



Rep. Marlow H. Colvin

Filed: 5/29/2009

09600SB0658ham003

LRB096 06724 AMC 27695 a

1 AMENDMENT TO SENATE BILL 658

2 AMENDMENT NO. _____. Amend Senate Bill 658, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Power Agency Act is amended by
6 changing Sections 1-10 and 1-20 and by adding Section 1-56 as
7 follows:

8 (20 ILCS 3855/1-10)

9 (Text of Section before amendment by P.A. 95-1027)

10 Sec. 1-10. Definitions.

11 "Agency" means the Illinois Power Agency.

12 "Agency loan agreement" means any agreement pursuant to
13 which the Illinois Finance Authority agrees to loan the
14 proceeds of revenue bonds issued with respect to a project to
15 the Agency upon terms providing for loan repayment installments
16 at least sufficient to pay when due all principal of, interest

1 and premium, if any, on those revenue bonds, and providing for
2 maintenance, insurance, and other matters in respect of the
3 project.

4 "Authority" means the Illinois Finance Authority.

5 "Clean coal SNG facility" means a facility that uses a
6 gasification process to produce substitute natural gas, that
7 sequesters at least 90% of the total carbon emissions that the
8 facility would otherwise emit and that uses petroleum coke or
9 coal as a feedstock, with all such coal having a high
10 bituminous rank and greater than 1.7 pounds of sulfur per
11 million btu content.

12 "Commission" means the Illinois Commerce Commission.

13 "Costs incurred in connection with the development and
14 construction of a facility" means:

15 (1) the cost of acquisition of all real property and
16 improvements in connection therewith and equipment and
17 other property, rights, and easements acquired that are
18 deemed necessary for the operation and maintenance of the
19 facility;

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

22 (3) all origination, commitment, utilization,
23 facility, placement, underwriting, syndication, credit
24 enhancement, and rating agency fees;

25 (4) engineering, design, procurement, consulting,
26 legal, accounting, title insurance, survey, appraisal,

1 escrow, trustee, collateral agency, interest rate hedging,
2 interest rate swap, capitalized interest and other
3 financing costs, and other expenses for professional
4 services; and

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

13 "Department" means the Department of Commerce and Economic
14 Opportunity.

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

16 "Demand-response" means measures that decrease peak
17 electricity demand or shift demand from peak to off-peak
18 periods.

19 "Energy efficiency" means measures that reduce the amount
20 of electricity required to achieve a given end use.

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

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

1 "Governmental aggregator" means one or more units of local
2 government that individually or collectively procure
3 electricity to serve residential retail electrical loads
4 located within its or their jurisdiction.

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

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

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

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

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

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

25 "Renewable energy credit" means a tradable credit that
26 represents the environmental attributes of a certain amount of

1 energy produced from a renewable energy resource.

2 "Renewable energy resources" includes energy and its
3 associated renewable energy credit or renewable energy credits
4 from wind, solar thermal energy, photovoltaic cells and panels,
5 biodiesel, crops and untreated and unadulterated organic waste
6 biomass, trees and tree trimmings, hydropower that does not
7 involve new construction or significant expansion of
8 hydropower dams, and other alternative sources of
9 environmentally preferable energy. 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 trees and
15 tree trimmings, railroad crossties, utility poles, or
16 construction or demolition debris, other than untreated and
17 unadulterated 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 "Total resource cost test" or "TRC test" means a standard
23 that is met if, for an investment in energy efficiency or
24 demand-response measures, the benefit-cost ratio is greater
25 than one. The benefit-cost ratio is the ratio of the net
26 present value of the total benefits of the program to the net

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

16 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

17 (Text of Section after amendment by P.A. 95-1027)

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24 at least sufficient to pay when due all principal of, interest
25 and premium, if any, on those revenue bonds, and providing for

1 maintenance, insurance, and other matters in respect of the
2 project.

3 "Authority" means the Illinois Finance Authority.

