

AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the School District Intergovernmental Cooperation Renewable Energy Act.

Section 5. Findings. The General Assembly finds that there is a need to promote the use of renewable energy resources, including facilities designed to convert wind or solar power to energy, and to promote employment in the construction and operation of such facilities, and further finds that a means of meeting such need is to authorize school districts to join together to acquire and construct facilities for such purposes.

Section 10. Definitions. In this Act:

"Agency" means a joint action agency organized and operating under this Act.

"Applicable law" means any provision of law, including this Act, authorizing school districts to issue bonds as that term is defined in the Local Government Debt Reform Act.

"Board" means the board of directors of an agency organized under this Act.

"Bond" means a bond as such term is defined in the Local Government Debt Reform Act issued by an agency payable from one

or more of the agency's revenue sources and other sources as the agency may lawfully pledge, which sources may include school district bonds or proceeds or payments to be made pursuant to an intergovernmental agreement.

"Eligible project" means any land or rights in land, plant, works, system, facility, machinery, intellectual property, or other real or personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, such distribution or transmission as may be required in a relevant electric service agreement, purchase, sale, exchange, or interchange of electrical energy derived from renewable energy resources as defined in Section 1-10 of the Illinois Power Agency Act, including wind, solar power, and other renewable resources, and in the acquisition, extraction, conversion, transportation, storage, or reprocessing of ancillary fuel of any kind for any of those purposes, or any interest in, or right to the use, services, output, or capacity of any plant, works, system, or facilities.

"Governing body" means the school board having charge of the corporate affairs of a school district.

"Intergovernmental agreement" means the agreement by which an agency is formed by school districts pursuant to this Act.

"Members" means the school districts joining pursuant to intergovernmental agreement to organize an agency under this Act.

"Resolution" means a resolution duly adopted by a governing body.

"Revenue source" means any revenue source as such term is defined in the Local Government Debt Reform Act.

"School district" means a combined elementary district, a combined high school district, a combined unit district, a unit district, a combined high school unit district, an elementary district, or an optional elementary unit district organized and operating under the School Code of the State of Illinois, but does not include any office, officer, department, division, bureau, board, commission, or similar agency of the State of Illinois.

"School district bond" means any bond as such term is defined in the Local Government Debt Reform Act authorized or issued by or on behalf of a school district under applicable law.

Section 15. Powers supplemental. The provisions of this Act are intended to be supplemental and, in addition to all other powers or authorities granted to any school district, shall be construed liberally and shall not be construed as a limitation of any power or authority otherwise granted.

Section 20. Actions by resolution. All actions to be taken by a school district or an agency pursuant to this Act shall be fully effective if taken by resolution.

Section 25. Agency status. An agency organized under this Act shall be a unit of local government of the State of Illinois and a body politic and corporate.

Section 30. Organization. Any 2 or more school districts, whether contiguous or noncontiguous, may form an agency by the execution of an intergovernmental agreement authorized by resolution adopted by the governing body of each school district. The intergovernmental agreement shall state or may state, as applicable, the following:

(1) the name of the agency and the date of its establishment, which may be by reference to a date or the dates of the resolutions adopted by the governing bodies, and the duration of its existence, which may be perpetual;

(2) the names of the school districts that have adopted the intergovernmental agreement and constitute the initial members;

(3) the names and addresses of the persons initially appointed in the resolutions adopting the intergovernmental agreement to serve as initial directors on the board and provision for the organizational meeting of the agency;

(4) provision for the terms of office of the directors and for alternate directors, if so provided, but such directors and alternate directors shall always be selected

and vacancies in their offices declared and filled by resolutions adopted by the governing body of the respective school districts;

(5) if so provided, provision for weighted voting among the school districts or by the directors;

(6) the location by city, village, or incorporated town in the State of Illinois of the principal office of the agency;

(7) provision for amendment of the intergovernmental agreement;

(8) if provided, initial funding for the agency, which may include binding agreements of the school districts to provide money or to issue school district bonds for the benefit of the agency;

(9) provisions for the disposition, division, or distribution of obligations, property, and assets of the agency upon dissolution; and

(10) any other provisions for regulating the business of the agency or the conduct of its affairs consistent with this Act.

Section 35. Officers; board; bylaws.

