



Rep. Frank J. Mautino

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LRB098 15376 OMW 57762 a

1 AMENDMENT TO HOUSE BILL 3821

2 AMENDMENT NO. _____. Amend House Bill 3821 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Finance Authority Act is amended
5 by changing Section 801-40 as follows:

6 (20 ILCS 3501/801-40)

7 Sec. 801-40. In addition to the powers otherwise authorized
8 by law and in addition to the foregoing general corporate
9 powers, the Authority shall also have the following additional
10 specific powers to be exercised in furtherance of the purposes
11 of this Act.

12 (a) The Authority shall have power (i) to accept grants,
13 loans or appropriations from the federal government or the
14 State, or any agency or instrumentality thereof, to be used for
15 the operating expenses of the Authority, or for any purposes of
16 the Authority, including the making of direct loans of such

1 funds with respect to projects, and (ii) to enter into any
2 agreement with the federal government or the State, or any
3 agency or instrumentality thereof, in relationship to such
4 grants, loans or appropriations.

5 (b) The Authority shall have power to procure and enter
6 into contracts for any type of insurance and indemnity
7 agreements covering loss or damage to property from any cause,
8 including loss of use and occupancy, or covering any other
9 insurable risk.

10 (c) The Authority shall have the continuing power to issue
11 bonds for its corporate purposes. Bonds may be issued by the
12 Authority in one or more series and may provide for the payment
13 of any interest deemed necessary on such bonds, of the costs of
14 issuance of such bonds, of any premium on any insurance, or of
15 the cost of any guarantees, letters of credit or other similar
16 documents, may provide for the funding of the reserves deemed
17 necessary in connection with such bonds, and may provide for
18 the refunding or advance refunding of any bonds or for accounts
19 deemed necessary in connection with any purpose of the
20 Authority. The bonds may bear interest payable at any time or
21 times and at any rate or rates, notwithstanding any other
22 provision of law to the contrary, and such rate or rates may be
23 established by an index or formula which may be implemented or
24 established by persons appointed or retained therefor by the
25 Authority, or may bear no interest or may bear interest payable
26 at maturity or upon redemption prior to maturity, may bear such

1 date or dates, may be payable at such time or times and at such
2 place or places, may mature at any time or times not later than
3 40 years from the date of issuance, may be sold at public or
4 private sale at such time or times and at such price or prices,
5 may be secured by such pledges, reserves, guarantees, letters
6 of credit, insurance contracts or other similar credit support
7 or liquidity instruments, may be executed in such manner, may
8 be subject to redemption prior to maturity, may provide for the
9 registration of the bonds, and may be subject to such other
10 terms and conditions all as may be provided by the resolution
11 or indenture authorizing the issuance of such bonds. The holder
12 or holders of any bonds issued by the Authority may bring suits
13 at law or proceedings in equity to compel the performance and
14 observance by any person or by the Authority or any of its
15 agents or employees of any contract or covenant made with the
16 holders of such bonds and to compel such person or the
17 Authority and any of its agents or employees to perform any
18 duties required to be performed for the benefit of the holders
19 of any such bonds by the provision of the resolution
20 authorizing their issuance, and to enjoin such person or the
21 Authority and any of its agents or employees from taking any
22 action in conflict with any such contract or covenant.
23 Notwithstanding the form and tenor of any such bonds and in the
24 absence of any express recital on the face thereof that it is
25 non-negotiable, all such bonds shall be negotiable
26 instruments. Pending the preparation and execution of any such

1 bonds, temporary bonds may be issued as provided by the
2 resolution. The bonds shall be sold by the Authority in such
3 manner as it shall determine. The bonds may be secured as
4 provided in the authorizing resolution by the receipts,
5 revenues, income and other available funds of the Authority and
6 by any amounts derived by the Authority from the loan agreement
7 or lease agreement with respect to the project or projects; and
8 bonds may be issued as general obligations of the Authority
9 payable from such revenues, funds and obligations of the
10 Authority as the bond resolution shall provide, or may be
11 issued as limited obligations with a claim for payment solely
12 from such revenues, funds and obligations as the bond
13 resolution shall provide. The Authority may grant a specific
14 pledge or assignment of and lien on or security interest in
15 such rights, revenues, income, or amounts and may grant a
16 specific pledge or assignment of and lien on or security
17 interest in any reserves, funds or accounts established in the
18 resolution authorizing the issuance of bonds. Any such pledge,
19 assignment, lien or security interest for the benefit of the
20 holders of the Authority's bonds shall be valid and binding
21 from the time the bonds are issued without any physical
22 delivery or further act, and shall be valid and binding as
23 against and prior to the claims of all other parties having
24 claims against the Authority or any other person irrespective
25 of whether the other parties have notice of the pledge,
26 assignment, lien or security interest. As evidence of such

