



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2299

Introduced 1/12/2006, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 200/31-35

525 ILCS 30/7.05a new

525 ILCS 35/3

from Ch. 85, par. 2103

525 ILCS 35/8 new

525 ILCS 35/9.1 new

525 ILCS 35/11

from Ch. 85, par. 2111

525 ILCS 35/13

from Ch. 85, par. 2113

525 ILCS 35/14

from Ch. 85, par. 2114

525 ILCS 35/15 new

525 ILCS 35/15.5 new

Creates the Open Space Financing Act. Authorizes the Department of Natural Resources to issue revenue bonds secured by real estate transfer tax receipts collected and deposited into the Open Space Bond Repayment Fund and the Natural Areas Bond Repayment Fund. Sets forth procedures for issuing the bonds and distributing the bond proceeds. Amends the Property Tax Code. Provides that beginning July 1, 2006 (now, July 1, 2003) of the moneys collected under the Real Estate Transfer Tax Law, 50% shall be deposited into the Illinois Affordable Housing Trust Fund, 35% shall be deposited into the OSLAD Fund, and 15% shall be deposited into the NAA Fund. Amends the Illinois Natural Areas Preservation Act. Provides that the Department of Natural Resources shall determine the manner and extent to which property under consideration for acquisition would assist in storm water management, water supply and quality assurance, or other infrastructure needs, but this determination shall not prevent the Department from acquiring property. Amends the Open Space Lands Acquisition and Development Act. Provides that grants for green infrastructure projects made before December 31, 2009 to units of local government may be conditioned upon the State providing assistance on a 60/40 matching basis. Sets forth additional requirements for grants for green infrastructure projects. Provides that, in considering applications for certain grants, the Department shall give scoring points to the applicants that demonstrate the greatest potential for improving water supply and quality or for reducing the capital, operating, or maintenance costs of meeting water-related infrastructure requirements. Creates the Open Space Bond Repayment Fund and the Natural Areas Bond Repayment Fund. Makes other changes. Effective immediately.

LRB094 18491 RSP 53816 b

FISCAL NOTE ACT
MAY APPLY

STATE DEBT
IMPACT NOTE ACT
MAY APPLY

1 AN ACT in relation to conservation.

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

4 Section 1. Short title. This Act may be cited as the Open
5 Space Financing Act.

6 Section 5. Definitions. For purposes of this Act:

7 "Act" means the Open Space Financing Act.

8 "Bond" means any type of revenue obligation, including,
9 without limitation, fixed rate, variable rate, auction rate or
10 similar bond, note, certificate, or other instrument,
11 including, without limitation, an interest rate exchange
12 agreement, an interest rate lock agreement, a currency exchange
13 agreement, a forward payment conversion agreement, an
14 agreement to provide payments based on levels of or changes in
15 interest rates or currency exchange rates, an agreement to
16 exchange cash flows or a series of payments, an option, put, or
17 call to hedge payment, currency, interest rate, or other
18 exposure, payable from and secured by a pledge of real estate
19 transfer tax receipts collected and deposited under this Act
20 into the Open Space Bond Repayment Fund and the Natural Areas
21 Bond Repayment Fund, and all interest and other earnings upon
22 such amounts held in these funds, to the extent provided in the
23 proceedings authorizing the obligation.

24 "Bond administrative expenses" means expenses and fees
25 incurred to administer and issue, upon a conversion of any of
26 the bonds from one mode to another and from taxable to
27 tax-exempt, the bonds issued pursuant to this Act, including
28 fees for paying agents, trustees, financial advisors,
29 underwriters, remarketing agents, attorneys and for other
30 professional services necessary to ensure compliance with
31 applicable state or federal law.

32 "Bond obligations" means the principal of a bond and any

1 premium and interest on a bond issued pursuant to this Act,
2 together with any amount owed under a related credit agreement.

3 "Credit agreement" means, without limitation, a loan
4 agreement, a revolving credit agreement, an agreement
5 establishing a line of credit, a letter of credit, notes,
6 municipal bond insurance, standby bond purchase agreements,
7 surety bonds, remarketing agreements and the like, by which the
8 Department may borrow funds to pay or redeem or purchase and
9 hold its bonds, agreements for the purchase or remarketing of
10 bonds, or any other agreement that enhances the marketability,
11 security, or creditworthiness of a bond issued under this Act.