(a) At the organizational meeting of the board, the directors shall elect from their members a presiding officer to preside over the meetings of the board and an alternate presiding officer and may elect an executive board. The board

shall determine and designate in the agency's bylaws the titles for the presiding officers. The directors shall also elect a secretary and treasurer, who need not be directors. The board may select such other officers, employees, and agents as deemed to be necessary, who need not be directors or residents of any of the school districts that are members. The board may designate appropriate titles for all other officers, employees, and agents. All persons selected by the board shall hold their respective offices at the pleasure of the board, and give bond as may be required by the board.

(b) The board is the corporate authority of the agency and shall exercise all the powers and manage and control all of the affairs and property of the agency. The board shall have full power to pass all necessary resolutions and rules for the proper management and conduct of the business of the agency and for carrying into effect the objects for which the agency was established. The board shall have not less than one meeting each year for the election of officers and the transaction of any other business. Unless otherwise provided by this Act, the intergovernmental agreement, or the bylaws, an act of the majority of the directors present at a meeting at which a quorum is present is required for an act of the board.

(c) The board shall adopt bylaws that may include without limitation the following provisions:

(1) the rights and obligations of members consistent with the intergovernmental agreement and this Act;

(2) if not governed in the intergovernmental agreement, then the manner of adding new members and the rights and obligations of the members;

(3) the time, place, and date of the regular meeting or meetings and the procedures for calling special meetings of the board;

(4) procedural rules;

(5) the composition, powers, and responsibilities of any committee or executive board;

(6) the criteria as called for in item (20) of Section 55 of this Act; and

(7) other rules or provisions for regulating the affairs of the agency as the board shall determine to be advisable.

Section 40. Filing. Within 3 months after the organizational meeting, the board shall cause a certified copy of the intergovernmental agreement to be filed with the Secretary of State of Illinois. The Secretary of State shall accept such filing and issue an acknowledgement of filing over his or her signature and the Great Seal of the State. The Secretary of State shall make and keep a register of agencies established under this Act.

Section 45. Place of business. Every agency shall maintain an office in the State of Illinois to be known as its principal

office. When an agency desires to change the location of such office, it shall file with the Secretary of State a certificate of change of location, stating the new address and the effective date of change. Meetings of the board may be held at any place within the State of Illinois designated by the board after notice.

Section 50. Lawful expense of school district. Each member shall have full power and authority to appropriate money from its operation and maintenance fund, by whatever name now or hereafter known, for the payment of the expenses of the agency and of its representative in exercising its functions as a member of the agency, which expenses may include payment of principal of and interest on bonds of the agency for a period not greater than 40 years after the dated date of any bonds. Each member shall have full power and authority, subject to the provisions of applicable law, to agree to the issuance and delivery of school district bonds to aid the agency.

Section 55. Powers and duties generally. An agency shall have all the powers and duties enumerated in this Section in furtherance of the purposes of this Act. In the exercise thereof it shall be deemed to be performing an essential governmental function and exercising a part of the sovereign powers of the State of Illinois, separate and distinct from member school districts, and shall have the privileges,

immunities, and rights of a public body politic and corporate, municipal corporation, and unit of local government, but shall not have taxing power. All powers of the agency shall be exercised by its board unless otherwise provided by the bylaws.

(1) An agency may plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend, or otherwise participate in, individually or jointly with other persons or other entities of any type, one or more eligible projects, proposed, existing, or under construction, within or without the State of Illinois, acquire any interest in or any right to products and services of an eligible project, purchase, own, sell, dispose of, or otherwise participate in securities issued in connection with the financing of an eligible project or any portion thereof, create such subsidiary entity or entities of any type as may be necessary or desirable, and may act as agent, or designate one or more persons, public agencies, or other entities of any type, whether or not participating in an eligible project, to act as its agent, in connection with the planning, financing, acquisition, construction, reconstruction, ownership, lease, operation, maintenance, repair, extension, or improvement of the eligible project.

(2) An agency may investigate the desirability of and necessity for additional means of providing electrical energy from wind sources of any kind for such purpose and

make studies, surveys, and estimates as may be necessary to determine its feasibility and cost.

(3) An agency may cooperate with other persons, public agencies, or other entities of any type in the development of means of providing electrical energy from wind sources of any kind for those purposes and give assistance with personnel and equipment in any eligible project.

(4) An agency may structure the ownership and investment in an eligible project in such a way as to maximize the use of any available United States federal incentives for such projects, including, but not limited to, New Markets Tax Credits under Section 45D of the Internal Revenue Code of 1986, as amended, or any successor provision.

