied to the Department to receive financial assistance
27 pursuant to this Section. With respect to use and occupation
28 taxes, wherever there is a reference to taxes, that reference
29 means only those taxes paid on Illinois-mined coal used in a
30 new electric generating facility.

31 "Department" means the Illinois Department of Commerce

1 and Community Affairs.

2 (b) The Department is authorized to provide financial
3 assistance to eligible businesses for new electric generating
4 facilities from funds appropriated by the General Assembly as
5 further provided in this Section.

6 An eligible business seeking qualification for financial
7 assistance for a new electric generating facility, for
8 purposes of this Section only, shall apply to the Department
9 in the manner specified by the Department. Any projections
10 provided by an eligible business as part of the application
11 shall be independently verified in a manner as set forth by
12 the Department. An application shall include, but not be
13 limited to:

14 (1) the projected or actual completion date of the
15 new electric generating facility for which financial
16 assistance is sought;

17 (2) copies of documentation deemed acceptable by
18 the Department establishing either (i) the total State
19 occupation and use taxes paid on Illinois-mined coal used
20 at the new electric generating facility for a minimum of
21 4 preceding calendar quarters or (ii) the projected
22 amount of State occupation and use taxes paid on
23 Illinois-mined coal used at the new electric generating
24 facility in 4 calendar year quarters after completion of
25 the new electric generating facility. Bond proceeds
26 subject to this Section shall not be allocated to an
27 eligible business until the eligible business has
28 demonstrated the revenue stream sufficient to service the
29 debt on the bonds; and

30 (3) the actual or projected amount of capital
31 investment by the eligible business in the new electric
32 generating facility.

33 The Department shall determine the maximum amount of
34 financial assistance for eligible businesses in accordance

1 with this paragraph. The Department shall not provide
2 financial assistance from general obligation bond funds to
3 any eligible business unless it receives a written
4 certification from the Director of the Bureau of the Budget
5 that 80% of the State occupation and use tax receipts for a
6 minimum of the preceding 4 calendar quarters for all eligible
7 businesses or as included in projections on approved
8 applications by eligible businesses equal or exceed 110% of
9 the maximum annual debt service required with respect to
10 general obligation bonds issued for that purpose. The
11 Department may provide financial assistance not to exceed the
12 amount of State general obligation debt calculated as above,
13 the amount of actual or projected capital investment in the
14 energy generation facility, or \$100,000,000, whichever is
15 less. Financial assistance received pursuant to this Section
16 may be used for capital facilities consisting of buildings,
17 structures, durable equipment, and land at the new electric
18 generating facility. Subject to the provisions of the
19 agreement covering the financial assistance, a portion of the
20 financial assistance may be required to be repaid to the
21 State if certain conditions for the governmental purpose of
22 the assistance were not met.

23 An eligible business shall file a monthly report with the
24 Illinois Department of Revenue stating the amount of
25 Illinois-mined coal purchased during the previous month for
26 use in the new electric generating facility, the purchase
27 price of that coal, the amount of State occupation and use
28 taxes paid on that purchase to the seller of the
29 Illinois-mined coal, and such other information as that
30 Department may reasonably require. In sales of
31 Illinois-mined coal between related parties, the purchase
32 price of the coal must have been determined in an arms-length
33 transaction. The report shall be filed with the Illinois
34 Department of Revenue on or before the 20th day of each month

1 on a form provided by that Department. However, no report
2 need be filed by an eligible business in a month when it made
3 no reportable purchases of coal in the previous month. The
4 Illinois Department of Revenue shall provide a summary of
5 such reports to the Bureau of the Budget.

6 Upon granting financial assistance to an eligible
7 business, the Department shall certify the name of the
8 eligible business to the Illinois Department of Revenue.
9 Beginning with the receipt of the first report of State
10 occupation and use taxes paid by an eligible business and
11 continuing for a 25-year period, the Illinois Department of
12 Revenue shall each month pay into the Energy Infrastructure
13 Fund 80% of the net revenue realized from the 6.25% general
14 rate on the selling price of Illinois-mined coal that was
15 sold to an eligible business.

16 (Source: P.A. 92-12, eff. 7-1-01.)

17 Section 10. The Illinois Development Finance Authority
18 Act is amended by changing Section 7.90 as follows:

19 (20 ILCS 3505/7.90)

20 Sec. 7.90. Clean Coal and Energy Project Financing.

21 (a) Findings and declaration of policy. It is hereby
22 found and declared that Illinois has abundant coal resources
23 and, in some areas of Illinois, the demand for power exceeds
24 the generating capacity. Incentives to encourage the
25 construction of coal-fired electric generating plants in
26 Illinois to ensure power-generating capacity into the future
27 are in the best interests of all of the citizens of Illinois.
28 The Authority is authorized to issue bonds to help finance
29 Clean Coal and Energy projects pursuant to this Section and
30 under this Act.

31 (b) Definition. "Clean Coal and Energy projects" means
32 new electric generating facilities, as defined in Section

1 605-332 of the Department of Commerce and Community Affairs
2 Law of the Civil Administrative Code of Illinois, which may
3 include mine-mouth power plants, projects that employ the use
4 of clean coal technology, projects to develop alternative
5 energy sources, including renewable energy projects, projects
6 to provide scrubber technology for existing energy generating
7 plants, or projects to provide electric transmission
8 facilities.