12 "Department" means the Department of Natural Resources.

13 "Department real estate transfer tax receipts" means the
14 moneys collected and deposited into the Open Space Lands
15 Acquisition and Development Fund and the Natural Areas
16 Acquisition Fund under Section 31-35 of the Real Estate
17 Transfer Tax Law of the Property Tax Code.

18 "Director" means the Director of Natural Resources.

19 "Natural Areas Acquisition Fund" or "NAA Fund" means the
20 fund established under Section 14 of the Open Space Lands
21 Acquisition and Development Act.

22 "Open Space Lands Acquisition Fund" or "OSLAD Fund" means
23 the fund established under Section 13 of the Open Space Lands
24 Acquisition and Development Act.

25 "Natural Areas Bond Repayment Fund" means that Fund as
26 established under Section 15.5 of the Open Space Lands
27 Acquisition and Development Act.

28 "Open Space Bond Repayment Fund" means that Fund as
29 established under Section 15 of the Open Space Lands
30 Acquisition and Development Act.

31 "Required NAA Fund real estate transfer tax receipts
32 amount" means the amount of real estate transfer tax receipts
33 that must be deposited and maintained in the Natural Areas Bond
34 Repayment Fund under subsection (i) of Section 10.

35 "Required OSLAD Fund real estate transfer tax receipts
36 amount" means the amount of real estate transfer tax receipts

1 that must be deposited and maintained in the Open Space Bond
2 Repayment Fund under subsection (h) of Section 10.

3 Section 10. Authority to issue revenue bonds.

4 (a) The Department has the continuing power to borrow money
5 for the purposes set forth in Section 15 of this Act.

6 (b) As evidence of the obligation of the Department to
7 repay money borrowed for the purposes set forth in subsection
8 (a), the Department may issue and dispose of its interest
9 bearing revenue bonds and may also, from time-to-time, issue
10 and dispose of its interest bearing revenue bonds to purchase,
11 redeem, refund, advance refund, or defease (including, any
12 combination of the foregoing) any bonds at maturity or pursuant
13 to redemption provisions or at any time before maturity. The
14 Director shall have the power to direct that the bonds be
15 issued. Bonds may be issued in one or more series and under
16 terms and conditions necessary to further the purposes of this
17 Act. The Illinois Finance Authority shall provide any
18 technical, legal, or administrative services if and when
19 requested by the Director with regard to the issuance of bonds.
20 The bonds shall be issued in the name of the State of Illinois
21 for the benefit of the Department and shall be executed by the
22 Director. In case any Director whose signature appears on any
23 bond ceases (after attaching his or her signature) to hold that
24 office, her or his signature shall nevertheless be valid and
25 effective for all purposes.

26 (c) All bonds issued under this Act for purposes of Section
27 13 of the Open Space Lands Acquisition and Development Act are
28 payable from Department real estate transfer tax receipts
29 deposited in the Open Space Lands Acquisition and Development
30 Fund. All bonds issued under this Act for purposes of Section
31 14 of the Open Space Lands Acquisition and Development Act are
32 payable from Department real estate transfer tax receipts
33 deposited in the Natural Areas Acquisition Fund. Bonds may also
34 be paid from proceeds of bonds, interest income thereon, and
35 receipts from related credit and exchange agreements to the

1 extent allowed by this Act and applicable legal requirements.

2 (d) The maximum principal amount of the bonds, when
3 combined with the outstanding principal of all other bonds
4 issued under this Act, may not, at any time, exceed:

5 (1) for bonds issued for purposes of Section 13 of the
6 Open Space Lands Acquisition and Development Act,
7 \$140,000,000, excluding all of the outstanding principal
8 of any other bonds issued under this Act for which payment
9 has been irrevocably provided by refunding or other manner
10 of defeasance; and

11 (2) for bonds issued for purposes of Section 14 of the
12 Open Space Lands Acquisition and Development Act,
13 \$60,000,000, excluding all of the outstanding principal of
14 any other bonds issued under this Act for which payment has
15 been irrevocably provided by refunding or other manner of
16 defeasance.