(5) An agency may apply for consents, authorizations, or approvals required for any eligible project within its powers and take all actions necessary to comply with the conditions thereof.

(6) An agency may perform any act authorized by this Act through, or by means of, its officers, agents, or employees or by contract with others, including without limitation the employment of engineers, architects, attorneys, appraisers, financial advisors, and such other consultants and employees as may be required in the judgment of the agency, and fix and pay their compensation from funds available to the agency.

(7) An agency may, individually or jointly with other persons, public agencies, or other entities of any type, acquire, hold, use, and dispose of income, revenues, funds, and money.

(8) An agency may, individually or jointly with other persons, public agencies, or other entities of any type, acquire, own, hire, use, operate and dispose of personal property and any interest therein.

(9) An agency may, individually or jointly with other persons, public agencies, or other entities of any type, acquire, own, use, lease as lessor or lessee, operate, and dispose of real property and interests in real property, including eligible projects existing, proposed, or under construction, and make improvements thereon.

(10) An agency may grant the use by franchise, lease, or otherwise and make charges for the use of any property or facility owned or controlled by it.

(11) An agency may borrow money and issue negotiable bonds, secured or unsecured, in accordance with this Act.

(12) An agency may invest money of the agency not required for immediate use, including proceeds from the sale of any bonds, in such obligations, securities, and other investments as authorized by the provisions of the Public Funds Investment Act.

(13) An agency may determine the location and character of, and all other matters in connection with, any and all

eligible projects it is authorized to acquire, hold, establish, effectuate, operate, or control.

(14) An agency may contract with any persons, public agencies, or other entities of any type for the planning, development, construction, or operation of any eligible project or for the sale, transmission, or distribution of the products and services of any eligible project, or for any interest therein or any right to the products and services thereof, on such terms and for such period not in excess of 50 years of time as its board shall determine.

(15) An agency may enter into any contract or agreement necessary, appropriate, or incidental to the effectuation of its lawful purposes and the exercise of the powers granted by this Act for a period not in excess of 50 years in time, including without limitation contracts or agreements for the purchase, sale, exchange, interchange, wheeling, pooling, transmission, distribution, or storage of electrical energy and fuel of any kind for any such purposes, within and without the State of Illinois, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, on such terms and for such period of time as its board determines. Any such contract or agreement may include provisions for requirements purchases, restraints on resale or other dealings, exclusive dealing, pricing, territorial

division, and other conduct or arrangements that do not have an anti-competitive effect. Provided, however, that the production, interconnection, transmission, distribution, and sale at wholesale or retail of electric energy generated by the eligible project must be in accordance with all laws, regulations, and rules applicable to generators of electricity, alternative retail electric suppliers, municipal utilities, or electric cooperatives, as applicable, but further provided that this provision does not affect any exemption otherwise available under the Public Utilities Act.

(16) An agency may procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable or may self-insure or enter into pooled insurance arrangements with other school districts against such losses.

(17) An agency may contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from any source and may comply, subject to the provisions of this Act, with the terms and conditions thereof.

(18) An agency may mortgage, pledge, or grant a security interest in any or all of its real and personal property to secure the payment of its bonds or contracts.

(19) That part of an eligible project owned by an

agency shall be exempt from property taxes.

(20) An agency shall not be subject to any taxes of the State of Illinois based on or measured by income or receipts or revenue.

(21) An agency may adopt a corporate seal and may sue and be sued.

(22) An agency may exercise all other powers not inconsistent with the Constitution of the State of Illinois or the United States Constitution, which powers may be reasonably necessary or appropriate for or incidental to effectuate its authorized purposes or to the exercise of any of the powers enumerated in this Act.

Section 60. Bonds. An agency may issue bonds pursuant to applicable law and the following provisions:

(1) An agency may from time to time issue its bonds in such principal amounts as the agency shall deem necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including without limitation the acquisition, construction, or termination of any eligible project to be owned or leased, as lessor or lessee, by the agency, or the acquisition of any interest therein or any right to the products or services thereof, the funding or refunding of the principal of, redemption premium, if any, and interest on, any bonds issued by it whether or not such bonds or interest to be funded or

refunded have or have not become due, the payment of engineering, legal and other expenses, together with interest for a period of 3 years or to a date one year subsequent to the estimated date of completion of the project, whichever period is longer, the establishment or increase of reserves to secure or to pay such bonds or interest thereon, the providing of working capital and the payment of all other costs or expenses of the agency incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) Every issue of bonds of the agency shall be payable out of the revenues or funds available to the agency, subject to any agreements with the holders of particular bonds pledging any particular revenues or funds. An agency may issue types of bonds as it may determine, including bonds as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest therein or a right to the products and services thereof, or from one or more revenue producing contracts made by the agency, or its revenues generally. Any such bonds may be additionally secured by a pledge of any grant, subsidy, or contribution from any source or a pledge of any income or revenues, funds, or moneys of the agency from any source whatsoever.

