STATE OF ILLINOIS

HOUSE JOURNAL

HOUSE OF REPRESENTATIVES

NINETY-SIXTH GENERAL ASSEMBLY

151ST LEGISLATIVE DAY

REGULAR & PERFUNCTORY SESSION

MONDAY, NOVEMBER 29, 2010

12:20 O'CLOCK P.M.

NO. 151

HOUSE OF REPRESENTATIVES
Daily Journal Index
151st Legislative Day

The House met pursuant to adjournment.
Speaker of the House Madigan in the chair.
Prayer by Assistant Doorkeeper of the House Wayne Padget.
Representative Walker led the House in the Pledge of Allegiance.
By direction of the Speaker, a roll call was taken to ascertain the attendance of Members, as follows:
110 present. (ROLL CALL 1)

By unanimous consent, Representatives Dugan, Fortner, Miller, Mulligan and Myers were excused from attendance. At the hour of 1:53 o'clock p.m., by unanimous consent, Representative Rose was excused from attendance for the remainder of the day.

REQUEST TO BE SHOWN ON QUORUM

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Hernandez, should be recorded as present at the hour of 12:30 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Fritchey, should be recorded as present at the hour of 12:50 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Burns, should be recorded as present at the hour of 1:26 o'clock p.m.

RESIGNATION

November 24, 2010

The Honorable Tom Cross
House Republican Leader
Room 316, State House
Springfield, Illinois 62706

Dear Tom:

I will resign from the Illinois House of Representative on Wednesday, December 22, 2010, effective at 12:00 noon.

It has been my distinct privilege and pleasure to have been able to serve in the Illinois General Assembly for more than 24 years. I am grateful to the voters for letting me work with and for them. It has been an awesome experience.

Unless the House schedule changes, December 2, 2010 will be my last day to be in the House Chamber as a member.

I wish you and all the members of the Illinois House of Representatives the very best.

Sincerely,
s/William B. Black
State Representative
104th District

LETTERS OF TRANSMITTAL

November 24, 2010

Mark Mahoney
Clerk of the House
HOUSE OF REPRESENTATIVES
420 Capitol Building
Springfield, Illinois 62706

Dear Mr. Clerk:

Please be advised that today I am creating 2 additional bipartisan Special House committees for the 96th General Assembly. The Special Committee on Medicaid Reform and the Special Committee on Workers' Compensation Reform will each have 8 members (4 majority and 4 minority members) and will each have 2 Co-chairs.

The majority appointments to these committees are as follows:

Special Committee on Medicaid Reform
Representative Barbara Flynn Currie, Co-Chair
Representative Sara Feigenholtz
Representative Naomi Jakobsson
Representative Frank Mautino

Special Committee on Workers' Compensation Reform
Representative John Bradley, Co-Chair
Representative Elaine Nekritz
Representative Andre Thapedi
Representative Michael Zalewski

If you have any questions, please contact Tim Mapes, 217.782.6360, mapes@hds.ilga.gov.

With kindest personal regards, I remain

Sincerely yours,
s/Michael J. Madigan
Speaker of the House

November 29, 2010

Mark Mahoney
Clerk of the House
HOUSE OF REPRESENTATIVES
423 Capitol Building
Springfield, Illinois 62706

Dear Mr. Clerk:

Please be advised that effective today there will be 3 additional majority and minority appointments to the Special Committee on Medicaid Reform.

The 3 additional majority appointments are as follows:

Special Committee on Medicaid Reform
Representative Mary Flowers

Representative Esther Golar
Representative Robyn Gabel

If you have any questions, please contact Tim Mapes, 217.782.6360, mapes@hds.ilga.gov.

With kindest personal regards, I remain

Sincerely yours,
s/Michael J. Madigan
Speaker of the House

November 29, 2010

Mark Mahoney
Chief Clerk of the House
420 State House
Springfield, Il 62706

Dear Clerk Mahoney:

Please be advised that I am extending the Final Action Deadline to January 11, 2011 for the following House and Senate Bills:

House Bill: 5085.

Senate Bills: 678.

If you have questions, please contact my Chief of Staff, Tim Mapes, at 782-6360.

With kindest personal regards, I remain

Sincerely yours,
s/Michael J. Madigan
Speaker of the House

December 1, 2010

Mark Mahoney
Clerk of the House
Room 420 State House
Springfield, Illinois 62706

Clerk Mahoney,

I was present and recorded as such on the quorum roll call for the House session on Monday, November 29, 2010. However, It was necessary for me to leave early on that day during session, so I am requesting that no per diem payment be provided to me for that date.

Any assistance you could provide in this matter would be greatly appreciated.

Sincerely,
s/Chapin Rose

TEMPORARY COMMITTEE ASSIGNMENTS

Representative Harris replaced Representative Colvin in the Committee on Personnel and Pensions on November 29, 2010.

Representative Lang replaced Representative Acevedo in the Committee on Personnel and Pensions on November 29, 2010.

Representative Colvin replaced Representative Smith in the Committee on Environment & Energy on November 29, 2010.

Representative William Davis replaced Representative Nekritz in the Committee on Environment & Energy on November 29, 2010.

Representative Currie replaced Representative Feigenholtz in the Committee on Mass Transit on November 29, 2010.

Representative Harris replaced Representative Fritchey in the Committee on Mass Transit on November 29, 2010.

Representative Walker replaced Representative Miller in the Committee on Mass Transit on November 29, 2010.

Representative Lyons replaced Representative Osterman in the Committee on Mass Transit on November 29, 2010.

Representative Pritchard replaced Representative Sullivan in the Committee on Mass Transit on November 29, 2010.

Representative Bost replaced Representative Tryon in the Committee on Mass Transit on November 29, 2010.

Representative Mautino replaced Representative Crespo in the Committee on Electric Generation & Commerce on November 29, 2010.

Representative Bill Mitchell replaced Representative Fortner in the Committee on Electric Generation & Commerce on November 29, 2010.

Representative Bradley replaced Representative Holbrook in the Committee on Electric Generation & Commerce on November 29, 2010.

Representative Thapedi replaced Representative Acevedo in the Committee on Executive on November 29, 2010.

Representative Colvin replaced Representative Rita in the Committee on Executive on November 29, 2010.

Representative Harris replaced Representative Arroyo in the Committee on Executive on November 29, 2010.

REPORTS FROM THE COMMITTEE ON RULES

Representative Currie, Chairperson, from the Committee on Rules to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

LEGISLATIVE MEASURES APPROVED FOR FLOOR CONSIDERATION:

That the Floor Amendment be reported "recommends be adopted":
Amendment No. 2 to HOUSE BILL 1935.

That the bill be reported "approved for consideration" and be placed on the order of Concurrence: HOUSE BILL 5085.

LEGISLATIVE MEASURES ASSIGNED TO COMMITTEE:

Environment & Energy: SENATE BILL 678.
Insurance: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 5085.
Judiciary II - Criminal Law: HOUSE AMENDMENT No. 1 to SENATE BILL 3539.
Revenue & Finance: HOUSE AMENDMENT No. 1 to HOUSE BILL 1525.
State Government Administration: HOUSE RESOLUTIONS 1002 and 1188.

The committee roll call vote on the foregoing Legislative Measures is as follows:
3, Yeas; 0, Nays; 0, Answering Present.

Y Currie(D), Chairperson
Y Hannig(D)
Y Schmitz(R)
A Black(R), Republican Spokesperson
A Lang(D)

REPORTS FROM STANDING COMMITTEES

Representative Nekritz, Chairperson, from the Committee on Personnel and Pensions to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

That the Floor Amendment be reported "recommends be adopted":
Amendment No. 1 to HOUSE BILL 1566.
Amendment No. 2 to SENATE BILL 550.

The committee roll call vote on Amendment No. 1 to House Bill 1566 is as follows:
6, Yeas; 4, Nays; 0, Answering Present.

Y McCarthy(D), Chairperson
N Poe(R), Republican Spokesperson
N Brady(R)
Y Burke(D)
N McAuliffe(R)
Y Harris (replacing Colvin)
Y Lang (replacing Acevedo)
N Brauer(R)
Y May(D)
Y Nekritz(D)

The committee roll call vote on Amendment No. 2 to Senate Bill 550 is as follows:
6, Yeas; 0, Nays; 0, Answering Present.

Y McCarthy(D), Chairperson
Y Poe(R), Republican Spokesperson
Y Brady(R)
A Burke(D)
Y McAuliffe(R)
A Colvin(D), Vice-Chairperson
A Acevedo(D)
Y Brauer(R)
A May(D)
Y Nekritz(D)

Representative Holbrook, Chairperson, from the Committee on Environment & Energy to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 3388.

That the Floor Amendment be reported "recommends be adopted":

Amendment No. 1 to HOUSE BILL 1606.

The committee roll call vote on Amendment No. 1 to House Bill 1606 is as follows:

11, Yeas; 4, Nays; 0, Answering Present.

Y Holbrook(D), Chairperson
Y Tryon(R), Republican Spokesperson
Y Bradley(D)
A Durkin(R)
A Fortner(R)
Y May(D)
A Poe(R)
Y Reitz(D)
Y Colvin (replacing Smith)
N Watson(R)
A Nekritz(D), Vice-Chairperson
Y Beiser(D)
N Cole(R)
Y Flider(D)
Y Gabel(D)
Y Phelps(D)
N Reboletti(R)
N Rose(R)
Y Verschoore(D)
A Winters(R)

The committee roll call vote on Senate Bill 3388 is as follows:

15, Yeas; 1, Nay; 0, Answering Present.

Y Holbrook(D), Chairperson
Y Tryon(R), Republican Spokesperson
Y Bradley(D)
A Durkin(R)
A Fortner(R)
A May(D)
A Poe(R)
Y Reitz(D)
Y Colvin (replacing Smith)
Y Watson(R)
Y Davis, W(replacing Nekritz)
Y Beiser(D)
N Cole(R)
Y Flider(D)
Y Gabel(D)
Y Phelps(D)
Y Reboletti(R)
Y Rose(R)
Y Verschoore(D)
Y Winters(R)

Representative Arroyo, Chairperson, from the Committee on Mass Transit to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILLS 2571 and 3778.

The committee roll call vote on Senate Bill 2571 is as follows:

19, Yeas; 0, Nays; 0, Answering Present.

Y Arroyo(D), Chairperson
A Bassi(R)
Y Bellock(R)
Y Biggins(R)
Y DeLuca(D)
A Fortner(R)
Y Gabel(D)
Y May(D)
Y Walker (replacing Miller)
Y Riley(D)
Y Soto(D)
Y Bost (replacing Tryon)
Y Mathias(R), Republican Spokesperson
A Beaubien(R)
Y Berrios(D)
Y Crespo(D)
Y Currie (replacing Feigenholtz)
Y Harris (replacing Fritchey)
Y Kosel(R)
Y Mell(D)
Y Lyons (replacing Osterman)
A Senger(R)
Y Pritchard (replacing Sullivan)

The committee roll call vote on Senate Bill 3778 is as follows:

17, Yeas; 2, Nays; 0, Answering Present.

Y Arroyo(D), Chairperson
A Bassi(R)
Y Bellock(R)
Y Biggins(R)
Y Mathias(R), Republican Spokesperson
A Beaubien(R)
Y Berrios(D)
N Crespo(D)

Y DeLuca(D)
A Fortner(R)
Y Gabel(D)
Y May(D)
Y Walker (replacing Miller)
Y Riley(D)
Y Soto(D)
Y Bost (replacing Tryon)
Y Currie (replacing Feigenholtz)
Y Harris (replacing Fritchey)
Y Kosel(R)
N Mell(D)
Y Lyons (replacing Osterman)
A Senger(R)
Y Pritchard (replacing Sullivan)

Representative Flider, Chairperson, from the Committee on Electric Generation & Commerce to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 2485.

The committee roll call vote on Senate Bill 2485 is as follows:

7, Yeas; 4, Nays; 0, Answering Present.

Y Flider(D), Chairperson
N Winters(R), Republican Spokesperson
N Cultra(R)
Y Mitchell, B (replacing Fortner)
N Osmond(R)
Y Verschoore(D)
Y Reitz(D), Vice-Chairperson
Y Mautino (replacing Crespo)
N Durkin(R)
Y Bradley (replacing Holbrook)
Y Phelps(D)

Representative Burke, Chairperson, from the Committee on Executive to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 3776.

That the Floor Amendment be reported "recommends be adopted":
Amendment No. 1 to HOUSE BILL 1850.

The committee roll call vote on Senate Bill 3776 is as follows:

10, Yeas; 0, Nays; 0, Answering Present.

Y Burke(D), Chairperson
Y Brady(R), Republican Spokesperson
Y Harris (replacing Arroyo)
Y Biggins(R)
Y Sullivan(R)
A Turner(D)
Y Lyons(D), Vice-Chairperson
Y Thapedi (replacing Acevedo)
Y Berrios(D)
Y Rita(D)
Y Tryon(R)

The committee roll call vote on Amendment No. 1 to House Bill 1850 is as follows:

9, Yeas; 1, Nay; 0, Answering Present.

Y Burke(D), Chairperson
N Brady(R), Republican Spokesperson
Y Harris (replacing Arroyo)
Y Biggins(R)
Y Sullivan(R)
A Turner(D)
Y Lyons(D), Vice-Chairperson
Y Thapedi (replacing Acevedo)
Y Berrios(D)
Y Colvin (replacing Rita)
Y Tryon(R)

MOTIONS SUBMITTED

Representative Mell submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 3962.

Representative Mautino submitted the following written motion, which was placed on the order of Motions:

MOTION

I move that the House concur with the Senate in the passage of SENATE BILL 2544, the Governor's Specific Recommendations for Change notwithstanding.

Representative Reitz submitted the following written motion, which was placed on the order of Motions:

MOTION

I move that the House concur with the Senate in the passage of SENATE BILL 2635, the Veto of the Governor notwithstanding.

Representative Currie submitted the following written motion, which was placed on the Calendar on the order of Motions:

MOTION

Pursuant to Rule 25, I move to suspend the posting requirements of Rule 21 in relation to HOUSE BILL 6862 and SENATE BILL 678.

Representative Feigenholtz submitted the following written motion, which was placed on the Calendar on the order of Motions:

MOTION

Pursuant to Rule 25, I move to suspend the posting requirements of Rule 21 in relation to SENATE BILL 150.

PENSION NOTES SUPPLIED

Pension Notes have been supplied for SENATE BILLS 1716, as amended and 3712, as amended.

LAND CONVEYANCE APPRAISAL NOTE SUPPLIED

A Land Conveyance Appraisal Note has been supplied for SENATE BILL 3712, as amended.

BALANCED BUDGET NOTE SUPPLIED

A Balanced Budget Note has been supplied for SENATE BILL 3712, as amended.

HOME RULE NOTE SUPPLIED

A Home Rule Note has been supplied for SENATE BILL 3712, as amended.

STATE MANDATES FISCAL NOTE SUPPLIED

A State Mandates Fiscal Note has been supplied for SENATE BILL 3712, as amended.

STATE DEBT IMPACT NOTE SUPPLIED

A State Debt Impact Note has been supplied for HOUSE BILL 1850, as amended.

REQUEST FOR FISCAL NOTE

Representative Thapedi requested that a Fiscal Note be supplied for HOUSE BILL 1850, as amended.

REQUEST FOR STATE MANDATES FISCAL NOTE

Representative Thapedi requested that a State Mandates Fiscal Note be supplied for HOUSE BILL 1850, as amended.

REQUEST FOR BALANCED BUDGET NOTE

Representative Thapedi requested that a Balanced Budget Note be supplied for HOUSE BILL 1850, as amended.

REQUEST FOR HOME RULE NOTE

Representative Thapedi requested that a Home Rule Note be supplied for HOUSE BILL 1850, as amended.

REQUEST FOR STATE DEBT IMPACT NOTE

Representative Thapedi requested that a State Debt Impact Note be supplied for HOUSE BILL 1850, as amended.

FISCAL NOTE REQUEST WITHDRAWN

Representative Gabel withdrew her request for a Fiscal Note on SENATE BILL 3712.

CHANGE OF SPONSORSHIP

With the consent of the affected members, Representative Madigan was removed as principal sponsor, and Representative Zalewski became the new principal sponsor of HOUSE BILL 1915.

With the consent of the affected members, Representative Reitz was removed as principal sponsor, and Representative Mautino became the new principal sponsor of SENATE BILL 2485.

With the consent of the affected members, Representative Osterman was removed as principal sponsor, and Representative Holbrook became the new principal sponsor of SENATE BILL 678.

AGREED RESOLUTIONS

The following resolutions were offered and placed on the Calendar on the order of Agreed Resolutions.

HOUSE RESOLUTION 1499

Offered by Representative Tryon:
Congratulates Phillip R. Ulmer, McHenry County Probation and Court Services Department Director, on his retirement.

HOUSE RESOLUTION 1500

Offered by Representative Ford:
Congratulates the employees and volunteers of Introspect Youth Services in Chicago on the occasion of the organization's 35th anniversary.

HOUSE RESOLUTION 1501

Offered by Representative Ford:
Honors Mr. MacArthur Alexander and the employees of MacArthur's Restaurant in Chicago for the organization's dedicated service to the citizens of the Austin community and the State of Illinois and its great dedication to the cause of advancing opportunities for ex-offenders.

HOUSE RESOLUTION 1502

Offered by Representative Ford:
Thanks Olga Iniguez for her many years of dedicated service to the citizens of the State of Illinois and her great dedication to the cause of equal opportunities for all.

HOUSE RESOLUTION 1503

Offered by Representative Ford:
Honors the Berwyn Development Corporation for the organization's dedicated service to the citizens of the Berwyn community and the State of Illinois.

HOUSE RESOLUTION 1504

Offered by Representative Kosel:
Congratulates Phyllis Jacobek, Mokena Community Public Library District Director, on her retirement.

HOUSE RESOLUTION 1505

Offered by Representative Jerry Mitchell:
Mourns the death of Staff Sergeant Justus S. Bartelt of Polo.

HOUSE RESOLUTION 1506

Offered by Representative Jerry Mitchell:
Mourns the death of Lance Corporal Alec E. Catherwood of Byron.

HOUSE RESOLUTION 1507

Offered by Representative McAsey:
Congratulates the employees of Midwest Generation's Will County Station in Romeoville for achieving a major safety milestone of one million hours worked without an injury.

HOUSE RESOLUTION 1508

Offered by Representative Dunkin:

Congratulates the students, faculty, and administration of Walter Payton College Preparatory High School in Chicago for winning the top award in the Intel Schools of Distinction contest.

HOUSE RESOLUTION 1509

Offered by Representative Brady:

Congratulates Kim M. Brunner, Executive Vice President, Chief Legal Officer and Secretary for State Farm Mutual Automobile Insurance Company, on his retirement.

HOUSE RESOLUTION 1510

Offered by Representative Mathias:

Mourns the death of Lance Corporal James Bray Stack of Arlington Heights.

HOUSE RESOLUTION 1511

Offered by Representative Miller:

Mourns the death of Dr. Michael Stablein of Chicago.

HOUSE RESOLUTION 1512

Offered by Representative Howard:

Mourns the death of Dr. Margaret Burroughs, Co-founder of the DuSable Museum and longtime Chicago Park District commissioner.

HOUSE RESOLUTION 1513

Offered by Representative Mayfield:

Congratulates Dr. Daisy Brooks of North Chicago, for her many achievements in the community.

HOUSE RESOLUTION 1514

Offered by Representative William Davis:

Honors and thanks Illinois State Representative David Miller for his service to the people of the State of Illinois.

SUSPEND POSTING REQUIREMENTS

Pursuant to Rule 25, Representative Currie moved to suspend the posting requirements of Rule 21 in relation to House Bill 6862 to be heard in Elementary & Secondary Education Committee and Senate Bill 678 to be heard in Environment & Energy Committee.

The motion prevailed.

RECESS

At the hour of 12:26 o'clock p.m., Speaker of the House Madigan moved that the House do now take a recess until the hour of 1:25 o'clock p.m.

The motion prevailed.

At the hour of 1:48 o'clock p.m., the House resumed its session.

Speaker of the House Madigan in the Chair.

DISTRIBUTION OF SUPPLEMENTAL CALENDAR

Supplemental Calendar No. 1 was distributed to the Members at 1:51 o'clock p.m.

ACTION ON VETO MOTIONS

Pursuant to the Motion submitted previously, Representative Reitz moved that the House concur with the Senate in the passage of SENATE BILL 2635, the Veto of the Governor notwithstanding. A three-fifths vote is required.

And on that motion, a vote was taken resulting as follows:

83, Yeas; 29, Nays; 0, Answering Present.

(ROLL CALL 2)

The Motion, having received the votes of three-fifths of the Members elected, prevailed and the House does concur with the Senate in the passage of the bill, the Veto of the Governor notwithstanding.

Ordered that the Clerk inform the Senate.

Pursuant to the Motion submitted previously, Representative Mautino moved that the House concur with the Senate in the passage of SENATE BILL 2544, the Governor's Specific Recommendations for change notwithstanding. A three-fifths vote is required.

And on that motion, a vote was taken resulting as follows:

111, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 3)

The Motion, having received the votes of three-fifths of the Members elected, prevailed and the House concurred with the Senate in the passage of the bill, the Governor's Specific Recommendations for Change notwithstanding.

Ordered that the Clerk inform the Senate.

HOUSE BILL ON SECOND READING

HOUSE BILL 1565. Having been read by title a second time on November 17, 2010, and held on the order of Second Reading, the same was again taken up.

Representative Poe offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend House Bill 1565 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 14-104 as follows:

(40 ILCS 5/14-104) (from Ch. 108 1/2, par. 14-104)

Sec. 14-104. Service for which contributions permitted. Contributions provided for in this Section shall cover the period of service granted. Except as otherwise provided in this Section, the contributions shall be based upon the employee's compensation and contribution rate in effect on the date he last became a member of the System; provided that for all employment prior to January 1, 1969 the contribution rate shall be that in effect for a noncovered employee on the date he last became a member of the System. Except as otherwise provided in this Section, contributions permitted under this Section shall include regular interest from the date an employee last became a member of the System to the date of payment.

These contributions must be paid in full before retirement either in a lump sum or in installment payments in accordance with such rules as may be adopted by the board.

(a) Any member may make contributions as required in this Section for any period of service, subsequent to the date of establishment, but prior to the date of membership.

(b) Any employee who had been previously excluded from membership because of age at entry and subsequently became eligible may elect to make contributions as required in this Section for the period of service during which he was ineligible.

(c) An employee of the Department of Insurance who, after January 1, 1944 but prior to becoming eligible for membership, received salary from funds of insurance companies in the process of rehabilitation, liquidation, conservation or dissolution, may elect to make contributions as required in this Section for such

service.

(d) Any employee who rendered service in a State office to which he was elected, or rendered service in the elective office of Clerk of the Appellate Court prior to the date he became a member, may make contributions for such service as required in this Section. Any member who served by appointment of the Governor under the Civil Administrative Code of Illinois and did not participate in this System may make contributions as required in this Section for such service.

(e) Any person employed by the United States government or any instrumentality or agency thereof from January 1, 1942 through November 15, 1946 as the result of a transfer from State service by executive order of the President of the United States shall be entitled to prior service credit covering the period from January 1, 1942 through December 31, 1943 as provided for in this Article and to membership service credit for the period from January 1, 1944 through November 15, 1946 by making the contributions required in this Section. A person so employed on January 1, 1944 but whose employment began after January 1, 1942 may qualify for prior service and membership service credit under the same conditions.

(f) An employee of the Department of Labor of the State of Illinois who performed services for and under the supervision of that Department prior to January 1, 1944 but who was compensated for those services directly by federal funds and not by a warrant of the Auditor of Public Accounts paid by the State Treasurer may establish credit for such employment by making the contributions required in this Section. An employee of the Department of Agriculture of the State of Illinois, who performed services for and under the supervision of that Department prior to June 1, 1963, but was compensated for those services directly by federal funds and not paid by a warrant of the Auditor of Public Accounts paid by the State Treasurer, and who did not contribute to any other public employee retirement system for such service, may establish credit for such employment by making the contributions required in this Section.

(g) Any employee who executed a waiver of membership within 60 days prior to January 1, 1944 may, at any time while in the service of a department, file with the board a rescission of such waiver. Upon making the contributions required by this Section, the member shall be granted the creditable service that would have been received if the waiver had not been executed.

(h) Until May 1, 1990, an employee who was employed on a full-time basis by a regional planning commission for at least 5 continuous years may establish creditable service for such employment by making the contributions required under this Section, provided that any credits earned by the employee in the commission's retirement plan have been terminated.

(i) Any person who rendered full time contractual services to the General Assembly as a member of a legislative staff may establish service credit for up to 8 years of such services by making the contributions required under this Section, provided that application therefor is made not later than July 1, 1991.

(j) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, but with all of the interest calculated from the date the employee last became a member of the System or November 19, 1991, whichever is later, to the date of payment, an employee may establish service credit for a period of up to 4 years spent in active military service for which he does not qualify for credit under Section 14-105, provided that (1) he was not dishonorably discharged from such military service, and (2) the amount of service credit established by a member under this subsection (j), when added to the amount of military service credit granted to the member under subsection (b) of Section 14-105, shall not exceed 5 years. The change in the manner of calculating interest under this subsection (j) made by this amendatory Act of the 92nd General Assembly applies to credit purchased by an employee on or after its effective date and does not entitle any person to a refund of contributions or interest already paid. In compliance with Section 14-152.1 of this Act concerning new benefit increases, any new benefit increase as a result of the changes to this subsection (j) made by Public Act 95-483 is funded through the employee contributions provided for in this subsection (j). Any new benefit increase as a result of the changes made to this subsection (j) by Public Act 95-483 is exempt from the provisions of subsection (d) of Section 14-152.1.

(k) An employee who was employed on a full-time basis by the Illinois State's Attorneys Association Statewide Appellate Assistance Service LEAA-ILEC grant project prior to the time that project became the State's Attorneys Appellate Service Commission, now the Office of the State's Attorneys Appellate Prosecutor, an agency of State government, may establish creditable service for not more than 60 months service for such employment by making contributions required under this Section.

(l) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for periods of less than one year spent on authorized leave of absence from service, provided that (1) the period of leave began on or after January 1, 1982 and (2) any credit established by the member for the

period of leave in any other public employee retirement system has been terminated. A member may establish service credit under this subsection for more than one period of authorized leave, and in that case the total period of service credit established by the member under this subsection may exceed one year. In determining the contributions required for establishing service credit under this subsection, the interest shall be calculated from the beginning of the leave of absence to the date of payment.

(l-5) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for periods of up to 2 years spent on authorized leave of absence from service, provided that during that leave the member represented or was employed as an officer or employee of a statewide labor organization that represents members of this System. In determining the contributions required for establishing service credit under this subsection, the interest shall be calculated from the beginning of the leave of absence to the date of payment.

(m) Any person who rendered contractual services to a member of the General Assembly as a worker in the member's district office may establish creditable service for up to 3 years of those contractual services by making the contributions required under this Section. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. To establish credit under this subsection, the applicant must apply to the System by March 1, 1998.

(n) Any person who rendered contractual services to a member of the General Assembly as a worker providing constituent services to persons in the member's district may establish creditable service for up to 8 years of those contractual services by making the contributions required under this Section. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. To establish credit under this subsection, the applicant must apply to the System by March 1, 1998.

(o) A member who participated in the Illinois Legislative Staff Internship Program may establish creditable service for up to one year of that participation by making the contribution required under this Section. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. Credit may not be established under this subsection for any period for which service credit is established under any other provision of this Code.

(p) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for a period of up to 8 years during which he or she was employed by the Visually Handicapped Managers of Illinois in a vending program operated under a contractual agreement with the Department of Rehabilitation Services or its successor agency.

This subsection (p) applies without regard to whether the person was in service on or after the effective date of this amendatory Act of the 94th General Assembly. In the case of a person who is receiving a retirement annuity on that effective date, the increase, if any, shall begin to accrue on the first annuity payment date following receipt by the System of the contributions required under this subsection (p).

(q) By paying the required contributions under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, an employee who was laid off but returned to any State employment may establish creditable service for the period of the layoff, provided that (1) the applicant applies for the creditable service under this subsection (q) within 6 months after July 27, 2010 (the effective date of Public Act 96-1320) ~~this amendatory Act of the 96th General Assembly~~, (2) the applicant does not receive credit for that period under any other provision of this Code, (3) at the time of the layoff, the applicant is not in an initial probationary status consistent with the rules of the Department of Central Management Services, and (4) the total amount of creditable service established by the applicant under this subsection (q) does not exceed 3 years. For service established under this subsection (q), the required employee contribution shall be based on the rate of compensation earned by the employee on the date of returning to employment after the layoff and the contribution rate then in effect, and the required interest shall be calculated at the actuarially assumed rate from the date of returning to employment after the layoff to the date of payment. Funding for any new benefit increase, as defined in Section 14-152.1 of this Act, that is created under this subsection (q) will be provided by the employee contributions required under this subsection (q).

(r) A member who participated in the University of Illinois Government Public Service Internship Program (GPSI) may establish creditable service for up to 2 years of that participation by making the contribution required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. Credit may not be established under this subsection for any period for which service credit is established under any other provision of this Code.

(s) A member who worked as a nurse under a contractual agreement for the Department of Public Aid, or its successor agency, the Department of Human Services, in the Client Assessment Unit and was subsequently determined to be a State employee by the United States Internal Revenue Service and the Illinois Labor Relations Board may establish creditable service for those contractual services by making the contributions required under this Section. To establish credit under this subsection, the applicant must apply to the System by July 1, 2008.

The Department of Human Services shall pay an employer contribution based upon an amount determined by the Board to be equal to the employer's normal cost of the benefit, plus interest.

In compliance with Section 14-152.1 added by Public Act 94-4, the cost of the benefits provided by Public Act 95-583 are offset by the required employee and employer contributions.

(t) Any person who rendered contractual services on a full-time basis to the Illinois Institute of Natural Resources and the Illinois Department of Energy and Natural Resources may establish creditable service for up to 4 years of those contractual services by making the contributions required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest at the actuarially assumed rate from the first day of the service for which credit is being established to the date of payment. To establish credit under this subsection (t), the applicant must apply to the System within 6 months after July 27, 2010 ~~August 28, 2009~~ (the effective date of Public Act 96-1320 ~~96-775~~) ~~this amendatory Act of the 96th General Assembly~~.

(u) By paying the required contributions under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit, plus interest, a member may establish creditable service and earnings credit for periods of furlough beginning on or after July 1, 2008. To receive this credit, the participant must (i) apply in writing to the System before December 31, 2011 and (ii) not receive compensation for the furlough period. For service established under this subsection, the required employee contribution shall be based on the rate of compensation earned by the employee immediately following the date of the first furlough day in the time period specified in this subsection (u), and the required interest shall be calculated at the actuarially assumed rate from the date of the furlough to the date of payment. ~~A member may establish creditable service and earnings credit for a period of voluntary or involuntary furlough, not exceeding 5 days, beginning on or after July 1, 2008 and ending on or before June 30, 2009, that is utilized as a means of addressing a State fiscal emergency. To receive this credit, the member must apply in writing to the System before July 1, 2012, and make contributions required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit, plus interest at the actuarially assumed rate.~~

~~A member may establish creditable service and earnings credit for a period of voluntary or involuntary furlough, not exceeding 24 days, beginning on or after July 1, 2009 and ending on or before June 30, 2011, that is utilized as a means of addressing a State fiscal emergency. To receive this credit, the member must, before December 31, 2011, (i) apply in writing to the System and (ii) make the contributions required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit, plus interest at the actuarially assumed rate.~~

(v) Any member who rendered full-time contractual services to an Illinois Veterans Home operated by the Department of Veterans' Affairs may establish service credit for up to 8 years of such services by making the contributions required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit, plus interest at the actuarially assumed rate. To establish credit under this subsection, the applicant must apply to the System no later than 6 months after July 27, 2010 ~~2009~~ (the effective date of Public Act 96-1320 ~~96-97~~) ~~this amendatory Act of the 96th General Assembly~~.