1 pledge, assignment, lien and security interest, the Authority
2 may execute and deliver a mortgage, trust agreement, indenture
3 or security agreement or an assignment thereof. A remedy for
4 any breach or default of the terms of any such agreement by the
5 Authority may be by mandamus proceedings in any court of
6 competent jurisdiction to compel the performance and
7 compliance therewith, but the agreement may prescribe by whom
8 or on whose behalf such action may be instituted. It is
9 expressly understood that the Authority may, but need not,
10 acquire title to any project with respect to which it exercises
11 its authority.

12 (d) With respect to the powers granted by this Act, the
13 Authority may adopt rules and regulations prescribing the
14 procedures by which persons may apply for assistance under this
15 Act. Nothing herein shall be deemed to preclude the Authority,
16 prior to the filing of any formal application, from conducting
17 preliminary discussions and investigations with respect to the
18 subject matter of any prospective application.

19 (e) The Authority shall have power to acquire by purchase,
20 lease, gift or otherwise any property or rights therein from
21 any person useful for its purposes, whether improved for the
22 purposes of any prospective project, or unimproved. The
23 Authority may also accept any donation of funds for its
24 purposes from any such source. The Authority shall have no
25 independent power of condemnation but may acquire any property
26 or rights therein obtained upon condemnation by any other

1 authority, governmental entity or unit of local government with
2 such power.

3 (f) The Authority shall have power to develop, construct
4 and improve either under its own direction, or through
5 collaboration with any approved applicant, or to acquire
6 through purchase or otherwise, any project, using for such
7 purpose the proceeds derived from the sale of its bonds or from
8 governmental loans or grants, and to hold title in the name of
9 the Authority to such projects.

10 (g) The Authority shall have power to lease pursuant to a
11 lease agreement any project so developed and constructed or
12 acquired to the approved tenant on such terms and conditions as
13 may be appropriate to further the purposes of this Act and to
14 maintain the credit of the Authority. Any such lease may
15 provide for either the Authority or the approved tenant to
16 assume initially, in whole or in part, the costs of
17 maintenance, repair and improvements during the leasehold
18 period. In no case, however, shall the total rentals from any
19 project during any initial leasehold period or the total loan
20 repayments to be made pursuant to any loan agreement, be less
21 than an amount necessary to return over such lease or loan
22 period (1) all costs incurred in connection with the
23 development, construction, acquisition or improvement of the
24 project and for repair, maintenance and improvements thereto
25 during the period of the lease or loan; provided, however, that
26 the rentals or loan repayments need not include costs met

1 through the use of funds other than those obtained by the
2 Authority through the issuance of its bonds or governmental
3 loans; (2) a reasonable percentage additive to be agreed upon
4 by the Authority and the borrower or tenant to cover a properly
5 allocable portion of the Authority's general expenses,
6 including, but not limited to, administrative expenses,
7 salaries and general insurance, and (3) an amount sufficient to
8 pay when due all principal of, interest and premium, if any on,
9 any bonds issued by the Authority with respect to the project.
10 The portion of total rentals payable under clause (3) of this
11 subsection (g) shall be deposited in such special accounts,
12 including all sinking funds, acquisition or construction
13 funds, debt service and other funds as provided by any
14 resolution, mortgage or trust agreement of the Authority
15 pursuant to which any bond is issued.