(3) All bonds of an agency shall have all the qualities of negotiable instruments under the laws of this State.

(4) Bonds of an agency shall be authorized by resolution of its board and may be issued under such resolution or under a trust indenture or other security agreement, in one or more series, and shall bear the date or dates, mature at a time or times within the estimated period of usefulness of the project involved and in any event not more than 40 years after the date thereof, bear interest at such rate or rates without regard to any limitation in any other law, be in such denominations, be in such form, either coupon or registered, carry such conversion, registration, and exchange privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places within or without the State of Illinois, be subject to such terms of redemption with or without premium, and contain or be subject to such other terms as the resolution, trust indenture, or other security agreement may provide, and shall not be restricted by the provisions of any other law limiting the amounts, maturities, interest rates, or other terms of obligations of units of local government or private parties. The bonds shall be sold in a manner and at such price as the board shall determine at private or public sale.

(5) Bonds of an agency may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau, or agency

of the State of Illinois or of any member, except as may be limited in an intergovernmental agreement, and without any other proceeding or the happening of any other condition or occurrence except as specifically required by this Act.

(6) The resolution, trust indenture, or other security agreement under which any bonds are issued shall constitute a contract with the holders of the bonds and may contain provisions, among others, prescribing:

(A) the terms and provisions of the bonds;

(B) the mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenue from any project or any revenue producing contract made by the agency to secure the payment of bonds, subject to any agreements with the holders of bonds which might then exist;

(C) the custody, collection, securing, investments, and payment of any revenues, assets, money, funds, or property with respect to which the agency may have any rights or interest;

(D) the rates or charges for the products or services rendered by the agency, the amount to be raised by the rates or charges, and the use and disposition of any or all revenue;

(E) the creation of reserves or sinking funds and the regulation and disposition thereof;

(F) the purposes to which the proceeds from the

sale of any bonds then or thereafter to be issued may be applied, and the pledge of revenues to secure the payment of the bonds;

(G) the limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(H) the rank or priority of any bonds with respect to any lien or security;

(I) the creation of special funds or moneys to be held in trust or otherwise for operational expenses, payment, or redemption of bonds, reserves or other purposes, and the use and disposition of moneys held in such funds;

(J) the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or revised, the amount of bonds the holders of which must consent thereto, and the manner in which consent may be given;

(K) the definition of the acts or omissions to act that shall constitute a default in the duties of the agency to holders of its bonds, and the rights and remedies of the holders in the event of default, including, if the agency so determines, the right to accelerate the due date of the bonds or the right to appoint a receiver or receivers of the property or

revenues subject to the lien of the resolution, trust indenture, or other security agreement;

(L) any other or additional agreements with or for the benefit of the holders of bonds or any covenants or restrictions necessary or desirable to safeguard the interests of the holders;

(M) the custody of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;

(N) the vesting in a trustee or trustees, within or without the State of Illinois, of such properties, rights, powers, and duties in trust as the agency may determine; or the limiting or abrogating of the rights of the holders of any bonds to appoint a trustee, or the limiting of the rights, powers, and duties of such trustee; or

(O) the appointment of and the establishment of the duties and obligations of any paying agent or other fiduciary within or without the State of Illinois.

(7) For the security of bonds issued or to be issued by an agency, the agency may mortgage or execute deeds of trust of the whole or any part of its property and franchises. Any pledge of revenues, securities, contract rights, or other personal property made by an agency pursuant to this Act shall be valid and binding from the

date the pledge is made. The revenues, securities, contract rights, or other personal property so pledged and then held or thereafter received by the agency or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency without regard to whether the parties have notice. The resolution, trust indenture, security agreement, or other instrument by which a pledge is created shall be recorded in the county in which the principal office is located in the manner provided by law.

(8) Neither the officials, the directors, nor the members of an agency nor any person executing bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. An agency shall have power to indemnify and to purchase and maintain insurance on behalf of any director, officer, employee, or agent of the agency, in connection with any threatened, pending, or completed action, suit, or proceeding.