(Source: P.A. 95-483, eff. 8-28-07; 95-583, eff. 8-31-07; 95-652, eff. 10-11-07; 95-876, eff. 8-21-08; 96-97, eff. 7-27-09; 96-718, eff. 8-25-09; 96-775, eff. 8-28-09; 96-961, eff. 7-2-10; 96-1000, eff. 7-2-10; 96-1320, eff. 7-27-10; revised 9-16-10.)

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

The foregoing motion prevailed and Amendment No. 1 was adopted.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed; and the bill, as amended, was advanced to the order of Third Reading.

HOUSE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. This bill has been examined, any amendments thereto engrossed and any errors corrected. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Poe, HOUSE BILL 1565 was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

105, Yeas; 6, Nays; 0, Answering Present.

(ROLL CALL 4)

This bill, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence.

HOUSE BILL ON SECOND READING

HOUSE BILL 1566. Having been read by title a second time on November 17, 2010, and held on the order of Second Reading, the same was again taken up.

Representative McCarthy offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend House Bill 1566 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Sections 2-134, 14-135.08, 15-165, 16-158, and 18-140 as follows:

(40 ILCS 5/2-134) (from Ch. 108 1/2, par. 2-134)

Sec. 2-134. To certify required State contributions and submit vouchers.

(a) The Board shall certify to the Governor on or before December 15 of each year the amount of the required State contribution to the System for the next fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

On or before February 1, 2011, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for all of State fiscal year 2011, taking into account Public Act 96-889.

(b) Beginning in State fiscal year 1996, on or as soon as possible after the 15th day of each month the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (d) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year. If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this Section, the difference shall be paid from the General Revenue Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(c) The full amount of any annual appropriation for the System for State fiscal year 1995 shall be transferred and made available to the System at the beginning of that fiscal year at the request of the Board. Any excess funds remaining at the end of any fiscal year from appropriations shall be retained by the

System as a general reserve to meet the System's accrued liabilities.
(Source: P.A. 94-4, eff. 6-1-05; 94-536, eff. 8-10-05; 95-331, eff. 8-21-07.)

(40 ILCS 5/14-135.08) (from Ch. 108 1/2, par. 14-135.08)

Sec. 14-135.08. To certify required State contributions.

(a) To certify to the Governor and to each department, on or before November 15 of each year, the required rate for State contributions to the System for the next State fiscal year, as determined under subsection (b) of Section 14-131. The certification to the Governor shall include a copy of the actuarial recommendations upon which the rate is based.

(b) The certification shall include an additional amount necessary to pay all principal of and interest on those general obligation bonds due the next fiscal year authorized by Section 7.2(a) of the General Obligation Bond Act and issued to provide the proceeds deposited by the State with the System in July 2003, representing deposits other than amounts reserved under Section 7.2(c) of the General Obligation Bond Act. For State fiscal year 2005, the Board shall make a supplemental certification of the additional amount necessary to pay all principal of and interest on those general obligation bonds due in State fiscal years 2004 and 2005 authorized by Section 7.2(a) of the General Obligation Bond Act and issued to provide the proceeds deposited by the State with the System in July 2003, representing deposits other than amounts reserved under Section 7.2(c) of the General Obligation Bond Act, as soon as practical after the effective date of this amendatory Act of the 93rd General Assembly.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor and to each department the amount of the required State contribution to the System and the required rates for State contributions to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor and to each department the amount of the required State contribution to the System and the required rates for State contributions to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

On or before February 1, 2011, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for all of State fiscal year 2011, taking into account Public Act 96-889.

(Source: P.A. 93-2, eff. 4-7-03; 93-839, eff. 7-30-04; 94-4, eff. 6-1-05.)

(40 ILCS 5/15-165) (from Ch. 108 1/2, par. 15-165)

Sec. 15-165. To certify amounts and submit vouchers.

(a) The Board shall certify to the Governor on or before November 15 of each year the appropriation required from State funds for the purposes of this System for the following fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

On or before February 1, 2011, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for all of State fiscal year 2011, taking into account Public Act 96-889.

(b) The Board shall certify to the State Comptroller or employer, as the case may be, from time to time, by its president and secretary, with its seal attached, the amounts payable to the System from the various funds.

(c) Beginning in State fiscal year 1996, on or as soon as possible after the 15th day of each month the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (b) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the

applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this Section, the difference shall be paid from the General Revenue Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(d) So long as the payments received are the full amount lawfully vouchered under this Section, payments received by the System under this Section shall be applied first toward the employer contribution to the self-managed plan established under Section 15-158.2. Payments shall be applied second toward the employer's portion of the normal costs of the System, as defined in subsection (f) of Section 15-155. The balance shall be applied toward the unfunded actuarial liabilities of the System.

(e) In the event that the System does not receive, as a result of legislative enactment or otherwise, payments sufficient to fully fund the employer contribution to the self-managed plan established under Section 15-158.2 and to fully fund that portion of the employer's portion of the normal costs of the System, as calculated in accordance with Section 15-155(a-1), then any payments received shall be applied proportionately to the optional retirement program established under Section 15-158.2 and to the employer's portion of the normal costs of the System, as calculated in accordance with Section 15-155(a-1). (Source: P.A. 93-2, eff. 4-7-03; 93-665, eff. 3-5-04; 94-4, eff. 6-1-05.)

(40 ILCS 5/16-158) (from Ch. 108 1/2, par. 16-158)

Sec. 16-158. Contributions by State and other employing units.

(a) The State shall make contributions to the System by means of appropriations from the Common School Fund and other State funds of amounts which, together with other employer contributions, employee contributions, investment income, and other income, will be sufficient to meet the cost of maintaining and administering the System on a 90% funded basis in accordance with actuarial recommendations.

The Board shall determine the amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, using the formula in subsection (b-3).

(a-1) Annually, on or before November 15, the Board shall certify to the Governor the amount of the required State contribution for the coming fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

<u>On or before February 1, 2011, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for all of State fiscal year 2011, taking into account Public Act 96-889.</u>

(b) Through State fiscal year 1995, the State contributions shall be paid to the System in accordance with Section 18-7 of the School Code.

(b-1) Beginning in State fiscal year 1996, on the 15th day of each month, or as soon thereafter as may be practicable, the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a-1). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (a) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this subsection, the difference shall be paid from the Common School Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(b-2) Allocations from the Common School Fund apportioned to school districts not coming under this System shall not be diminished or affected by the provisions of this Article.

(b-3) For State fiscal years 2011 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 90% of the total actuarial liabilities of the System by the end of State fiscal year 2045. In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial cost method.

For State fiscal years 1996 through 2005, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section; except that in the following specified State fiscal years, the State contribution to the System shall not be less than the following indicated percentages of the applicable employee payroll, even if the indicated percentage will produce a State contribution in excess of the amount otherwise required under this subsection and subsection (a), and notwithstanding any contrary certification made under subsection (a-1) before the effective date of this amendatory Act of 1998: 10.02% in FY 1999; 10.77% in FY 2000; 11.47% in FY 2001; 12.16% in FY 2002; 12.86% in FY 2003; and 13.56% in FY 2004.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2006 is $534,627,700.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2007 is $738,014,500.

For each of State fiscal years 2008 through 2009, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments from the required State contribution for State fiscal year 2007, so that by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2010 is $2,089,268,000 and shall be made from the proceeds of bonds sold in fiscal year 2010 pursuant to Section 7.2 of the General Obligation Bond Act, less (i) the pro rata share of bond sale expenses determined by the System's share of total bond proceeds, (ii) any amounts received from the Common School Fund in fiscal year 2010, and (iii) any reduction in bond proceeds due to the issuance of discounted bonds, if applicable.

Beginning in State fiscal year 2046, the minimum State contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 90% of the total actuarial liabilities of the System.

Amounts received by the System pursuant to Section 25 of the Budget Stabilization Act or Section 8.12 of the State Finance Act in any fiscal year do not reduce and do not constitute payment of any portion of the minimum State contribution required under this Article in that fiscal year. Such amounts shall not reduce, and shall not be included in the calculation of, the required State contributions under this Article in any future year until the System has reached a funding ratio of at least 90%. A reference in this Article to the "required State contribution" or any substantially similar term does not include or apply to any amounts payable to the System under Section 25 of the Budget Stabilization Act.

Notwithstanding any other provision of this Section, the required State contribution for State fiscal year 2005 and for fiscal year 2008 and each fiscal year thereafter, as calculated under this Section and certified under subsection (a-1), shall not exceed an amount equal to (i) the amount of the required State contribution that would have been calculated under this Section for that fiscal year if the System had not received any payments under subsection (d) of Section 7.2 of the General Obligation Bond Act, minus (ii) the portion of the State's total debt service payments for that fiscal year on the bonds issued for the purposes of that Section 7.2, as determined and certified by the Comptroller, that is the same as the System's portion of the total moneys distributed under subsection (d) of Section 7.2 of the General Obligation Bond Act. In determining this maximum for State fiscal years 2008 through 2010, however, the amount referred to in item (i) shall be increased, as a percentage of the applicable employee payroll, in equal increments calculated from the sum of the required State contribution for State fiscal year 2007 plus the applicable portion of the State's total debt service payments for fiscal year 2007 on the bonds issued for the purposes of Section 7.2 of the General Obligation Bond Act, so that, by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

(c) Payment of the required State contributions and of all pensions, retirement annuities, death benefits, refunds, and other benefits granted under or assumed by this System, and all expenses in connection with

the administration and operation thereof, are obligations of the State.

If members are paid from special trust or federal funds which are administered by the employing unit, whether school district or other unit, the employing unit shall pay to the System from such funds the full accruing retirement costs based upon that service, as determined by the System. Employer contributions, based on salary paid to members from federal funds, may be forwarded by the distributing agency of the State of Illinois to the System prior to allocation, in an amount determined in accordance with guidelines established by such agency and the System.

(d) Effective July 1, 1986, any employer of a teacher as defined in paragraph (8) of Section 16-106 shall pay the employer's normal cost of benefits based upon the teacher's service, in addition to employee contributions, as determined by the System. Such employer contributions shall be forwarded monthly in accordance with guidelines established by the System.

However, with respect to benefits granted under Section 16-133.4 or 16-133.5 to a teacher as defined in paragraph (8) of Section 16-106, the employer's contribution shall be 12% (rather than 20%) of the member's highest annual salary rate for each year of creditable service granted, and the employer shall also pay the required employee contribution on behalf of the teacher. For the purposes of Sections 16-133.4 and 16-133.5, a teacher as defined in paragraph (8) of Section 16-106 who is serving in that capacity while on leave of absence from another employer under this Article shall not be considered an employee of the employer from which the teacher is on leave.

(e) Beginning July 1, 1998, every employer of a teacher shall pay to the System an employer contribution computed as follows:

(1) Beginning July 1, 1998 through June 30, 1999, the employer contribution shall be equal to 0.3% of each teacher's salary.

(2) Beginning July 1, 1999 and thereafter, the employer contribution shall be equal to 0.58% of each teacher's salary.

The school district or other employing unit may pay these employer contributions out of any source of funding available for that purpose and shall forward the contributions to the System on the schedule established for the payment of member contributions.

These employer contributions are intended to offset a portion of the cost to the System of the increases in retirement benefits resulting from this amendatory Act of 1998.

Each employer of teachers is entitled to a credit against the contributions required under this subsection (e) with respect to salaries paid to teachers for the period January 1, 2002 through June 30, 2003, equal to the amount paid by that employer under subsection (a-5) of Section 6.6 of the State Employees Group Insurance Act of 1971 with respect to salaries paid to teachers for that period.

The additional 1% employee contribution required under Section 16-152 by this amendatory Act of 1998 is the responsibility of the teacher and not the teacher's employer, unless the employer agrees, through collective bargaining or otherwise, to make the contribution on behalf of the teacher.

If an employer is required by a contract in effect on May 1, 1998 between the employer and an employee organization to pay, on behalf of all its full-time employees covered by this Article, all mandatory employee contributions required under this Article, then the employer shall be excused from paying the employer contribution required under this subsection (e) for the balance of the term of that contract. The employer and the employee organization shall jointly certify to the System the existence of the contractual requirement, in such form as the System may prescribe. This exclusion shall cease upon the termination, extension, or renewal of the contract at any time after May 1, 1998.

(f) If the amount of a teacher's salary for any school year used to determine final average salary exceeds the member's annual full-time salary rate with the same employer for the previous school year by more than 6%, the teacher's employer shall pay to the System, in addition to all other payments required under this Section and in accordance with guidelines established by the System, the present value of the increase in benefits resulting from the portion of the increase in salary that is in excess of 6%. This present value shall be computed by the System on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the System that is available at the time of the computation. If a teacher's salary for the 2005-2006 school year is used to determine final average salary under this subsection (f), then the changes made to this subsection (f) by Public Act 94-1057 shall apply in calculating whether the increase in his or her salary is in excess of 6%. For the purposes of this Section, change in employment under Section 10-21.12 of the School Code on or after June 1, 2005 shall constitute a change in employer. The System may require the employer to provide any pertinent information or documentation. The changes made to this subsection (f) by this amendatory Act of the 94th General Assembly apply without regard to whether the teacher was in service on or after its effective date.

Whenever it determines that a payment is or may be required under this subsection, the System shall calculate the amount of the payment and bill the employer for that amount. The bill shall specify the calculations used to determine the amount due. If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the System in writing for a recalculation. The application must specify in detail the grounds of the dispute and, if the employer asserts that the calculation is subject to subsection (g) or (h) of this Section, must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of that subsection. Upon receiving a timely application for recalculation, the System shall review the application and, if appropriate, recalculate the amount due.

The employer contributions required under this subsection (f) may be paid in the form of a lump sum within 90 days after receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill.

(g) This subsection (g) applies only to payments made or salary increases given on or after June 1, 2005 but before July 1, 2011. The changes made by Public Act 94-1057 shall not require the System to refund any payments received before July 31, 2006 (the effective date of Public Act 94-1057).

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases paid to teachers under contracts or collective bargaining agreements entered into, amended, or renewed before June 1, 2005.

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases paid to a teacher at a time when the teacher is 10 or more years from retirement eligibility under Section 16-132 or 16-133.2.

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases resulting from overload work, including summer school, when the school district has certified to the System, and the System has approved the certification, that (i) the overload work is for the sole purpose of classroom instruction in excess of the standard number of classes for a full-time teacher in a school district during a school year and (ii) the salary increases are equal to or less than the rate of pay for classroom instruction computed on the teacher's current salary and work schedule.

When assessing payment for any amount due under subsection (f), the System shall exclude a salary increase resulting from a promotion (i) for which the employee is required to hold a certificate or supervisory endorsement issued by the State Teacher Certification Board that is a different certification or supervisory endorsement than is required for the teacher's previous position and (ii) to a position that has existed and been filled by a member for no less than one complete academic year and the salary increase from the promotion is an increase that results in an amount no greater than the lesser of the average salary paid for other similar positions in the district requiring the same certification or the amount stipulated in the collective bargaining agreement for a similar position requiring the same certification.

When assessing payment for any amount due under subsection (f), the System shall exclude any payment to the teacher from the State of Illinois or the State Board of Education over which the employer does not have discretion, notwithstanding that the payment is included in the computation of final average salary.

(h) When assessing payment for any amount due under subsection (f), the System shall exclude any salary increase described in subsection (g) of this Section given on or after July 1, 2011 but before July 1, 2014 under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005 but before July 1, 2011. Notwithstanding any other provision of this Section, any payments made or salary increases given after June 30, 2014 shall be used in assessing payment for any amount due under subsection (f) of this Section.

(i) The System shall prepare a report and file copies of the report with the Governor and the General Assembly by January 1, 2007 that contains all of the following information:

(1) The number of recalculations required by the changes made to this Section by Public Act 94-1057 for each employer.

(2) The dollar amount by which each employer's contribution to the System was changed due to recalculations required by Public Act 94-1057.

(3) The total amount the System received from each employer as a result of the changes made to this Section by Public Act 94-4.

(4) The increase in the required State contribution resulting from the changes made to this Section by Public Act 94-1057.

(j) For purposes of determining the required State contribution to the System, the value of the System's

assets shall be equal to the actuarial value of the System's assets, which shall be calculated as follows:

As of June 30, 2008, the actuarial value of the System's assets shall be equal to the market value of the assets as of that date. In determining the actuarial value of the System's assets for fiscal years after June 30, 2008, any actuarial gains or losses from investment return incurred in a fiscal year shall be recognized in equal annual amounts over the 5-year period following that fiscal year.

(k) For purposes of determining the required State contribution to the system for a particular year, the actuarial value of assets shall be assumed to earn a rate of return equal to the system's actuarially assumed rate of return.

(Source: P.A. 95-331, eff. 8-21-07; 95-950, eff. 8-29-08; 96-43, eff. 7-15-09.)

(40 ILCS 5/18-140) (from Ch. 108 1/2, par. 18-140)

Sec. 18-140. To certify required State contributions and submit vouchers.

(a) The Board shall certify to the Governor, on or before November 15 of each year, the amount of the required State contribution to the System for the following fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

On or before February 1, 2011, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for all of State fiscal year 2011, taking into account Public Act 96-889.

(b) Beginning in State fiscal year 1996, on or as soon as possible after the 15th day of each month the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (c) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this Section, the difference shall be paid from the General Revenue Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(Source: P.A. 93-2, eff. 4-7-03; 93-665, eff. 3-5-04; 94-4, eff. 6-1-05.)

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

The foregoing motion prevailed and Amendment No. 1 was adopted.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed; and the bill, as amended, was advanced to the order of Third Reading.

HOUSE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. This bill has been examined, any amendments thereto engrossed and any errors corrected. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Currie, HOUSE BILL 1566 was taken up and read by title a third time. A three-fifths vote is required.

And the question being, “Shall this bill pass?”.

Pending the vote on said bill, on motion of Representative Currie, further consideration of HOUSE BILL 1566 was postponed.

HOUSE BILL ON SECOND READING

HOUSE BILL 1606. Having been read by title a second time on November 17, 2010, and held on the order of Second Reading, the same was again taken up.

Representative Holbrook offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend House Bill 1606 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by adding Section 5-1063.5 as follows:

(55 ILCS 5/5-1063.5 new)

Sec. 5-1063.5. Permits for demolition and renovation; asbestos. Before a county may issue a demolition or renovation permit for property that is regulated under Part 61 of Title 40 of the Code of Federal Regulations (NESHAP), the county must notify the permit applicant of the requirement to file a NESHAP notification form, as required by Section 61.145(b) of Title 40 of the Code of Federal Regulations, and the permit applicant must certify as a part of the permit application that the NESHAP notification form has been filed with the Illinois Environmental Protection Agency. A county may seek assistance from the Illinois Environmental Protection Agency or any other State agency in developing procedures to implement the provisions of this Section.

Section 10. The Illinois Municipal Code is amended by adding Section 11-39-2.5 as follows:

(65 ILCS 5/11-39-2.5 new)

Sec. 11-39-2.5. Permits for demolition and renovation; asbestos. Before a municipality may issue a demolition or renovation permit for property that is regulated under Part 61 of Title 40 of the Code of Federal Regulations (NESHAP), the municipality must notify the permit applicant of the requirement to file a NESHAP notification form, as required by Section 61.145(b) of Title 40 of the Code of Federal Regulations, and the permit applicant must certify as a part of the permit application that the NESHAP notification form has been filed with the Illinois Environmental Protection Agency. A municipality may seek assistance from the Illinois Environmental Protection Agency or any other State agency in developing procedures to implement the provisions of this Section.

Section 90. The State Mandates Act is amended by adding Section 8.35 as follows:

(30 ILCS 805/8.35 new)

Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 96th General Assembly.

Section 99. Effective date. This Act takes effect 90 days after becoming law.".

The foregoing motion prevailed and Amendment No. 1 was adopted.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed; and the bill, as amended, was advanced to the order of Third Reading.

HOUSE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. This bill has been examined, any amendments thereto engrossed and any errors corrected. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Dugan, HOUSE BILL 1606 was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

78, Yeas; 33, Nays; 0, Answering Present.

(ROLL CALL 5)

This bill, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence.

HOUSE BILL ON SECOND READING

HOUSE BILL 1631. Having been read by title a second time on November 17, 2010, and held on the order of Second Reading, the same was again taken up.

Representative McAsey offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend House Bill 1631 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-74.4-3.5 as follows:

(65 ILCS 5/11-74.4-3.5)

Sec. 11-74.4-3.5. Completion dates for redevelopment projects.

(a) Unless otherwise stated in this Section, the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer, as provided in subsection (b) of Section 11-74.4-8 of this Act, is to be made with respect to ad valorem taxes levied in the 23rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted if the ordinance was adopted on or after January 15, 1981.

(b) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.

The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 33rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on May 20, 1985 by the Village of Wheeling.

(c) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 35th calendar year after the year in which the ordinance approving the redevelopment project area was adopted:

(1) if the ordinance was adopted before January 15, 1981;

(2) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989;

(3) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport;

(4) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County;

(5) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law;

(6) if the ordinance was adopted in December 1984 by the Village of Rosemont;

(7) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least $250,000 of tax increment bonds were authorized on June 17, 1997;

(8) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis;

(9) if the ordinance was adopted on November 12, 1991 by the Village of Sauget;

(10) if the ordinance was adopted on February 11, 1985 by the City of Rock Island;

(11) if the ordinance was adopted before December 18, 1986 by the City of Moline;
(12) if the ordinance was adopted in September 1988 by Sauk Village;
(13) if the ordinance was adopted in October 1993 by Sauk Village;
(14) if the ordinance was adopted on December 29, 1986 by the City of Galva;
(15) if the ordinance was adopted in March 1991 by the City of Centreville;
(16) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis;
(17) if the ordinance was adopted on December 22, 1986 by the City of Aledo;
(18) if the ordinance was adopted on February 5, 1990 by the City of Clinton;
(19) if the ordinance was adopted on September 6, 1994 by the City of Freeport;
(20) if the ordinance was adopted on December 22, 1986 by the City of Tuscola;
(21) if the ordinance was adopted on December 23, 1986 by the City of Sparta;
(22) if the ordinance was adopted on December 23, 1986 by the City of Beardstown;
(23) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville;
(24) if the ordinance was adopted on December 29, 1986 by the City of Collinsville;
(25) if the ordinance was adopted on September 14, 1994 by the City of Alton;
(26) if the ordinance was adopted on November 11, 1996 by the City of Lexington;
(27) if the ordinance was adopted on November 5, 1984 by the City of LeRoy;
(28) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham;
(29) if the ordinance was adopted on November 11, 1986 by the City of Pekin;
(30) if the ordinance was adopted on December 15, 1981 by the City of Champaign;
(31) if the ordinance was adopted on December 15, 1986 by the City of Urbana;
(32) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth;
(33) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth;
(34) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth;
(35) if the ordinance was adopted on December 23, 1986 by the Town of Cicero;
(36) if the ordinance was adopted on December 30, 1986 by the City of Effingham;
(37) if the ordinance was adopted on May 9, 1991 by the Village of Tilton;
(38) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst;
(39) if the ordinance was adopted on January 19, 1988 by the City of Waukegan;
(40) if the ordinance was adopted on September 21, 1998 by the City of Waukegan;
(41) if the ordinance was adopted on December 31, 1986 by the City of Sullivan;
(42) if the ordinance was adopted on December 23, 1991 by the City of Sullivan;
(43) if the ordinance was adopted on December 31, 1986 by the City of Oglesby;
(44) if the ordinance was adopted on July 28, 1987 by the City of Marion;
(45) if the ordinance was adopted on April 23, 1990 by the City of Marion;
(46) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect;
(47) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull;
(48) if the ordinance was adopted on April 20, 1993 by the Village of Princeville;
(49) if the ordinance was adopted on July 1, 1986 by the City of Granite City;
(50) if the ordinance was adopted on February 2, 1989 by the Village of Lombard;
(51) if the ordinance was adopted on December 29, 1986 by the Village of Gardner;
(52) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw;
(53) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park;
(54) if the ordinance was adopted on November 20, 1989 by the Village of South Holland;
(55) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale;
(56) if the ordinance was adopted on December 29, 1986 by the City of Galesburg;
(57) if the ordinance was adopted on April 1, 1985 by the City of Galesburg;
(58) if the ordinance was adopted on May 21, 1990 by the City of West Chicago;
(59) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest;
(60) if the ordinance was adopted in 1999 by the City of Villa Grove;
(61) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion;
(62) if the ordinance was adopted on December 30, 1986 by the Village of Manteno;
(63) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights;
(64) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont;
(65) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park;

(66) if the ordinance was adopted on December 22, 1986 by the City of DeKalb;
(67) if the ordinance was adopted on December 2, 1986 by the City of Aurora;
(68) if the ordinance was adopted on December 31, 1986 by the Village of Milan;
(69) if the ordinance was adopted on September 8, 1994 by the City of West Frankfort;
(70) if the ordinance was adopted on December 23, 1986 by the Village of Libertyville;
(71) if the ordinance was adopted on December 22, 1986 by the Village of Hoffman Estates;
(72) if the ordinance was adopted on September 17, 1986 by the Village of Sherman;
(73) if the ordinance was adopted on December 16, 1986 by the City of Macomb;
(74) if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the West Washington Street TIF;
(75) if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the Camp Street TIF;
(76) if the ordinance was adopted on August 7, 2000 by the City of Des Plaines;
(77) if the ordinance was adopted on December 22, 1986 by the City of Washington to create the Washington Square TIF #2;
(78) if the ordinance was adopted on December 29, 1986 by the City of Morris;
(79) if the ordinance was adopted on July 6, 1998 by the Village of Steeleville;
(80) if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF I (the Main St TIF);
(81) if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF II (the Interstate TIF);
(82) if the ordinance was adopted on November 6, 2002 by the City of Chicago to create the Madden/Wells TIF District;
(83) if the ordinance was adopted on November 4, 1998 by the City of Chicago to create the Roosevelt/Racine TIF District;
(84) if the ordinance was adopted on June 10, 1998 by the City of Chicago to create the Stony Island Commercial/Burnside Industrial Corridors TIF District;
(85) if the ordinance was adopted on November 29, 1989 by the City of Chicago to create the Englewood Mall TIF District;
(86) if the ordinance was adopted on December 27, 1986 by the City of Mendota;
(87) if the ordinance was adopted on December 31, 1986 by the Village of Cahokia;
(88) if the ordinance was adopted on September 20, 1999 by the City of Belleville;
(89) if the ordinance was adopted on December 30, 1986 by the Village of Bellevue to create the Bellevue TIF District 1;
(90) if the ordinance was adopted on December 13, 1993 by the Village of Crete;
(91) if the ordinance was adopted on February 12, 2001 by the Village of Crete;
(92) if the ordinance was adopted on April 23, 2001 by the Village of Crete; ~~or~~
(93) if the ordinance was adopted on December 16, 1986 by the City of Champaign; or ~~.~~
(94) if the ordinance was adopted on June 6, 1989 by the Village of Romeoville.

(d) For redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by Public Act 87-1272 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

(e) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least $8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(f) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or

after December 1, 1981 but before January 1, 1982 and for which at least $1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(g) In consolidating the material relating to completion dates from Sections 11-74.4-3 and 11-74.4-7 into this Section, it is not the intent of the General Assembly to make any substantive change in the law, except for the extension of the completion dates for the City of Aurora, the Village of Milan, the City of West Frankfort, the Village of Libertyville, and the Village of Hoffman Estates set forth under items (67), (68), (69), (70), and (71) of subsection (c) of this Section.

(Source: P.A. 95-932, eff. 8-26-08; 95-964, eff. 9-23-08; incorporates P.A. 95-777, eff. 9-22-08, and 95-1028, eff. 8-25-09 (see Section 5 of P.A. 96-717 for the effective date of changes made by P.A. 95-1028); 96-127, eff. 8-4-09; 96-182, eff. 8-10-09; 96-208, eff. 8-10-09; 96-209, eff. 1-1-10; 96-213, eff. 8-10-09; 96-264, eff. 8-11-09; 96-328, eff. 8-11-09; 96-439, eff. 8-14-09; 96-454, eff. 8-14-09; 96-722, eff. 8-25-09; 96-773, eff. 8-28-09; 96-830, eff. 12-4-09; 96-837, eff. 12-16-09; 96-1000, eff. 7-2-10; 96-1359, eff. 7-28-10.)".

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

The foregoing motion prevailed and Amendment No. 1 was adopted.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed; and the bill, as amended, was advanced to the order of Third Reading.

HOUSE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. This bill has been examined, any amendments thereto engrossed and any errors corrected. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative McAsey, HOUSE BILL 1631 was taken up and read by title a third time. A three-fifths vote is required.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

95, Yeas; 16, Nays; 0, Answering Present.

(ROLL CALL 6)

This bill, having received the votes of three-fifths of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence.

HOUSE BILL ON SECOND READING

HOUSE BILL 1850. Having been read by title a second time on November 17, 2010, and held on the order of Second Reading, the same was again taken up.

Representative Thapedi offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend House Bill 1850 by replacing everything after the enacting clause with the following:

"Section 5. The Smoke Free Illinois Act is amended by changing Section 35 as follows:

(410 ILCS 82/35)

Sec. 35. Exemptions. Notwithstanding any other provision of this Act, smoking is allowed in the following areas:

(1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.

(2) Retail tobacco stores as defined in Section 10 of this Act in operation prior to the effective date of this amendatory Act of the 95th General Assembly. The retail tobacco store shall annually file with the Department by January 31st an affidavit stating the percentage of its gross income

during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of this amendatory Act may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

(3) (Blank).

(3.5) Designated segregated ventilated smoking rooms in gaming facilities that are licensed under the Riverboat Gambling Act or the Illinois Horse Racing Act of 1975, provided that the segregated smoking room is only accessible to persons who have requested in writing to have access to the smoking room and the smoke from the room shall not infiltrate into any other areas where smoking is prohibited. Rulemaking authority to implement this amendatory Act of the 96th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(4) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

(5) Enclosed laboratories that are excluded from the definition of "place of employment" in Section 10 of this Act. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(6) Common smoking rooms in long-term care facilities operated under the authority of the Illinois Department of Veterans' Affairs or licensed under the Nursing Home Care Act that are accessible only to residents who are smokers and have requested in writing to have access to the common smoking room where smoking is permitted and the smoke shall not infiltrate other areas of the long-term care facility. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 95-17, eff. 1-1-08; 95-1029, eff. 2-4-09; 96-1357, eff. 1-1-11.)".

The foregoing motion prevailed and Amendment No. 1 was adopted.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed; and the bill, as amended, was held on the order of Second Reading.

SENATE BILL ON SECOND READING

SENATE BILL 550. Having been reproduced, was taken up and read by title a second time.

The following amendment was offered in the Committee on Personnel and Pensions, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 550 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 1-160 as follows:

(40 ILCS 5/1-160)

Sec. 1-160. Provisions applicable to new hires.

(a) The ~~The~~ provisions of this Section apply to a person who first becomes an employee and a participant under any retirement system or pension fund under this Code, other than a retirement system or pension fund established under Article 2, 3, 4, 5, 6, or 18 of this Code, on or after the effective date of this amendatory Act of the 96th General Assembly notwithstanding any other provision of this Code to the contrary, but do not apply to any self-managed plan established under this Code, to any person with respect

to service as a sheriff's law enforcement employee under Article 7, or to any participant of the retirement plan established under Section 22-101.