17 It is the intent of this Act that the outstanding bond
18 authorization limits provided for in this subsection shall be
19 revolving in nature, such that the amount of bonds outstanding
20 that are not refunded or otherwise defeased shall be included
21 in determining the maximum amount of bonds authorized to be
22 issued under the Act.

23 (e) The bonds and refunding bonds issued under this Act may
24 bear such date or dates, may mature at such time or times not
25 exceeding 20 years from their respective dates of issuance, and
26 may bear interest at such rate or rates not exceeding the
27 maximum rate authorized by the Bond Authorization Act, as
28 amended and in effect at the time of the issuance of the bonds.

29 (f) The Department may enter into a credit agreement
30 pertaining to the issuance of the bonds, upon terms that are
31 not inconsistent with this Act and any other laws, provided
32 that the term of the credit agreement shall not exceed the term
33 of the bonds, plus any time period necessary to cure any
34 defaults under the credit agreement.

35 (g) Interest earnings paid to holders of the bonds shall
36 not be exempt from income taxes imposed by the State.

1 (h) While any bond obligations are outstanding or
2 anticipated to come due as a result of bonds expected to be
3 issued for purposes of Section 13 of the Open Space Lands
4 Acquisition and Development Act in either or both of the 2
5 immediately succeeding calendar quarters, the Department must
6 collect and deposit Department real estate transfer tax
7 receipts from the Open Space Lands Acquisition and Development
8 Fund into the Open Space Bond Repayment Fund in an amount
9 necessary to satisfy the required OSLAD Fund real estate
10 transfer tax receipts amount prior to expending real estate
11 transfer tax receipts for any other purpose. The required OSLAD
12 Fund real estate transfer tax receipts amount shall be that
13 amount necessary to ensure the marketability of the bonds,
14 which shall be specified in the Bond Sale Order executed by the
15 Director in connection with the issuance of the bonds.

16 (i) While any bond obligations are outstanding or
17 anticipated to come due as a result of bonds expected to be
18 issued for the purposes of Section 14 of the Open Space Lands
19 Acquisition and Development Act in either or both of the 2
20 immediately succeeding calendar quarters, the Department must
21 collect and deposit Department real estate transfer tax
22 receipts from the Natural Areas Acquisition Fund into the
23 Natural Areas Bond Repayment Fund in an amount necessary to
24 satisfy the required NAA Fund real estate transfer tax receipts
25 amount prior to expending real estate transfer tax receipts for
26 any other purpose. The required NAA Fund real estate transfer
27 tax receipts amount shall be that amount necessary to ensure
28 the marketability of the bonds, which shall be specified in the
29 Bond Sale Order executed by the Director in connection with the
30 issuance of the bonds.

31 (j) Holders of the bonds issued for purposes of Section 13
32 of the Open Space Lands Acquisition and Development Act shall
33 have a first and priority claim on all moneys held in the Open
34 Space Bond Repayment Fund in parity with all other holders of
35 those bonds, provided that this claim may be subordinated to
36 the provider of any credit agreement for any of the bonds.

1 Holders of the bonds issued for purposes of Section 14 of the
2 Open Space Lands Acquisition and Development Act shall have a
3 first and priority claim on all moneys held in the Natural
4 Areas Bond Repayment Fund in parity with all other holders of
5 those bonds, provided that this claim may be subordinated to
6 the provider of any credit agreement for any of the bonds.

7 (k) To the extent that Department real estate transfer tax
8 receipts in the Open Space Bond Repayment Fund are not
9 otherwise needed to satisfy the requirements of this Act and
10 the instruments authorizing the issuance of the bonds, such
11 moneys shall be used by the Department, in such amounts as
12 determined by the Director, to purchase, refinance, redeem,
13 refund, advance refund, or defease (or any combination of the
14 foregoing) outstanding bonds, to the extent such action is
15 legally available and financially prudent and does not impair
16 any tax exempt status of any of the bonds. To the extent that
17 the moneys in the Open Space Bond Repayment Fund are not
18 otherwise needed for the foregoing purposes, such moneys shall
19 be transferred back into the Open Space Lands Acquisition and
20 Development Fund.