16 (h) The Authority has the power, upon the termination of
17 any leasehold period of any project, to sell or lease for a
18 further term or terms such project on such terms and conditions
19 as the Authority shall deem reasonable and consistent with the
20 purposes of the Act. The net proceeds from all such sales and
21 the revenues or income from such leases shall be used to
22 satisfy any indebtedness of the Authority with respect to such
23 project and any balance may be used to pay any expenses of the
24 Authority or be used for the further development, construction,
25 acquisition or improvement of projects. In the event any
26 project is vacated by a tenant prior to the termination of the

1 initial leasehold period, the Authority shall sell or lease the
2 facilities of the project on the most advantageous terms
3 available. The net proceeds of any such disposition shall be
4 treated in the same manner as the proceeds from sales or the
5 revenues or income from leases subsequent to the termination of
6 any initial leasehold period.

7 (i) The Authority shall have the power to make loans to
8 persons to finance a project, to enter into loan agreements
9 with respect thereto, and to accept guarantees from persons of
10 its loans or the resultant evidences of obligations of the
11 Authority.

12 (j) The Authority may fix, determine, charge and collect
13 any premiums, fees, charges, costs and expenses, including,
14 without limitation, any application fees, commitment fees,
15 program fees, financing charges or publication fees from any
16 person in connection with its activities under this Act.

17 (k) In addition to the funds established as provided
18 herein, the Authority shall have the power to create and
19 establish such reserve funds and accounts as may be necessary
20 or desirable to accomplish its purposes under this Act and to
21 deposit its available monies into the funds and accounts.

22 (l) At the request of the governing body of any unit of
23 local government, the Authority is authorized to market such
24 local government's revenue bond offerings by preparing bond
25 issues for sale, advertising for sealed bids, receiving bids at
26 its offices, making the award to the bidder that offers the

1 most favorable terms or arranging for negotiated placements or
2 underwritings of such securities. The Authority may, at its
3 discretion, offer for concurrent sale the revenue bonds of
4 several local governments. Sales by the Authority of revenue
5 bonds under this Section shall in no way imply State guarantee
6 of such debt issue. The Authority may require such financial
7 information from participating local governments as it deems
8 necessary in order to carry out the purposes of this subsection
9 (1).

10 (m) The Authority may make grants to any county to which
11 Division 5-37 of the Counties Code is applicable to assist in
12 the financing of capital development, construction and
13 renovation of new or existing facilities for hospitals and
14 health care facilities under that Act. Such grants may only be
15 made from funds appropriated for such purposes from the Build
16 Illinois Bond Fund.

17 (n) The Authority may establish an urban development action
18 grant program for the purpose of assisting municipalities in
19 Illinois which are experiencing severe economic distress to
20 help stimulate economic development activities needed to aid in
21 economic recovery. The Authority shall determine the types of
22 activities and projects for which the urban development action
23 grants may be used, provided that such projects and activities
24 are broadly defined to include all reasonable projects and
25 activities the primary objectives of which are the development
26 of viable urban communities, including decent housing and a

1 suitable living environment, and expansion of economic
2 opportunity, principally for persons of low and moderate
3 incomes. The Authority shall enter into grant agreements from
4 monies appropriated for such purposes from the Build Illinois
5 Bond Fund. The Authority shall monitor the use of the grants,
6 and shall provide for audits of the funds as well as recovery
7 by the Authority of any funds determined to have been spent in
8 violation of this subsection (n) or any rule or regulation
9 promulgated hereunder. The Authority shall provide technical
10 assistance with regard to the effective use of the urban
11 development action grants. The Authority shall file an annual
12 report to the General Assembly concerning the progress of the
13 grant program.

14 (o) The Authority may establish a Housing Partnership
15 Program whereby the Authority provides zero-interest loans to
16 municipalities for the purpose of assisting in the financing of
17 projects for the rehabilitation of affordable multi-family
18 housing for low and moderate income residents. The Authority
19 may provide such loans only upon a municipality's providing
20 evidence that it has obtained private funding for the
21 rehabilitation project. The Authority shall provide 3 State
22 dollars for every 7 dollars obtained by the municipality from
23 sources other than the State of Illinois. The loans shall be
24 made from monies appropriated for such purpose from the Build
25 Illinois Bond Fund. The total amount of loans available under
26 the Housing Partnership Program shall not exceed \$30,000,000.