(b) "Final average salary" means the average monthly salary obtained by dividing the total salary of the participant during the 96 consecutive months of service within the last 120 months of service in which the total salary was the highest by the number of months of service in that period; however, the annual final average salary may not exceed $106,800, as automatically increased by the lesser of 3% or one-half of the annual increase in the consumer price index-u during the preceding 12-month calendar year. For the purposes of a person who first becomes an employee of any retirement system or pension fund to which this Section applies on or after the effective date of this amendatory Act of the 96th General Assembly, in this Code, "final average salary" shall be substituted for the following:

(1) In Articles 7 (except for service as sheriff's law enforcement employees) and 15, "final rate of earnings".

(2) In Articles 8, 9, 10, 11, and 12, "highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal".

(3) In Article 13, "average final salary".

(4) In Article 14, "final average compensation".

(5) In Article 17, "average salary".

(6) In Section 22-207, "wages or salary received by him at the date of retirement or discharge".

For the purposes of this Section, "consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the boards of the retirement systems and pension funds.

(c) A participant is entitled to a retirement annuity beginning on the date specified by the participant in a written application only if, on that specified date, he or she has attained age 67 and has at least 10 years of service credit.

A participant who has attained age 62 and has at least 10 years of service credit may elect to receive the lower retirement annuity provided in subsection (d) of this Section.

(d) The retirement annuity of a participant who is retiring after attaining age 62 with at least 10 years of service credit shall be reduced by one-half of 1% for each month that the member's age is under age 67.

(e) Any retirement annuity or supplemental annuity shall be subject to annual increases upon (1) attainment of age 67 or (2) the first anniversary of the commencement of the annuity, whichever occurs later. Each annual increase shall be calculated at 3% or one-half the annual increase in the consumer price index-u for the preceding calendar year, whichever is less, of the originally granted retirement annuity. If the increase in the consumer price index-u for the preceding calendar year is zero or there is a decrease, then the annuity shall not be increased.

(f) The initial survivor's annuity of an otherwise eligible survivor of a participant who first becomes a participant on or after the effective date of this amendatory Act of the 96th General Assembly shall be in the amount of 66 2/3% of the participant's earned retirement annuity at the date of death and shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity or (2) in other cases, on each January 1 occurring after the first anniversary of the commencement of the annuity. Each annual increase shall be calculated at 3% or one-half the annual increase in the consumer price index-u for the preceding calendar year, whichever is less, of the originally granted survivor's annuity. If the increase in the consumer price index-u for the preceding calendar year is zero or there is a decrease, then the annuity shall not be increased.

(g) The benefits in Section 14-110 apply only if the person is a State policeman, a fire fighter in the fire protection service of a department, or a security employee of the Department of Corrections or the Department of Juvenile Justice, as those terms are defined in subsection (b) of Section 14-110. A person who meets the requirements of this Section is entitled to an annuity calculated under the provisions of Section 14-110, in lieu of the regular or minimum retirement annuity, only if the person has withdrawn from service with not less than 20 years of eligible creditable service and has attained age 60, regardless of whether the attainment of age 60 occurs while the person is still in service.

(h) If a person who first becomes a member of a retirement system or pension fund subject to this Section on or after the effective date of this amendatory Act of the 96th General Assembly is receiving a retirement annuity or retirement pension under that system or fund and accepts employment in a position

covered under the same Article or any other Article of this Code on a full-time basis, then the person's retirement annuity or retirement pension under that system or fund shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity or retirement pension payments shall resume and, if appropriate, be recalculated under the applicable provisions of this Code.

(i) Notwithstanding any other provision of this Section, a person who first becomes a participant of the retirement system established under Article 15 on or after the effective date of this amendatory Act of the 96th General Assembly shall have the option to enroll in the self-managed plan created under Section 15-158.2 of this Code.

(j) In the case of a conflict between the provisions of this Section and any other provision of this Code, the provisions of this Section shall control.

(Source: P.A. 96-889, eff. 1-1-11.)".

Representative McCarthy offered the following amendment and moved its adoption:

AMENDMENT NO. 2 . Amend Senate Bill 550, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Sections 1-160, 2-108.1, 2-119, 2-119.01, 2-119.1, 2-121.1, 2-122, 2-126, 8-168, 9-164, 9-220, 11-164, 13-601, 14-103.05, 14-103.10, 15-112, 15-113.6, 15-134, 15-136.3, 15-146, 18-115, 18-125, 18-125.1, 18-127, 18-128.01, and 18-133 as follows:

(40 ILCS 5/1-160)

Sec. 1-160. Provisions applicable to new hires.

(a) The provisions of this Section apply to a person who, on or after January 1, 2011, first becomes a member or ~~an employee and~~ a participant under any reciprocal retirement system or pension fund established under this Code, other than a retirement system or pension fund established under Article 2, 3, 4, 5, 6, or 18 of this Code, ~~on or after the effective date of this amendatory Act of the 96th General Assembly~~ notwithstanding any other provision of this Code to the contrary, but do not apply to any self-managed plan established under this Code, to any person with respect to service as a sheriff's law enforcement employee under Article 7, or to any participant of the retirement plan established under Section 22-101.

(b) "Final average salary" means the average monthly (or annual) salary obtained by dividing the total salary or earnings calculated under the Article applicable to ~~of~~ the member or participant during the 96 consecutive months (or 8 consecutive years) of service within the last 120 months (or 10 years) of service in which the total salary or earnings calculated under the applicable Article was the highest by the number of months (or years) of service in that period ~~; however, the annual final average salary may not exceed $106,800, as automatically increased by the lesser of 3% or one-half of the annual increase in the consumer price index-u during the preceding 12-month calendar year~~. For the purposes of a person who first becomes a member or participant ~~an employee~~ of any retirement system or pension fund to which this Section applies on or after January 1, 2011 ~~the effective date of this amendatory Act of the 96th General Assembly~~, in this Code, "final average salary" shall be substituted for the following:

(1) In Articles 7 (except for service as sheriff's law enforcement employees) and 15, "final rate of earnings".

(2) In Articles 8, 9, 10, 11, and 12, "highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal".

(3) In Article 13, "average final salary".

(4) In Article 14, "final average compensation".

(5) In Article 17, "average salary".

(6) In Section 22-207, "wages or salary received by him at the date of retirement or discharge".

(b-5) Beginning on January 1, 2011, for all purposes under this Code (including without limitation the calculation of benefits and employee contributions), the annual earnings, salary, or wages (based on the plan year) of a member or participant to whom this Section applies shall not exceed $106,800; however, that amount shall annually thereafter be increased by the lesser of (i) 3% of that amount, including all previous adjustments, or (ii) one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, including all previous adjustments.

For the purposes of this Section, "consumer price index-u" means the index published by the Bureau of

Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the boards of the retirement systems and pension funds by November 1 of each year.

(c) A member or participant is entitled to a retirement annuity upon ~~beginning on the date specified by the participant in a~~ written application ~~only~~ if~~, on that specified date,~~ he or she has attained age 67 and has at least 10 years of service credit and is otherwise eligible under the requirements of the applicable Article.

A member or participant who has attained age 62 and has at least 10 years of service credit and is otherwise eligible under the requirements of the applicable Article may elect to receive the lower retirement annuity provided in subsection (d) of this Section.

(d) The retirement annuity of a member or participant who is retiring after attaining age 62 with at least 10 years of service credit shall be reduced by one-half of 1% for each full month that the member's age is under age 67.

(e) Any retirement annuity or supplemental annuity shall be subject to annual increases on the January 1 occurring either on or after the attainment of age 67 or the first anniversary of the annuity start date, whichever is later ~~upon (1) attainment of age 67 or (2) the first anniversary of the commencement of the annuity, whichever occurs later~~. Each annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1 ~~for the preceding calendar year~~, whichever is less, of the originally granted retirement annuity. If the annual unadjusted percentage change ~~increase~~ in the consumer price index-u for the 12 months ending with the September preceding each November 1 ~~calendar year~~ is zero or there is a decrease, then the annuity shall not be increased.

(f) The initial survivor's or widow's annuity of an otherwise eligible survivor or widow of a retired member or participant who first became a member or ~~becomes a~~ participant on or after January 1, 2011 ~~the effective date of this amendatory Act of the 96th General Assembly~~ shall be in the amount of 66 2/3% of the retired member's or participant's ~~earned~~ retirement annuity at the date of death . In the case of the death of a member or participant who has not retired and who first became a member or participant on or after January 1, 2011, eligibility for a survivor's or widow's annuity shall be determined by the applicable Article of this Code. The initial benefit shall be 66 2/3% of the earned annuity without a reduction due to age. A child's annuity of an otherwise eligible child shall be in the amount prescribed under each Article if applicable. Any survivor's or widow's annuity ~~and~~ shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity or (2) in other cases, on each January 1 occurring after the first anniversary of the commencement of the annuity. Each annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1 ~~for the preceding calendar year~~, whichever is less, of the originally granted survivor's annuity. If the annual unadjusted percentage change ~~increase~~ in the consumer price index-u for the 12 months ending with the September preceding each November 1 ~~calendar year~~ is zero or there is a decrease, then the annuity shall not be increased.

(g) The benefits in Section 14-110 apply only if the person is a State policeman, a fire fighter in the fire protection service of a department, or a security employee of the Department of Corrections or the Department of Juvenile Justice, as those terms are defined in subsection (b) of Section 14-110. A person who meets the requirements of this Section is entitled to an annuity calculated under the provisions of Section 14-110, in lieu of the regular or minimum retirement annuity, only if the person has withdrawn from service with not less than 20 years of eligible creditable service and has attained age 60, regardless of whether the attainment of age 60 occurs while the person is still in service.

(h) If a person who first becomes a member or a participant of a retirement system or pension fund subject to this Section on or after January 1, 2011 ~~the effective date of this amendatory Act of the 96th General Assembly~~ is receiving a retirement annuity or retirement pension under that system or fund and becomes a member or participant under ~~accepts employment in a position covered under the same Article or~~ any other system or fund created by ~~Article of~~ this Code and is employed on a full-time basis, except for those members or participants exempted from the provisions of this Section under subsection (a) of this Section, then the person's retirement annuity or retirement pension under that system or fund shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity or retirement pension payments shall resume and ~~, if appropriate,~~ be recalculated if recalculation is provided for under the applicable Article ~~provisions~~ of this Code.

(i) Notwithstanding any other provision of this Section, a person who first becomes a participant of the retirement system established under Article 15 on or after January 1, 2011 ~~the effective date of this amendatory Act of the 96th General Assembly~~ shall have the option to enroll in the self-managed plan created under Section 15-158.2 of this Code.

(j) In the case of a conflict between the provisions of this Section and any other provision of this Code, the provisions of this Section shall control.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/2-108.1) (from Ch. 108 1/2, par. 2-108.1)

(Text of Section after amendment by P.A. 96-889)

Sec. 2-108.1. Highest salary for annuity purposes.

(a) "Highest salary for annuity purposes" means whichever of the following is applicable to the participant:

For a participant who first becomes a participant of this System before August 10, 2009 (the effective date of Public Act 96-207):

(1) For a participant who is a member of the General Assembly on his or her last day of service: the highest salary that is prescribed by law, on the participant's last day of service, for a member of the General Assembly who is not an officer; plus, if the participant was elected or appointed to serve as an officer of the General Assembly for 2 or more years and has made contributions as required under subsection (d) of Section 2-126, the highest additional amount of compensation prescribed by law, at the time of the participant's service as an officer, for members of the General Assembly who serve in that office.

(2) For a participant who holds one of the State executive offices specified in Section 2-105 on his or her last day of service: the highest salary prescribed by law for service in that office on the participant's last day of service.

(3) For a participant who is Clerk or Assistant Clerk of the House of Representatives or Secretary or Assistant Secretary of the Senate on his or her last day of service: the salary received for service in that capacity on the last day of service, but not to exceed the highest salary (including additional compensation for service as an officer) that is prescribed by law on the participant's last day of service for the highest paid officer of the General Assembly.

(4) For a participant who is a continuing participant under Section 2-117.1 on his or her last day of service: the salary received for service in that capacity on the last day of service, but not to exceed the highest salary (including additional compensation for service as an officer) that is prescribed by law on the participant's last day of service for the highest paid officer of the General Assembly.

For a participant who first becomes a participant of this System on or after August 10, 2009 (the effective date of Public Act 96-207) and before January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, the average monthly salary obtained by dividing the total salary of the participant during the period of: (1) the 48 consecutive months of service within the last 120 months of service in which the total compensation was the highest, or (2) the total period of service, if less than 48 months, by the number of months of service in that period.

For a participant who first becomes a participant of this System on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, the average monthly salary obtained by dividing the total salary of the participant during the 96 consecutive months of service within the last 120 months of service in which the total compensation was the highest by the number of months of service in that period; however, beginning January 1, 2011, the highest salary for annuity purposes may not exceed $106,800, except that that amount shall annually thereafter be increased by the lesser of (i) 3% of that amount, including all previous adjustments, or (ii) the annual unadjusted percentage increase (but not less than zero) ~~the Social Security Covered Wage Base for 2010, and shall automatically be increased or decreased, as applicable, by a percentage equal to the percentage change~~ in the consumer price index-u for the 12 months ending with the September preceding each November 1 ~~during the preceding 12-month calendar year~~. "Consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the Board by November 1 of each year.

(b) The earnings limitations of subsection (a) apply to earnings under any other participating system

under the Retirement Systems Reciprocal Act that are considered in calculating a proportional annuity under this Article, except in the case of a person who first became a member of this System before August 22, 1994.

(c) In calculating the subsection (a) earnings limitation to be applied to earnings under any other participating system under the Retirement Systems Reciprocal Act for the purpose of calculating a proportional annuity under this Article, the participant's last day of service shall be deemed to mean the last day of service in any participating system from which the person has applied for a proportional annuity under the Retirement Systems Reciprocal Act.

(Source: P.A. 96-207, eff. 8-10-09; 96-889, eff. 1-1-11.)

(40 ILCS 5/2-119) (from Ch. 108 1/2, par. 2-119)

(Text of Section after amendment by P.A. 96-889)

Sec. 2-119. Retirement annuity - conditions for eligibility.

(a) A participant whose service as a member is terminated, regardless of age or cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application subject to the following conditions:

1. The date the annuity begins does not precede the date of final termination of service, or is not more than 30 days before the receipt of the application by the board in the case of annuities based on disability or one year before the receipt of the application in the case of annuities based on attained age;

2. The participant meets one of the following eligibility requirements:

For a participant who first becomes a participant of this System before January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~:

(A) He or she has attained age 55 and has at least 8 years of service credit;

(B) He or she has attained age 62 and terminated service after July 1, 1971 with at least 4 years of service credit; or

(C) He or she has completed 8 years of service and has become permanently disabled and as a consequence, is unable to perform the duties of his or her office.

For a participant who first becomes a participant of this System on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, he or she has attained age 67 and has at least 8 years of service credit.

(a-5) A participant who first becomes a participant of this System on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ who has attained age 62 and has at least 8 years of service credit may elect to receive the lower retirement annuity provided in paragraph (c) of Section 2-119.01 of this Code.

(b) A participant shall be considered permanently disabled only if: (1) disability occurs while in service and is of such a nature as to prevent him or her from reasonably performing the duties of his or her office at the time; and (2) the board has received a written certificate by at least 2 licensed physicians appointed by the board stating that the member is disabled and that the disability is likely to be permanent.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/2-119.01) (from Ch. 108 1/2, par. 2-119.01)

(Text of Section after amendment by P.A. 96-889)

Sec. 2-119.01. Retirement annuities - Amount.

(a) For a participant in service after June 30, 1977 who has not made contributions to this System after January 1, 1982, the annual retirement annuity is 3% for each of the first 8 years of service, plus 4% for each of the next 4 years of service, plus 5% for each year of service in excess of 12 years, based on the participant's highest salary for annuity purposes. The maximum retirement annuity payable shall be 80% of the participant's highest salary for annuity purposes.

(b) For a participant in service after June 30, 1977 who has made contributions to this System on or after January 1, 1982, the annual retirement annuity is 3% for each of the first 4 years of service, plus 3 1/2% for each of the next 2 years of service, plus 4% for each of the next 2 years of service, plus 4 1/2% for each of the next 4 years of service, plus 5% for each year of service in excess of 12 years, of the participant's highest salary for annuity purposes. The maximum retirement annuity payable shall be 85% of the participant's highest salary for annuity purposes.

(c) Notwithstanding any other provision of this Article, for a participant who first becomes a participant on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, the annual retirement annuity is 3% of the participant's highest salary for annuity purposes for each year of service. The maximum retirement annuity payable shall be 60% of the

participant's highest salary for annuity purposes.

(d) Notwithstanding any other provision of this Article, for a participant who first becomes a participant on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ and who is retiring after attaining age 62 with at least 8 years of service credit, the retirement annuity shall be reduced by one-half of 1% for each month that the member's age is under age 67.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/2-119.1) (from Ch. 108 1/2, par. 2-119.1)

(Text of Section after amendment by P.A. 96-889)

Sec. 2-119.1. Automatic increase in retirement annuity.

(a) A participant who retires after June 30, 1967, and who has not received an initial increase under this Section before the effective date of this amendatory Act of 1991, shall, in January or July next following the first anniversary of retirement, whichever occurs first, and in the same month of each year thereafter, but in no event prior to age 60, have the amount of the originally granted retirement annuity increased as follows: for each year through 1971, 1 1/2%; for each year from 1972 through 1979, 2%; and for 1980 and each year thereafter, 3%. Annuitants who have received an initial increase under this subsection prior to the effective date of this amendatory Act of 1991 shall continue to receive their annual increases in the same month as the initial increase.

(b) Beginning January 1, 1990, for eligible participants who remain in service after attaining 20 years of creditable service, the 3% increases provided under subsection (a) shall begin to accrue on the January 1 next following the date upon which the participant (1) attains age 55, or (2) attains 20 years of creditable service, whichever occurs later, and shall continue to accrue while the participant remains in service; such increases shall become payable on January 1 or July 1, whichever occurs first, next following the first anniversary of retirement. For any person who has service credit in the System for the entire period from January 15, 1969 through December 31, 1992, regardless of the date of termination of service, the reference to age 55 in clause (1) of this subsection (b) shall be deemed to mean age 50.

This subsection (b) does not apply to any person who first becomes a member of the System after the effective date of this amendatory Act of the 93rd General Assembly.

(b-5) Notwithstanding any other provision of this Article, a participant who first becomes a participant on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ shall, in January or July next following the first anniversary of retirement, whichever occurs first, and in the same month of each year thereafter, but in no event prior to age 67, have the amount of the retirement annuity then being paid increased by 3% or the annual unadjusted percentage increase ~~change~~ in the Consumer Price Index for All Urban Consumers as determined by the Public Pension Division of the Department of Insurance under subsection (a) of Section 2-108.1, whichever is less.

(c) The foregoing provisions relating to automatic increases are not applicable to a participant who retires before having made contributions (at the rate prescribed in Section 2-126) for automatic increases for less than the equivalent of one full year. However, in order to be eligible for the automatic increases, such a participant may make arrangements to pay to the system the amount required to bring the total contributions for the automatic increase to the equivalent of one year's contributions based upon his or her last salary.

(d) A participant who terminated service prior to July 1, 1967, with at least 14 years of service is entitled to an increase in retirement annuity beginning January, 1976, and to additional increases in January of each year thereafter.

The initial increase shall be 1 1/2% of the originally granted retirement annuity multiplied by the number of full years that the annuitant was in receipt of such annuity prior to January 1, 1972, plus 2% of the originally granted retirement annuity for each year after that date. The subsequent annual increases shall be at the rate of 2% of the originally granted retirement annuity for each year through 1979 and at the rate of 3% for 1980 and thereafter.

(e) Beginning January 1, 1990, all automatic annual increases payable under this Section shall be calculated as a percentage of the total annuity payable at the time of the increase, including previous increases granted under this Article.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/2-121.1) (from Ch. 108 1/2, par. 2-121.1)

(Text of Section after amendment by P.A. 96-889)

Sec. 2-121.1. Survivor's annuity - amount.

(a) A surviving spouse shall be entitled to 66 2/3% of the amount of retirement annuity to which the

participant or annuitant was entitled on the date of death, without regard to whether the participant had attained age 55 prior to his or her death, subject to a minimum payment of 10% of salary. If a surviving spouse, regardless of age, has in his or her care at the date of death any eligible child or children of the participant, the survivor's annuity shall be the greater of the following: (1) 66 2/3% of the amount of retirement annuity to which the participant or annuitant was entitled on the date of death, or (2) 30% of the participant's salary increased by 10% of salary on account of each such child, subject to a total payment for the surviving spouse and children of 50% of salary. If eligible children survive but there is no surviving spouse, or if the surviving spouse dies or becomes disqualified by remarriage while eligible children survive, each eligible child shall be entitled to an annuity of 20% of salary, subject to a maximum total payment for all such children of 50% of salary.

However, the survivor's annuity payable under this Section shall not be less than 100% of the amount of retirement annuity to which the participant or annuitant was entitled on the date of death, if he or she is survived by a dependent disabled child.

The salary to be used for determining these benefits shall be the salary used for determining the amount of retirement annuity as provided in Section 2-119.01.

(b) Upon the death of a participant after the termination of service or upon death of an annuitant, the maximum total payment to a surviving spouse and eligible children, or to eligible children alone if there is no surviving spouse, shall be 75% of the retirement annuity to which the participant or annuitant was entitled, unless there is a dependent disabled child among the survivors.

(c) When a child ceases to be an eligible child, the annuity to that child, or to the surviving spouse on account of that child, shall thereupon cease, and the annuity payable to the surviving spouse or other eligible children shall be recalculated if necessary.

Upon the ineligibility of the last eligible child, the annuity shall immediately revert to the amount payable upon death of a participant or annuitant who leaves no eligible children. If the surviving spouse is then under age 50, the annuity as revised shall be deferred until the attainment of age 50.

(d) Beginning January 1, 1990, every survivor's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article. Such increases shall apply without regard to whether the deceased member was in service on or after the effective date of this amendatory Act of 1991, but shall not accrue for any period prior to January 1, 1990.

(d-5) Notwithstanding any other provision of this Article, the initial survivor's annuity of a survivor of a participant who first becomes a participant on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ shall be in the amount of 66 2/3% of the amount of the retirement annuity to which the participant or annuitant was entitled on the date of death and shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% or the annual unadjusted percentage increase ~~change~~ in the Consumer Price Index for All Urban Consumers as determined by the Public Pension Division of the Department of Insurance under subsection (a) of Section 2-108.1, whichever is less, of the survivor's annuity then being paid.

(e) Notwithstanding any other provision of this Article, beginning January 1, 1990, the minimum survivor's annuity payable to any person who is entitled to receive a survivor's annuity under this Article shall be $300 per month, without regard to whether or not the deceased participant was in service on the effective date of this amendatory Act of 1989.

(f) In the case of a proportional survivor's annuity arising under the Retirement Systems Reciprocal Act where the amount payable by the System on January 1, 1993 is less than $300 per month, the amount payable by the System shall be increased beginning on that date by a monthly amount equal to $2 for each full year that has expired since the annuity began.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/2-122) (from Ch. 108 1/2, par. 2-122)

(Text of Section after amendment by P.A. 96-889)

Sec. 2-122. Re-entry after retirement. An annuitant who re-enters service as a member shall become a participant on the date of re-entry and retirement annuity payments shall cease at that time. The participant shall resume contributions to the system on the date of re-entry at the rates then in effect and shall begin to accrue additional service credit. He or she shall be entitled to all rights and privileges in the system,

including death and disability benefits, subject to the limitations herein provided, except refund of retirement annuity contributions.

Upon subsequent retirement, the participant shall be entitled to a retirement annuity consisting of: (1) the amount of retirement annuity previously granted and terminated by re-entry into service; and (2) the amount of additional retirement annuity earned during the additional service based on the provisions in effect at the date of such subsequent retirement. However, the total retirement annuity shall not exceed the maximum retirement annuity applicable at the date of the participant's last retirement. If the salary of the participant following the latest re-entry into service is higher than that in effect at the date of the previous retirement and the participant restores to the system all amounts previously received as retirement annuity payments, upon subsequent retirement, the retirement annuity shall be recalculated for all service credited under the system as though the participant had not previously retired.

The repayment of retirement annuity payments must be made by the participant in a single sum or by a withholding from salary within a period of 6 years from date of re-entry and in any event before subsequent retirement. If previous annuity payments have not been repaid to the system at the date of death of the participant, any remaining balance must be fully repaid to the system before any further annuity shall be payable.

Such member, if unmarried at date of his last retirement, shall also be entitled to a refund of widow's and widower's annuity contributions, without interest, covering the period from the date of re-entry into service to the date of last retirement.

Notwithstanding any other provision of this Article, if a person who first becomes a participant under this System on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ is receiving a retirement annuity under this Article and becomes a member or participant ~~accepts employment in a position covered~~ under this Article or any other Article of this Code and is employed on a full-time basis, then the person's retirement annuity under this System shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity shall resume and, if appropriate, be recalculated under the applicable provisions of this Article.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/2-126) (from Ch. 108 1/2, par. 2-126)

Sec. 2-126. Contributions by participants.

(a) Each participant shall contribute toward the cost of his or her retirement annuity a percentage of each payment of salary received by him or her for service as a member as follows: for service between October 31, 1947 and January 1, 1959, 5%; for service between January 1, 1959 and June 30, 1969, 6%; for service between July 1, 1969 and January 10, 1973, 6 1/2%; for service after January 10, 1973, 7%; for service after December 31, 1981, 8 1/2%.

(b) Beginning August 2, 1949, each male participant, and from July 1, 1971, each female participant shall contribute towards the cost of the survivor's annuity 2% of salary.

A participant who has no eligible survivor's annuity beneficiary may elect to cease making contributions for survivor's annuity under this subsection. A survivor's annuity shall not be payable upon the death of a person who has made this election, unless prior to that death the election has been revoked and the amount of the contributions that would have been paid under this subsection in the absence of the election is paid to the System, together with interest at the rate of 4% per year from the date the contributions would have been made to the date of payment.

(c) Beginning July 1, 1967, each participant shall contribute 1% of salary towards the cost of automatic increase in annuity provided in Section 2-119.1. These contributions shall be made concurrently with contributions for retirement annuity purposes.

(d) In addition, each participant serving as an officer of the General Assembly shall contribute, for the same purposes and at the same rates as are required of a regular participant, on each additional payment received as an officer. If the participant serves as an officer for at least 2 but less than 4 years, he or she shall contribute an amount equal to the amount that would have been contributed had the participant served as an officer for 4 years. Persons who serve as officers in the 87th General Assembly but cannot receive the additional payment to officers because of the ban on increases in salary during their terms may nonetheless make contributions based on those additional payments for the purpose of having the additional payments included in their highest salary for annuity purposes; however, persons electing to make these additional contributions must also pay an amount representing the corresponding employer contributions, as calculated by the System.

(e) Notwithstanding any other provision of this Article, the required contribution of a participant who first becomes a participant on or after January 1, 2011 shall not exceed the contribution that would be due

under this Article if that participant's highest salary for annuity purposes were $106,800, plus any increases in that amount under Section 2-108.1.

(Source: P.A. 90-766, eff. 8-14-98.)

(40 ILCS 5/8-168) (from Ch. 108 1/2, par. 8-168)

Sec. 8-168. Refunds - Withdrawal before age 55 or age 62 or with less than 10 years of service.

1. An employee who first became a member before January 1, 2011, without regard to length of service, who withdraws before age 55, and any employee with less than 10 years of service who withdraws before age 60, shall be entitled to a refund of the accumulated sums to his credit, as of the date of withdrawal, for age and service annuity and widow's annuity from amounts contributed by him, including interest credited and including amounts contributed for him for age and service and widow's annuity purposes by the city while receiving duty disability benefits; provided that such amounts contributed by the city after December 31, 1981, while the employee is receiving duty disability benefits, and amounts credited to the employee for annuity purposes by the fund after December 31, 2000, while the employee is receiving ordinary disability benefits, shall not be credited for refund purposes. If he is a present employee he shall also be entitled to a refund of the accumulations from any sums contributed by him, and applied to any municipal pension fund superseded by this fund.

An employee who first becomes a member on or after January 1, 2011 who withdraws before age 62 without regard to length of service, or who withdraws with less than 10 years of service regardless of age, shall be entitled to a refund of the total sum accumulated to his credit as of date of withdrawal for age and service annuity and widow's annuity provided that such amounts contributed by the city while the employee is receiving duty disability benefits and amounts credited to the employee for annuity purposes by the fund while the employee is receiving ordinary disability benefits shall not be credited for refund purposes.

2. Upon receipt of the refund, the employee surrenders and forfeits all rights to any annuity or other benefits, for himself and for any other persons who might have benefited through him; provided that he may have such period of service counted in computing the term of his service if he becomes an employee before age 65, excepting as limited by the provisions of paragraph (a) (3) of Section 8-232 of this Article relating to the basis of computing the term of service.

3. Any such employee shall retain such right to a refund of such amounts when he shall apply for same until he re-enters the service or until the amount of annuity shall have been fixed as provided in this Article. Thereafter, no such right shall exist in the case of any such employee.

4. Any such municipal employee who shall have served 10 or more years and who shall not withdraw the amounts aforesaid to which he shall have a right of refund shall have a right to annuity as stated in this Article.

5. Any such municipal employee who shall have served less than 10 years and who shall not withdraw the amounts to which he shall have a right to refund shall have a right to have all such amounts and all other amounts to his credit for annuity purposes on date of his withdrawal from service retained to his credit and improved by interest while he shall be out of the service at the rate of 3 1/2% or 3% per annum (whichever rate shall apply under the provisions of Section 8-155 of this Article) and used for annuity purposes for his benefit and the benefit of any person who may have any right to annuity through him because of his service, according to the provisions of this Article in the event that he shall subsequently re-enter the service and complete the number of years of service necessary to attain a right to annuity; but such sum shall be improved by interest to his credit while he shall be out of the service only until he shall have become 65 years of age.

(Source: P.A. 92-599, eff. 6-28-02.)

(40 ILCS 5/9-164) (from Ch. 108 1/2, par. 9-164)

Sec. 9-164. Refunds - Withdrawal before age 55 or with less than 10 years of service.

(1) An employee, without regard to length of service, who withdraws before age 55 (age 62 for an employee who first becomes a member on or after January 1, 2011), and any employee with less than 10 years of service who withdraws before age 60, and any employee who first becomes a member on or after January 1, 2011 who withdraws with less than 10 years of service, shall be entitled to a refund of the total sums accumulated to his credit as of date of withdrawal for age and service annuity and widow's annuity resulting from amounts contributed by him or by the county in lieu of employee contributions during duty disability. If he is a present employee he shall also be entitled to a refund of the total sum accumulated from any sums contributed by him and applied to any county pension fund superseded by this fund. An employee withdrawing on or after January 1, 1984 may receive a refund only after he has been off the payroll for at least 30 days during which time he has received no salary.

(2) Upon receipt of the refund, the employee surrenders and forfeits all rights to any annuity or other

benefits for himself and for any other persons who might have benefited through him; provided that he may have any such period of service counted in computing the term of his service - for age and service annuity purposes only - if he becomes an employee before age 65, excepting as limited by the provisions of this Article relating to the basis of computing the term of service.

(3) An employee who does not receive a refund shall have all amounts to his credit for annuity purposes on the date of his withdrawal improved by interest only until he becomes 65 while out of service at the effective rate for his benefit and the benefit of any person who may have any right to annuity through him if he re-enters service and attains a right to annuity.

(4) Any such employee shall retain such right to a refund of such amounts when he shall apply for same until he re-enters the service or until the amount of annuity shall have been fixed as provided in this Article. Thereafter, no such right shall exist in the case of any such employee.

(Source: P.A. 83-869.)

(40 ILCS 5/9-220) (from Ch. 108 1/2, par. 9-220)

Sec. 9-220. Basis of service credit.

(a) In computing the period of service of any employee for annuity purposes under Section 9-134, the following provisions shall govern:

(1) All periods prior to the effective date shall be computed in accordance with the provisions governing the computation of such service.