21 (l) To the extent that Department real estate transfer tax
22 receipts in the Natural Areas Bond Repayment Fund are not
23 otherwise needed to satisfy the requirements of this Act and
24 the instruments authorizing the issuance of the bonds, such
25 moneys shall be used by the Department, in such amounts as
26 determined by the Director, to purchase, refinance, redeem,
27 refund, advance refund, or defease (or any combination of the
28 foregoing) outstanding bonds, to the extent such action is
29 legally available and financially prudent and does not impair
30 any tax exempt status of any of the bonds. To the extent that
31 the moneys in the Natural Areas Bond Repayment Fund are not
32 otherwise needed for the foregoing purposes, such moneys shall
33 be transferred back into the Natural Areas Acquisition Fund.

34 (m) The Director shall determine the method of sale, type
35 of bond, bond form, redemption provisions, and other terms of
36 the bonds that, in the Director's judgment, best achieve the

1 purposes of this Act and effect the borrowing at the lowest
2 practicable cost, provided that those determinations are not
3 inconsistent with this Act or other applicable legal
4 requirements. Those determinations shall be set forth in a
5 document entitled "Bond Sale Order".

6 (n) Before issuing bonds for purposes of Section 13 of the
7 Open Space Lands Acquisition and Development Act, the Director
8 shall identify the grants to be made to local governments under
9 Section 13 of the Open Space Lands Acquisition and Development
10 Act from the proceeds of the bonds and any other expenditures
11 from the proceeds of the bonds for purposes permitted under
12 Section 13 of the Open Space Lands Acquisition and Development
13 Act. Before issuing bonds for purposes of Section 14 of the
14 Open Space Lands Acquisition and Development Act, the Director
15 shall identify the natural areas to be acquired under Section
16 14 of the Open Space Lands Acquisition and Development Act from
17 the proceeds of the bonds and any other expenditures from the
18 proceeds of the bonds for purposes permitted under Section 14
19 of the Open Space Lands Acquisition and Development Act.

20 Section 13. Credit agreement requirements.

21 (a) Any credit agreement entered into by the Department
22 under this Act must provide the following:

23 (1) The choice of law for the obligations of a
24 financial provider may be made for any state of these
25 United States, but the law that applies to the bonds is the
26 law of the State of Illinois and jurisdiction to enforce
27 the credit agreement as against the Department is
28 exclusively in the courts of the State of Illinois or in
29 the applicable federal court having jurisdiction and
30 located within the State of Illinois.

31 (2) The credit agreement is fully enforceable as a
32 valid and binding contract as and to the extent provided by
33 applicable law.

34 (b) The credit agreement may include any of the following
35 provisions:

1 (1) Interest rates on the bonds may vary from time to
2 time depending upon criteria established by the Director,
3 which may include, without limitation: (i) a variation in
4 interest rates as may be necessary to cause the bonds to be
5 remarketed from time to time at a price equal to their
6 principal amount plus any accrued interest; (ii) rates set
7 by auctions; or (iii) rates set by formula.

8 (2) A national banking association, bank, trust
9 company, investment banker or other financial institution
10 may be appointed to serve as a remarketing agent in that
11 connection, and the remarketing agent may be delegated
12 authority by the Department to determine interest rates in
13 accordance with criteria established by the Department.

14 (3) Alternative interest rates or provisions may apply
15 during such times as the bonds are held by the financial
16 providers or similar persons or entities providing a credit
17 agreement for those bonds and, during such times, the
18 interest on the bonds may be deemed not exempt from income
19 taxation under the Internal Revenue Code for purposes of
20 State law, as contained in the Bond Authorization Act,
21 relating to the permissible rate of interest to be borne
22 thereon.

23 (4) Fees may be paid to the financial providers or
24 similar persons or entities providing a credit agreement,
25 including all reasonably related costs, including therein
26 costs of enforcement and litigation (all such fees and
27 costs being financial provider payments) and financial
28 provider payments may be paid, without limitation, from
29 proceeds of the bonds being the subject of such agreements,
30 or from bonds issued to refund such bonds, provided that
31 such financial provider payments shall be made subordinate
32 to the payments on the bonds.

33 (5) The bonds need not be held in physical form by the
34 financial providers or similar persons or entities
35 providing a credit agreement when providing funds to
36 purchase or carry the bonds from others but may be

1 represented in uncertificated form in the credit
2 agreement.