4 "Clean coal facility" means an electric generating
5 facility that uses primarily coal as a feedstock and that
6 captures and sequesters carbon emissions at the following
7 levels: at least 50% of the total carbon emissions that the
8 facility would otherwise emit if, at the time construction
9 commences, the facility is scheduled to commence operation
10 before 2016, at least 70% of the total carbon emissions that
11 the facility would otherwise emit if, at the time construction
12 commences, the facility is scheduled to commence operation
13 during 2016 or 2017, and at least 90% of the total carbon
14 emissions that the facility would otherwise emit if, at the
15 time construction commences, the facility is scheduled to
16 commence operation after 2017. The power block of the clean
17 coal facility shall not exceed allowable emission rates for
18 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
19 and mercury for a natural gas-fired combined-cycle facility the
20 same size as and in the same location as the clean coal
21 facility at the time the clean coal facility obtains an
22 approved air permit. All coal used by a clean coal facility
23 shall have high volatile bituminous rank and greater than 1.7
24 pounds of sulfur per million btu content, unless the clean coal
25 facility does not use gasification technology and was operating
26 as a conventional coal-fired electric generating facility on

1 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
2 ~~amendatory Act of the 95th General Assembly.~~

3 "Clean coal SNG facility" means a facility that uses a
4 gasification process to produce substitute natural gas, that
5 sequesters at least 90% of the total carbon emissions that the
6 facility would otherwise emit and that uses petroleum coke or
7 coal as a feedstock, with all such coal having a high
8 bituminous rank and greater than 1.7 pounds of sulfur per
9 million btu content.

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19 other evidences of indebtedness of the Agency;

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21 facility, placement, underwriting, syndication, credit
22 enhancement, and rating agency fees;

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24 legal, accounting, title insurance, survey, appraisal,
25 escrow, trustee, collateral agency, interest rate hedging,
26 interest rate swap, capitalized interest and other

1 financing costs, and other expenses for professional
2 services; and

3 (5) the costs of plans, specifications, site study and
4 investigation, installation, surveys, other Agency costs
5 and estimates of costs, and other expenses necessary or
6 incidental to determining the feasibility of any project,
7 together with such other expenses as may be necessary or
8 incidental to the financing, insuring, acquisition, and
9 construction of a specific project and placing that project
10 in operation.

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12 Opportunity.

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16 periods.

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18 of electricity required to achieve a given end use.

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20 Section 16-102 of the Public Utilities Act.

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

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

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

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4 defined in Article VII of Section 1 of the Illinois
5 Constitution.

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7 town.

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12 representative thereof.

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19 lands under water and riparian rights, any easements,
20 covenants, licenses, leases, rights-of-way, uses, and other
21 interests, together with any liens, judgments, mortgages, or
22 other claims or security interests related to real property.

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

26 "Renewable energy resources" includes energy and its

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

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

20 "Sequester" means permanent storage of carbon dioxide by
21 injecting it into a saline aquifer, a depleted gas reservoir,
22 or an oil reservoir, directly or through an enhanced oil
23 recovery process that may involve intermediate storage in a
24 salt dome.

25 "Servicing agreement" means (i) in the case of an electric
26 utility, an agreement between the owner of a clean coal

1 facility and such electric utility, which agreement shall have
2 terms and conditions meeting the requirements of paragraph (3)
3 of subsection (d) of Section 1-75, and (ii) in the case of an
4 alternative retail electric supplier, an agreement between the
5 owner of a clean coal facility and such alternative retail
6 electric supplier, which agreement shall have terms and
7 conditions meeting the requirements of Section 16-115(d) (5) of
8 the Public Utilities Act.

9 "Substitute natural gas" or "SNG" means a gas manufactured
10 by gasification of hydrocarbon feedstock, which is
11 substantially interchangeable in use and distribution with
12 conventional natural gas.