(2) Service on or after the effective date shall include:

(i) The actual period of time the employee contributes or has contributed to the fund for service rendered to age 65 plus the actual period of time after age 65 for which the employee performs the duties of his position or performs such duties and is given a county contribution for age and service annuity or minimum annuity purposes.

(ii) Leaves of absence from duty, or vacation, for which an employee receives all or part of his salary.

(iii) Accumulated vacation or other time for which an employee who retires on or after November 1, 1990 receives a lump sum payment at the time of retirement, provided that contributions were made to the fund at the time such lump sum payment was received. The service granted for the lump sum payment shall not change the employee's date of withdrawal for computing the effective date of the annuity.

(iv) Accumulated sick leave as of the date of the employee's withdrawal from service, not to exceed a total of 180 days, provided that the amount of such accumulated sick leave is certified by the County Comptroller to the Board and the employee pays an amount equal to 8.5% (9% for members of the County Police Department who are eligible to receive an annuity under Section 9-128.1) of the amount that would have been paid had such accumulated sick leave been paid at the employee's final rate of salary. Such payment shall be made within 30 days after the date of withdrawal and prior to receipt of the first annuity check. The service credit granted for such accumulated sick leave shall not change the employee's date of withdrawal for the purpose of computing the effective date of the annuity.

(v) Periods during which the employee has had contributions for annuity purposes made for him in accordance with law while on military leave of absence during World War II.

(vi) Periods during which the employee receives a disability benefit under this Article.

(vii) For any person who first becomes a member on or after January 1, 2011, the actual period of time the employee contributes or has contributed to the fund for service rendered up to the limitation on salary in subsection (b-5) of Section 1-160 plus the actual period of time thereafter for which the employee performs the duties of his position and ceased contributing due to the salary limitation in subsection (b-5) of Section 1-160.

(3) The right to have certain periods of time considered as service as stated in paragraph (2) of Section 9-164 shall not apply for annuity purposes unless the refunds shall have been repaid in accordance with this Article.

(4) All service shall be computed in whole calendar months, and at least 15 days of service in any one calendar month shall constitute one calendar month of service, and 1 year of service shall be equal to the number of months, days or hours for which an appropriation was made in the annual appropriation ordinance for the position held by the employee.

(b) For all other annuity purposes of this Article the following schedule shall govern the computation of a year of service of an employee whose salary or wages is on the basis stated, and any fractional part of a

year of service shall be determined according to said schedule:

Annual or Monthly Basis: Service during 4 months in any 1 calendar year;

Weekly Basis: Service during any 17 weeks of any 1 calendar year, and service during any week shall constitute a week of service;

Daily Basis: Service during 100 days in any 1 calendar year, and service during any day shall constitute a day of service;

Hourly Basis: Service during 800 hours in any 1 calendar year, and service during any hour shall constitute an hour of service.

(Source: P.A. 86-1488; 87-794.)

(40 ILCS 5/11-164) (from Ch. 108 1/2, par. 11-164)

Sec. 11-164. Refunds - Withdrawal before age 55 or age 62 or with less than 10 years of service.

(1) An employee who first became a member before January 1, 2011, without regard to length of service, who withdraws before age 55, and any employee with less than 10 years of service who withdraws before age 60, shall be entitled to a refund of the total sum accumulated to his credit as of date of withdrawal for age and service annuity and widow's annuity from amounts contributed by him or by the City in lieu of employee contributions during duty disability; provided that such amounts contributed by the city after December 31, 1983 while the employee is receiving duty disability benefits and amounts credited to the employee for annuity purposes by the fund after December 31, 2000 while the employee is receiving ordinary disability benefits shall not be credited for refund purposes.

An employee who first becomes a member on or after January 1, 2011 who withdraws before age 62 without regard to length of service, or who withdraws with less than 10 years of service regardless of age, shall be entitled to a refund of the total sum accumulated to his credit as of date of withdrawal for age and service annuity and widow's annuity provided that such amounts contributed by the city while the employee is receiving duty disability benefits and amounts credited to the employee for annuity purposes by the fund while the employee is receiving ordinary disability benefits shall not be credited for refund purposes.

The board may in its discretion withhold payment of refund for a period not to exceed 6 months from the date of withdrawal. Interest at the effective rate shall be paid on any such refund withheld during such withheld period not to exceed 6 months.

(2) Upon receipt of the refund, the employee surrenders and forfeits all rights to any annuity or other benefits, for himself and for any other persons who might have benefited through him; provided that he may have such period of service counted in computing the term of his service for age and service annuity purposes only if he becomes an employee before age 65.

(3) An employee who does not receive a refund shall have all amounts to his credit for annuity purposes on the date of his withdrawal improved by interest only until he becomes age 65, while out of service, at the effective rate, for his benefit and the benefit of any person who may have any right to annuity through him if he re-enters the service and attains a right to annuity.

(4) Any such employee shall retain such right to refund of such amounts when he shall apply for same, until he re-enters the service or until the amount of annuity to which he shall have a right shall have been fixed as provided in this Article. Thereafter, no such right shall exist in the case of any such employee.

(Source: P.A. 92-599, eff. 6-28-02.)

(40 ILCS 5/13-601) (from Ch. 108 1/2, par. 13-601)

Sec. 13-601. Refunds.

(a) Withdrawal from service. Upon withdrawal from service, an employee who first became a member before January 1, 2011, who is under age 55 (age 50 if the employee first entered service before June 13, 1997), or an employee age 55 (age 50 if the employee first entered service before June 13, 1997) or over but less than age 60 having less than 20 years of service, or an employee age 60 or over having less than 5 years of service shall be entitled, upon application, to a refund of total contributions from salary deductions or amounts otherwise paid under this Article by the employee. An employee who first becomes a member on or after January 1, 2011, who withdraws before age 62 regardless of length of service, or who withdraws with less than 10 years of service regardless of age is entitled to a refund of total contributions from salary deductions or amounts otherwise paid under this Article by the employee. The refund shall not include interest credited to the contributions. The Board may, in its discretion, withhold payment of a refund for a period not to exceed one year from the date of filing an application for refund.

(b) Surviving spouse's annuity contributions. A refund of all amounts deducted from salary or otherwise contributed by an employee for the surviving spouse's annuity shall be paid upon retirement to any employee who on the date of retirement is either not married or is married but whose spouse is not eligible for a surviving spouse's annuity paid wholly or in part under this Article. The refund shall include interest

on each contribution at the rate of 3% per annum compounded annually from the date of the contribution to the date of the refund.

(c) Payment of Refunds After Death. Whenever any refund is payable after the death of the employee or annuitant as provided for in this Article, the refund shall be paid as follows: to the employee's surviving spouse, but if there is no surviving spouse then in accordance with the employee's written designation of beneficiary filed with the Board on the prescribed form before the employee's death. If there is no such designation of beneficiary, then to the employee's surviving children in equal parts to each. If there are no such children, the refund shall be paid to the heirs of the employee according to the law of descent and distribution of the State of Illinois.

If a personal representative of the estate has not been appointed within 90 days from the date on which a refund became payable, the refund may be applied, in the discretion of the Board, toward the payment of the employee's or the surviving spouse's burial expenses. Any remaining balance shall be paid to the heirs of the employee according to the law of descent and distribution of the State of Illinois.

Whenever the total accumulations to the account of an employee from employee contributions other than the contribution for the cost of living increase, including interest to the employee's date of withdrawal, have not been paid to the employee and surviving spouse as a retirement or spouse's annuity before the death of the employee and spouse, a refund shall be paid as follows: an amount equal to the excess of such amounts over the amounts paid on such annuities without interest on either such amount.

If a reversionary annuity becomes payable under Section 13-303, the refund provided in this section shall not be paid until the death of the reversionary annuitant and the refund otherwise payable under this section shall be then further reduced by the amount of the reversionary annuity paid.

(d) In lieu of annuity. Notwithstanding the provisions set forth in subsection (a) of this section, whenever an employee's or surviving spouse's annuity will be less than $200 per month, the employee or surviving spouse, as the case may be, may elect to receive a refund of accumulated employee contributions; provided, however, that if the election is made by a surviving spouse the refund shall be reduced by any amounts theretofore paid to the employee in the form of an annuity.

(e) Forfeiture of rights. An employee or surviving spouse who receives a refund forfeits the right to receive an annuity or any other benefit payable under this Article except that if the refund is to a surviving spouse, any child or children of the employee shall not be deprived of the right to receive a child's annuity as provided in Section 13-308 of this Article, and the payment of a child's annuity shall not reduce the amount refundable to the surviving spouse.

(Source: P.A. 95-586, eff. 8-31-07; 96-251, eff. 8-11-09.)

(40 ILCS 5/14-103.05) (from Ch. 108 1/2, par. 14-103.05)

Sec. 14-103.05. Employee.

(a) Any person employed by a Department who receives salary for personal services rendered to the Department on a warrant issued pursuant to a payroll voucher certified by a Department and drawn by the State Comptroller upon the State Treasurer, including an elected official described in subparagraph (d) of Section 14-104, shall become an employee for purpose of membership in the Retirement System on the first day of such employment.

A person entering service on or after January 1, 1972 and prior to January 1, 1984 shall become a member as a condition of employment and shall begin making contributions as of the first day of employment.

A person entering service on or after January 1, 1984 shall, upon completion of 6 months of continuous service which is not interrupted by a break of more than 2 months, become a member as a condition of employment. Contributions shall begin the first of the month after completion of the qualifying period.

A person employed by the Chicago Metropolitan Agency for Planning on the effective date of this amendatory Act of the 95th General Assembly who was a member of this System as an employee of the Chicago Area Transportation Study and makes an election under Section 14-104.13 to participate in this System for his or her employment with the Chicago Metropolitan Agency for Planning.

The qualifying period of 6 months of service is not applicable to: (1) a person who has been granted credit for service in a position covered by the State Universities Retirement System, the Teachers' Retirement System of the State of Illinois, the General Assembly Retirement System, or the Judges Retirement System of Illinois unless that service has been forfeited under the laws of those systems; (2) a person entering service on or after July 1, 1991 in a noncovered position; ~~or~~ (3) a person to whom Section 14-108.2a or 14-108.2b applies ; or (4) a person to whom subsection (a-5) of this Section applies.

(a-5) A person entering service on or after December 1, 2010 shall become a member as a condition of employment and shall begin making contributions as of the first day of employment. A person serving in

the qualifying period on December 1, 2010 will become a member on December 1, 2010 and shall begin making contributions as of December 1, 2010.

(b) The term "employee" does not include the following:

(1) members of the State Legislature, and persons electing to become members of the General Assembly Retirement System pursuant to Section 2-105;

(2) incumbents of offices normally filled by vote of the people;

(3) except as otherwise provided in this Section, any person appointed by the Governor with the advice and consent of the Senate unless that person elects to participate in this system;

(3.1) any person serving as a commissioner of an ethics commission created under the State Officials and Employees Ethics Act unless that person elects to participate in this system with respect to that service as a commissioner;

(3.2) any person serving as a part-time employee in any of the following positions: Legislative Inspector General, Special Legislative Inspector General, employee of the Office of the Legislative Inspector General, Executive Director of the Legislative Ethics Commission, or staff of the Legislative Ethics Commission, regardless of whether he or she is in active service on or after July 8, 2004 (the effective date of Public Act 93-685), unless that person elects to participate in this System with respect to that service; in this item (3.2), a "part-time employee" is a person who is not required to work at least 35 hours per week;

(3.3) any person who has made an election under Section 1-123 and who is serving either as legal counsel in the Office of the Governor or as Chief Deputy Attorney General;

(4) except as provided in Section 14-108.2 or 14-108.2c, any person who is covered or eligible to be covered by the Teachers' Retirement System of the State of Illinois, the State Universities Retirement System, or the Judges Retirement System of Illinois;

(5) an employee of a municipality or any other political subdivision of the State;

(6) any person who becomes an employee after June 30, 1979 as a public service employment program participant under the Federal Comprehensive Employment and Training Act and whose wages or fringe benefits are paid in whole or in part by funds provided under such Act;

(7) enrollees of the Illinois Young Adult Conservation Corps program, administered by the Department of Natural Resources, authorized grantee pursuant to Title VIII of the "Comprehensive Employment and Training Act of 1973", 29 USC 993, as now or hereafter amended;

(8) enrollees and temporary staff of programs administered by the Department of Natural Resources under the Youth Conservation Corps Act of 1970;

(9) any person who is a member of any professional licensing or disciplinary board created under an Act administered by the Department of Professional Regulation or a successor agency or created or re-created after the effective date of this amendatory Act of 1997, and who receives per diem compensation rather than a salary, notwithstanding that such per diem compensation is paid by warrant issued pursuant to a payroll voucher; such persons have never been included in the membership of this System, and this amendatory Act of 1987 (P.A. 84-1472) is not intended to effect any change in the status of such persons;

(10) any person who is a member of the Illinois Health Care Cost Containment Council, and receives per diem compensation rather than a salary, notwithstanding that such per diem compensation is paid by warrant issued pursuant to a payroll voucher; such persons have never been included in the membership of this System, and this amendatory Act of 1987 is not intended to effect any change in the status of such persons;

(11) any person who is a member of the Oil and Gas Board created by Section 1.2 of the Illinois Oil and Gas Act, and receives per diem compensation rather than a salary, notwithstanding that such per diem compensation is paid by warrant issued pursuant to a payroll voucher; or

(12) a person employed by the State Board of Higher Education in a position with the Illinois Century Network as of June 30, 2004, who remains continuously employed after that date by the Department of Central Management Services in a position with the Illinois Century Network and participates in the Article 15 system with respect to that employment.

(c) An individual who represents or is employed as an officer or employee of a statewide labor organization that represents members of this System may participate in the System and shall be deemed an employee, provided that (1) the individual has previously earned creditable service under this Article, (2) the individual files with the System an irrevocable election to become a participant within 6 months after the effective date of this amendatory Act of the 94th General Assembly, and (3) the individual does not receive credit for that employment under any other provisions of this Code. An employee under this

subsection (c) is responsible for paying to the System both (i) employee contributions based on the actual compensation received for service with the labor organization and (ii) employer contributions based on the percentage of payroll certified by the board; all or any part of these contributions may be paid on the employee's behalf or picked up for tax purposes (if authorized under federal law) by the labor organization.

A person who is an employee as defined in this subsection (c) may establish service credit for similar employment prior to becoming an employee under this subsection by paying to the System for that employment the contributions specified in this subsection, plus interest at the effective rate from the date of service to the date of payment. However, credit shall not be granted under this subsection (c) for any such prior employment for which the applicant received credit under any other provision of this Code or during which the applicant was on a leave of absence.

(Source: P.A. 94-1111, eff. 2-27-07; 95-677, eff. 10-11-07.)

(40 ILCS 5/14-103.10) (from Ch. 108 1/2, par. 14-103.10)

Sec. 14-103.10. Compensation.

(a) For periods of service prior to January 1, 1978, the full rate of salary or wages payable to an employee for personal services performed if he worked the full normal working period for his position, subject to the following maximum amounts: (1) prior to July 1, 1951, $400 per month or $4,800 per year; (2) between July 1, 1951 and June 30, 1957 inclusive, $625 per month or $7,500 per year; (3) beginning July 1, 1957, no limitation.

In the case of service of an employee in a position involving part-time employment, compensation shall be determined according to the employees' earnings record.

(b) For periods of service on and after January 1, 1978, all remuneration for personal services performed defined as "wages" under the Social Security Enabling Act, including that part of such remuneration which is in excess of any maximum limitation provided in such Act, and including any benefits received by an employee under a sick pay plan in effect before January 1, 1981, but excluding lump sum salary payments:

(1) for vacation,

(2) for accumulated unused sick leave,

(3) upon discharge or dismissal,

(4) for approved holidays.

(c) For periods of service on or after December 16, 1978, compensation also includes any benefits, other than lump sum salary payments made at termination of employment, which an employee receives or is eligible to receive under a sick pay plan authorized by law.

(d) For periods of service after September 30, 1985, compensation also includes any remuneration for personal services not included as "wages" under the Social Security Enabling Act, which is deducted for purposes of participation in a program established pursuant to Section 125 of the Internal Revenue Code or its successor laws.

(e) For members for which Section 1-160 applies for periods of service on and after January 1, 2011, all remuneration for personal services performed defined as "wages" under the Social Security Enabling Act, excluding remuneration that is in excess of the annual earnings, salary, or wages of a member or participant, as provided in subsection (b-5) of Section 1-160, but including any benefits received by an employee under a sick pay plan in effect before January 1, 1981. Compensation shall exclude lump sum salary payments:

(1) for vacation;

(2) for accumulated unused sick leave;

(3) upon discharge or dismissal; and

(4) for approved holidays.

(Source: P.A. 87-1265.)

(40 ILCS 5/15-112) (from Ch. 108 1/2, par. 15-112)

Sec. 15-112. Final rate of earnings.

"Final rate of earnings":

(a) This subsection (a) applies only to a person who first becomes a participant of any system before January 1, 2011.

For an employee who is paid on an hourly basis or who receives an annual salary in installments during 12 months of each academic year, the average annual earnings during the 48 consecutive calendar month period ending with the last day of final termination of employment or the 4 consecutive academic years of service in which the employee's earnings were the highest, whichever is greater. For any other employee, the average annual earnings during the 4 consecutive academic years of service in which his or her earnings were the highest. For an employee with less than 48 months or 4 consecutive academic years of service, the

average earnings during his or her entire period of service. The earnings of an employee with more than 36 months of service prior to the date of becoming a participant are, for such period, considered equal to the average earnings during the last 36 months of such service.

(b) This subsection (b) applies to a person to whom subsection (a) does not apply.

For an employee who is paid on an hourly basis or who receives an annual salary in installments during 12 months of each academic year, the average annual earnings obtained by dividing by 8 the total earnings of the employee during the 96 consecutive months in which the total earnings were the highest within the last 120 months prior to termination.

For any other employee, the average annual earnings during the 8 consecutive academic years within the 10 years prior to termination in which the employee's earnings were the highest. For an employee with less than 96 consecutive months or 8 consecutive academic years of service, whichever is necessary, the average earnings during his or her entire period of service.

(c) For an employee on leave of absence with pay, or on leave of absence without pay who makes contributions during such leave, earnings are assumed to be equal to the basic compensation on the date the leave began.

(d) For an employee on disability leave, earnings are assumed to be equal to the basic compensation on the date disability occurs or the average earnings during the 24 months immediately preceding the month in which disability occurs, whichever is greater.

(e) For a participant who retires on or after the effective date of this amendatory Act of 1997 with at least 20 years of service as a firefighter or police officer under this Article, the final rate of earnings shall be the annual rate of earnings received by the participant on his or her last day as a firefighter or police officer under this Article, if that is greater than the final rate of earnings as calculated under the other provisions of this Section.

(f) If a participant to whom subsection (a) of this Section applies is an employee for at least 6 months during the academic year in which his or her employment is terminated, the annual final rate of earnings shall be 25% of the sum of (1) the annual basic compensation for that year, and (2) the amount earned during the 36 months immediately preceding that year, if this is greater than the final rate of earnings as calculated under the other provisions of this Section.

(g) In the determination of the final rate of earnings for an employee, that part of an employee's earnings for any academic year beginning after June 30, 1997, which exceeds the employee's earnings with that employer for the preceding year by more than 20 percent shall be excluded; in the event that an employee has more than one employer this limitation shall be calculated separately for the earnings with each employer. In making such calculation, only the basic compensation of employees shall be considered, without regard to vacation or overtime or to contracts for summer employment.

(h) The following are not considered as earnings in determining final rate of earnings: (1) severance or separation pay, (2) retirement pay, (3) payment for unused sick leave, and (4) payments from an employer for the period used in determining final rate of earnings for any purpose other than (i) services rendered, (ii) leave of absence or vacation granted during that period, and (iii) vacation of up to 56 work days allowed upon termination of employment; except that, if the benefit has been collectively bargained between the employer and the recognized collective bargaining agent pursuant to the Illinois Educational Labor Relations Act, payment received during a period of up to 2 academic years for unused sick leave may be considered as earnings in accordance with the applicable collective bargaining agreement, subject to the 20% increase limitation of this Section. Any unused sick leave considered as earnings under this Section shall not be taken into account in calculating service credit under Section 15-113.4.

(i) Intermittent periods of service shall be considered as consecutive in determining final rate of earnings. (Source: P.A. 92-599, eff. 6-28-02; 93-347, eff. 7-24-03.)

(40 ILCS 5/15-113.6) (from Ch. 108 1/2, par. 15-113.6)

Sec. 15-113.6. Service for employment in public schools. "Service for employment in public schools": Includes those periods not exceeding the lesser of 10 years or 2/3 of the service granted under other Sections of this Article dealing with service credit, during which a person who entered the system after September 1, 1974 was employed full time by a public common school, public college and public university, or by an agency or instrumentality of any of the foregoing, of any state, territory, dependency or possession of the United States of America, including the Philippine Islands, or a school operated by or under the auspices of any agency or department of any other state, if the person (1) cannot qualify for a retirement pension or other benefit based upon employer contributions from another retirement system, exclusive of federal social security, based in whole or in part upon this employment, and (2) pays the lesser of (A) an amount equal to 8% of his or her annual basic compensation on the date of becoming a

participating employee subsequent to this service multiplied by the number of years of such service, together with compound interest from the date participation begins to the date payment is received by the board at the rate of 6% per annum through August 31, 1982, and at the effective rates after that date, and (B) 50% of the actuarial value of the increase in the retirement annuity provided by this service, and (3) contributes for at least 5 years subsequent to this employment to one or more of the following systems: the State Universities Retirement System, the Teachers' Retirement System of the State of Illinois, and the Public School Teachers' Pension and Retirement Fund of Chicago.

The service granted under this Section shall not be considered in determining whether the person has the minimum of 8 years of service required to qualify for a retirement annuity at age 55 or the 5 years of service required to qualify for a retirement annuity at age 62, as provided in Section 15-135, or the 10 years required by subsection (c) of Section 1-160 for a person who first becomes a participant on or after January 1, 2011. The maximum allowable service of 10 years for this governmental employment shall be reduced by the service credit which is validated under paragraph (2) of subsection (b) of Section 16-127 and paragraph 1 of Section 17-133.

(Source: P.A. 95-83, eff. 8-13-07.)

(40 ILCS 5/15-134) (from Ch. 108 1/2, par. 15-134)

Sec. 15-134. Participant.

(a) Each person shall, as a condition of employment, become a participant and be subject to this Article on the date that he or she becomes an employee, makes an election to participate in, or otherwise becomes a participant in one of the retirement programs offered under this Article, whichever date is later.

An employee who becomes a participant shall continue to be a participant until he or she becomes an annuitant, dies or accepts a refund of contributions. For purposes of subsection (f) of Section 1-160, the term "participant" shall include a person receiving a retirement annuity.

(b) A person employed concurrently by 2 or more employers is eligible to participate in the system on compensation received from all employers.

(Source: P.A. 93-347, eff. 7-24-03.)

(40 ILCS 5/15-136.3)

Sec. 15-136.3. Minimum retirement annuity.

(a) Beginning January 1, 1997, any person who is receiving a monthly retirement annuity under this Article which, after inclusion of (1) all one-time and automatic annual increases to which the person is entitled, (2) any supplemental annuity payable under Section 15-136.1, and (3) any amount deducted under Section 15-138 or 15-140 to provide a reversionary annuity, is less than the minimum monthly retirement benefit amount specified in subsection (b) of this Section, shall be entitled to a monthly supplemental payment equal to the difference.

(b) For purposes of the calculation in subsection (a), the minimum monthly retirement benefit amount is the sum of $25 for each year of service credit, up to a maximum of 30 years of service.

(c) This Section applies to all persons receiving a retirement annuity under this Article, without regard to whether or not employment terminated prior to the effective date of this Section. The annual increase provided in subsection (e) of Section 1-160 does not apply to any benefit provided under this Section.

(Source: P.A. 89-616, eff. 8-9-96.)

(40 ILCS 5/15-146) (from Ch. 108 1/2, par. 15-146)

Sec. 15-146. Survivors insurance benefits - Minimum amounts.

(a) The minimum total survivors annuity payable on account of the death of a participant shall be 50% of the retirement annuity which would have been provided under Rule 1, Rule 2, Rule 3, or Rule 5 of Section 15-136 upon the participant's attainment of the minimum age at which the penalty for early retirement would not be applicable or the date of the participant's death, whichever is later, on the basis of credits earned prior to the time of death.

(b) The minimum total survivors annuity payable on account of the death of an annuitant shall be 50% of the retirement annuity which is payable under Section 15-136 at the time of death or 50% of the disability retirement annuity payable under Section 15-153.2. This minimum survivors annuity shall apply to each participant and annuitant who dies after September 16, 1979, whether or not his or her employee status terminates before or after that date.

(c) If an annuitant has elected a reversionary annuity, the retirement annuity referred to in this Section is that which would have been payable had such election not been filed.

(d) Beginning January 1, 2002, any person who is receiving a survivors annuity under this Article which, after inclusion of all one-time and automatic annual increases to which the person is entitled, is less than the sum of $17.50 for each year (up to a maximum of 30 years) of the deceased member's service credit,

shall be entitled to a monthly supplemental payment equal to the difference.

If 2 or more persons are receiving survivors annuities based on the same deceased member, the calculation of the supplemental payment under this subsection shall be based on the total of those annuities and divided pro rata. The supplemental payment is not subject to any limitation on the maximum amount of the annuity and shall not be included in the calculation of any automatic annual increase under Section 15-145. The annual increase provided in subsection (f) of Section 1-160 does not apply to any benefit provided under this subsection.

(Source: P.A. 91-887, eff. 7-6-00; 92-749, eff. 8-2-02.)

(40 ILCS 5/18-115) (from Ch. 108 1/2, par. 18-115)

Sec. 18-115. Beneficiary. "Beneficiary": A surviving spouse or children eligible for an annuity; or, if no eligible surviving spouse or children survives, the person or persons designated by the participant or annuitant in the last written designation on file with the Board; or, if no person so designated survives, or if no designation is on file, the estate of the participant or annuitant. If a special needs trust as described in Section 1396p(d)(4) of Title 42 of the United States Code, as amended from time to time, has been established for a disabled child, then the special needs trust may stand in lieu of the disabled adult child as a beneficiary for the purposes of this Article.

(Source: P.A. 83-1440.)

(40 ILCS 5/18-125) (from Ch. 108 1/2, par. 18-125)

Sec. 18-125. Retirement annuity amount.

(a) The annual retirement annuity for a participant who terminated service as a judge prior to July 1, 1971 shall be based on the law in effect at the time of termination of service.

(b) Except as provided in subsection (b-5), effective July 1, 1971, the retirement annuity for any participant in service on or after such date shall be 3 1/2% of final average salary, as defined in this Section, for each of the first 10 years of service, and 5% of such final average salary for each year of service on excess of 10.

For purposes of this Section, final average salary for a participant who first serves as a judge before August 10, 2009 (the effective date of Public Act 96-207) shall be:

(1) the average salary for the last 4 years of credited service as a judge for a participant who terminates service before July 1, 1975.

(2) for a participant who terminates service after June 30, 1975 and before July 1, 1982, the salary on the last day of employment as a judge.

(3) for any participant who terminates service after June 30, 1982 and before January 1, 1990, the average salary for the final year of service as a judge.

(4) for a participant who terminates service on or after January 1, 1990 but before the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge.

(5) for a participant who terminates service on or after the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge, or the highest salary received by the participant for employment as a judge in a position held by the participant for at least 4 consecutive years, whichever is greater.

However, in the case of a participant who elects to discontinue contributions as provided in subdivision (a)(2) of Section 18-133, the time of such election shall be considered the last day of employment in the determination of final average salary under this subsection.

For a participant who first serves as a judge on or after August 10, 2009 (the effective date of Public Act 96-207) and before January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, final average salary shall be the average monthly salary obtained by dividing the total salary of the participant during the period of: (1) the 48 consecutive months of service within the last 120 months of service in which the total compensation was the highest, or (2) the total period of service, if less than 48 months, by the number of months of service in that period.

The maximum retirement annuity for any participant shall be 85% of final average salary.

(b-5) Notwithstanding any other provision of this Article, for a participant who first serves as a judge on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, the annual retirement annuity is 3% of the participant's final average salary for each year of service. The maximum retirement annuity payable shall be 60% of the participant's final average salary.

For a participant who first serves as a judge on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~, final average salary shall be the average monthly salary obtained by dividing the total salary of the judge during the 96 consecutive months of service within the last 120 months of service in which the total salary was the highest by the number of

months of service in that period; however, beginning January 1, 2011, the annual ~~final average~~ salary may not exceed $106,800, except that that amount shall annually thereafter be increased by the lesser of (i) 3% of that amount, including all previous adjustments, or (ii) the annual unadjusted percentage increase (but not less than zero) ~~the Social Security Covered Wage Base for 2010, and shall automatically be increased or decreased, as applicable, by a percentage equal to the percentage change~~ in the consumer price index-u for the 12 months ending with the September preceding each November 1 ~~during the preceding 12-month calendar year~~. "Consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the Board by November 1st of each year.

(c) The retirement annuity for a participant who retires prior to age 60 with less than 28 years of service in the System shall be reduced 1/2 of 1% for each month that the participant's age is under 60 years at the time the annuity commences. However, for a participant who retires on or after the effective date of this amendatory Act of the 91st General Assembly, the percentage reduction in retirement annuity imposed under this subsection shall be reduced by 5/12 of 1% for every month of service in this System in excess of 20 years, and therefore a participant with at least 26 years of service in this System may retire at age 55 without any reduction in annuity.

The reduction in retirement annuity imposed by this subsection shall not apply in the case of retirement on account of disability.

(d) Notwithstanding any other provision of this Article, for a participant who first serves as a judge on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ and who is retiring after attaining age 62, the retirement annuity shall be reduced by 1/2 of 1% for each month that the participant's age is under age 67 at the time the annuity commences.

(Source: P.A. 96-207, eff. 8-10-09; 96-889, eff. 1-1-11; 96-1000, eff. 7-2-10.)

(40 ILCS 5/18-125.1) (from Ch. 108 1/2, par. 18-125.1)

(Text of Section after amendment by P.A. 96-889)

Sec. 18-125.1. Automatic increase in retirement annuity. A participant who retires from service after June 30, 1969, shall, in January of the year next following the year in which the first anniversary of retirement occurs, and in January of each year thereafter, have the amount of his or her originally granted retirement annuity increased as follows: for each year up to and including 1971, 1 1/2%; for each year from 1972 through 1979 inclusive, 2%; and for 1980 and each year thereafter, 3%.

Notwithstanding any other provision of this Article, a retirement annuity for a participant who first serves as a judge on or after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ shall be increased in January of the year next following the year in which the first anniversary of retirement occurs, but in no event prior to age 67, and in January of each year thereafter, by an amount equal to 3% or the annual percentage increase ~~change~~ in the consumer price index-u as determined by the Public Pension Division of the Department of Insurance under subsection (b-5) of Section 18-125 ~~Consumer Price Index for All Urban Consumers~~, whichever is less, of the retirement annuity then being paid.

This Section is not applicable to a participant who retires before he or she has made contributions at the rate prescribed in Section 18-133 for automatic increases for not less than the equivalent of one full year, unless such a participant arranges to pay the system the amount required to bring the total contributions for the automatic increase to the equivalent of one year's contribution based upon his or her last year's salary.

This Section is applicable to all participants in service after June 30, 1969 unless a participant has elected, prior to September 1, 1969, in a written direction filed with the board not to be subject to the provisions of this Section. Any participant in service on or after July 1, 1992 shall have the option of electing prior to April 1, 1993, in a written direction filed with the board, to be covered by the provisions of the 1969 amendatory Act. Such participant shall be required to make the aforesaid additional contributions with compound interest at 4% per annum.