9 (c) Creation of reserve funds. The Authority may
10 establish and maintain one or more reserve funds to enhance
11 bonds issued by the Authority for Clean Coal and Energy
12 projects under this Section. There may be one or more
13 accounts in these reserve funds in which there may be
14 deposited:

15 (1) any proceeds of bonds issued by the Authority
16 required to be deposited therein by the terms of any
17 contract between the Authority and its bondholders or any
18 resolution of the Authority;

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

22 (3) any other moneys or funds made available to the
23 Authority.

24 Subject to the terms of any pledge to the owners of any
25 bonds, moneys in any reserve fund may be held and applied to
26 the payment of the interest, premium, if any, or principal of
27 bonds or for any other purpose authorized by the Authority.

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

29 (1) To issue bonds in one or more series pursuant
30 to one or more resolutions of the Authority for any Clean
31 Coal and Energy projects authorized under this Section,
32 within the authorization set forth in subsections
33 subsection (e) and (e-5).

34 (2) To provide for the funding of any reserves or

1 other funds or accounts deemed necessary by the Authority
2 in connection with any bonds issued by the Authority.

3 (3) To pledge any funds of the Authority or funds
4 made available to the Authority that may be applied to
5 such purpose as security for any bonds or any guarantees,
6 letters of credit, insurance contracts, or similar credit
7 support or liquidity instruments securing the bonds.

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

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

20 (e) Clean Coal and Energy bond authorization and
21 financing limits. In addition to any other bonds authorized
22 to be issued under this Act, the Authority may have
23 outstanding, at any time, bonds for the purpose enumerated in
24 this subsection (e) ~~Section~~ in an aggregate principal amount
25 that shall not exceed \$3,000,000,000, of which no more than
26 \$300,000,000 may be issued to finance transmission
27 facilities, no more than \$500,000,000 may be issued to
28 finance scrubbers at existing generating plants, no more than
29 \$500,000,000 may be issued to finance alternative energy
30 sources, including renewable energy projects, and no more
31 than \$1,700,000,000 may be issued to finance new electric
32 generating facilities, as defined in Section 605-332 of the
33 Department of Commerce and Community Affairs Law of the Civil
34 Administrative Code of Illinois, which may include mine-mouth

1 power plants. An application for a loan financed from bond
2 proceeds from a borrower or its affiliates for a Clean Coal
3 and Energy project may not be approved by the Authority for
4 an amount in excess of \$450,000,000 for any borrower or its
5 affiliates. These bonds shall not constitute an indebtedness
6 or obligation of the State of Illinois and it shall be
7 plainly stated on the face of each bond that it does not
8 constitute an indebtedness or obligation of the State of
9 Illinois but is payable solely from the revenues, income, or
10 other assets of the Authority pledged therefor.

11 (e-5) Additional Clean Coal and Energy bond authorization
12 and financing limits. In addition to any other bonds
13 authorized to be issued under subsection (e), the Authority
14 may issue bonds for the purposes enumerated in subsection (e)
15 in an aggregate principal amount that shall not exceed
16 \$300,000,000.

17 In the event that the Authority determines that the funds
18 pledged, intercepted, or otherwise received or to be received
19 by the Authority for the payment of the principal, premium,
20 if any, and interest during the next State fiscal year on any
21 bonds issued by the Authority under this subsection (e-5) for
22 the specific purposes identified in this subsection (e-5)
23 will not be sufficient for those payments, the Chairman, as
24 soon as is practical, shall certify to the Governor the
25 amount required by the Authority to enable it to pay the
26 principal, premium, if any, and interest falling due on the
27 bonds. The Governor shall submit the amount so certified to
28 the General Assembly as soon as practical, but no later than
29 the end of the current State fiscal year. This paragraph
30 shall not apply to any bonds as to which the Authority shall
31 have determined, in the resolution authorizing their
32 issuance, that this paragraph shall not apply. Whenever the
33 Authority makes such a determination, that fact shall be
34 plainly stated on the face of the bonds and that fact shall

1 also be reported to the Governor.

2 In the event of a withdrawal of moneys from a debt
3 service reserve fund established with respect to any issue or
4 issues of bonds of the Authority under this subsection (e-5)
5 to pay principal and interest on those bonds, the Chairman,
6 as soon as is practical, shall certify to the Governor the
7 amount required to restore the reserve fund to the level
8 required in the resolution or indenture securing the bonds.
9 The Governor shall submit the amount so certified to the
10 General Assembly as soon as practical, but not later than the
11 end of the current State fiscal year.

12 (f) Criteria for participation in the program.
13 Applications to the Authority for financing of any Clean Coal
14 and Energy project shall be reviewed by the Authority. Upon
15 submission of any such application, the Authority staff shall
16 review the application for its completeness and may, at the
17 discretion of the Authority staff, request such additional
18 information as it deems necessary or advisable to aid in
19 review. If the Authority receives applications for financing
20 for Clean Coal and Energy projects in excess of the bond
21 authorization available for such financing at any one time,
22 it shall consider applications in the order of priority as it
23 shall determine, in consultation with other State agencies.

24 (Source: P.A. 92-12, eff. 7-1-01.)

25 Section 99. Effective date. This Act takes effect on
26 July 1, 2003.