1 State loan monies under this subsection shall be used only for
2 the acquisition and rehabilitation of existing buildings
3 containing 4 or more dwelling units. The terms of any loan made
4 by the municipality under this subsection shall require
5 repayment of the loan to the municipality upon any sale or
6 other transfer of the project.

7 (p) The Authority may award grants to universities and
8 research institutions, research consortiums and other
9 not-for-profit entities for the purposes of: remodeling or
10 otherwise physically altering existing laboratory or research
11 facilities, expansion or physical additions to existing
12 laboratory or research facilities, construction of new
13 laboratory or research facilities or acquisition of modern
14 equipment to support laboratory or research operations
15 provided that such grants (i) be used solely in support of
16 project and equipment acquisitions which enhance technology
17 transfer, and (ii) not constitute more than 60 percent of the
18 total project or acquisition cost.

19 (q) Grants may be awarded by the Authority to units of
20 local government for the purpose of developing the appropriate
21 infrastructure or defraying other costs to the local government
22 in support of laboratory or research facilities provided that
23 such grants may not exceed 40% of the cost to the unit of local
24 government.

25 (r) The Authority may establish a Direct Loan Program to
26 make loans to individuals, partnerships or corporations for the

1 purpose of an industrial project, as defined in Section 801-10
2 of this Act. For the purposes of such program and not by way of
3 limitation on any other program of the Authority, the Authority
4 shall have the power to issue bonds, notes, or other evidences
5 of indebtedness including commercial paper for purposes of
6 providing a fund of capital from which it may make such loans.
7 The Authority shall have the power to use any appropriations
8 from the State made especially for the Authority's Direct Loan
9 Program for additional capital to make such loans or for the
10 purposes of reserve funds or pledged funds which secure the
11 Authority's obligations of repayment of any bond, note or other
12 form of indebtedness established for the purpose of providing
13 capital for which it intends to make such loans under the
14 Direct Loan Program. For the purpose of obtaining such capital,
15 the Authority may also enter into agreements with financial
16 institutions and other persons for the purpose of selling loans
17 and developing a secondary market for such loans. Loans made
18 under the Direct Loan Program may be in an amount not to exceed
19 \$300,000 and shall be made for a portion of an industrial
20 project which does not exceed 50% of the total project. No loan
21 may be made by the Authority unless approved by the affirmative
22 vote of at least 8 members of the board. The Authority shall
23 establish procedures and publish rules which shall provide for
24 the submission, review, and analysis of each direct loan
25 application and which shall preserve the ability of each board
26 member to reach an individual business judgment regarding the

1 propriety of making each direct loan. The collective discretion
2 of the board to approve or disapprove each loan shall be
3 unencumbered. The Authority may establish and collect such fees
4 and charges, determine and enforce such terms and conditions,
5 and charge such interest rates as it determines to be necessary
6 and appropriate to the successful administration of the Direct
7 Loan Program. The Authority may require such interests in
8 collateral and such guarantees as it determines are necessary
9 to protect the Authority's interest in the repayment of the
10 principal and interest of each loan made under the Direct Loan
11 Program.

12 (s) The Authority may guarantee private loans to third
13 parties up to a specified dollar amount in order to promote
14 economic development in this State.

15 (t) The Authority may adopt rules and regulations as may be
16 necessary or advisable to implement the powers conferred by
17 this Act.

18 (u) The Authority shall have the power to issue bonds,
19 notes or other evidences of indebtedness, which may be used to
20 make loans to units of local government which are authorized to
21 enter into loan agreements and other documents and to issue
22 bonds, notes and other evidences of indebtedness for the
23 purpose of financing the protection of storm sewer outfalls,
24 the construction of adequate storm sewer outfalls, and the
25 provision for flood protection of sanitary sewage treatment
26 plans, in counties that have established a stormwater

1 management planning committee in accordance with Section
2 5-1062 of the Counties Code. Any such loan shall be made by the
3 Authority pursuant to the provisions of Section 820-5 to 820-60
4 of this Act. The unit of local government shall pay back to the
5 Authority the principal amount of the loan, plus annual
6 interest as determined by the Authority. The Authority shall
7 have the power, subject to appropriations by the General
8 Assembly, to subsidize or buy down a portion of the interest on
9 such loans, up to 4% per annum.