Any participant who has become eligible to receive the maximum rate of annuity and who resumes service as a judge after receiving a retirement annuity under this Article shall have the amount of his or her retirement annuity increased by 3% of the originally granted annuity amount for each year of such resumed service, beginning in January of the year next following the date of such resumed service, upon subsequent termination of such resumed service.

Beginning January 1, 1990, all automatic annual increases payable under this Section shall be calculated as a percentage of the total annuity payable at the time of the increase, including previous increases granted

under this Article.
(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/18-127) (from Ch. 108 1/2, par. 18-127)

(Text of Section after amendment by P.A. 96-889)

Sec. 18-127. Retirement annuity - suspension on reemployment.

(a) A participant receiving a retirement annuity who is regularly employed for compensation by an employer other than a county, in any capacity, shall have his or her retirement annuity payments suspended during such employment. Upon termination of such employment, retirement annuity payments at the previous rate shall be resumed.

If such a participant resumes service as a judge, he or she shall receive credit for any additional service. Upon subsequent retirement, his or her retirement annuity shall be the amount previously granted, plus the amount earned by the additional judicial service under the provisions in effect during the period of such additional service. However, if the participant was receiving the maximum rate of annuity at the time of re-employment, he or she may elect, in a written direction filed with the board, not to receive any additional service credit during the period of re-employment. In such case, contributions shall not be required during the period of re-employment. Any such election shall be irrevocable.

(b) Beginning January 1, 1991, any participant receiving a retirement annuity who accepts temporary employment from an employer other than a county for a period not exceeding 75 working days in any calendar year shall not be deemed to be regularly employed for compensation or to have resumed service as a judge for the purposes of this Article. A day shall be considered a working day if the annuitant performs on it any of his duties under the temporary employment agreement.

(c) Except as provided in subsection (a), beginning January 1, 1993, retirement annuities shall not be subject to suspension upon resumption of employment for an employer, and any retirement annuity that is then so suspended shall be reinstated on that date.

(d) The changes made in this Section by this amendatory Act of 1993 shall apply to judges no longer in service on its effective date, as well as to judges serving on or after that date.

(e) A participant receiving a retirement annuity under this Article who serves as a part-time employee in any of the following positions: Legislative Inspector General, Special Legislative Inspector General, employee of the Office of the Legislative Inspector General, Executive Director of the Legislative Ethics Commission, or staff of the Legislative Ethics Commission, but has not elected to participate in the Article 14 System with respect to that service, shall not be deemed to be regularly employed for compensation by an employer other than a county, nor to have resumed service as a judge, on the basis of that service, and the retirement annuity payments and other benefits of that person under this Code shall not be suspended, diminished, or otherwise impaired solely as a consequence of that service. This subsection (e) applies without regard to whether the person is in service as a judge under this Article on or after the effective date of this amendatory Act of the 93rd General Assembly. In this subsection, a "part-time employee" is a person who is not required to work at least 35 hours per week.

(f) A participant receiving a retirement annuity under this Article who has made an election under Section 1-123 and who is serving either as legal counsel in the Office of the Governor or as Chief Deputy Attorney General shall not be deemed to be regularly employed for compensation by an employer other than a county, nor to have resumed service as a judge, on the basis of that service, and the retirement annuity payments and other benefits of that person under this Code shall not be suspended, diminished, or otherwise impaired solely as a consequence of that service. This subsection (f) applies without regard to whether the person is in service as a judge under this Article on or after the effective date of this amendatory Act of the 93rd General Assembly.

(g) Notwithstanding any other provision of this Article, if a person who first becomes a participant under this System on or after January 1, 2011 (the effective date of this amendatory Act of the 96th General Assembly) is receiving a retirement annuity under this Article and becomes a member or participant ~~accepts employment in a position covered~~ under this Article or any other Article of this Code and is employed on a full-time basis, then the person's retirement annuity under this System shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity shall resume and, if appropriate, be recalculated under the applicable provisions of this Article.
(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/18-128.01) (from Ch. 108 1/2, par. 18-128.01)

(Text of Section after amendment by P.A. 96-889)

Sec. 18-128.01. Amount of survivor's annuity.

(a) Upon the death of an annuitant, his or her surviving spouse shall be entitled to a survivor's annuity of

66 2/3% of the annuity the annuitant was receiving immediately prior to his or her death, inclusive of annual increases in the retirement annuity to the date of death.

(b) Upon the death of an active participant, his or her surviving spouse shall receive a survivor's annuity of 66 2/3% of the annuity earned by the participant as of the date of his or her death, determined without regard to whether the participant had attained age 60 as of that time, or 7 1/2% of the last salary of the decedent, whichever is greater.

(c) Upon the death of a participant who had terminated service with at least 10 years of service, his or her surviving spouse shall be entitled to a survivor's annuity of 66 2/3% of the annuity earned by the deceased participant at the date of death.

(d) Upon the death of an annuitant, active participant, or participant who had terminated service with at least 10 years of service, each surviving child under the age of 18 or disabled as defined in Section 18-128 shall be entitled to a child's annuity in an amount equal to 5% of the decedent's final salary, not to exceed in total for all such children the greater of 20% of the decedent's last salary or 66 2/3% of the annuity received or earned by the decedent as provided under subsections (a) and (b) of this Section. This child's annuity shall be paid whether or not a survivor's annuity was elected under Section 18-123.

(e) The changes made in the survivor's annuity provisions by Public Act 82-306 shall apply to the survivors of a deceased participant or annuitant whose death occurs on or after August 21, 1981.

(f) Beginning January 1, 1990, every survivor's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article. Such increases shall apply without regard to whether the deceased member was in service on or after the effective date of this amendatory Act of 1991, but shall not accrue for any period prior to January 1, 1990.

(g) Notwithstanding any other provision of this Article, the initial survivor's annuity for a survivor of a participant who first serves as a judge after January 1, 2011 (the effective date of Public Act 96-889) ~~this amendatory Act of the 96th General Assembly~~ shall be in the amount of 66 2/3% of the annuity received or earned by the decedent, and shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased participant died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, but in no event prior to age 67, by an amount equal to 3% or the annual unadjusted percentage increase ~~change~~ in the consumer price index-u as determined by the Public Pension Division of the Department of Insurance under subsection (b-5) of Section 18-125 ~~Consumer Price Index for All Urban Consumers~~, whichever is less, of the survivor's annuity then being paid.

(Source: P.A. 96-889, eff. 1-1-11.)

(40 ILCS 5/18-133) (from Ch. 108 1/2, par. 18-133)

Sec. 18-133. Financing; employee contributions.

(a) Effective July 1, 1967, each participant is required to contribute 7 1/2% of each payment of salary toward the retirement annuity. Such contributions shall continue during the entire time the participant is in service, with the following exceptions:

(1) Contributions for the retirement annuity are not required on salary received after 18 years of service by persons who were participants before January 2, 1954.

(2) A participant who continues to serve as a judge after becoming eligible to receive the maximum rate of annuity may elect, through a written direction filed with the Board, to discontinue contributing to the System. Any such option elected by a judge shall be irrevocable unless prior to January 1, 2000, and while continuing to serve as judge, the judge (A) files with the Board a letter cancelling the direction to discontinue contributing to the System and requesting that such contributing resume, and (B) pays into the System an amount equal to the total of the discontinued contributions plus interest thereon at 5% per annum. Service credits earned in any other "participating system" as defined in Article 20 of this Code shall be considered for purposes of determining a judge's eligibility to discontinue contributions under this subdivision (a)(2).

(3) A participant who (i) has attained age 60, (ii) continues to serve as a judge after becoming eligible to receive the maximum rate of annuity, and (iii) has not elected to discontinue contributing to the System under subdivision (a)(2) of this Section (or has revoked any such election) may elect, through a written direction filed with the Board, to make contributions to the System based only on the amount of the increases in salary received by the judge on or after the date of the election, rather than the total salary received. If a judge who is making contributions to the System on the

effective date of this amendatory Act of the 91st General Assembly makes an election to limit contributions under this subdivision (a)(3) within 90 days after that effective date, the election shall be deemed to become effective on that effective date and the judge shall be entitled to receive a refund of any excess contributions paid to the System during that 90-day period; any other election under this subdivision (a)(3) becomes effective on the first of the month following the date of the election. An election to limit contributions under this subdivision (a)(3) is irrevocable. Service credits earned in any other participating system as defined in Article 20 of this Code shall be considered for purposes of determining a judge's eligibility to make an election under this subdivision (a)(3).

(b) Beginning July 1, 1969, each participant is required to contribute 1% of each payment of salary towards the automatic increase in annuity provided in Section 18-125.1. However, such contributions need not be made by any participant who has elected prior to September 15, 1969, not to be subject to the automatic increase in annuity provisions.

(c) Effective July 13, 1953, each married participant subject to the survivor's annuity provisions is required to contribute 2 1/2% of each payment of salary, whether or not he or she is required to make any other contributions under this Section. Such contributions shall be made concurrently with the contributions made for annuity purposes.

(d) Notwithstanding any other provision of this Article, the required contributions for a participant who first becomes a participant on or after January 1, 2011 shall not exceed the contributions that would be due under this Article if that participant's highest salary for annuity purposes were $106,800, plus any increase in that amount under Section 18-125.

(Source: P.A. 91-653, eff. 12-10-99.)

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

Section 99. Effective date. This Act takes effect January 1, 2011.".

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 2485. Having been reproduced, was taken up and read by title a second time.

The following amendment was offered in the Committee on Electric Generation & Commerce, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 2485 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Power Agency Act is amended by changing Sections 1-10, 1-20, and 1-75 and by adding Sections 1-76, 1-76.5, 1-77, 1-78, and 1-79 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal energy" means all energy produced by the initial clean coal facility.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility

would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

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

"Commission" means the Illinois Commerce Commission.

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

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

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

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

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest and other financing costs, and other expenses for professional services; and

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

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

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

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

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

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

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

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

"Initial clean coal facility" means an electric generating facility using gasification technology that: (1) has a nameplate capacity of at least 500 MW; (2) irrevocably commits in its proposed sourcing agreement to use coal for at least 50% of the total feedstock over the term of a sourcing agreement, with all coal having high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content; (3) is designed to capture and sequester at least 90% of the carbon dioxide emissions that the portion of the facility that produces SNG would otherwise emit and at least 50% of the total carbon dioxide emissions that the facility as a whole would otherwise emit; (4) absent an appeal of a permit or regulatory order, is reasonably capable of achieving commercial operation by no later than 5 years after the execution of the sourcing agreement; (5) has a feasible financing plan that is expected to enable such clean coal facility to borrow an amount equal to at least 55% of its capital structure at an interest rate of less than 6% per annum; (6) has completed system impact studies for the delivery of power in the applicable amounts to Commonwealth Edison Company and Ameren Illinois; and (7) has a power block designed not to exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates, and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the electric generating facility at the time the electric generating facility obtains an approved air permit.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the

Illinois Constitution.

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

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

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

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

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

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

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

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

"Sequester" means permanent storage of carbon dioxide only as approved by the Commission pursuant to Section 1-77 of this Act by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage in a salt dome, regardless of whether these activities are conducted by a clean coal facility, initial clean coal facility, clean coal SNG facility, or a party with which a clean coal facility, initial clean coal facility, or clean coal SNG facility has contracted for such purposes.

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

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

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

(20 ILCS 3855/1-20)

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

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

(1) Develop electricity procurement plans to ensure adequate, reliable, affordable,

efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. The procurement plans shall be updated on an annual basis and shall include electricity generated from renewable resources sufficient to achieve the standards specified in this Act.

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

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

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

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

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

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

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

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

(5) To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real or personal property whether tangible or intangible, or any interest therein, within the State.

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

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

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

(9) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Act, including contracts with any person, local government, State agency, or other entity; and all State agencies and all local governments are authorized to enter into and do all things necessary to perform any such agreement, contract, or other instrument with the Agency. No such agreement, contract, or other instrument shall exceed 40 years.

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

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

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

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

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

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

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

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

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

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

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

(21) To accept and expend appropriations.

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

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

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

(25) To conduct competitive gasification feedstock procurement processes to procure the feedstocks for the initial clean coal facility in accordance with the requirements of Section 1-78 of this Act. ~~To manage procurement of substitute natural gas from a facility that meets the criteria specified in subsection (a) of Section 1-58 of this Act, on terms and conditions that may be approved by the Agency pursuant to subsection (d) of Section 1-58 of this Act, to support the operations of State agencies and local governments that agree to such terms and conditions. This procurement process is not subject to the Procurement Code.~~

(26) To review, revise, and approve sourcing agreements and mediate and resolve disputes between electric utilities or alternative retail electric suppliers and the initial clean coal facility pursuant to paragraph (4) of subsection (d) of Section 1-75 of this Act.

(Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

(20 ILCS 3855/1-75)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section 16-111.5(a) of the Public Utilities Act.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) ten ~~10~~ years of experience in the electricity sector, including managing supply risk;

(D) expertise in wholesale electricity market rules, including those established

by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience administering a large-scale competitive procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) ten ~~10~~ years of experience in the electricity sector, including risk management experience;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award one-year contracts to those selected with an option for the Agency for a one-year renewal.

(6) The Agency shall select an expert or expert consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a one-year contract to the expert or expert consulting firm so selected with Commission approval with an option for the Agency for a one-year renewal.

(a-1) The Planning and Procurement Bureau shall each year beginning in 2012 develop feedstock procurement plans and conduct competitive feedstock procurement processes in accordance with the requirements of Section 1-78 of this Act.

(1) The Agency shall, at least once every 5 years beginning in 2012, issue a request for qualifications for experts or expert consulting firms to develop the feedstock procurement plans in accordance with Section 1-78 of this Act. In order to qualify, an expert or, in the case of an expert consulting firm, the individual who shall be directly responsible for the work, must have:

(A) direct previous experience assembling large scale feedstock supply plans or portfolios involving coal and natural gas for industrial customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) ten years of experience in the energy sector, including coal and gas procurement and managing fuel supply risk;

(D) expertise in the feedstock markets, which may be particularized to the specific type of feedstock to be purchased in that procurement event;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the initial clean coal facility.

(2) The Agency shall each year beginning in 2012, as needed, issue a request for qualifications for a feedstock procurement administrator to conduct the competitive feedstock procurement processes in accordance with Section 1-78 of this Act. In order to qualify, an expert or, in the case of an expert consulting firm, the individual who shall be directly responsible for the work, must have:

(A) direct previous experience administering a large scale competitive feedstock procurement process involving coal and natural gas;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) ten years of experience in the energy sector, including coal and gas procurement and managing fuel supply risk;

(D) expertise in feedstock market rules and practices, which may be particularized to the specific type of feedstock to be purchased in that procurement event;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the initial clean coal facility.

(3) The Agency shall provide the initial clean coal facility and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the feedstock procurement plans and to serve as the feedstock procurement administrator. The Agency shall also provide the initial clean coal facility and other interested parties with each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph (3) shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to the initial clean coal facility and other interested parties. The initial clean coal facility and other interested parties shall, within 5 business days after receiving the lists and information, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the initial clean coal facility.

The Agency shall remove experts or expert consulting firms from the lists within 10 days after receiving the objections if there is a reasonable basis for an objection and provide the updated lists to the initial clean coal facility and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, then an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a feedstock procurement plan for the initial clean coal facility and to serve as feedstock procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop feedstock procurement plans based on the proposals submitted and shall award at least one-year contracts to those selected with an option for the Agency for renewal for an additional length of time equal to the term of the contract.

(6) The Agency shall select, with approval of the Commission, an expert or expert consulting firm

to serve as feedstock procurement administrator based on the proposals submitted. If the Commission rejects the Agency's selection within 5 days after being notified of the Agency's selection, then the Agency shall submit another recommendation within 3 days after the Commission's rejection based on the proposals submitted. The Agency shall award a 3-year contract to the expert or expert consulting firm so selected with Commission approval with an option for the Agency for a one-year renewal.

(b) The experts or expert consulting firms retained by the Agency under subsection (a) shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois.

(b-1) The experts or expert consulting firms retained by the Agency pursuant to subsection (a-1) shall, as appropriate, prepare feedstock procurement plans, and conduct a competitive feedstock procurement process as prescribed in Section 1-78 of this Act to ensure adequate, reliable, affordable feedstocks, taking into account any benefits of price stability, for the initial clean coal facility.

(c) Renewable portfolio standard.

(1) The procurement plans shall include cost-effective renewable energy resources. A minimum percentage of each utility's total supply to serve the load of eligible retail customers, as defined in Section 16-111.5(a) of the Public Utilities Act, procured for each of the following years shall be generated from cost-effective renewable energy resources: at least 2% by June 1, 2008; at least 4% by June 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1, 2011; at least 7% by June 1, 2012; at least 8% by June 1, 2013; at least 9% by June 1, 2014; at least 10% by June 1, 2015; and increasing by at least 1.5% each year thereafter to at least 25% by June 1, 2025. To the extent that it is available, at least 75% of the renewable energy resources used to meet these standards shall come from wind generation and, beginning on June 1, 2011, at least the following percentages of the renewable energy resources used to meet these standards shall come from photovoltaics on the following schedule: 0.5% by June 1, 2012, 1.5% by June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and thereafter. For purposes of this subsection (c), "cost-effective" means that the costs of procuring renewable energy resources do not cause the limit stated in paragraph (2) of this subsection (c) to be exceeded and do not exceed benchmarks based on market prices for renewable energy resources in the region, which shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(2) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the procurement. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(B) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(C) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(D) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and

(E) thereafter, the amount of renewable energy resources procured pursuant to

the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these resources in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of renewable energy resources procured pursuant to this subsection (c) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective renewable energy resources.

(3) Through June 1, 2011, renewable energy resources shall be counted for the purpose of meeting the renewable energy standards set forth in paragraph (1) of this subsection (c) only if they are generated from facilities located in the State, provided that cost-effective renewable energy resources are available from those facilities. If those cost-effective resources are not available in Illinois, they shall be procured in states that adjoin Illinois and may be counted towards compliance. If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance. After June 1, 2011, cost-effective renewable energy resources located in Illinois and in states that adjoin Illinois may be counted towards compliance with the standards set forth in paragraph (1) of this subsection (c). If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance.

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the year commencing June 1, 2010, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include cost-effective electricity generated using clean coal. Each electric utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing (A) at least 5% of that ~~each~~ utility's ~~total supply to serve the~~ load of eligible retail electric customers in the immediately preceding year ~~2015 and each year thereafter~~, as described in paragraph (3) of this subsection (d), or (B) such lesser amount as may be available from the initial clean coal facility, reduced by ~~subject to~~ the limits on the amount of power to be purchased specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. Unless otherwise noted, for ~~For~~ purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(A) A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

(B) Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load

forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(C) A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the ~~required execution of~~ sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail electric customers in the immediately preceding year ~~planning year ending immediately prior to the agreement's execution~~. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount purchased ~~paid~~ under sourcing agreements with the initial clean coal facility ~~clean coal facilities~~ pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount purchased ~~paid~~ under sourcing agreements with the initial clean coal facility ~~facilities~~ pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute. No later than June 30, 2016 ~~2015~~, the Commission shall review the limitation on the total amount purchased ~~paid~~ under sourcing agreements, if any, with initial clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to the effect of the ~~whether that~~ limitation on the initial clean coal facility, electric utilities, alternative retail electric suppliers, and customers of the electric utilities and the alternative retail electric suppliers ~~unduly constrains the amount of electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements~~.

(3) Initial clean coal facility. In order to promote development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from the initial clean coal facility. The Agency shall accept applications to be designated the initial clean coal facility, which shall include a proposed sourcing agreement in accordance with the requirements of this Section and information showing that the applicant meets the other criteria set out in the definition of initial clean coal facility provided in Section 1-10 of this Act, for a period of 30 days after the effective date of this amendatory Act of the 96th General Assembly. In the event that more than one proposed initial clean coal facility that meet each of the requirements shall submit a proposed sourcing agreement to the Agency within that time period, the Agency shall select as the initial clean coal facility the electric generating facility that is likely to have the lowest cost of debt comprising 55% of its capital structure. The Agency shall announce the designation of the initial clean coal facility within 45 days after the effective date of this amendatory Act of the 96th General Assembly ~~a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least 500 MW when commercial operation commences, that has a final Clean Air Act~~

~~permit on the effective date of this amendatory Act of the 95th General Assembly, and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly~~. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) The price paid for electricity generated by the initial clean coal facility, which shall be determined by the provisions set forth in Section 1-76 of this Act; ~~a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:~~

~~(i) be determined using a cost of service methodology employing either a level or deferred capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and~~

~~(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue requirement for this initial clean coal facility;~~

(B) power purchase provisions, which shall:

(i) provide that the utility party to such sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement determined pursuant to subparagraph (A);

(ii) require delivery of electricity by the initial clean coal facility to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service area in the State during the third month preceding the current ~~prior calendar~~ month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such third month preceding the current ~~prior~~ month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during the third month preceding the current ~~such prior~~ month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service area ~~territory~~ in the State during the third month preceding the current ~~prior calendar~~ month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during the third month preceding the current ~~such prior~~ month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such third month preceding the current ~~prior~~ month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased ~~paid~~ by the utility in any year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the electric utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the facility;

(ii) provide that electric utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency, if it is so authorized by law, to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to comply with Section 1-76.5 of this Act; ~~provide documentation to the Commission each year , starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility wilfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);~~

(vi) ~~include limits on, and accordingly~~ provide for a reduction ~~modification of~~, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

~~(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory~~

~~obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;~~

(vii) ~~(viii)~~ limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission~~, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs~~;

(viii) ~~(ix)~~ limit the utility's or alternative retail electric supplier's obligation to incur any liability to only those times ~~until such time as~~ the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

(ix) ~~(x)~~ provide that each electric utility ~~the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement,~~ shall have the right to determine ~~from time to time to elect~~ whether the obligations of the utility party under the sourcing agreement ~~thereto~~ shall be governed by the power purchase provisions or the contract for differences provisions before entering into the sourcing agreements;

(x) ~~(xi)~~ append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act and the Commission;

(xi) ~~(xii)~~ provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; ~~and~~

(xii) ~~(xiii)~~ conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators; ~~.~~

(xiii) provide for performance incentives regarding availability, efficiency and by-product quantities, with premium performance and shortfalls in performance to result in positive and negative adjustments, respectively, to the rate of return approved by the Commission, provided that such rate of return in any year shall not be decreased by more than $25,000,000 or increased by more than $12,500,000 as a result of such performance incentives. The rate of return shall only be increased as a result of such performance incentives to the extent the amount of the increase is less than the amount of benefits to the consumers resulting from the initial clean coal facility's achievement of that performance incentive;

(xiv) include forecasting and scheduling obligations that take account of the requirements of the applicable regional transmission organizations; and

(xv) include operating guidelines relating to the operating configuration and dispatch of the initial clean coal facility, which guidelines shall be subject to change from time to time with input from a committee consisting of representatives of the electric utilities and alternative retail electric suppliers that are parties to sourcing agreements with the initial clean coal facility; any actions taken or not taken by the owner of the initial clean coal facility in compliance with such operating guidelines shall be deemed to be prudent, and the prudence of the costs resulting from the action shall be evaluated in light of the fact that the initial clean coal facility is required to comply with such operating guidelines.

(4) Effective date of sourcing agreements with the initial clean coal facility. No later than 30 days after the effective date of this amendatory Act of the 96th General Assembly, the initial clean coal facility shall submit a draft sourcing agreement to the Agency and each electric utility required to enter into such agreements pursuant to paragraph (3) of this subsection, and the initial clean coal facility and each such electric utility shall promptly and diligently negotiate in good faith over the terms of the sourcing agreement. Within 30 days after receipt of the draft sourcing agreement, each such electric utility shall provide the Agency and the initial clean coal facility with its comments and recommended revisions to the draft sourcing agreement. Within 15 days after the receipt of the electric utility's comments and recommended revisions, the owner of the initial clean coal facility shall submit its responsive comments and a further revised draft of the sourcing agreement to the Agency. The Agency shall review the draft sourcing agreement and comments and retain an independent, qualified, and experienced mediator to mediate disputes over the draft sourcing agreement's terms. The mediator shall not own or control any direct or indirect interest in the initial clean coal facility and shall have no contractual relationship with the initial clean coal facility.

If the parties to the sourcing agreement do not agree on the terms in the sourcing agreement within 15 days after receiving the owner's responsive comments and further revised draft, then the mediator retained by the Agency shall mediate the dispute between the parties. If the parties are in agreement on the terms of the sourcing agreement, then the Agency shall approve the final draft sourcing agreement within 30 days

after the parties reach agreement and notify the Agency of that agreement. If, within 30 days after the commencement of mediation, the parties have failed to come to agreement, then the Agency shall review and revise the draft sourcing agreement as necessary.

The Agency may approve a sourcing agreement only after it finds the sourcing agreement is consistent with the provisions of this Act and contains only terms that are balanced and equitable and fairly protect the interests of the parties to the sourcing agreement, with such approval to occur no later than 60 days after the commencement of the mediation. The Agency shall not withhold or condition its approval of the sourcing agreement based upon least cost resource principles or whether or not it would be prudent for buyers to enter into such an agreement if there were no legal requirement to do so, nor shall the resolution of open issues be based on these principles.

If the sourcing agreement is approved, then each electric utility required to enter into a sourcing agreement shall have 30 days after either the Agency's approval to enter into the sourcing agreement or the issuance of any necessary approval by the Federal Energy Regulatory Commission, whichever is later. The Agency shall submit the approved sourcing agreement to the Commission within 15 days after approval. Each electric utility and the initial clean coal facility shall pay a reasonable fee as required by the Agency for its services under this paragraph (4) and shall pay the mediator's reasonable fees, if any. The Agency shall adopt and make public a policy detailing the process for retaining a mediator under this Section. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted ~~and authorizations and approvals obtained~~:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

~~(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and~~

~~(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent and reasonable.~~

The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report

shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) capitalized financing costs during construction, (2) taxes, insurance, and other owner's costs, and (3) an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs.

(a) The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries.

(b) The balance of the operating and maintenance cost quote, excluding delivered fuel costs will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) taxes, insurance, and other owner's costs, and (2) an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include (i) an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and (ii) an analysis of the expected capacity factor for the initial clean coal facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis. In the case of sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(6) Costs incurred by a utility under this subsection (d) or pursuant to a contract or sourcing agreement entered into

under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(e) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act and Section 1-78 of this Act.

(f) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards set forth in Section 16-111.5 of the Public Utilities Act or Section 1-78 of this Act.

(g) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of the annual procurement plan for the utility.

(h) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(i) The Agency shall assess fees to the initial clean coal facility to recover the costs incurred in preparation of each procurement plan for the initial clean coal facility.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09; 96-159, eff. 8-10-09; 96-1437, eff. 8-17-10.)

(20 ILCS 3855/1-76 new)

Sec. 1-76. Costs and revenue recoverable by the initial clean coal facility.

(a) The price paid for electricity generated by the initial clean coal facility shall be based on a formula rate using a cost of service methodology applicable to wholesale electric power contracts employing a level or deferred capital component and in accordance with the Uniform System of Accounts, subject to and as specifically limited by the provisions set forth in Section.

No later than 30 days after the approval of the sourcing agreement by the Agency pursuant to paragraph (4) of subsection (d) of Section 1-75, the initial clean coal facility shall provide to the Commission projections of its costs and dispatch levels for the term of the sourcing agreements. Within 90 days thereafter, the Commission shall determine a projected price per MWh for each year for the initial clean coal facility, based upon such projections and the provisions of this Section. No later than 6 months before the expected commencement of commercial operation of the initial clean coal facility and the commencement of each operating year thereafter, the initial clean coal facility shall submit to the Commission projections of its costs and dispatch levels for the upcoming year. Within 120 days receipt of the initial clean coal facility's projections of its costs and dispatch levels for the upcoming year, the Commission shall approve a price per MWh for the upcoming year based upon such projections and the provisions of this Section. If the Commission does not approve a price for any year as of the beginning of such year, the initial clean coal facility shall calculate the price based upon its projections and the provisions of this Section, with any subsequent cost disallowance by the Commission to be reflected through a true-up of costs in the next year. Over the course of any year, the initial clean coal facility may generate electricity in an aggregate amount equal to the total generation incorporated in projected dispatch levels used to calculate the price per MWh for such year. To the extent that the total revenue actually collected by the initial clean coal facility in any quarterly period based upon the approved price per MWh is more or less than the actual costs incurred by the initial clean coal facility in respect of such period subject to the limits of this Section, the excess or shortfall shall be incorporated into the calculation of an adjusted price per MWh for the second subsequent quarterly period. If at any time the Commission, acting in accordance with this Section, disallows any cost incurred by the initial clean coal facility, the amount of such disallowance shall be incorporated into the calculation of the rate per MWh for the next year.

(b) Capital costs set by the Commission according to this subsection (b) shall be included in the formula rate. "Capital costs" means costs incurred on the purchase of land, buildings, construction, and equipment to be used in the production of electricity, and other costs recorded in the Electric Plant Accounts and other applicable Balance Sheet Accounts of the Uniform System of Accounts for the initial clean coal facility. The Capital Development Board shall calculate a range of capital costs that it believes would be a reasonable cost for the initial clean coal facility. The Capital Development Board shall commence performing its responsibilities under this subsection (b) within 30 days after the effective date of this amendatory Act of the 96th General Assembly. In determining a range of capital costs, the Capital Development Board shall base its evaluation and judgment on professional engineering and regulatory accounting principles and include any update on costs that may be provided by the initial clean coal facility and shall not employ least cost resource principles. In addition the Capital Development Board may:

(1) include in its consideration the information in a facility cost report, if any, that was prepared and submitted by the initial clean coal facility to the Commission in accordance with paragraph (4) of

subsection (d) of Section 1-75 of this Act and any update on costs that may be provided by the initial clean coal facility;

(2) consult as much as it deems necessary with the initial clean coal facility;

(3) conduct whatever research and investigation it deems necessary; and

(4) retain third parties to assist in its determination, provided that such third parties shall not own or control any direct or indirect interest in the initial clean coal facility and shall have no contractual relationship with in the initial clean coal facility.

The initial clean coal facility shall cooperate with the Capital Development Board in any investigation it deems necessary.

The Capital Development Board shall make its final determination of the range of capital costs confidentially and shall submit that range to the Commission in a confidential filing no later than 90 days after the Capital Development Board is required to commence performing its responsibilities under this subsection (b). The initial clean coal facility shall submit to the Commission its estimate of the capital costs to be included in the formula rate. Only after the initial clean coal facility has submitted this estimate shall the Commission publicly announce the range of capital costs submitted by the Capital Development Board. In the event that the estimate submitted by the initial clean coal facility is within or below the range submitted by the Capital Development Board, the initial clean coal facility's estimate shall be approved by the Commission as the amount of pre-approved capital costs.

In the event that the estimate submitted by the initial clean coal facility is above the range submitted by the Capital Development Board, the amount of capital costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of pre-approved capital costs. "Pre-approved capital costs" means the amount of capital costs that will be included in the formula rate to the extent such costs are actually incurred, with no further review or approval in respect to whether they are prudently incurred. The Commission's determination of pre-approved capital costs shall be made within 15 days after the initial clean coal facility submits its capital cost estimate. The Commission's decision regarding pre-approved capital costs shall be final and shall not be subject to judicial or administrative review.

Once made, the Commission's determination of the amount of pre-approved capital costs may not be increased unless the Commission determines that the incremental costs are reasonable, in which case one-third of such reasonable incremental costs shall be included in the formula rate and recoverable by the initial clean coal facility and two-thirds of such costs shall be borne by the initial clean coal facility and its contractors, provided that to the extent such reasonable incremental costs are the result of change in law or non-insurable force majeure, all of such costs shall be included in the formula rate and recoverable by the initial clean coal facility.