13 "Total resource cost test" or "TRC test" means a standard
14 that is met if, for an investment in energy efficiency or
15 demand-response measures, the benefit-cost ratio is greater
16 than one. The benefit-cost ratio is the ratio of the net
17 present value of the total benefits of the program to the net
18 present value of the total costs as calculated over the
19 lifetime of the measures. A total resource cost test compares
20 the sum of avoided electric utility costs, representing the
21 benefits that accrue to the system and the participant in the
22 delivery of those efficiency measures, to the sum of all
23 incremental costs of end-use measures that are implemented due
24 to the program (including both utility and participant
25 contributions), plus costs to administer, deliver, and
26 evaluate each demand-side program, to quantify the net savings

1 obtained by substituting the demand-side program for supply
2 resources. In calculating avoided costs of power and energy
3 that an electric utility would otherwise have had to acquire,
4 reasonable estimates shall be included of financial costs
5 likely to be imposed by future regulations and legislation on
6 emissions of greenhouse gases.

7 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
8 95-1027, eff. 6-1-09; revised 1-14-09.)

9 (20 ILCS 3855/1-20)

10 Sec. 1-20. General powers of the Agency.

11 (a) The Agency is authorized to do each of the following:

12 (1) Develop electricity procurement plans to ensure
13 adequate, reliable, affordable, efficient, and
14 environmentally sustainable electric service at the lowest
15 total cost over time, taking into account any benefits of
16 price stability, for electric utilities that on December
17 31, 2005 provided electric service to at least 100,000
18 customers in Illinois. The procurement plans shall be
19 updated on an annual basis and shall include electricity
20 generated from renewable resources sufficient to achieve
21 the standards specified in this Act.

22 (2) Conduct competitive procurement processes to
23 procure the supply resources identified in the procurement
24 plan, pursuant to Section 16-111.5 of the Public Utilities
25 Act.

1 (3) Develop electric generation and co-generation
2 facilities that use indigenous coal or renewable
3 resources, or both, financed with bonds issued by the
4 Illinois Finance Authority.

5 (4) Supply electricity from the Agency's facilities at
6 cost to one or more of the following: municipal electric
7 systems, governmental aggregators, or rural electric
8 cooperatives in Illinois.

9 (b) Except as otherwise limited by this Act, the Agency has
10 all of the powers necessary or convenient to carry out the
11 purposes and provisions of this Act, including without
12 limitation, each of the following:

13 (1) To have a corporate seal, and to alter that seal at
14 pleasure, and to use it by causing it or a facsimile to be
15 affixed or impressed or reproduced in any other manner.

16 (2) To use the services of the Illinois Finance
17 Authority necessary to carry out the Agency's purposes.

18 (3) To negotiate and enter into loan agreements and
19 other agreements with the Illinois Finance Authority.

20 (4) To obtain and employ personnel and hire consultants
21 that are necessary to fulfill the Agency's purposes, and to
22 make expenditures for that purpose within the
23 appropriations for that purpose.

24 (5) To purchase, receive, take by grant, gift, devise,
25 bequest, or otherwise, lease, or otherwise acquire, own,
26 hold, improve, employ, use, and otherwise deal in and with,

1 real or personal property whether tangible or intangible,
2 or any interest therein, within the State.

3 (6) To acquire real or personal property, whether
4 tangible or intangible, including without limitation
5 property rights, interests in property, franchises,
6 obligations, contracts, and debt and equity securities,
7 and to do so by the exercise of the power of eminent domain
8 in accordance with Section 1-21; except that any real
9 property acquired by the exercise of the power of eminent
10 domain must be located within the State.

11 (7) To sell, convey, lease, exchange, transfer,
12 abandon, or otherwise dispose of, or mortgage, pledge, or
13 create a security interest in, any of its assets,
14 properties, or any interest therein, wherever situated.

15 (8) To purchase, take, receive, subscribe for, or
16 otherwise acquire, hold, make a tender offer for, vote,
17 employ, sell, lend, lease, exchange, transfer, or
18 otherwise dispose of, mortgage, pledge, or grant a security
19 interest in, use, and otherwise deal in and with, bonds and
20 other obligations, shares, or other securities (or
21 interests therein) issued by others, whether engaged in a
22 similar or different business or activity.