3 (6) The debt or obligation of the Department
4 represented by a Bond tendered for purchase to or otherwise
5 made available to the Department thereupon acquired by
6 either the Department or a financial provider shall not be
7 deemed to be extinguished for purposes of State law until
8 cancelled by the Department or its agent.

9 (7) The credit agreement may provide for acceleration
10 of the principal amounts due on the bonds.

11 Section 14. Bond repayment funds.

12 (a) The required OSLAD Fund real estate transfer tax
13 receipts amount deposited into the Open Space Bond Repayment
14 Fund under subsection (h) of Section 10 shall be irrevocably
15 pledged to the timely payment of bond obligations and bond
16 administrative expenses due on any bonds issued under this Act
17 for purposes of Section 13 of the Open Space Lands Acquisition
18 and Development Act and any credit agreement entered in
19 connection with those bonds. The Open Space Bond Repayment Fund
20 shall be held separate and apart from all other State funds.
21 Moneys in the Open Space Bond Repayment Fund may not be
22 commingled with other State funds, but they must be deposited,
23 as required by law, and maintained in a separate account on the
24 books of a savings and loan association, bank, or other
25 qualified financial institution. All interest earnings on
26 amounts within the Open Space Bond Repayment Fund shall accrue
27 to the Open Space Bond Repayment Fund. The Open Space Bond
28 Repayment Fund may include funds and accounts necessary for the
29 deposit of bond proceeds, OSLAD Fund transfer tax receipts,
30 payment of principal, interest, administrative expenses, costs
31 of issuance, in the case of bonds that are exempt from federal
32 taxation, rebate payments, and other funds and accounts
33 necessary for the implementation and administration of this
34 Act. The Director is liable on the Director's general official
35 bond for the faithful performance of the Director's duties as

1 custodian of the Open Space Bond Repayment Fund. This liability
2 exists in addition to the Director's liability upon any
3 separate bond given by the Director. All sums recovered for
4 losses sustained by the Open Space Bond Repayment Fund must be
5 deposited into the Open Space Bond Repayment Fund.

6 (b) The required NAA Fund real estate transfer tax receipts
7 amount deposited into the Natural Areas Bond Repayment Fund
8 under subsection (i) of Section 10 shall be irrevocably pledged
9 to the timely payment of bond obligations and bond
10 administrative expenses due on any bonds issued under this Act
11 for purposes of Section 14 of the Open Lands Acquisition and
12 Development Act and any credit agreement entered in connection
13 with those bonds. The Natural Areas Bond Repayment Fund shall
14 be held separate and apart from all other State funds. Moneys
15 in the Natural Areas Bond Repayment Fund may not be commingled
16 with other State funds, but they must be deposited, as required
17 by law, and maintained in a separate account on the books of a
18 savings and loan association, bank, or other qualified
19 financial institution. All interest earnings on amounts within
20 the Natural Areas Bond Repayment Fund shall accrue to the
21 Natural Areas Bond Repayment Fund. The Natural Areas Bond
22 Repayment Fund may include funds and accounts necessary for the
23 deposit of bond proceeds, NAA Fund transfer tax receipts,
24 payment of principal, interest, administrative expenses, costs
25 of issuance, in the case of bonds that are exempt from federal
26 taxation, rebate payments, and other funds and accounts
27 necessary for the implementation and administration of this
28 Act. The Director is liable on the Director's general official
29 bond for the faithful performance of the Director's duties as
30 custodian of the Natural Areas Bond Repayment Fund. This
31 liability exists in addition to the Director's liability upon
32 any separate bond given by the Director. All sums recovered for
33 losses sustained by the Natural Areas Bond Repayment Fund must
34 be deposited into the Natural Areas Bond Repayment Fund.