"Change in law" means any change, including any enactment, repeal, or amendment, in a law, ordinance, rule, regulation, interpretation, permit, license, consent or order, including those relating to taxes or to environmental matters, or in the interpretation or application thereof by any governmental authority occurring after January 1, 2011.

"Non-insurable force majeure" means events outside of the reasonable control of the owner of the initial clean coal facility and its contractors, subcontractors, and agents that are not included on a list, to be attached to the sourcing agreement and agreed upon by the utility entering the sourcing agreement, of events that are customarily covered by a builder's risk insurance policies for the construction of electric generating plants and other large process plants in the United States. "Non-insurable force majeure" shall not include changes in prices or other changes in market conditions.

Any rebates, refunds, or other payments received by the owner of the initial clean coal facility from any of its contractors in respect to such contractor bearing risk for capital cost overruns shall be excluded from miscellaneous net revenue and shall not otherwise reduce the costs of the owner of the initial clean coal facility for purposes of the formula rate. For purposes of this subsection (b), "reasonable" means that the decisions, construction, and supervision of construction by the owner of the initial clean coal facility and its contractors underlying the initial capital cost and significant additions to the initial capital cost of the initial clean coal facility resulted in efficient, economical, and timely construction. In determining the reasonableness of the capital costs of the initial clean coal facility, the Commission shall consider the knowledge and circumstances prevailing at the time of each relevant decision or action of the owner of the initial clean coal facility and its contractors.

The Commission may determine that the amount of pre-approved capital costs may be increased only after notice and a hearing. At that hearing, the Capital Development Board shall submit a report recommending whether the incremental costs should be approved in full or in part or rejected. The

Commission may approve in whole or in part or reject the incremental capital costs based on standards in respect of prudently incurred costs that are normally applicable to electric ratemaking in Illinois. At the request of the owner of the initial clean coal facility made not more often than once every 12 months during the construction period of the initial clean coal facility, the Commission shall conduct interim reviews to determine whether capital costs specified in such request and incurred or to be incurred by the owner of the initial clean coal facility, are reasonable.

The Capital Development Board shall monitor the construction of the initial clean coal facility for the full duration of construction. The Capital Development Board, in its discretion, may retain third parties to facilitate such monitoring, provided that such third parties shall not own or control any direct or indirect interest in the initial clean coal facility and shall have no contractual relationship with in the initial clean coal facility. The initial clean coal facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (b), and such fee shall not be passed through to a utility or its customers. If a third party is retained by the Capital Development Board for the determination of a range of capital costs or monitoring of construction, the initial clean coal facility must pay for the third party's reasonable fees, and such costs may not be passed through to a utility or its customers.

The provisions of this subsection (b) shall apply to the capital costs for the initial construction of the initial clean coal facility and not to capital costs incurred beyond the initial construction, including costs for replacement of equipment and capital improvements, which such capital costs shall be subject to review by the Commission and included in the formula rate to the extent they are determined to be prudently incurred.

(c) Operations and maintenance costs set by the Commission according to this subsection (c) shall be included in the formula rate. Operations and maintenance costs mean costs incurred for the administration, supervision, operation, maintenance, preservation, and protection of the initial clean coal facility's physical plant and other costs recorded in the Operation and Maintenance Expense Accounts and other applicable Income Statement Accounts of the Uniform System of Accounts. The Commission shall assess the prudency of the operations and maintenance costs for the initial clean coal facility and shall allow the initial clean coal facility to include in the formula rate only those costs the Commission deems to be prudent. The Commission may in its discretion retain an expert to assist in its review of operations and maintenance costs. The initial clean coal facility shall pay for the expert's fees if an expert is retained by the Commission, and such costs may not be passed through to a utility or its customers. The Commission's determination regarding the amount of operations and maintenance costs that may be included in the formula rate for each year shall be made in accordance with this Section.

(d) Actual fuel costs shall be set by the Agency through a SNG feedstock procurement, pursuant to Section 1-78 of this Act, to be performed at least every 5 years, and purchased by the initial clean coal facility pursuant to a reasonable fuel supply plan, with coal comprising at least 50% of the total feedstock for producing SNG over the term of a sourcing agreement with all coal having high volatile bituminous rank and greater than 1.7 pounds of sulfur per million, SNG derived from coal comprising at least 50% of the fuel to generate electricity, SNG derived from biomass comprising up to 10% of the fuel to generate electricity with the approval of the Commission, and natural gas comprising the remainder of the fuel to generate electricity. Actual fuel costs, as so determined, shall be reduced by miscellaneous net revenue received by the owner of the initial clean coal facility, including, but not limited to, net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, any capacity derived from the facility and bid into the capacity markets or otherwise sold and any energy generated as a result of such capacity being called, whether generated from synthesis gas derived from coal, from SNG, or from natural gas. All actual fuel costs incurred pursuant to such a fuel supply plan shall be included in the formula rate without any determination by the Commission or the Agency as to prudency.

(e) Sequestration costs set by the Commission according to this subsection (e) shall be included in the formula rate. "Sequestration costs" means costs incurred to (i) capture carbon dioxide; (ii) compress carbon dioxide; (iii) build, operate, and maintain a sequestration site in which carbon dioxide may be injected; (iv) build, operate, and maintain a carbon dioxide pipeline, which is owned by the initial clean coal facility; (v) transport the carbon dioxide to a sequestration site or a pipeline; and (vi) perform monitoring, verification, and other activities associated with carbon capture and sequestration. "Sequestration capital costs" means sequestration costs recorded in the Electric Plant Accounts and other applicable Balance Sheet Accounts of the Uniform System of Accounts. "Sequestration operations and maintenance costs" means sequestration costs that are recorded in the Operation and Maintenance Expense Accounts and other applicable Income

Statement Accounts of the Uniform System of Accounts, and shall include maintenance, monitoring, and verification costs.

The Capital Development Board shall calculate an estimate of sequestration capital costs that it believes would be a reasonable cost for the initial clean coal facility's sequestration facilities and an estimate of average annual sequestration operations and maintenance costs that it believes would be a reasonable average annual operation and maintenance cost for the initial clean coal facility's carbon capture and sequestration activities. The Capital Development Board shall commence performing its responsibilities under this subsection (e) within 30 days after the effective date of this amendatory Act of the 96th General Assembly. In determining a range of capital costs, the Capital Development Board shall base its evaluation and judgment on professional engineering and regulatory accounting principles and include any update on costs that may be provided by the initial clean coal facility and shall not least cost resource principles. In addition the Capital Development Board may: (i) include in its consideration cost estimate information in a facility cost report, if any, that was prepared and submitted by the initial clean coal facility to the Commission in accordance with paragraph (4) of subsection (d) of Section 1-75 of this Act and any update on costs that may be provided by the initial clean coal facility; (ii) consult as much as it deems necessary with the initial clean coal facility; (iii) conduct whatever research and investigation it deems necessary; and (iv) retain third parties to assist in its determination, provided that such third parties shall not own or control any direct or indirect interest in the initial clean coal facility and shall have no contractual relationship with the initial clean coal facility. The initial clean coal facility shall cooperate with the Capital Development Board in any investigation it deems necessary.

The Capital Development Board shall make its final determination of sequestration capital costs and sequestration operations and maintenance costs and submit such determination to the Commission no later than 90 days after the Capital Development Board is required to commence performing its responsibilities under this subsection (e). The Capital Development Board shall monitor construction of the sequestration facilities in the same manner, and with the same rights to retain an expert and recover the costs thereof, as set forth in subsection (b) of this Section.

"Actual sequestration costs" means for any year the sum of: (i) the annual amortized portion of sequestration capital costs, based on level amortization from the later of the date such costs are incurred and the commercial operation date until the end of the term of the sourcing agreements; (ii) the rate of return approved by the Commission pursuant to subsection (e) of this Section applied to sequestration capital costs; and (iii) the sequestration operations and maintenance costs incurred in such year.

"Target sequestration costs" means the sum of: (i) the annual amortized portion of the estimated sequestration capital costs determined by the Capital Development Board, based on level amortization from the later of the date such costs are incurred and the commercial operation date until the end of the term of the sourcing agreements; (ii) the rate of return approved by the Commission pursuant to subsection (f) of this Section applied to the estimated sequestration capital costs determined by the Capital Development Board; (iii) the estimate of average annual sequestration operations and maintenance costs determined by the Capital Development Board, escalated in accordance with an escalation factor to be provided in the sourcing agreement from the date of the Capital Development Board's determination to the mid-point of the applicable year; (iv) the sequestration cost underrun, if any, for the immediately preceding year, except to the extent applied to allow recovery of a sequestration cost overrun from a prior year; and (v) any sequestration costs that are the result of a change in law or non-insurable force majeure.

"Sequestration cost underrun" means for any year the excess, if any, of target sequestration costs for such year over actual sequestration costs for such year.

"Sequestration cost overrun" means for any year the excess, if any, of actual sequestration costs for such year over target sequestration costs for such year.

For any year in which there is a sequestration cost underrun, all actual sequestration costs shall be conclusively deemed to be prudent and shall be included in the formula rate with no further review or approval in respect of whether they are prudently incurred.

For any year in which there is a sequestration cost overrun, the Commission shall determine whether all or a portion of such sequestration cost overrun was prudently incurred, except that the rate of return shall not be subject to review. If the Commission determines that the sequestration cost overrun was prudently incurred, one-third of such sequestration cost overrun shall be included in the formula rate and recoverable by the initial clean coal facility and two-thirds of such sequestration cost overrun shall be borne by the initial clean coal facility and not passed through to a utility, an alternative retail electric supplier, or the customers of a utility or an alternative retail electric supplier unless and until there is a sequestration cost underrun for a subsequent year, in which event the sequestration cost overrun will be included in the

formula rate and recoverable by the initial clean coal facility up to the amount of the sequestration cost underrun; provided, however, that if for any year two-thirds of such sequestration cost overrun exceeds the difference of $20,000,000 minus the amount of penalty, if any, payable by the initial clean coal facility pursuant to Section 1-76.5 in respect to that year, the amount of such excess shall also be included in the formula rate and recoverable by the initial clean coal facility. The detailed procedures for implementing this provision shall be set forth in the sourcing agreements.

"Change in law" means any change, including any enactment, repeal and amendment, in a law, ordinance, rule, regulation, interpretation, permit, license, consent or order, including those relating to taxes or to environmental matters, or in the interpretation or application thereof by any governmental authority occurring after January 1, 2011.

"Non-insurable force majeure" means events outside of the reasonable control of the owner of the initial clean coal facility and its contractors, subcontractors, and agents that are not included on a list, to be attached to the sourcing agreement and agreed upon by the utility entering the sourcing agreement, of events that are customarily covered by a builder's risk insurance policies for the construction of electric generating plants and other large process plants in the United States "Non-insurable force majeure" shall not include changes in prices or other changes in market conditions.

(f) The Commission shall, by the later of 90 days after the effective date of this amendatory Act of the 96th General Assembly and 90 days after the owner of the initial clean coal facility files initial direct testimony regarding rate of return with the Commission, determine the total rate of return on invested capital for the initial clean coal facility following notice and a public hearing. At the hearing, all interested parties, including utilities, alternative retail electric suppliers, the Attorney General, the Agency, and customers, shall be given an opportunity to be heard. In determining the rate of return, the Commission shall select a commercially reasonable rate that takes into account the rates of return received by developers of facilities similar to the initial clean coal facility inside or outside Illinois, the need to balance an incentive for clean-coal technology with the need to protect Illinois ratepayers from high electricity costs, and any other information the Commission deems relevant.

The rate of return shall be no lower than 75 basis points lower than the weighted average authorized total rates of return of the utilities for their electric distribution assets as of January 1, 2011. Notwithstanding the minimum rate of return established in the preceding sentence, the rate of return shall be no greater than the total rate of return on invested capital that the initial clean coal facility would achieve based on an assumed 55% debt and 45% equity capital structure, with the cost of debt being the actual average cost, including all associated costs and fees, of the initial clean coal facility's U.S. Government guaranteed debt and the cost of equity being 11.5%. The Commission's determination of the rate of return shall include a mechanism providing for a one-time adjustment at or about the commencement of commercial operation of the initial clean coal facility to take account of changes in applicable Treasury yield rates between the date of its provisional determination of the rate of return and the dates of construction period borrowing by the initial clean coal facility, which adjustment shall apply to 55% of total capital.

The Agency shall recommend a rate of return to the Commission utilizing the criteria in this subsection (f). The Commission shall further take into account the recommendation of the Agency but shall not be bound by it. The Commission's decision shall be final and not subject to any rehearing or administrative or judicial review. The rate of return determined by the Commission pursuant to this subsection (f) shall apply for the term of the sourcing agreements and shall not be subject to change, except for the one-time adjustment to reflect Treasury yield rate changes as expressly contemplated by this subsection (f) and as otherwise provided in this Act.

(g) The following shall not be included in determining the contract price: advertising expenses that do not meet the requirements of Sections 9-225 and 9-226 of the Public Utilities Act, political activity or lobbying expenses as defined by Section 9-224 of the Public Utilities Act, social club due, or charitable contributions, to the extent, in each case, that a utility would not be permitted to recover such costs.

(h) Unless otherwise provided, within 30 days after a decision of the Commission on recoverable costs under this Section, any interested party to the Commission's decision may apply for a rehearing with respect to the decision. The Commission shall receive and consider such application for rehearing and shall grant or deny the application in whole or in part within 20 days from the date of the receipt thereof by the Commission. If no rehearing is applied for within the required 30 days or an application for rehearing is denied, the Commission decision shall be final.

If an application for rehearing is granted, the Commission shall hold a rehearing within 30 days after granting the application. The decision of the Commission upon rehearing shall be final. Any person affected by a decision of the Commission under this Section 1-76 may have the decision reviewed only

under and in accordance with the Administrative Review Law. Unless otherwise provided, the provisions of the Administrative Review Law, all amendments modifications thereof and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Commission under this subsection (h). The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(h) The Capital Development Board shall adopt and make public a policy detailing the process for retaining third parties under this Section. Any third parties retained to assist with calculating the range of capital costs or operations and maintenance costs shall be retained no later than 45 days after the effective date of this amendatory Act of the 96th General Assembly.

(20 ILCS 3855/1-76.5 new)

Sec. 1-76.5. Capture and sequestration requirements for initial clean coal facility.

(a) The initial clean coal facility shall provide documentation to the Commission each year of commercial operation accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year, the owner of the facility fails to demonstrate that (i) the portion of the facility that produces SNG captured and sequestered at least 90% of the carbon dioxide it would otherwise emit and (ii) the initial clean coal facility as a whole captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or if the capture and sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, or both, then the owner of the initial clean coal facility must pay a penalty of $20,000,000, which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997.

If during the first 12 months of commercial operation of the initial clean coal facility, there are more than 4 stops and starts of the portion of the facility that produces SNG, with each stop and start of an individual unit constituting one stop and start, then the calculation of the quantities described in this subsection (a) shall not take into account any carbon dioxide emissions from the portion of the facility that produces SNG occurring during the stop and start-up periods, including related periods of non-steady state operation, associated with such excess stops and starts. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed through to a utility, an alternative retail electric supplier, or the customers of a utility or an alternative retail electric supplier. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite penalties are complied with.

(b) In addition to any penalty for the initial clean coal facility's failure to capture and sequester at least its minimum sequestration requirement, the Attorney General, on behalf of the People of the State of Illinois, shall specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Such action may be filed in any circuit court in Illinois. By entering into a sourcing agreement pursuant to subsection (d) of Section 1-75 of this Act, the initial clean coal facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action for specific performance under this Section. The Commission may reduce the recoverable rate of return approved pursuant to Section 1-76 of this Act for the facility if the facility willfully fails to comply with the carbon capture and sequestration requirements set forth in this Section.

(c) Compliance with the capture and sequestration requirements of this Section shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. The initial clean coal facility shall pay for the expert's reasonable fees if an expert is retained by the Commission, and such costs shall not be passed through to a utility, an alternative retail electric supplier, or the customers of a utility or an alternative retail electric supplier. The Commission shall adopt and make public a policy detailing the process for retaining or an expert under this Section.

(d) Responsibility for compliance with the capture and sequestration requirements specified in this Section for the initial clean coal facility shall reside solely with the initial clean coal facility regardless of whether the facility has contracted with another party to capture, transport, or sequester carbon dioxide.

(20 ILCS 3855/1-77 new)

Sec. 1-77. Sequestration permitting, oversight, and investigations.

(a) No clean coal facility, initial clean coal facility, or clean coal SNG facility may transport or sequester carbon dioxide unless the Commission approves the method of carbon dioxide transportation or sequestration as provided in this Section. Approval shall be required regardless of whether the SNG facility

has contracted with another to transport or sequester the carbon dioxide. Nothing in this subsection (a) shall release the owner or operator of a carbon dioxide sequestration site or carbon dioxide pipeline from any other permitting requirements under applicable State and federal laws, statutes, rules, or regulations.

(b) No later than 3 months prior to the date upon which the company intends to commence construction of the facility, the owner of the facility shall file with the Commission a carbon dioxide transportation or sequestration plan. The Commission shall review proposed carbon dioxide transportation and sequestration methods and shall approve those methods it deems reasonable and cost-effective. For purposes of this review, "cost-effective" means a commercially reasonable price for similar carbon dioxide transportation or sequestration techniques. In determining whether sequestration through injection is reasonable and cost-effective, the Commission may consult with the Illinois State Geological Survey.

The Commission shall hold a public hearing within 30 days after receipt of the facility's carbon dioxide transportation or sequestration plan. The Commission shall post notice of the review on its website upon submission of a carbon dioxide transportation or sequestration method and shall accept written public comments. The Commission shall take the comments into account when making its decision. However, the Commission shall not approve a carbon dioxide sequestration method if the owner or operator of the sequestration site has not received: (i) an Underground Injection Control permit from the Illinois Environmental Protection Agency pursuant to the Environmental Protection Act, (ii) an Underground Injection Control permit from the Illinois Department of Natural Resources pursuant to the Illinois Oil and Gas Act, or (iii) a permit similar to items (i) or (ii) from the state in which the sequestration site is located if the sequestration shall take place outside of Illinois. The Commission shall approve or deny the carbon dioxide transportation or sequestration method within 90 days after the receipt of all required information.

(c) At least annually, the Illinois Environmental Protection Agency shall inspect all carbon dioxide sequestration sites in Illinois to ensure the safety and feasibility of those sequestration sites. However, the Illinois Environmental Protection Agency may, as often as deemed necessary, monitor and conduct investigations of those sites. The owner or operator of the sequestration site must cooperate with the Illinois Environmental Protection Agency investigations of carbon dioxide sequestration sites. If the Illinois Environmental Protection Agency determines at any time a site creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall seal the site pursuant to the Environmental Protection Act. If the Illinois Environmental Protection Agency determines at any time a carbon dioxide sequestration site creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall request the State's Attorney or the Attorney General institute such action. The Illinois Environmental Protection Agency shall provide notice of any such actions as soon as possible on its website.

(d) At least annually, the Commission shall inspect all carbon dioxide pipelines in Illinois that transport carbon dioxide to ensure the safety and feasibility of those pipelines. However, the Commission may, as often as deemed necessary, monitor and conduct investigations of those pipelines. The owner or operator of the pipeline must cooperate with the Commission investigations of the carbon dioxide pipelines. If the Commission determines at any time that a carbon dioxide pipeline creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Commission shall notify the Illinois Environmental Protection Agency of such conditions. If the Commission determines at any time a carbon dioxide pipeline creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall request the State's Attorney or the Attorney General institute such action. The Commission shall provide notice of any such actions as soon as possible on its website.

(20 ILCS 3855/1-78 new)

Sec. 1-78. Feedstock procurement.

(a) A feedstock procurement plan shall, at least every 5 years, be prepared for the initial clean coal facility based on the initial clean coal facility's projection of feedstock usage and ratios, and consistent with the applicable requirements of the Illinois Power Agency Act and this Section. The plan shall specifically identify the feedstock products to be procured following plan approval and shall follow all the requirements set forth in this Act and all applicable State and federal laws, statutes, rules, or regulations, as well as Commission orders. Nothing in this Section precludes consideration of contracts longer than 5 years and related forecast data. Any feedstock procurement occurring in accordance with this plan shall be competitively bid through a request for proposals process. Approval and implementation of the feedstock procurement plan shall be subject to review and approval by the Commission according to the provisions set forth in this Section. A feedstock procurement plan shall include each of the following components:

(1) Daily load analysis. This analysis shall include:

(A) multi-year historical analysis of hourly loads; and

(B) known or projected changes to future loads.

(2) Determination of the fuel specifications required for the initial clean coal facility, including:

(A) feedstock mix, as set by the initial clean coal facility with coal having high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content and comprising at least 50% of the total annual feedstock;

(B) volume of each feedstock required;

(C) quality standards of each feedstock;

(D) transportation and delivery requirements and associated costs and impacts on the performance, availability, and reliability of the initial clean coal facility;

(E) technical specifications of the initial clean coal facility for its feedstocks; and

(F) appropriate testing of any proposed feedstock before it is incorporated into the feedstock procurement plan or process to determine the effect of such feedstock on the performance, availability, and reliability of the initial clean coal facility.

(b) The feedstock procurement process shall be administered by a feedstock procurement administrator and monitored by a feedstock procurement monitor.

(1) The feedstock procurement administrator shall:

(A) design the final feedstock procurement process in accordance with subsection (d) of this Section following Commission approval of the feedstock procurement plan;

(B) develop feedstock benchmarks in accordance with subsection (d)(3) to be used to evaluate bids; these benchmarks shall be submitted to the Commission for review and approval on a confidential basis prior to the feedstock procurement event;

(C) serve as the interface between the initial clean coal facility and feedstock suppliers regarding bidding and contract negotiations;

(D) manage the bidder pre-qualification and registration process;

(E) obtain the initial clean coal facility's agreement to the final form of all supply contracts and credit collateral agreements;

(F) administer the request for feedstock proposals process;

(G) have the discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and shall be conducted in a fair and unbiased manner; in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; if information is disclosed to any bidder, it shall be provided to all competing bidders;

(H) maintain confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(I) submit a confidential report to the Commission recommending acceptance or rejection of bids;

(J) notify the facility of contract counterparties and contract specifics; and

(K) administer related contingency feedstock procurement events.

(2) The feedstock procurement monitor, who shall be retained by the Commission, shall:

(A) monitor interactions among the feedstock procurement administrator, suppliers, and the initial clean coal facility;

(B) monitor and report to the Commission on the progress of the feedstock procurement process;

(C) provide an independent confidential report to the Commission regarding the results of the feedstock procurement event;

(D) preserve the confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(E) provide expert advice to the Commission and consult with the feedstock procurement administrator regarding issues related to feedstock procurement process design, rules, protocols, and policy-related matters;

(F) consult with the feedstock procurement administrator regarding the development and use of benchmark criteria, standard form contracts, credit policies, and bid documents; and

(G) assess compliance with the procurement plans approved by the Commission.

(c) The feedstock planning process shall be conducted as follows:

(1) Beginning in 2012, the initial clean coal facility shall annually provide a range of feedstock requirement forecasts to the Agency by July 15 of each year, or such other date as may be required by the

Commission or Agency. The feedstock requirement forecasts shall cover the 5-year feedstock procurement planning period for the next feedstock procurement plan, or such other longer period that the Agency or the Commission may require, and shall include daily data representing a high-load, low-load, and expected-load scenario for the load of the utilities and alternative retail suppliers required to enter into sourcing agreements with the initial clean coal facility. The utilities and alternative retail suppliers shall provide supporting data and assumptions for each of the scenarios.

(2) Beginning in 2012, the Agency shall, as necessary, prepare a feedstock procurement plan by August 15th of each year, or such other date as may be required by the Commission. The feedstock procurement plan shall identify the portfolio of feedstocks to be procured. Copies of the feedstock procurement plan shall be posted and made publicly available on the Agency's and Commission's websites, and copies shall also be provided to the initial clean coal facility. The initial clean coal facility shall have 30 days following the date of posting to provide comment to the Agency on the feedstock procurement plan. Other interested entities also may comment on the feedstock procurement plan. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the feedstock procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 30-day comment period, the Agency shall hold at least one public hearing for the purpose of receiving public comment on the procurement plan. Within 14 days following the end of the 30-day review period, the Agency shall revise the feedstock procurement plan as necessary based on the comments received, file the feedstock procurement plan with the Commission, and post the feedstock procurement plan on the websites.

(3) Within 5 days after the filing of the feedstock procurement plan, any person objecting to the feedstock procurement plan shall file an objection with the Commission. Within 10 days after the filing, the Commission shall determine whether a hearing is necessary. The Commission shall enter its order confirming or modifying the feedstock procurement plan within 90 days after the filing of the feedstock procurement plan by the Agency.

(4) The Commission shall approve the feedstock procurement plan, including expressly the forecast used in the feedstock procurement plan, if the Commission determines that it shall ensure adequate, reliable, affordable, and environmentally sustainable feedstocks to the clean coal facility at the lowest total cost over time, taking into account any benefits of price stability and other criteria set forth in this Section.

(d) The feedstock procurement process shall include each of the following components:

(1) Solicitation, pre-qualification, and registration of bidders. The feedstock procurement administrator shall disseminate information to potential bidders to promote a feedstock procurement event, notify potential bidders that the feedstock procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive feedstock procurement process. In addition to such other publication as the feedstock procurement administrator determines is appropriate, this information shall be posted on the Agency's and the Commission's websites. The feedstock procurement administrator shall also administer the prequalification process, including evaluation of credit worthiness, compliance with feedstock procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (d). The feedstock procurement administrator shall then identify and register bidders to participate in the feedstock procurement event.

(2) Standard contract forms and credit terms and instruments. The feedstock procurement administrator, in consultation with the initial clean coal facility, electric utilities, alternative retail electric suppliers, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The feedstock procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the feedstock procurement administrator cannot reach agreement with the initial clean coal facility as to the contract terms and conditions, then the feedstock procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

(3) Establishment of a market-based price benchmark. As part of the development of the feedstock procurement process, the feedstock procurement administrator, in consultation with the Commission staff, Agency staff, and the feedstock procurement monitor, shall establish benchmarks for evaluating the final

prices in the contracts for each of the feedstocks that shall be procured through the feedstock procurement process. The benchmarks shall be based on price data for similar feedstocks for the same delivery period and similar delivery points, or other delivery points after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific feedstocks and gasification feedstock procurement process being used to procure for the initial clean coal facility. The benchmarks shall be confidential but shall be provided to, and shall be subject to Commission review and approval, prior to a feedstock procurement event.

(4) Request for proposals. The feedstock procurement administrator shall design and issue a request for proposals to supply coal or natural gas in accordance with the initial clean coal facility's usage plan, as approved by the Commission. The request for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.

(5) A plan for implementing contingencies in the event of supplier default or failure of the feedstock procurement process to fully meet the expected load requirement due to insufficient supplier participation, Commission rejection of results, or any other cause. The plan must be specific to the initial clean coal facility's feedstock specifications and requirements.

The feedstock procurement process described in this subsection (d) is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

(e) Within 2 business days after opening the sealed bids, the feedstock procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the feedstock types along with the feedstock procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The feedstock procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the feedstock procurement monitor's assessment of bidder behavior in the process, as well as an assessment of the feedstock procurement administrator's compliance with the feedstock procurement process and rules. The Commission shall review the confidential reports submitted by the feedstock procurement administrator and feedstock procurement monitor and shall accept or reject the recommendations of the feedstock procurement administrator within 2 business days after receipt of the reports.

(f) Within 3 business days after the Commission decision approving the results of a feedstock procurement event, the initial clean coal facility shall enter into binding contractual arrangements with the winning suppliers using standard form contracts.

(g) The names of the successful bidders and the amount of feedstock to be delivered for each contract type and for each contract term shall be made available to the public at the time of Commission approval of a feedstock procurement event. The Commission, the procurement monitor, the feedstock procurement administrator, the Agency, and all participants in the feedstock procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the feedstock procurement administrator and feedstock procurement monitor pursuant to subsection (e) of this Section, shall not be made publicly available and shall not be discoverable by any party in any proceeding, absent a compelling demonstration of need, nor shall those reports be admissible in any proceeding other than one for law enforcement purposes.

(h) Within 2 business days after a Commission decision approving the results of a feedstock procurement event or such other date as may be required by the Commission from time to time, the initial clean coal facility shall file for informational purposes with the Commission its actual or estimated feedstock costs reflecting the costs associated with the feedstock procurement.

(i) The initial clean coal facility shall pay for reasonable costs incurred by the Agency in administering the feedstock procurement events. The Agency shall determine the amount owed for each feedstock procurement event, and the initial clean coal facility shall pay that amount to the Agency within 30 days after being informed by the Agency of the amount owed. Those funds shall be deposited into the Agency Operations Fund, pursuant to Section 1-55 of this Act, to be used to reimburse expenses related to the feedstock procurement.

(j) The Commission has the authority to adopt rules to carry out the provisions of this Section. For the public interest, safety, and welfare, the Commission also has the authority to adopt rules to carry out the provisions of this Section on an emergency basis.

(k) On or before April 1 of each year, the Commission may hold an informal hearing for the purpose of receiving comments on the prior year's feedstock procurement process and any recommendations for change.

(l) For all purposes of this Section 1-78 and subsection (a-1) of Section 1-75 of this Act, (i) feedstock procurement shall be deemed to include transportation of the feedstock products to the initial clean coal facility (including the acquisition by the initial clean coal facility, as appropriate, of trucks, railcars or other transportation equipment), (ii) feedstock procurement shall not be deemed to include day-to-day performance and administration of feedstock procurement and transportation arrangements, including scheduling, weighing, quality determination, acceptance or rejection of shipments, price adjustments, documentation and related activities, all of which shall be performed by the owner of the initial clean coal facility, and (iii) feedstock supplier shall be deemed to include feedstock transporters and providers of feedstock transportation equipment.

(20 ILCS 3855/1-79 new)

Sec. 1-79. Limited non-impairment.

(a) The State of Illinois pledges that the State shall not enact any law or take any action to:

(1) break, or repeal the authority for, sourcing agreements in a form approved by the Agency and entered into between electric utilities and the initial clean coal facility pursuant to subsection (d) of Section 1-75 of this Act;

(2) break, or repeal the authority for, sourcing agreements in a form approved by the Agency and entered into between alternative retail electric suppliers and the initial clean coal facility;

(3) deny public utilities full cost recovery for their costs incurred under those sourcing agreements;

(4) deny the initial clean coal facility full cost recovery under those sourcing agreements for costs that are recoverable under Section 1-76 of this Act.

(5) repeal or remove the requirement that public utilizes shall enter into sourcing agreements with the initial clean coal facility under paragraph (1) of subsection (d) of Section 1-75 of this Act or subsection (c) of Section 16-116 of the Public Utilities Act; or

(6) repeal or remove the requirement that alternative retail electric suppliers shall enter into sourcing agreements with the initial clean coal facility under item (iv) of paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act.

These pledges are for the benefit of the parties to those sourcing agreements and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the initial clean coal facility. The initial clean coal facility is authorized to include and refer to these pledges in any financing agreement into which it may enter in regard to those sourcing agreements.

(b) The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any other action, without impairment of the right of the initial clean coal facility to recover prudently incurred costs resulting from the new or amendatory legislation or other action as approved by the Commission, including, but not limited to, legislation or other action that would:

(1) directly or indirectly raise the costs that clean coal facilities must incur;

(2) directly or indirectly place additional restrictions, regulations, or requirements on the initial clean coal facility;

(3) prohibit sequestration in general or prohibit a specific sequestration method or project; or

(4) increase minimum sequestration requirements for the initial clean coal facility to a technically feasible extent.

Section 10. The Illinois Procurement Code is amended by changing Sections 1-10 and 20-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than $25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to the determination of costs of an initial clean coal facility, as defined under Section 1-10 of the Illinois Power Agency Act, as required under Section 1-76 of the Illinois Power Agency Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of initial clean coal facility for the full duration of construction.