(9) An agency shall have power to purchase out of any funds available therefor, bonds, and to hold for re-issuance, pledge, cancel, or retire the bonds and coupons prior to maturity, subject to and in accordance with any agreements with the holders.

(10) The principal of and interest upon any bonds issued by an agency shall be payable solely from the revenue sources or funds pledged or available for their payment as authorized in this Act. Each bond shall contain a statement that it constitutes an obligation of the agency issuing the bond, that its principal and interest are payable solely from revenues or funds of the agency and that neither the State of Illinois nor any political subdivision thereof, except the issuer, nor any school district that is a member of the agency, is obligated to pay the principal or interest on the bonds and that neither the faith and credit nor the taxing power of the State of Illinois or any such political subdivision thereof or of any such school district is pledged to the payment of the principal of or the interest on the bonds.

Section 65. Charges. An agency may establish, levy, and collect or may authorize, by contract, franchise, lease, or otherwise, the establishment, levying, and collection of rents, rates, and other charges for the products and services afforded by the agency or by or in connection with any eligible project or properties that it may construct, acquire, own, operate, or control or with respect to which it may have any interest or any right to the products and services thereof as it may deem necessary, proper, desirable, or reasonable, except that such agency shall not sell electricity to end-use

customers otherwise than in accordance with the provisions of the Public Utilities Act, but further provided that this provision does not affect any exemption otherwise available to the agency under the Public Utilities Act. Rents, rates, and other charges shall be established so as to be sufficient to meet the operation, maintenance, and other expenses thereof, including reasonable reserves, interest, and principal payments, including payments into one or more sinking funds for the retirement of principal. An agency may pledge its rates, rents, and other revenue, or any part thereof, as security for the repayment, with interest and premium, if any, of any moneys borrowed by it or advanced to it for any of its authorized purposes and as security for the payment of amounts due and owing by it under any contract.

Section 70. School districts may contract.

(a) In order to accomplish the purposes of this Act, a school district may enter into and carry out contracts and agreements for the sale, lease, or other use of property, real or personal, cooperative provision of services, such as police services, or the purchase of power from an agency, or transmission services, development services, and other services.

(b) Any contract and agreement shall be for a period not to exceed 50 years and shall contain other terms, conditions, and provisions that are not inconsistent with the provisions of

this Act as the governing body of such school district shall approve, including without limitation provisions whereby the school district is obligated to pay for the products and services of an agency without set-off or counterclaim and irrespective of whether such products or services are furnished, made available, or delivered to the school district, or whether any project contemplated by any such contract and agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the products and services of the project.

(c) Any contract and agreement may be pledged by the agency to secure its obligations and may provide that if one or more school districts defaults in the payment of its obligations under such contract and agreement, the remaining school districts having such contracts and agreements shall be required to pay for and shall be entitled proportionately to use or otherwise dispose of the products and services that were to be purchased by the defaulting school district.

(d) Any contract and agreement providing for payments by a school district shall be an obligation of the school district payable from and secured by such lawfully available funds as may be made pursuant to applicable law. Notwithstanding the sources of funds pledged, any contract between the agency and its members with respect to an eligible project shall not constitute an indebtedness of such members within any statutory

limitation.

(e) Nothing in this Act shall be construed to preclude a school district from appropriating and using taxes and other revenues received in any year to make payments due or to comply with covenants to be performed during that year under any contract or agreement for a term of years entered into as contemplated in this Act, subject to the provisions of applicable law.

(f) Any contract or agreement may include provisions for requirements purchases, restraints on resale or other dealings, exclusive dealing, pricing, territorial division, and other conduct or arrangements that do not have an anti-competitive effect. Provided, however, that the production, interconnection, transmission, distribution, and sale at wholesale or retail of electric energy generated by the eligible project must be in accordance with all laws, regulations, and rules applicable to generators of electricity, alternative retail electric suppliers, municipal utilities, or electric cooperatives, as applicable, but further provided that this provision does not affect any exemption otherwise available under the Public Utilities Act.

(g) Notwithstanding the provisions of any other law, in the making of a contract or agreement between an agency and a member, the director of the agency who represents such member must recuse himself or herself from participation in discussions or voting as director, but may participate and vote

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in his or her capacity as an officer of the governing body of such member, and such participation and voting shall not be a conflict of interest.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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