35 Section 15. Bond proceeds.

1 (a) The proceeds of any bonds issued under this Act for
2 purposes of Section 13 of the Open Space Lands Acquisition and
3 Development Act, including investment income thereon, must be
4 deposited into the Open Space Lands Acquisition and Development
5 Fund. The proceeds of any bonds issued under this Act for
6 purposes of Section 14 of the Open Space Lands Acquisition and
7 Development Act, including investment income thereon, must be
8 deposited into the Natural Areas Acquisition Fund. The proceeds
9 may be used for the following purposes and in such amounts as
10 determined by the Director:

11 (1) To carry out the purposes of Sections 13 or 14 of
12 the Open Space Lands Acquisition and Development Act;

13 (2) Paying the costs of issuing or refinancing any
14 bonds issued under this Act;

15 (3) Paying the costs incurred pursuant to any credit
16 agreement executed in connection with bonds issued under
17 this Act;

18 (4) Providing an appropriate reserve for any such bonds
19 to the extent that the Director determines that an
20 appropriate reserve is warranted; and

21 (5) Paying capitalized interest on the bonds for the
22 period determined necessary by the Department, not to
23 exceed 2 years.

24 (b) Excess bond proceeds remaining available after the
25 payments and deposits required under subsection (a) have been
26 made, may be used in the following manner as determined by the
27 Director: (i) to purchase, redeem, or defease outstanding
28 bonds, to the extent this action is legally available and does
29 not impair any tax-exempt status of any of the bonds; or (ii)
30 to pay any scheduled interest payment or payments due on any
31 outstanding bonds.

32 Section 20. Bonds not a pledge of the State.

33 (a) Any bonds issued under this Act, and any related credit
34 agreement, are not a pledge of the faith and credit or moral
35 obligation of the State or any State agency or political

1 subdivision of the State. All bonds, bond obligations, and
2 payment obligations deriving from any credit agreement are
3 payable solely as provided in subsection (c) of Section 10.

4 (b) Any bonds and any related credit agreement issued under
5 this Act must contain a conspicuous statement to the effect
6 that:

7 (1) Neither the State, nor any State agency, political
8 corporation, nor political subdivision of the State is
9 obligated to pay the principal of or interest on the bonds,
10 except as provided by the Open Space Lands Acquisition and
11 Development Act; and

12 (2) Neither the faith and credit of the State or any
13 State agency, political corporation, or political
14 subdivision of the State, nor the moral obligation of any
15 of them, is pledged to the payment of the principal of or
16 interest on the bonds.

17 Section 25. State not to impair bond obligations. While
18 bonds under this Act are outstanding, the State irrevocably
19 pledges and covenants that it shall not:

20 (1) take action to limit or restrict the rights of the
21 Department to fulfill its responsibilities to pay bond
22 obligations or bond administrative expenses or otherwise
23 comply with instruments entered into by the Department
24 pertaining to the issuance of the bonds;

25 (2) in any way impair the rights and remedies of the
26 holders of the bonds until the bonds are fully discharged;
27 or

28 (3) reduce the real estate transfer tax rates below the
29 levels in existence on January 1, 2006.

30 Section 30. Continuing appropriation. This Act shall
31 constitute an irrevocable and continuing appropriation of all
32 amounts necessary in respect to use of Department real estate
33 transfer tax receipts and bond proceeds for purposes specified
34 in this Act, including, without limitation, for the provision

1 for payment of principal and interest on the bonds and other
2 amounts due in connection with the issuance of the bonds under
3 this Act, to the fullest extent the appropriation is required.

4 Section 35. Director's supplemental authority. The
5 Director, on behalf of the Department, is authorized to enter
6 into the covenants and agreements required by this Act, make
7 any determinations, calculations, rules, or other
8 promulgations required by this Act and engage or hire the
9 necessary attorneys, financial advisors, consultants,
10 verification agents, trustees, underwriters, remarketing
11 agents, and other professionals necessary to carry out the
12 purposes and intent of this Act, unless otherwise expressly
13 specified or required under this Act.

14 Section 40. Personal liability. No director, officer, or
15 employee of the Department or the State shall be personally
16 liable as a result of exercising the rights and
17 responsibilities granted under this Act.

18 Section 45. Omnibus Bonds Acts. With respect to
19 instruments for the payment of moneys issued under this Act, it
20 is and always has been the intention of the General Assembly
21 (i) that the Omnibus Bond Acts are and always have been
22 supplementary grants of power to issue instruments in
23 accordance with the Omnibus Bond Acts, regardless of any
24 provision of this Act that may appear to be or to have been
25 more restrictive than those Omnibus Bond Acts, (ii) that the
26 provisions of this Act are not a limitation on the
27 supplementary authority granted by the Omnibus Bond Acts, and
28 (iii) that instruments issued under this Act within the
29 supplementary authority granted by the Omnibus Bond Acts are
30 not invalid because of any provision of this Act that may
31 appear to be or to have been more restrictive than those
32 Omnibus Bond Acts.