(f) This Code does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between electric utilities or alternative retail electric suppliers and the initial clean coal facility, as defined under Section 1-10 of the Illinois Power Agency Act, as required under paragraph (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act.

(Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07; 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10.)

(30 ILCS 500/20-10)

(Text of Section from P.A. 96-159 and 96-588)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or

after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1-75 and subsection (d) of Section 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the Director of Central Management Services as chief procurement officer, a State purchasing officer under that chief procurement officer's jurisdiction may procure supplies or services through a competitive electronic auction bidding process after the purchasing officer explains in writing to the chief procurement officer his or her determination that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, including but not limited to telecommunications services, communications services, Internet services, and information services, and (ii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-588, eff. 8-18-09; revised 10-5-10.)

(Text of Section from P.A. 96-159 and 96-795)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

(1) a description of the agency's needs;

(2) a determination that the anticipated cost will be fair and reasonable;

(3) a listing of all responsible and responsive bidders; and

(4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1-75 and subsection (d) of Section 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii)

telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); revised 10-5-10.)

Section 15. The Public Utilities Act is amended by changing Sections 3-101, 16-115, and 16-116 and by adding Section 3-123 as follows:

(220 ILCS 5/3-101) (from Ch. 111 2/3, par. 3-101)

Sec. 3-101. Definitions. Unless otherwise specified, the terms set forth in Sections 3-102 through 3-123 ~~3-121~~ are used in this Act as therein defined.

(Source: P.A. 84-617; 84-1118.)

(220 ILCS 5/3-123 new)

Sec. 3-123. Initial clean coal facility; sequester; sourcing agreement; substitute natural gas or SNG. As used in this Act:

"Initial clean coal facility" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"Sequester" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"Sourcing agreement" means an agreement between the owner of the initial clean coal facility and an alternative retail electric supplier that has the terms and conditions meeting the requirements of paragraph (5) of subsection (d) of Section 16-115 of this Act.

"Substitute natural gas" or "SNG" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

(220 ILCS 5/16-115)

Sec. 16-115. Certification of alternative retail electric suppliers.

(a) Any alternative retail electric supplier must obtain a certificate of service authority from the Commission in accordance with this Section before serving any retail customer or other user located in this State. An alternative retail electric supplier may request, and the Commission may grant, a certificate of service authority for the entire State or for a specified geographic area of the State.

(b) An alternative retail electric supplier seeking a certificate of service authority shall file with the Commission a verified application containing information showing that the applicant meets the requirements of this Section. The alternative retail electric supplier shall publish notice of its application in the official State newspaper within 10 days following the date of its filing. No later than 45 days after the application is properly filed with the Commission, and such notice is published, the Commission shall issue its order granting or denying the application.

(c) An application for a certificate of service authority shall identify the area or areas in which the applicant intends to offer service and the types of services it intends to offer. Applicants that seek to serve residential or small commercial retail customers within a geographic area that is smaller than an electric utility's service area shall submit evidence demonstrating that the designation of this smaller area does not violate Section 16-115A. An applicant that seeks to serve residential or small commercial retail customers may state in its application for certification any limitations that will be imposed on the number of customers or maximum load to be served.

(d) The Commission shall grant the application for a certificate of service authority if it makes the findings set forth in this subsection based on the verified application and such other information as the applicant may submit:

(1) That the applicant possesses sufficient technical, financial and managerial resources and abilities to provide the service for which it seeks a certificate of service authority. In determining the level of technical, financial and managerial resources and abilities which the applicant must demonstrate, the Commission shall consider (i) the characteristics, including the size and financial sophistication, of the customers that the applicant seeks to serve, and (ii) whether the applicant seeks to provide electric power and energy using property, plant and equipment which it owns, controls or operates;

(2) That the applicant will comply with all applicable federal, State, regional and industry rules, policies, practices and procedures for the use, operation, and maintenance of the safety, integrity and reliability, of the interconnected electric transmission system;

(3) That the applicant will only provide service to retail customers in an electric utility's service area that are eligible to take delivery services under this Act;

(4) That the applicant will comply with such informational or reporting requirements as the Commission may by rule establish and provide the information required by Section 16-112. Any data

related to contracts for the purchase and sale of electric power and energy shall be made available for review by the Staff of the Commission on a confidential and proprietary basis and only to the extent and for the purposes which the Commission determines are reasonably necessary in order to carry out the purposes of this Act;

(5) That the applicant will procure renewable energy resources in accordance with Section 16-115D of this Act, and will source electricity from clean coal facilities, as defined in Section 1-10 of the Illinois Power Agency Act, in amounts ~~at least~~ equal to the amounts ~~percentages~~ set forth in subsections (c) and (d) of Section 1-75 of the Illinois Power Agency Act. For purposes of this Section:

(i) (blank) ~~(Blank)~~;

(ii) (blank) ~~(Blank)~~;

(iii) (blank); ~~the required sourcing of electricity generated by clean coal facilities, other than the initial clean coal facility, shall be limited to the amount of electricity that can be procured or sourced at a price at or below the benchmarks approved by the Commission each year in accordance with item (1) of subsection (c) and items (1) and (5) of subsection (d) of Section 1-75 of the Illinois Power Agency Act;~~

(iv) all alternative retail electric suppliers, whether certified before or after the effective date of this amendatory Act of the 96th General Assembly, shall execute a sourcing agreement to source electricity from the initial clean coal facility, on the terms set forth in paragraphs (3) and (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act, except that in lieu of the requirements in subparagraph ~~subparagraphs (A)(v),~~ (B)(i)~~, (C)(v), and (C)(vi)~~ of paragraph (3) of that subsection (d), the sourcing agreement ~~applicant~~ shall contain ~~execute one or more of~~ the following:

(1) provisions requiring the alternative retail electric supplier ~~if the sourcing agreement is a power purchase agreement, a contract with the initial clean coal facility~~ to purchase in each hour an amount of electricity equal to all clean coal energy made available from the initial clean coal facility during such hour, which the utilities are not required to procure under the terms of subsection (d) of Section 1-75 of the Illinois Power Agency Act, multiplied by a fraction, the numerator of which is the alternative retail electric supplier's retail market sales of electricity (expressed in kilowatthours sold) in the State during the third month preceding the current ~~prior calendar~~ month and the denominator of which is the total sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such third month preceding the current ~~prior~~ month that are subject to the requirements of this paragraph (5) of subsection (d) of this Section and subsection (d) of Section 1-75 of the Illinois Power Agency Act plus the total sales of electricity (expressed in kilowatthours sold) by utilities in the State outside of their service areas during such third month preceding the current ~~prior~~ month, pursuant to subsection (c) of Section 16-116 of this Act; or

(2) provisions requiring the alternative retail supplier to pay or receive for ~~if the sourcing agreement is a contract for differences, a contract with the initial clean coal facility in~~ each hour with respect to an amount of electricity equal to all clean coal energy made available from the initial clean coal facility during such hour, which the utilities are not required to procure under the terms of subsection (d) of Section 1-75 of the Illinois Power Agency Act, multiplied by a fraction, the numerator of which is the alternative retail electric supplier's retail market sales of electricity (expressed in kilowatthours sold) in the State during the third month preceding the current ~~prior calendar~~ month and the denominator of which is the total sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this paragraph (5) of subsection (d) of this Section and subsection (d) of Section 1-75 of the Illinois Power Agency Act plus the total sales of electricity (expressed in kilowatthours sold) by utilities outside of their service areas during such prior month, pursuant to subsection (c) of Section 16-116 of this Act;

(v) the initial clean coal facility shall comply with Section 1-76.5 of the Illinois Power Agency Act; ~~if, in any year after the first year of commercial operation, the owner of the clean coal facility fails to demonstrate to the Commission that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The costs of any such offsets that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from an alternative retail electric supplier or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from~~

~~the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements that apply to the initial clean coal facility shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General;~~

(vi) the ~~The Commission shall, after notice and hearing, revoke the certification of any alternative retail electric supplier that fails to execute a sourcing agreement with the initial clean coal facility as required by item (5) of subsection (d) of this Section. The~~ sourcing agreements with the ~~this~~ initial clean coal facility shall be subject to approval ~~both approval of the initial clean coal facility~~ by the Illinois Power Agency pursuant to paragraph (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act ~~General Assembly and satisfaction of the requirements of item (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act~~, and shall be executed within 30 ~~90~~ days after either the ~~any such~~ approval by the Illinois Power Agency or the issuance of any necessary approval by the Federal Energy Regulatory Commission, whichever is later;

(vii) The Commission shall have jurisdiction over disciplinary proceedings and complaints for violations of this Section. If, upon complaint, the Commission determines an alternative retail electric supplier has failed to execute a sourcing agreement with the initial clean coal facility, then the Commission shall issue notice of the finding to the alternative retail electric supplier. The alternative retail electric supplier shall have 30 days after the receipt of notice to enter into a sourcing agreement. If, after the notice period, the Commission finds an alternative retail electric supplier has failed to comply, then the Commission shall revoke the alternative retail electric supplier's certificate for 6 months ~~General Assembly. The Commission shall not accept an application for certification from an alternative retail electric supplier that has lost certification under this subsection (d), or any corporate affiliate thereof, for at least one year from the date of revocation~~;

(6) With respect to an applicant that seeks to serve residential or small commercial retail customers, that the area to be served by the applicant and any limitations it proposes on the number of customers or maximum amount of load to be served meet the provisions of Section 16-115A, provided, that the Commission can extend the time for considering such a certificate request by up to 90 days, and can schedule hearings on such a request;

(7) That the applicant meets the requirements of subsection (a) of Section 16-128; and

(8) That the applicant will comply with all other applicable laws and regulations.

(d-5) (Blank).

(e) A retail customer that owns a cogeneration or self-generation facility and that seeks certification only to provide electric power and energy from such facility to retail customers at separate locations which customers are both (i) owned by, or a subsidiary or other corporate affiliate of, such applicant and (ii) eligible for delivery services, shall be granted a certificate of service authority upon filing an application and notifying the Commission that it has entered into an agreement with the relevant electric utilities pursuant to Section 16-118. Provided, however, that if the retail customer owning such cogeneration or self-generation facility would not be charged a transition charge due to the exemption provided under subsection (f) of Section 16-108 prior to the certification, and the retail customers at separate locations are taking delivery services in conjunction with purchasing power and energy from the facility, the retail customer on whose premises the facility is located shall not thereafter be required to pay transition charges on the power and energy that such retail customer takes from the facility.

(f) The Commission shall have the authority to promulgate rules and regulations to carry out the provisions of this Section. On or before May 1, 1999, the Commission shall adopt a rule or rules applicable to the certification of those alternative retail electric suppliers that seek to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more which shall provide for (i) expedited and streamlined procedures for certification of such alternative retail electric suppliers and (ii) specific criteria which, if met by any such alternative retail electric supplier, shall constitute the demonstration of technical, financial and managerial resources and abilities to provide service required by subsection (d) (1) of this Section, such as a requirement to post a bond or letter of credit, from a responsible surety or financial institution, of sufficient size for the nature and scope of the services to be provided; demonstration of adequate insurance for the scope and nature of the services to be provided; and experience in providing similar services in other jurisdictions.

(Source: P.A. 95-130, eff. 1-1-08; 95-1027, eff. 6-1-09; 96-159, eff. 8-10-09.)

(220 ILCS 5/16-116)

Sec. 16-116. Commission oversight of electric utilities serving retail customers outside their service areas or providing competitive, non-tariffed services.

(a) An electric utility that has a tariff on file for delivery services may, without regard to any otherwise applicable tariffs on file, provide electric power and energy to one or more retail customers located outside its service area, but only to the extent (i) such retail customer (A) is eligible for delivery services under any delivery services tariff filed with the Commission by the electric utility in whose service area the retail customer is located and (B) has either elected to take such delivery services or has paid or contracted to pay the charges specified in Sections 16-108 and 16-114, or (ii) if such retail customer is served by a municipal system or electric cooperative, the customer is eligible for delivery services under the terms and conditions for such service established by the municipal system or electric cooperative serving that customer.

(b) An electric utility may offer any competitive service to any customer or group of customers without filing contracts with or seeking approval of the Commission, notwithstanding any rule or regulation that would require such approval. The Commission shall not increase or decrease the prices, and may not alter or add to the terms and conditions for the utility's competitive services, from those agreed to by the electric utility and the customer or customers. Non-tariffed, competitive services shall not be subject to the provisions of the Electric Supplier Act or to Articles V, VII, VIII or IX of the Act, except to the extent that any provisions of such Articles are made applicable to alternative retail electric suppliers pursuant to Sections 16-115 and 16-115A, but shall be subject to the provisions of subsections (b) through (g) of Section 16-115A, and Section 16-115B to the same extent such provisions are applicable to the services provided by alternative retail electric suppliers.

(c) Electric utilities serving retail customers outside their service areas shall be subject to the requirements of paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, except that the numerators referred to in that subsection (d) shall be the utility's retail market sales of electricity (expressed in kilowatthours sold) in the State outside of the utility's service territory in the third month preceding the current ~~prior~~ month.

(Source: P.A. 95-1027, eff. 6-1-09.)

Section 20. The Illinois Gas Pipeline Safety Act is amended by changing Sections 2.02, 2.03, 2.04, and 3 as follows:

(220 ILCS 20/2.02) (from Ch. 111 2/3, par. 552.2)

Sec. 2.02. "Gas" means natural gas, flammable gas or gas which is toxic or corrosive. "Gas" also means carbon dioxide in any physical form, whenever transported by pipeline for the purpose of sequestration.

(Source: P.A. 76-1588.)

(220 ILCS 20/2.03) (from Ch. 111 2/3, par. 552.3)

Sec. 2.03. "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline or its storage, within this State and not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, except that it includes the transmission of gas through pipeline facilities within this State that transport gas from an interstate gas pipeline to a direct sales customer within this State purchasing gas for its own consumption. "Transportation of gas" also includes the conveyance of gas from a gas main through the primary fuel line to the outside wall of residential premises. If the gas meter is placed within 3 feet of the structure, the utility's responsibility shall end at the outlet side of the meter. "Transportation of gas" also includes the conveyance of carbon dioxide in any physical form for the purpose of sequestration.

(Source: P.A. 87-1092; 88-314.)

(220 ILCS 20/2.04) (from Ch. 111 2/3, par. 552.4)

Sec. 2.04. "Pipeline facilities" includes new and existing pipe rights-of-way and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation and includes facilities within this State that transport gas from an interstate gas pipeline to a direct sales customer within this State purchasing gas for its own consumption, but "rights-of-way" as used in this Act does not authorize the Commission to prescribe, under this Act, the location or routing of any pipeline facility. "Pipeline facilities" also includes new and existing pipes and lines and any other equipment, facility, or structure, except customer-owned branch lines connected to the primary fuel lines, used to convey gas from a gas main to the outside wall of residential premises, and any person who provides gas service directly to its residential customer through these facilities shall be deemed to operate such pipeline facilities for purposes of this Act irrespective of the ownership of the facilities or the location of the facilities with respect to the meter, except that a person who provides gas service to a "master meter

system", as that term is defined at 49 C.F.R. Section 191.3, shall not be deemed to operate any facilities downstream of the master meter. "Pipeline facilities" also includes new and existing pipe rights-of-way and any equipment, facility, or building used in the transportation of carbon dioxide in any physical form for the purpose of sequestration.

(Source: P.A. 87-1092; 88-314.)

(220 ILCS 20/3) (from Ch. 111 2/3, par. 553)

Sec. 3. (a) As soon as practicable, but not later than 3 months after the effective date of this Act, the Commission shall adopt rules establishing minimum safety standards for the transportation of gas and for pipeline facilities. Such rules shall be at least as inclusive, as stringent, and compatible with, the minimum safety standards adopted by the Secretary of Transportation under the Federal Act. Thereafter, the Commission shall maintain such rules so that the rules are at least as inclusive, as stringent, and compatible with, the minimum standards from time to time in effect under the Federal Act. The Commission shall also adopt rules establishing minimum safety standards for the transportation of carbon dioxide in any physical form for the purpose of sequestration and for pipeline facilities used for that function.

(b) Standards established under this Act may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and initial testing are not applicable to pipeline facilities in existence on the date such standards are adopted. Whenever the Commission finds a particular facility to be hazardous to life or property, it may require the person operating such facility to take the steps necessary to remove the hazard.

(c) Standards established by the Commission under this Act shall, subject to paragraphs (a) and (b) of this Section 3, be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Commission shall consider: similar standards established in other states; relevant available pipeline safety data; whether such standards are appropriate for the particular type of pipeline transportation; the reasonableness of any proposed standards; and the extent to which such standards will contribute to public safety.

Rules adopted under this Act are subject to "The Illinois Administrative Procedure Act", approved September 22, 1975, as amended.

(Source: P.A. 83-333.)

Section 25. The Environmental Protection Act is amended by adding Section 13.7 as follows:

(415 ILCS 5/13.7 new)

Sec. 13.7. Carbon dioxide sequestration sites.

(a) For purposes of this Section, the term "carbon dioxide sequestration site" means a site or facility for which the Agency has issued a permit for the underground injection of carbon dioxide.

(b) The Agency shall inspect carbon dioxide sequestration sites for compliance with this Act, rules adopted under this Act, and permits issued by the Agency.

(c) If the Agency issues a seal order under Section 34 of this Act in relation to a carbon dioxide sequestration site, or if a civil action for an injunction to halt activity at a carbon dioxide sequestration site is initiated under Section 43 of this Act at the request of the Agency, then the Agency shall post notice of the action on its website.

(d) Persons seeking a permit or permit modification for the underground injection of carbon dioxide shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with review and issuance of the permit, including, but not limited to, costs associated with public hearings and the review of permit applications. Once a permit is issued, the permittee shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with inspections and other oversight of the carbon dioxide sequestration site. Persons liable for costs under this subsection (d) must pay the costs upon invoicing, or other request or demand for payment, by the Agency.

Moneys collected under this subsection (d) shall be deposited into the Environmental Protection Permit and Inspection Fund established under Section 22.8 of this Act. The Agency may adopt rules relating to the collection of costs due under this subsection (d).

(e) The Agency shall not issue a permit or permit modification for the underground injection of carbon dioxide unless all costs for which the permitee is liable under subsection (d) of this Section have been paid.

(f) No person shall fail or refuse to pay costs for which the person is liable under subsection (d) of this Section.

Section 85. Rulemaking. The Illinois Environmental Protection Agency, the Illinois Commerce Commission, the Capital Development Board, and the Illinois Department of Natural Resources shall have rulemaking authority to implement the provisions of this amendatory Act of the 96th General Assembly.

Section 90. Inseverability. The provisions of this Act are mutually dependent and inseverable. If any provision is held invalid, then this entire Act, including all new and amendatory provisions, is invalid.

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

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 2571. Having been reproduced, was taken up and read by title a second time.

The following amendment was offered in the Committee on Mass Transit, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 2571 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois and Midwest High-Speed Rail Commission Act.

Section 5. Definitions. In this Act:

"Commission" means the Illinois and Midwest High-Speed Rail Commission.

"High-speed rail" means a system of new electrified tracks designed primarily for trains capable of traveling at speeds in excess of 150 miles per hour.

Section 10. Composition of the Commission.

(a) The Commission shall be composed of 19 members as follows:

(1) 12 public members appointed by the Governor; and

(2) 7 ex-officio members as follows:

(A) the Illinois Secretary of Transportation;

(B) the Director of Commerce and Economic Opportunity;

(C) the Executive Director of the Illinois State Toll Highway Authority;

(D) a member of the House of Representatives appointed by the Speaker of the House of Representatives;

(E) a member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

(F) a member of the Senate appointed by the President of the Senate; and

(G) a member of the Senate appointed by the Minority Leader of the Senate.

(b) A person appointed as a public member of the Commission must be a resident of this State. Public members of the Commission must include the following: (i) local elected officials who have expressed interest in high-speed rail; (ii) former elected officials with transportation policy expertise; (iii) individuals with professional expertise in long-term financing of infrastructure; and (iv) individuals with expertise in transportation or railroad infrastructure projects. The appointed members shall reflect the geographic diversity of the State and shall include representation from all regions of the State.

(c) Commission members shall be appointed within 45 days after the effective date of this Act.

(d) The Governor shall designate one public member of the Commission to serve as the chair of the Commission and one public member to serve as the vice-chair of the Commission.

Section 15. Ex-officio members; eligibility; designation of representative.

(a) An ex-officio member of the Commission vacates the person's position on the Commission if the person ceases to hold the position that qualifies the person for service on the Commission.

(b) An ex-officio member may designate a representative to serve on the Commission in the member's absence. A representative designated under this subsection by the Illinois Secretary of Transportation, the Director of Commerce and Economic Opportunity, or the Executive Director of the Illinois State Toll Highway Authority must be an officer or employee of the State agency that employs the ex-officio member.

Section 20. Compensation; expenses.

(a) A public member of the Commission is not entitled to compensation but is entitled to reimbursement for the travel expenses incurred by the member while transacting Commission business.

(b) An ex-officio member's service on the Commission is an additional duty of the underlying position that qualifies the member for service on the Commission. The entitlement of an ex-officio member to compensation or to reimbursement for travel expenses incurred while transacting Commission business is governed by the law that applies to the member's service in that underlying position, and any payment to the member for either purpose must be made from an appropriation that may be used for the purpose and is

available to the State agency that the member serves in that underlying position.

Section 25. Meetings; quorum.

(a) The Commission shall meet at least monthly at the times and places in this State that the chair designates until April 2011 and at least quarterly thereafter.

(b) Members of the Commission may participate in Commission meetings by teleconference or video conference.

(c) A majority of the members of the Commission constitute a quorum for transacting Commission business.

Section 30. General powers and duties of the Commission.

(a) The Commission shall:

(1) Prepare and issue a report to the Governor, the General Assembly, and the public recommending the best governmental structure for a public-private partnership to design, build, operate, maintain, and finance a high-speed rail system for Illinois and the Midwest. The report must include specific recommendations for legislation, if statutory change is required, or specific administrative regulations, if regulatory change is required, to implement the recommended high-speed rail system. The report must include recommended sources for the funding of a high-speed rail system including private sources of capital and revenue bonds. The report must contain recommendations for integrating the high-speed rail system into existing and planned Amtrak expansions, airports, and public transportation systems. The report must include recommendations for federal, State, and local actions for the development and implementation of a high-speed rail system. The report must be issued by September 20, 2011.

(2) Prepare a follow-up report that details the status of recommendations issued by the Commission and any revised and updated recommendations based on further public and stakeholder input. The follow-up report must be issued by August 1, 2012.

(3) Develop a process to receive public and stakeholder input on opinions and proposals for building, designing, maintaining, operating, and financing a high-speed rail system for Illinois and the Midwest. The process must include the solicitation and receipt of formal expressions of interest and other testimony from global high-speed rail operators including without limitation Amtrak.

(4) Solicit and receive formal testimony, both written and oral, from representatives of the other states in the Midwest including without limitation representatives from units of local government.

(5) Work collaboratively with the Department of Transportation on any planning projects for high-speed rail administered by the Department to comply with federal high-speed rail requirements including without limitation the solicitation of public input and comments.

(b) In implementing subsection (a), the Commission must consult with and receive testimony from global high-speed rail operators including without limitation Amtrak.

(c) Nothing in this Act shall preclude the Department of Transportation from planning for high-speed rail.

Section 35. Funding. The Illinois Department of Transportation may provide staff and other support to the Commission from money available to the Department that may be used for this purpose. The General Assembly may also specifically appropriate money to the Department to provide staff and other support to the Commission.

The Commission may accept monetary gifts and grants from any public or private source. The Commission may also accept in-kind gifts.

Section 95. Repeal. This Act is repealed on January 1, 2014.

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

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 3388. Having been reproduced, was taken up and read by title a second time.

The following amendments were offered in the Committee on Environment & Energy, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 3388 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Power Agency Act is amended by changing Sections 1-10 and 1-20 and by adding Sections 1-77 and 1-78 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG brownfield facility" means a facility that (1) has commenced construction by July 1, 2014 on an urban brownfield site in a municipality with at least 1,000,000 residents; (2) uses a gasification process to produce substitute natural gas; (3) uses coal as at least 50% of the total feedstock over the term of any sourcing agreement with a utility and the remainder of the feedstock may be either petroleum coke or coal, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; and (4) captures and sequesters at least 85% of the total carbon dioxide emissions that the facility would otherwise emit.

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon dioxide emissions that the facility would otherwise emit and that uses petroleum coke or coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content; provided, however, a clean coal SNG brownfield facility shall not be a clean coal SNG facility.

"Commission" means the Illinois Commerce Commission.

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

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

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

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

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest, contingency, as required by lenders, and other financing costs, and other expenses for professional services; and

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

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

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

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

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

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

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

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

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

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

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

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

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

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

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

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

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

"Sequester" means permanent storage of carbon dioxide only as approved by the Commission pursuant to subsection (h-7) of Section 9-220 of the Public Utilities Act by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage, regardless of whether these activities are conducted by a clean coal facility, clean coal SNG facility, clean coal SNG brownfield facility, or a party with which a clean coal facility, clean coal SNG facility, or clean coal SNG brownfield facility has contracted for such purposes ~~in a salt dome~~.

"Sourcing ~~Servicing~~ agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, ~~and~~ (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act , and (iii) in case of a gas utility, an agreement between the owner of a clean coal SNG brownfield facility and the gas utility, which agreement shall have the terms and conditions meeting the requirements of subsection (h-1) of Section 9-220 of the Public Utilities Act.

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

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total

costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

(20 ILCS 3855/1-20)

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

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

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

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

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

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

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

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

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

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

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

(5) To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real or personal property whether tangible or intangible, or any interest therein, within the State.

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

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

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

(9) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Act, including contracts with any person, local government, State agency, or other entity; and all State agencies and all local

governments are authorized to enter into and do all things necessary to perform any such agreement, contract, or other instrument with the Agency. No such agreement, contract, or other instrument shall exceed 40 years.

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

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

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

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

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

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

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

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

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

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

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

(21) To accept and expend appropriations.

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

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

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

(25) To conduct competitive gasification feedstock procurement processes to procure the feedstocks for the clean coal SNG brownfield facility in accordance with the requirements of Section 1-78 of this Act ~~To manage procurement of substitute natural gas from a facility that meets the criteria specified in subsection (a) of Section 1-58 of this Act, on terms and conditions that may be approved by the Agency pursuant to subsection (d) of Section 1-58 of this Act, to support the operations of State agencies and local governments that agree to such terms and conditions. This procurement process is not subject to the Procurement Code~~.

(26) To review, revise, and approve sourcing agreements and mediate and resolve disputes between gas utilities and the clean coal SNG brownfield facility pursuant to subsection (h-1) of Section 9-220 of the Public Utilities Act.

(Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

(20 ILCS 3855/1-77 new)

Sec. 1-77. The Planning and Procurement Bureau; feedstock procurement administrator; qualified expert or expert consulting firm.

(a) The Planning and Procurement Bureau shall at least every 5 years beginning in 2015 develop feedstock procurement plans and conduct competitive feedstock procurement processes in accordance with

the requirements of Section 1-78 of this Act.

(1) The Agency shall at least every 5 years beginning in 2015 issue a request for qualifications for experts or expert consulting firms to develop the feedstock procurement plans in accordance with Section 1-78 of this Act. In order to qualify, an expert or expert consulting firm must have:

(A) direct previous experience assembling large scale feedstock supply plans or portfolios for industrial customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) ten years of experience in the energy sector, including managing supply risk;

(D) expertise in wholesale feedstock markets, which may be particularized to the specific type of feedstock to be purchased in that procurement event;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected clean coal SNG brownfield facility.

(2) The Agency shall at least every 5 years beginning in 2015 issue a request for qualifications for a feedstock procurement administrator to conduct the competitive feedstock procurement processes in accordance with Section 1-78 of this Act. In order to qualify, an expert or expert consulting firm must have:

(A) direct previous experience administering a large scale competitive feedstock procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) ten years of experience in the energy sector, including risk management experience;

(D) expertise in wholesale feedstock market rules, which may be particularized to the specific type of feedstock to be purchased in that procurement event;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected clean coal SNG brownfield facility.

(3) The Agency shall provide the clean coal SNG brownfield facility and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the feedstock procurement plans and to serve as the feedstock procurement administrator. The Agency shall also provide the clean coal SNG brownfield facility and other interested parties with each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph (3) shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to the clean coal SNG brownfield facility and other interested parties. The clean coal SNG brownfield facility and other interested parties must, within 5 business days after receiving the lists and information, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the clean coal SNG brownfield facility.

The Agency shall remove an expert or expert consulting firm from the list within 10 days if there is a reasonable basis for an objection and provide the updated list to the clean coal SNG brownfield facility and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, then an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days after the filing. There is no right of appeal of the Commission's ruling.

(4) The Agency shall, as needed, issue requests for proposals to the qualified experts or expert consulting firms to develop a feedstock procurement plan for the clean coal SNG brownfield facility and to serve as feedstock procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop feedstock procurement plans based on the proposals submitted and shall award one-year contracts to those selected with an option for the Agency for a one-year renewal.

(6) The Agency shall select, with the approval of the Commission, an expert or expert consulting firm to serve as feedstock procurement administrator based on the proposals submitted. If the Commission

rejects the Agency's selection within 5 days after being notified of the Agency's selection, then the Agency shall submit another recommendation within 3 days after the Commission's rejection based on the proposals submitted. The Agency shall award at least a one-year contract to the expert or expert consulting firm selected with the Commission's approval with an option for the Agency for renewal for a term equal to the term of the contract.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare feedstock procurement plans and conduct a competitive feedstock procurement process as prescribed in Section 1-78 of this Act to ensure adequate, reliable, affordable feedstocks, taking into account any benefits of price stability, for the clean coal SNG brownfield facility.

(c) The draft procurement plans are subject to public comment pursuant to Section 1-78 of this Act.

(d) The Agency shall assess fees to each bidder to recover the costs incurred in connection with the competitive procurement process.

(20 ILCS 3855/1-78 new)

Sec. 1-78. Feedstock procurement plan; feedstock procurement process.

(a) A feedstock procurement plan shall at least every 5 years beginning in 2015 be prepared for the clean coal SNG brownfield facility based on the clean coal SNG brownfield facility's projection of feedstock usage and ratios, and consistent with the applicable requirements of the Public Utilities Act and this Act. The plan shall specifically identify the wholesale feedstock products to be procured following plan approval and shall follow all the requirements set forth in this Act, the Public Utilities Act, and all applicable State and federal laws, statutes, rules, or regulations, as well as Commission orders. Nothing in this Section precludes consideration of contracts longer than 5 years and related forecast data. Any feedstock procurement occurring in accordance with this plan shall be competitively bid through a request for proposals process. Approval and implementation of the feedstock procurement plan shall be subject to review and approval by the Commission according to the provisions set forth in this Section. A feedstock procurement plan shall include each of the following components:

(1) Daily load analysis. This analysis shall include:

(A) multi-year historical analysis of hourly loads; and

(B) known or projected changes to future loads.

(2) Determination of the fuel specifications required for the clean coal SNG brownfield facility, including:

(A) coal and petroleum coke mix, as set by the clean coal SNG brownfield facility with coal comprising at least 50% of the total feedstock over the term of any sourcing agreement;

(B) volume of each feedstock required;

(C) quality standards of each feedstock;

(D) delivery requirements, including cost implications; and

(E) technical specifications of the clean coal SNG brownfield facility for its feedstocks.

(b) The feedstock procurement process shall be administered by a feedstock procurement administrator and monitored by a feedstock procurement monitor.