10 (v) The Authority may accept security interests as provided
11 in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

12 (w) Moral Obligation. In the event that the Authority
13 determines that monies of the Authority will not be sufficient
14 for the payment of the principal of and interest on its bonds
15 during the next State fiscal year, the Chairperson, as soon as
16 practicable, shall certify to the Governor the amount required
17 by the Authority to enable it to pay such principal of and
18 interest on the bonds. The Governor shall submit the amount so
19 certified to the General Assembly as soon as practicable, but
20 no later than the end of the current State fiscal year. This
21 subsection shall apply only to any bonds or notes as to which
22 the Authority shall have determined, in the resolution
23 authorizing the issuance of the bonds or notes, that this
24 subsection shall apply. Whenever the Authority makes such a
25 determination, that fact shall be plainly stated on the face of
26 the bonds or notes and that fact shall also be reported to the

1 Governor. In the event of a withdrawal of moneys from a reserve
2 fund established with respect to any issue or issues of bonds
3 of the Authority to pay principal or interest on those bonds,
4 the Chairperson of the Authority, as soon as practicable, shall
5 certify to the Governor the amount required to restore the
6 reserve fund to the level required in the resolution or
7 indenture securing those bonds. The Governor shall submit the
8 amount so certified to the General Assembly as soon as
9 practicable, but no later than the end of the current State
10 fiscal year. The Authority shall obtain written approval from
11 the Governor for any bonds and notes to be issued under this
12 Section. In addition to any other bonds authorized to be issued
13 under Sections 825-60, 825-65(e), 830-25 and 845-5, the
14 principal amount of Authority bonds outstanding issued under
15 this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS
16 360/2-6(c), which have been assumed by the Authority, shall not
17 exceed \$150,000,000. This subsection (w) shall in no way be
18 applied to any bonds issued by the Authority on behalf of the
19 Illinois Power Agency under Section 825-90 of this Act.

20 (x) The Authority may enter into agreements or contracts
21 with any person necessary or appropriate to place the payment
22 obligations of the Authority under any of its bonds in whole or
23 in part on any interest rate basis, cash flow basis, or other
24 basis desired by the Authority, including without limitation
25 agreements or contracts commonly known as "interest rate swap
26 agreements", "forward payment conversion agreements", and

1 "futures", or agreements or contracts to exchange cash flows or
2 a series of payments, or agreements or contracts, including
3 without limitation agreements or contracts commonly known as
4 "options", "puts", or "calls", to hedge payment, rate spread,
5 or similar exposure; provided that any such agreement or
6 contract shall not constitute an obligation for borrowed money
7 and shall not be taken into account under Section 845-5 of this
8 Act or any other debt limit of the Authority or the State of
9 Illinois.

10 (y) The Authority shall publish summaries of projects and
11 actions approved by the members of the Authority on its
12 website. These summaries shall include, but not be limited to,
13 information regarding the:

- 14 (1) project;
- 15 (2) Board's action or actions;
- 16 (3) purpose of the project;
- 17 (4) Authority's program and contribution;
- 18 (5) volume cap;
- 19 (6) jobs retained;
- 20 (7) projected new jobs;
- 21 (8) construction jobs created;
- 22 (9) estimated sources and uses of funds;
- 23 (10) financing summary;
- 24 (11) project summary;
- 25 (12) business summary;
- 26 (13) ownership or economic disclosure statement;

1 (14) professional and financial information;

2 (15) service area; and

3 (16) legislative district.

4 The disclosure of information pursuant to this subsection
5 shall comply with the Freedom of Information Act.

6 (z) The Authority is designated and declared the State
7 Infrastructure Bank of the State of Illinois; provided that
8 such designation and declaration shall not apply to federal
9 funds directed to the Department of Transportation.

10 (Source: P.A. 95-470, eff. 8-27-07; 95-481, eff. 8-28-07;
11 95-876, eff. 8-21-08; 96-795, eff. 7-1-10 (see Section 5 of
12 P.A. 96-793 for the effective date of changes made by P.A.
13 96-795).)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."