1 Section 50. Severability and inseverability. If any
2 provision of this Act or its application to any person or
3 circumstance is held invalid, the invalidity of that provision
4 or application does not affect other provisions or applications
5 of the Act that can be given effect without the invalid
6 provision or application, except that this Act is inseverable
7 to the extent that if all or any substantial and material part
8 of Sections 1 through 45 are held invalid, then the entire Act
9 (including both new and amendatory provisions) is invalid.

10 Section 90. The Property Tax Code is amended by changing
11 Section 31-35 as follows:

12 (35 ILCS 200/31-35)

13 Sec. 31-35. Deposit of tax revenue.

14 (a) Beginning on the effective date of this amendatory Act
15 of the 92nd General Assembly and through June 30, 2003, of the
16 moneys collected under Section 31-15, 50% shall be deposited
17 into the Illinois Affordable Housing Trust Fund, 20% into the
18 Open Space Lands Acquisition and Development Fund, 5% into the
19 Natural Areas Acquisition Fund, and 25% into the General
20 Revenue Fund.

21 (b) Beginning July 1, 2006 ~~2003~~, of the moneys collected
22 under Section 31-15, 50% shall be deposited into the Illinois
23 Affordable Housing Trust Fund, 35% into the Open Space Lands
24 Acquisition and Development Fund, and 15% into the Natural
25 Areas Acquisition Fund.

26 (Source: P.A. 91-555, eff. 1-1-00; 92-536, eff. 6-6-02; 92-874,
27 eff. 7-1-03.)

28 Section 95. The Illinois Natural Areas Preservation Act is
29 amended by adding Section 7.05a as follows:

30 (525 ILCS 30/7.05a new)

31 Sec. 7.05a. To determine the manner and extent to which
32 property under consideration for acquisition would assist in

1 storm water management, water supply and quality assurance, or
2 other infrastructure needs. The Department, however, may
3 acquire property regardless of the results of this
4 determination.

5 Section 100. The Open Space Lands Acquisition and
6 Development Act is amended by changing Sections 3, 11, 13, and
7 14 and by adding Sections 8, 9.1, 15, and 15.5 as follows:

8 (525 ILCS 35/3) (from Ch. 85, par. 2103)

9 Sec. 3. From appropriations made from the Capital
10 Development Fund, Build Illinois Bond Fund or other available
11 or designated funds for such purposes, the Department shall
12 make grants to local governments as financial assistance, on a
13 reimbursement basis, for the capital development and
14 improvement of park, recreation or conservation areas, marinas
15 and shorelines, including planning and engineering costs, and
16 for the acquisition of open space lands, including acquisition
17 of easements and other property interests less than fee simple
18 ownership if the Department determines that such property
19 interests are sufficient to carry out the purposes of this Act,
20 subject to the conditions and limitations set forth in this
21 Act.

22 No more than 10% of the amount so appropriated for any
23 fiscal year may be committed or expended on any one project
24 described in an application submitted under this Act. No more
25 than 20% of the amount so appropriated for any fiscal year may
26 be committed or expended on projects under Section 8 of this
27 Act.

28 Any grant under this Act to a local government shall be
29 conditioned upon the state providing assistance on a 50/50
30 matching basis for the acquisition of open space lands and for
31 capital development and improvement proposals; provided,
32 however, that grants made before December 31, 2009 to units of
33 local government that apply under Section 8 of this Act may be
34 conditioned upon the State providing assistance on a 60/40

1 matching basis.

2 (Source: P.A. 94-91, eff. 7-1-05.)

3 (525 ILCS 35/8 new)

4 Sec. 8. Green infrastructure projects.

5 (a) The purpose of this Section is to foster, through the
6 environmentally sensitive design and management of open
7 spaces, the acquisition, restoration, design, and management
8 of open spaces, parks, forest preserves, and conservation areas
9 for the combined purposes of creating recreational
10 opportunities and of performing green infrastructure services
11 traditionally provided by built infrastructure, including but
12 not limited to, stormwater mitigation, flood control, and air
13 and water quality enhancement.