23 (9) To make and execute agreements, contracts, and
24 other instruments necessary or convenient in the exercise
25 of the powers and functions of the Agency under this Act,
26 including contracts with any person, local government,

1 State agency, or other entity; and all State agencies and
2 all local governments are authorized to enter into and do
3 all things necessary to perform any such agreement,
4 contract, or other instrument with the Agency. No such
5 agreement, contract, or other instrument shall exceed 40
6 years.

7 (10) To lend money, invest and reinvest its funds in
8 accordance with the Public Funds Investment Act, and take
9 and hold real and personal property as security for the
10 payment of funds loaned or invested.

11 (11) To borrow money at such rate or rates of interest
12 as the Agency may determine, issue its notes, bonds, or
13 other obligations to evidence that indebtedness, and
14 secure any of its obligations by mortgage or pledge of its
15 real or personal property, machinery, equipment,
16 structures, fixtures, inventories, revenues, grants, and
17 other funds as provided or any interest therein, wherever
18 situated.

19 (12) To enter into agreements with the Illinois Finance
20 Authority to issue bonds whether or not the income
21 therefrom is exempt from federal taxation.

22 (13) To procure insurance against any loss in
23 connection with its properties or operations in such amount
24 or amounts and from such insurers, including the federal
25 government, as it may deem necessary or desirable, and to
26 pay any premiums therefor.

1 (14) To negotiate and enter into agreements with
2 trustees or receivers appointed by United States
3 bankruptcy courts or federal district courts or in other
4 proceedings involving adjustment of debts and authorize
5 proceedings involving adjustment of debts and authorize
6 legal counsel for the Agency to appear in any such
7 proceedings.

8 (15) To file a petition under Chapter 9 of Title 11 of
9 the United States Bankruptcy Code or take other similar
10 action for the adjustment of its debts.

11 (16) To enter into management agreements for the
12 operation of any of the property or facilities owned by the
13 Agency.

14 (17) To enter into an agreement to transfer and to
15 transfer any land, facilities, fixtures, or equipment of
16 the Agency to one or more municipal electric systems,
17 governmental aggregators, or rural electric agencies or
18 cooperatives, for such consideration and upon such terms as
19 the Agency may determine to be in the best interest of the
20 citizens of Illinois.

21 (18) To enter upon any lands and within any building
22 whenever in its judgment it may be necessary for the
23 purpose of making surveys and examinations to accomplish
24 any purpose authorized by this Act.

25 (19) To maintain an office or offices at such place or
26 places in the State as it may determine.

1 (20) To request information, and to make any inquiry,
2 investigation, survey, or study that the Agency may deem
3 necessary to enable it effectively to carry out the
4 provisions of this Act.

5 (21) To accept and expend appropriations.

6 (22) To engage in any activity or operation that is
7 incidental to and in furtherance of efficient operation to
8 accomplish the Agency's purposes.

9 (23) To adopt, revise, amend, and repeal rules with
10 respect to its operations, properties, and facilities as
11 may be necessary or convenient to carry out the purposes of
12 this Act, subject to the provisions of the Illinois
13 Administrative Procedure Act and Sections 1-22 and 1-35 of
14 this Act.

15 (24) To establish and collect charges and fees as
16 described in this Act.

17 (25) To manage procurement of substitute natural gas
18 from a facility that meets the criteria specified in
19 subsection (a) of Section 1-56 of this Act, on terms and
20 conditions that may be approved by the Agency pursuant to
21 subsection (d) of Section 1-56 of this Act, to support the
22 operations of State agencies and local governments that
23 agree to such terms and conditions. This procurement
24 process is not subject to the Procurement Code.

25 (Source: P.A. 95-481, eff. 8-28-07.)

1 (20 ILCS 3855/1-56 new)

2 Sec. 1-56. Clean coal SNG facility construction.

3 (a) It is the intention of the General Assembly to provide
4 additional long-term natural gas price stability to the State
5 and consumers by promoting the development of a clean coal SNG
6 facility that would produce a minimum annual output of 30 Bcf
7 of SNG and commence construction no later than June 1, 2013 on
8 a brownfield site in a municipality with at least one million
9 residents. The costs associated with preparing a facility cost
10 report for such a facility, which contains all of the
11 information required by subsection (b) of this Section, may be
12 paid or reimbursed pursuant to subsection (c) of this Section.