14 (b) In addition to the requirements set forth in Section 4
15 of this Act, an application made pursuant to this Section shall
16 demonstrate:

17 (1) how the project combines recreational
18 opportunities with green infrastructure services;

19 (2) the relationship of the project to plans of the
20 applicant and other local government entities, including
21 but not limited to, plans for trail systems, flood control,
22 surface water and storm water management, and habitat
23 conservation; and

24 (3) whether the project is part of a proposed or
25 existing green corridor connecting open spaces or natural
26 areas.

27 (c) In considering applications for grants under this
28 Section, the Department shall give additional points in scoring
29 criteria to projects that demonstrate the greatest potential
30 for improving water supply and quality or for reducing the
31 capital, operating, or maintenance costs of meeting
32 water-related infrastructure requirements.

33 (525 ILCS 35/9.1 new)

34 Sec. 9.1. Technical assistance; green infrastructure

1 projects. The Department shall provide technical assistance to
2 units of local government in preparing applications for grants
3 and in performing evaluations of projects funded pursuant to
4 Section 8 of this Act. The Department, through December 31,
5 2008, may use no more than 2% (and no more than 1% thereafter)
6 of funds appropriated for the purposes of this Act to contract
7 with other public bodies and other entities, including
8 universities and non-profit organizations, for technical
9 assistance in developing, testing, and evaluating the green
10 infrastructure policies and programs authorized in this Act,
11 and for the provision of technical assistance to units of local
12 government.

13 (525 ILCS 35/11) (from Ch. 85, par. 2111)

14 Sec. 11. Progress reports on the implementation ~~and~~
15 ~~development~~ of this Act shall be filed annually with the
16 Governor and the General Assembly. Such reports shall include a
17 statement of goals and objectives and such quantifiable support
18 documentation as expenditures, allocation of funds by
19 location, including ~~such~~ performance and measurement criteria
20 sufficient to enable the General Assembly to properly evaluate
21 and review program effectiveness. Beginning in calendar year
22 2006, the annual report shall also include: (i) descriptions of
23 projects approved pursuant to Section 8 of this Act, including
24 an evaluation of the cost-effectiveness of those projects in
25 providing green infrastructure services, including but not
26 limited to, storm water mitigation, flood control, and air and
27 water quality enhancement and (ii) information on bonds issued
28 and bonds outstanding.

29 (Source: P.A. 84-109.)

30 (525 ILCS 35/13) (from Ch. 85, par. 2113)

31 Sec. 13. Open Space Lands Acquisition and Development Fund.
32 There is hereby created in the State Treasury the Open Space
33 Lands Acquisition and Development Fund. The fund shall be used
34 by the Department (i) to make grants to local governments in

1 the manner and for the purposes described in Section 3; (ii) to
2 perform the services described in Section 9.1; and (iii) for
3 the purposes set forth in Section 15 of the Open Space
4 Financing Act.

5 (Source: P.A. 86-925.)

6 (525 ILCS 35/14) (from Ch. 85, par. 2114)

7 Sec. 14. There is hereby created in the State Treasury the
8 Natural Areas Acquisition Fund. The fund shall be used by the
9 Department for (i) the acquisition, preservation and
10 stewardship of natural areas, including habitats for
11 endangered and threatened species, high quality natural
12 communities, wetlands, and other areas with unique or unusual
13 natural heritage qualities and (ii) for the purposes set forth
14 in Section 15 of the Open Space Financing Act.

15 (Source: P.A. 86-925.)

16 (525 ILCS 35/15 new)

17 Sec. 15. Open Space Bond Repayment Fund. There is
18 established the Open Space Bond Repayment Fund held by the
19 Director or his or her designee as ex-officio custodian thereof
20 separate and apart from all other State funds. The moneys in
21 the Fund must be used in accordance with the Open Space
22 Financing Act.

23 (525 ILCS 35/15.5 new)

24 Sec. 15.5. Natural Areas Bond Repayment Fund. There is
25 established the Natural Areas Bond Repayment Fund held by the
26 Director or his or her designee as ex-officio custodian thereof
27 separate and apart from all other State funds. The moneys in
28 the Fund must be used in accordance with the Open Space
29 Financing Act.

30 Section 999. Effective date. This Act takes effect upon
31 becoming law.