13 (b) The facility cost report for a facility that meets the
14 criteria set forth in subsection (a) of this Section shall be
15 prepared by a duly licensed engineering firm that details the
16 estimated capital costs payable to one or more contractors or
17 suppliers for the engineering, procurement, and construction
18 of the components comprising the facility and the estimated
19 costs of operation and maintenance of the facility. The report
20 must be provided to the General Assembly and the Agency on or
21 before April 30, 2010. The facility cost report shall include
22 all off the following:

23 (1) An estimate of the capital cost of the core plant
24 based on a front-end engineering and design study. The core
25 plant shall include all civil, structural, mechanical,
26 electrical, control, and safety systems. The quoted

1 construction costs shall be expressed in nominal dollars as
2 of the date that the quote is prepared and shall include:

3 (A) capitalized financing costs during
4 construction;

5 (B) taxes, insurance, and other owner's costs; and

6 (C) any assumed escalation in materials and labor
7 beyond the date as of which the construction cost quote
8 is expressed;

9 (2) An estimate of the capital cost of the balance of
10 the plant, including any capital costs associated with site
11 preparation and remediation, sequestration of carbon
12 dioxide emissions, and all interconnects and interfaces
13 required to operate the facility, such as construction or
14 backfeed power supply, pipelines to transport substitute
15 natural gas or carbon dioxide, potable water supply,
16 natural gas supply, water supply, water discharge,
17 landfill, access roads, and coal delivery. The front-end
18 engineering and design study and the cost study for the
19 balance of the plant shall include sufficient design work
20 to permit quantification of major categories of materials,
21 commodities and labor hours, and receipt of quotes from
22 vendors of major equipment required to construct and
23 operate the facility.

24 (3) An operating and maintenance cost quote that will
25 provide the estimated cost of delivered fuel, personnel,
26 maintenance contracts, chemicals, catalysts, consumables,

1 spares, and other fixed and variable operating and
2 maintenance costs. This quote is subject to the following
3 requirements:

4 (A) The delivered fuel cost estimate shall be
5 provided by a recognized third party expert or experts
6 in the fuel and transportation industries.

7 (B) The balance of the operating and maintenance
8 cost quote, excluding delivered fuel costs shall be
9 developed based on the inputs provided by a duly
10 licensed engineering firm performing the construction
11 cost quote, potential vendors under long-term service
12 agreements and plant operating agreements, or
13 recognized third-party plant operator or operators.

14 The operating and maintenance cost quote shall be
15 expressed in nominal dollars as of the date that the quote
16 is prepared and shall include (i) taxes, insurance, and
17 other owner's costs and (ii) any assumed escalation in
18 materials and labor beyond the date as of which the
19 operating and maintenance cost quote is expressed.

20 (c) Reasonable amounts paid or due to be paid by the owner
21 or owners of the clean coal SNG facility to third parties
22 unrelated to the owner or owners to prepare the facility cost
23 report may be reimbursed or paid up to \$10 million, through
24 funding authorized pursuant to 20 ILCS 3501/825-65.

25 (d) The Agency shall review the facility report and based
26 on that report, consider whether to enter into long term

1 contracts to purchase SNG from the facility pursuant to Section
2 1-20 of this Act. To assist with its evaluation of the report,
3 the Agency may hire one or more experts or consultants, the
4 reasonable costs of which, not to exceed \$250,000, shall be
5 paid for by the owner or owners of the clean coal SNG facility
6 submitting the facility cost report. The Agency may begin the
7 process of selecting such experts or consultants prior to
8 receipt of the facility cost report.

9 Section 95. No acceleration or delay. Where this Act makes
10 changes in a statute that is represented in this Act by text
11 that is not yet or no longer in effect (for example, a Section
12 represented by multiple versions), the use of that text does
13 not accelerate or delay the taking effect of (i) the changes
14 made by this Act or (ii) provisions derived from any other
15 Public Act.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."