(1) The feedstock procurement administrator shall:

(A) design the final feedstock procurement process in accordance with subsection (d) of this Section following Commission approval of the feedstock procurement plan;

(B) develop feedstock benchmarks in accordance with subsection (d)(3) to be used to evaluate bids; these benchmarks shall be submitted to the Commission for review and approval on a confidential basis prior to the feedstock procurement event;

(C) serve as the interface between the clean coal SNG brownfield facility and coal and petroleum coke suppliers;

(D) manage the bidder pre-qualification and registration process;

(E) obtain the facility's agreement to the final form of all supply contracts and credit collateral agreements;

(F) administer the request for feedstock proposals process;

(G) have the discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and shall be conducted in a fair and unbiased manner; in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; if information is disclosed to any bidder, it shall be provided to all competing bidders;

(H) maintain confidentiality of supplier and bidding information in a manner consistent with all

applicable laws, rules, regulations, and tariffs;

(I) submit a confidential report to the Commission recommending acceptance or rejection of bids;

(J) notify the facility of contract counterparties and contract specifics; and

(K) administer related contingency feedstock procurement events.

(2) The feedstock procurement monitor, who shall be retained by the Commission, shall:

(A) monitor interactions among the feedstock procurement administrator, suppliers, and the facility;

(B) monitor and report to the Commission on the progress of the feedstock procurement process;

(C) provide an independent, confidential report to the Commission regarding the results of the feedstock procurement event;

(D) preserve the confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(E) provide expert advice to the Commission and consult with the feedstock procurement administrator regarding issues related to feedstock procurement process design, rules, protocols, and policy-related matters;

(F) consult with the feedstock procurement administrator regarding the development and use of benchmark criteria, standard form contracts, credit policies, and bid documents; and

(G) assess compliance with the procurement plans approved by the Commission.

(c) The feedstock planning process shall be conducted as follows:

(1) Beginning in 2015, the clean coal SNG brownfield facility shall annually provide a range of feedstock requirement forecasts to the Agency by May 15 of each year, or such other date as may be required by the Commission or Agency. The feedstock requirement forecasts shall cover the 5-year feedstock procurement planning period for the next feedstock procurement plan, or such other longer period that the Agency or the Commission may require and shall include daily data representing a high-load, low-load, and expected-load scenario for the load of the utilities required to enter into sourcing agreements with the clean coal SNG brownfield facility. The utility shall provide supporting data and assumptions for each of the scenarios.

(2) Beginning in 2015, the Agency shall at least every 5 years prepare a feedstock procurement plan by June 15, or such other date as may be required by the Commission. The feedstock procurement plan shall identify the portfolio of feedstocks to be procured. Copies of the feedstock procurement plan shall be posted and made publicly available on the Agency's and Commission's websites, and copies shall also be provided to the clean coal SNG brownfield facility. The clean coal SNG brownfield facility shall have 30 days following the date of posting to provide comment to the Agency on the feedstock procurement plan. Other interested entities also may comment on the feedstock procurement plan. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the feedstock procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 30-day comment period, the Agency shall hold at least one public hearing for the purpose of receiving public comment on the procurement plan. Within 14 days following the end of the 30-day comment period, the Agency shall revise the feedstock procurement plan as necessary based on the comments received, file the feedstock procurement plan with the Commission, and post the feedstock procurement plan on the websites.

(3) Within 5 days after the filing of the feedstock procurement plan, any person objecting to the feedstock procurement plan shall file an objection with the Commission. Within 10 days after the filing, the Commission shall determine whether a hearing is necessary. The Commission shall enter its order confirming or modifying the feedstock procurement plan within 90 days after the filing of the feedstock procurement plan by the Agency.

(4) The Commission shall approve the feedstock procurement plan, including expressly the forecast used in the feedstock procurement plan, if the Commission determines that it will ensure adequate, reliable, and affordable feedstocks to the clean coal SNG brownfield facility at the lowest total cost over time, taking into account any benefits of price stability.

(d) The feedstock procurement process shall include each of the following components:

(1) Solicitation, pre qualification, and registration of bidders. The feedstock procurement administrator shall disseminate information to potential bidders to promote a feedstock procurement event, notify potential bidders that the feedstock procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive feedstock procurement process. In addition to such other publication as the feedstock procurement administrator determines is appropriate, this information shall be posted on the Agency's and the Commission's websites. The feedstock procurement administrator shall also administer the

prequalification process, including evaluation of credit worthiness, compliance with feedstock procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (d). The feedstock procurement administrator shall then identify and register bidders to participate in the feedstock procurement event.

(2) Standard contract forms and credit terms and instruments. The feedstock procurement administrator, in consultation with the clean coal SNG brownfield facility, gas utilities, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The feedstock procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the feedstock procurement administrator cannot reach agreement with the applicable clean coal SNG brownfield facility as to the contract terms and conditions, then the feedstock procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning bidders and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

(3) Establishment of a market-based price benchmark. As part of the development of the feedstock procurement process, the feedstock procurement administrator, in consultation with the Commission staff, Agency staff, and the feedstock procurement monitor, shall establish benchmarks for evaluating the final prices in the contracts for each of the feedstocks that will be procured through the feedstock procurement process. The benchmarks shall be based on price data for similar feedstocks for the same delivery period and same delivery hub or other delivery hubs after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific feedstocks and gasification feedstock procurement process being used to procure for the clean coal SNG brownfield facility. The benchmarks shall be confidential but shall be provided to, and shall be subject to, the Commission's review and approval prior to a feedstock procurement event.

(4) Request for proposals. The feedstock procurement administrator shall design and issue a request for proposals to supply coal or petroleum coke in accordance with the clean coal SNG brownfield facility's usage plan, as approved by the Commission. The request for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.

(5) A plan for implementing contingencies in the event of supplier default or failure of the feedstock procurement process to fully meet the expected feedstock requirement due to insufficient supplier participation, Commission rejection of results, or any other cause. The plan must be specific to the clean coal SNG brownfield facility's feedstock specifications and requirements.

The feedstock procurement process described in this subsection (d) is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

(e) Within 2 business days after opening the sealed bids, the feedstock procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the feedstock types along with the feedstock procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The feedstock procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the feedstock procurement monitor's assessment of bidder behavior in the process, as well as an assessment of the feedstock procurement administrator's compliance with the feedstock procurement process and rules. The Commission shall review the confidential reports submitted by the feedstock procurement administrator and feedstock procurement monitor and shall accept or reject the recommendations of the feedstock procurement administrator within 2 business days after receipt of the reports.

(f) Within 3 business days after the Commission decision approving the results of a feedstock procurement event, the clean coal SNG brownfield facility shall enter into binding contractual arrangements with the winning suppliers using standard form contracts.

(g) The names of the successful bidders and the amount of feedstock to be delivered for each contract type and for each contract term shall be made available to the public at the time of Commission approval of a feedstock procurement event. The Commission, the procurement monitor, the feedstock procurement administrator, the Agency, and all participants in the feedstock procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the

feedstock procurement administrator and feedstock procurement monitor pursuant to subsection (e) of this Section, shall not be publicly available or discoverable by any party in any proceeding absent a compelling demonstration of need. The reports shall not be admissible in any proceeding other than one for law enforcement purposes.

(h) Within 2 business days after a Commission decision approving the results of a feedstock procurement event or such other date as may be required by the Commission from time to time, the clean coal SNG brownfield facility shall file for informational purposes with the Commission its actual or estimated feedstock costs by utility customer reflecting the costs associated with the feedstock procurement.

(i) The clean coal SNG brownfield facility shall pay for reasonable costs incurred by the Agency in administering the feedstock procurement events, which costs shall be included in the actual delivered fuel costs of the clean coal SNG brownfield facility. The Agency shall determine the amount owed for each feedstock procurement event, and the clean coal SNG brownfield facility shall pay that amount to the Agency within 30 days after being informed by the Agency of the amount owed. Those funds shall be deposited into the Illinois Power Agency Operations Fund, pursuant to Section 1-55 of this Act, to be used to reimburse expenses related to the feedstock procurement.

(j) The Commission has the authority to adopt rules to carry out the provisions of this Section. For the public interest, safety, and welfare, the Commission also has the authority to adopt rules to carry out the provisions of this Section on an emergency basis.

(k) On or before April 1 of each year, the Commission may hold an informal hearing for the purpose of receiving comments on the prior year's feedstock procurement process and any recommendations for change.

Section 7. The Illinois Procurement Code is amended by changing Sections 1-10 and 20-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than $25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to the determination of costs of a clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in subsection (h-3) of Section 9-220 of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.

(f) This Code does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between gas utilities and the clean coal SNG brownfield facility, as defined in Section 1-10 of the Illinois Power Agency Act, as required under subsection (h-1) of Section 9-220 of the Public Utilities Act.

(Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07; 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10.)

(30 ILCS 500/20-10)

(Text of Section from P.A. 96-159 and 96-588)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1-75 and subsection (d) of Section 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate

volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the Director of Central Management Services as chief procurement officer, a State purchasing officer under that chief procurement officer's jurisdiction may procure supplies or services through a competitive electronic auction bidding process after the purchasing officer explains in writing to the chief procurement officer his or her determination that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, including but not limited to telecommunications services, communications services, Internet services, and information services, and (ii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-588, eff. 8-18-09; revised 10-5-10.)

(Text of Section from P.A. 96-159 and 96-795)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

(1) a description of the agency's needs;

(2) a determination that the anticipated cost will be fair and reasonable;

(3) a listing of all responsible and responsive bidders; and

(4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1-75 and subsection (d) of Section 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); revised 10-5-10.)

Section 10. The Public Utilities Act is amended by changing Sections 3-101 and 9-220 and by adding Section 3-123 as follows:

(220 ILCS 5/3-101) (from Ch. 111 2/3, par. 3-101)

Sec. 3-101. Definitions. Unless otherwise specified, the terms set forth in Sections 3-102 through 3-123 ~~3-121~~ are used in this Act as therein defined.

(Source: P.A. 84-617; 84-1118.)

(220 ILCS 5/3-123 new)

Sec. 3-123. Clean coal SNG brownfield facility; sequester; SNG facility; sourcing agreement; substitute natural gas or SNG. As used in this Act:

"Clean coal SNG brownfield facility" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"Sequester" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"SNG facility" means a facility that produces substitute natural gas from feedstock that includes coal through a gasification process, including a clean coal facility, the clean coal SNG brownfield facility, and the facility described in subsection (h) of Section 9-220 of this Act.

"Sourcing agreement" means an agreement between the owner of a clean coal SNG brownfield facility and the gas utility that has the terms and conditions meeting the requirements of subsection (h-1) of Section 9-220 of this Act.

"Substitute natural gas" or "SNG" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

(220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified, the proposed tariff sheets within 60 days after the date of the public utility's filing. The Commission may modify the public utility's proposed tariff sheets only to the extent the Commission finds necessary to achieve conformance to the requirements of this subsection (b). During the 5 years following the date of the Commission's order, but in any event no earlier than January 1, 2007, a public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for,

reinstatement of a fuel adjustment clause.

(c) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service, other than a public utility described in subsection (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that establish the rate per kilowatt-hour to be applied pursuant to the public utility's fuel adjustment clause at the average value for such rate during the preceding 24 months, provided that such average rate results in a credit to customers' bills, without making any revisions to the public utility's base rate tariffs. The proposed tariff sheets shall establish the fuel adjustment rate for a specific time period of at least 3 years but not more than 5 years, provided that the terms and conditions for any reinstatement earlier than 5 years shall be set forth in the proposed tariff sheets and subject to modification or approval by the Commission. The Commission shall review and shall by order approve the proposed tariff sheets if it finds that the requirements of this subsection are met. The Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for the period that the factor established pursuant to this subsection is in effect.

(d) A public utility providing electric service, or a public utility providing gas service may file with the Commission proposed tariff sheets that eliminate the public utility's fuel or purchased gas adjustment clause and adjust the public utility's base rate tariffs to provide for recovery of power supply costs or gas supply costs that would have been recovered through such clause; provided, that the provisions of this subsection (d) shall not be available to a public utility described in subsections (e) or (f) of this Section to eliminate its fuel adjustment clause. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified in the Commission's order, the proposed tariff sheets within 240 days after the date of the public utility's filing. The Commission's order shall approve rates and charges that the Commission, based on information in the public utility's filing or on the record if a hearing is held by the Commission, finds will recover the reasonable, prudent and necessary jurisdictional power supply costs or gas supply costs incurred or to be incurred by the public utility during a 12 month period found by the Commission to be appropriate for these purposes, provided, that such period shall be either (i) a 12 month historical period occurring during the 15 months ending on the date of the public utility's filing, or (ii) a 12 month future period ending no later than 15 months following the date of the public utility's filing. The public utility shall include with its tariff filing information showing both (1) its actual jurisdictional power supply costs or gas supply costs for a 12 month historical period conforming to (i) above and (2) its projected jurisdictional power supply costs or gas supply costs for a future 12 month period conforming to (ii) above. If the Commission's order requires modifications in the tariff sheets filed by the public utility, the public utility shall have 7 days following the date of the order to notify the Commission whether the public utility will implement the modified tariffs or elect to continue its fuel or purchased gas adjustment clause in force as though no order had been entered. The Commission's order shall provide for any reconciliation of power supply costs or gas supply costs, as the case may be, and associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order

within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any Illinois gas utility may enter into a contract on or before March 31, 2011 for up to 10 years of supply with any company for the purchase of substitute natural gas (SNG) produced from coal through the gasification process if the company has commenced construction of a coal gasification facility by July 1, 2012 in Jefferson County and commencement of construction shall mean that material physical site work has occurred, such as site clearing and excavation, water runoff prevention, water retention reservoir preparation, or foundation development. The contract shall contain the following provisions: (i) the only coal to be used in the gasification process has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu may not exceed $7.95 in 2008 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed $9.95 at any time during the contract; (iii) the utility's aggregate long-term supply contracts for the purchase of SNG does not exceed 25% of the annual system supply requirements of the utility as of 2008 and the quantity of SNG supplied to a utility may not exceed 16 million MMBtus; and (iv) contract costs pursuant to subsection (h-10) of this Section shall not include any lobbying expenses, charitable contributions, advertising, organizational memberships, or marketing expenses per year.

(h-1) Any Illinois gas utility may enter into a sourcing agreement for up to 30 years of supply with the clean coal SNG brownfield facility if the clean coal SNG brownfield facility has commenced construction. Any gas utility that is providing service to more than 150,000 customers on the effective date of this amendatory Act of the 96th General Assembly shall either elect to file biennial rate proceedings before the Commission in the years 2011, 2013, and 2015 or enter into a sourcing agreement or sourcing agreements with a clean coal SNG brownfield facility for 30 years for either (i) 43,500,000,000 cubic feet per year times a percentage calculated by dividing 100 by the number of utilities entering into sourcing agreements

with the clean coal SNG brownfield facility or (ii) such lesser amount as may be available from the clean coal SNG brownfield facility.

Provided, however, that the Illinois Power Agency may allocate the purchase obligations more proportionately based upon total therms sold to ultimate customers, if it is demonstrated with certainty that such alternative allocation will not result in adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any purchasing utility. In any event, no utility shall be required to purchase more than 42% of the projected annual output of the clean coal SNG brownfield facility, with the remainder of such utility's obligation to be divided proportionately between the other utilities.

A gas utility electing to file biennial rate proceedings before the Commission must file a notice of its election with the Commission within 60 days after the effective date of this amendatory Act of the 96th General Assembly or its right to make the election is irrevocably waived. A gas utility electing to file biennial rate proceedings shall make such filings no later than August 1 of the years 2011, 2013, and 2015, consistent with all requirements of 83 Ill. Adm. Code 255 and 285 as though the gas utility were filing for an increase in its rates, without regard to whether such filing would produce an increase, a decrease, or no change in the gas utility's rates, and the Commission shall review the gas utility's filing and shall issue its order in accordance with the provisions of Section 9-201 of this Act.

Within 15 days after the effective date of this amendatory Act of the 96th General Assembly, the owner of the clean coal SNG brownfield facility shall submit to the Illinois Power Agency and each gas utility that is providing service to more than 150,000 customers on the effective date of this amendatory Act of the 96th General Assembly a copy of a draft sourcing agreement. Within 45 days after receipt of the draft sourcing agreement, each such gas utility shall provide the Illinois Power Agency and the owner of a clean coal SNG brownfield facility with its comments and recommended revisions to the draft sourcing agreement. Within 15 days after the receipt of the gas utility's comments and recommended revisions, the owner of the clean coal SNG brownfield facility shall submit its responsive comments and a further revised draft of the sourcing agreement to the Illinois Power Agency. The Illinois Power Agency shall review the draft sourcing agreement and comments.

If the parties to the sourcing agreement do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the sourcing agreement, the Illinois Power Agency shall approve the final draft sourcing agreement. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the draft sourcing agreement as necessary to confirm that the final draft sourcing agreement contains only terms that are reasonable and equitable. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this subsection (h-1). Any mediator retained to assist with calculating the range of capital costs or operations and maintenance costs shall be retained no later than 90 days after the effective date of this amendatory Act of the 96th General Assembly.

Upon approval of a final draft agreement, the Illinois Power Agency shall submit the final draft agreement to the Capital Development Board and the Commission no later than 90 days after the effective date of this amendatory Act of the 96th General Assembly. The gas utility and the clean coal SNG brownfield facility shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h-1) and shall pay the mediator's reasonable fees, if any. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this Section.

The sourcing agreement between a gas utility and the clean coal SNG brownfield facility shall contain the following provisions:

(1) Any and all coal used in the gasification process must be coal that has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content.

(2) Coal and petroleum coke are feedstocks for the gasification process, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement and with the feedstocks to be procured in accordance with requirements of Section 1-78 of the Illinois Power Agency Act.

(3) The sourcing agreement once entered into terminates no more than 30 years after the commencement of the commercial production of SNG at the clean coal SNG brownfield facility.

(4) The clean coal SNG brownfield facility guarantees a minimum of $100,000,000 in consumer savings, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement, to be provided in accordance with subsection (h-2) of this Section.

(5) Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the

clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to this subsection (h-1), with cash principal in the amount of $150,000,000. This cash principal shall only be recoverable through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with subsection (h-2) of this Section.

(6) The clean coal SNG brownfield facility shall identify and sell economically viable by-products produced by the facility.

(7) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account pursuant to subsection (h-2) of this Section.

(8) The delivered SNG price per million btu to be paid monthly by the utility to the clean coal SNG brownfield facility, which shall be based only upon the following: (A) a capital recovery charge, operations and maintenance costs, and sequestration costs, only to the extent approved by the Commission pursuant to paragraphs (1), (2), and (3) of subsection (h-3) of this Section; (B) the actual delivered and processed fuel costs pursuant to paragraph (4) of subsection (h-3) of this Section; (C) actual costs of SNG transportation pursuant to paragraph (6) of subsection (h-3) of this Section; (D) certain taxes and fees imposed by the federal government, the State, or any unit of local government as provided in paragraph (6) of subsection (h-3) of this Section; and (E) the credit, if any, from the consumer protection reserve account pursuant to subsection (h-2) of this Section. The delivered SNG price per million Btu shall proportionately reflect these elements over the term of the sourcing agreement.

(9) A formula to translate the recoverable costs and charges under subsection (h-3) of this Section into the delivered SNG price per million btu.

(10) Title to the SNG shall pass at a mutually-agreeable point in Illinois, and may provide that, rather than the utility taking title to the SNG, a mutually-agreed upon third-party gas marketer pursuant to a contract approved by the Illinois Power Agency or its designee, may take title to the SNG pursuant to an agreement between the utility, the owner of the clean coal SNG brownfield facility, and the third-party gas marketer.

(11) A utility may exit the sourcing agreement without penalty if the clean coal SNG brownfield facility does not commence construction by July 1, 2014.

(12) A utility is responsible to pay only the Commission determined unit price cost of SNG that is purchased by the utility. Nothing in the sourcing agreement will obligate a utility to invest capital in a clean coal SNG brownfield facility.

(13) The quality of SNG must, at a minimum, be equivalent to the equality required for an interstate pipeline gas before a utility is required to accept and pay for SNG gas.

(14) Nothing in the sourcing agreement will require a utility to construct any facilities to accept delivery of SNG. Provided, however, if a utility is required by law or otherwise elects to connect the clean coal SNG brownfield facility to an interstate pipeline, then the utility shall be entitled to recover pursuant to its tariffs all just and reasonable costs that are prudently incurred. Any costs incurred by the utility to receive, deliver, manage, or otherwise accommodate purchases under the SNG sourcing agreement will be fully recoverable through a utility's purchased gas adjustment clause rider mechanism.

(15) Remedies for the clean coal SNG brownfield facility's failure to deliver a designated amount for a designated period.

For the purposes of this subsection (h-1), in any given year, the net increase in the prices paid in connection with gas service by residential customers due to the costs of the SNG purchased pursuant to a sourcing agreement under this subsection (h-1) shall be limited to:

(A) in 2010, no more than 0.5% of the amount paid per million Btu by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per million btu by those customers during the year ending May 31, 2010 or 1% of the amount paid per million btu by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per million btu by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per million btu during the year ending

May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per million btu by those customers during the year ending May 2012 or 2% of the amount paid per million btu by those customers during the year ending May 31, 2009; and

(E) thereafter, the estimated average net increase due to the cost of these resources included in the amounts paid by residential customers in connection with gas service shall be no more than the greater of (i) 2.015% of the amount paid per million btu by those customers during the year ending May 31, 2009 or (ii) the incremental amount per million btu paid for these resources in 2013. Any increase over these limits in prices in connection with gas service shall be spread evenly among commercial and industrial customers who purchase gas directly from the utility or have gas delivered by the utility. These requirements may be altered only as provided by statute. No later than June 30, 2016, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with the clean coal SNG brownfield facility pursuant to this subsection (h-1) and report to the General Assembly its findings as to the effect of the limitation on the clean coal SNG brownfield facility, gas utilities, and customers.

(h-2) Consumer protection reserve account. The clean coal SNG brownfield facility shall guarantee a minimum of $100,000,000 in consumer savings, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement. Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the retail customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to subsection (h-1), with cash principal in the amount of $150,000,000. Such cash principal shall only be recovered through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with the following:

(1) The clean coal SNG brownfield facility monthly shall calculate the difference between the monthly delivered SNG price and the Chicago City-gate price, by comparing the delivered SNG price, which shall include the cost of transportation to the delivery point, if any, to the Chicago City-gate price on a weighted daily basis for each day of the prior month based upon a mutually-agreed upon published index.

(2) During the first 2 years of operation of the facility:

(A) to the extent the monthly delivered SNG price, is greater than the Chicago City-gate price, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the difference between the monthly delivered SNG price and the Chicago City-gate price; and

(B) to the extent the monthly delivered SNG price is less than or equal to the Chicago City-gate price, the utility shall credit the difference between the monthly delivered SNG price and the monthly Chicago City-gate price, if any, to the consumer protection reserve account. Such credit issued pursuant to this paragraph (B) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(3) After 2 years of operation of the facility, and monthly, on an on-going basis, thereafter:

(A) to the extent that the monthly delivered SNG price is less than or equal to the Chicago City-gate price, calculated using the weighted average of the daily Chicago City-gate price on a daily basis over the entire month, the utility shall credit the difference, if any, to the consumer protection reserve account. Such credit issued pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(B) any amounts in the consumer protection reserve account in excess of $100,000,000 shall be distributed to the clean coal SNG brownfield facility; provided, however, that under no circumstances shall the total cumulative amount distributed to the clean coal SNG brownfield facility under this subparagraph (B) exceed $150,000,000;

(C) to the extent the monthly delivered SNG price is greater than the Chicago City-gate price, after distributing the amounts pursuant to subparagraph (B) of this paragraph (3), if any, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the difference between the monthly delivered SNG price and the Chicago City-gate price;

(D) if retail customers have realized net consumer savings, calculated by comparing the delivered SNG price to the weighted average of the daily Chicago City-gate price on a daily basis over the entire term

of the sourcing agreement to date, then after distributing the amounts pursuant to subparagraphs (B) and (C) of this paragraph (3), 50% of any additional amounts in the consumer protection reserve account in excess of $100,000,000 shall be distributed to the clean coal SNG brownfield facility, with the remaining 50% of any such additional amounts being credited to retail customers; provided, however, that if retail customers have not realized such net consumer savings, no such distribution shall be made to the clean coal SNG brownfield facility, and 100% of such additional amounts shall be credited to the retail customers to the extent the consumer protection reserve account exceeds $100,000,000.

(4) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account.

(5) At the conclusion of the term of the sourcing agreement, to the extent retail customers have not saved the minimum of $100,000,000 in consumer savings as guaranteed in this subsection (h-2), amounts in the consumer protection reserve account shall be credited to retail customers to the extent the retail customers have saved the minimum of $100,000,000; 50% of any additional amounts in the consumer protection reserve account shall be distributed to the company, and the remaining 50% shall be distributed to retail customers.

(6) If, at the conclusion of the term of the sourcing agreement, the customers have not saved the minimum $100,000,000 in savings as guaranteed in this subsection (h-2) and the consumer protection reserve account has been depleted, then the clean coal SNG brownfield facility shall be liable for any remaining amount owed to the retail customers to the extent that the customers are provided with the $100,000,000 in savings as guaranteed in this subsection (h-2). The retail customers shall have first priority in recovering that debt above any creditors, except the original senior secured lender to the extent that the original senior secured lender has any senior secured debt outstanding, including any clean coal SNG brownfield facility parent companies or affiliates.

(7) The clean coal SNG brownfield facility, the utilities, and the trustee shall work together to take commercially reasonable steps to minimize the tax impact of these transactions, while preserving the consumer benefits.

(8) The clean coal SNG brownfield facility shall each month, starting in the facility's first year of commercial operation, file with the Commission, in such form as the Commission shall require, a report as to the consumer protection reserve account. The monthly report must contain the following information:

(A) the extent the monthly delivered SNG price is greater than, less than, or equal to the Chicago City-gate price;

(B) the amount credited or debited to the consumer protection reserve account during the month;

(C) the amounts credited to consumers and distributed to the clean coal SNG brownfield facility during the month;

(D) the total amount of the consumer protection reserve account at the beginning and end of the month;

(E) the total amount of consumer savings to date; and

(F) any other additional information the Commission shall require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG brownfield facility to amend the report within 30 days, and, before or after the termination of the 30-day period, the Commission may examine the trustee of the consumer protection reserve account or the officers, agents, employees, books, records, or accounts of the clean coal SNG brownfield facility and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall be under oath.

All reports made to the Commission by the clean coal SNG brownfield and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file a report required under this paragraph (8) to the Commission within the time specified or to make specific answer to any question propounded by the Commission within 30 days from the time it is lawfully required to do so, or within such further time not to exceed 90 days as may in its discretion be allowed by the Commission, shall pay a penalty of $500 to the Commission for each day it is in default.

Any person who willfully makes any false report to the Commission or to any member, officer, or employee thereof, any person who willfully in a report withholds or fails to provide material information to which the Commission is entitled under this paragraph (8) and which information is either required to be filed by statute, rule, regulation, order, or decision of the Commission or has been requested by the Commission, and any person who willfully aids or abets such person shall be guilty of a Class A misdemeanor.

(h-3) Recoverable costs and revenue by the clean coal SNG brownfield facility.

(1) A capital recovery charge approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under a sourcing agreement. The capital recovery charge shall be comprised of capital costs and a reasonable rate of return. "Capital costs" means costs to be incurred in connection with the construction and development of a facility, as defined Section 1-10 of the Illinois Power Agency Act, and such other costs as the Capital Development Board deems appropriate to be recovered in the capital recovery charge.

(A) Capital costs. The Capital Development Board shall calculate a range of capital costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. In making this determination, the Capital Development Board shall review the final draft of the sourcing agreement and the rate of return approved by the Commission. In addition, the Capital development Board may: (i) review the facility cost report, if any, of the clean coal SNG brownfield facility; (ii) consult as much as it deems necessary with the clean coal SNG brownfield facility; and (iii) conduct whatever research and investigation it deems necessary.

The Capital Development Board shall retain an engineering expert to assist in determining both the range of capital costs and the range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. Provided, however, that such expert shall: (i) not have been involved in the clean coal SNG brownfield facility's facility cost report, if any, (ii) not own or control any direct or indirect interest in the initial clean coal facility; and (iii) have no contractual relationship with the clean coal SNG brownfield facility. In order to qualify as an independent expert, a person or company must have:

(i) direct previous experience conducting front-end engineering and design studies for large-scale energy facilities and administering large-scale energy operations and maintenance contracts, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;

(ii) an advanced degree in economics, mathematics, engineering, or a related area of study;

(iii) ten years of experience in the energy sector, including construction and risk management experience;

(iv) expertise in assisting companies with obtaining financing for large-scale energy projects, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;

(v) expertise in operations and maintenance which may be particularized to the specific type of operations and maintenance associated with the clean coal SNG brownfield facility;

(vi) expertise in credit and contract protocols;

(vii) adequate resources to perform and fulfill the required functions and responsibilities; and

(viii) the absence of a conflict of interest and inappropriate bias for or against an affected gas utility or the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of capital costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after the effective date of this amendatory Act of the 96th General Assembly. The clean coal SNG brownfield facility shall submit to the Commission its estimate of the capital costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of capital costs submitted by the Capital Development Board.

In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of capital costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development

Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the capital costs for the clean coal SNG brownfield facility.

The Capital Development Board shall monitor the construction of the clean coal SNG brownfield facility for the full duration of construction to assess potential cost overruns. The Capital Development Board, in its discretion, may retain an expert to facilitate such monitoring. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers. If an expert is retained by the Capital Development Board for monitoring of construction, then the clean coal SNG brownfield facility must pay for the expert's reasonable fees and such costs shall not be passed through to a utility or its customers.

(B) Rate of Return. No later than 30 days after the date on which the Illinois Power Agency submits a final draft sourcing agreement, the Commission shall hold a public hearing to determine the rate of return to be recovered under the sourcing agreement. Rate of return shall be comprised of the clean coal SNG brownfield facility's actual cost of debt, including mortgage-style amortization, and a reasonable return on equity. The Commission shall post notice of the hearing on its website no later than 10 days prior to the date of the hearing. The Commission shall provide the public and all interested parties, including the gas utilities, the Attorney General, and the Illinois Power Agency, an opportunity to be heard.

In determining the return on equity, the Commission shall select a commercially reasonable return on equity taking into account the return on equity being received by developers of similar facilities in or outside of Illinois, the need to balance an incentive for clean-coal technology with the need to protect ratepayers from high gas prices, the risks being borne by the clean coal SNG brownfield facility in the final draft sourcing agreement, and any other information that the Commission may deem relevant. The Commission may establish a return on equity that varies with the amount of savings, if any, to customers during the term of the sourcing agreement, comparing the delivered SNG price to a daily weighted average price of natural gas, based upon an index. The Illinois Power Agency shall recommend a return on equity to the Commission using the same criteria. Within 60 days after receiving the final draft sourcing agreement from the Illinois Power Agency, the Commission shall approve the rate of return for the clean coal brownfield facility. Within 30 days after obtaining debt financing for the clean coal SNG brownfield facility, the clean coal SNG brownfield facility shall file a notice with the Commission identifying the actual cost of debt.

(2) Operations and maintenance costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement. The operations and maintenance costs mean costs that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the clean coal SNG brownfield facility's physical plant.

The Capital Development Board shall calculate a range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. In making this determination, the Capital Development Board shall review the final draft of the sourcing agreement and the rate of return approved by the Commission. In addition, the Capital Development Board may: (i) review the facility cost report, if any, of the clean coal SNG brownfield facility; (ii) consult as much as it deems necessary with the clean coal SNG brownfield facility; and (iii) conduct whatever research and investigation it deems necessary. As set forth in subparagraph (A) of paragraph (1) of this subsection (h-3), the Capital Development Board shall retain an independent engineering expert to assist in determining both the range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield to recover under the sourcing agreement. The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of operations and maintenance costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after the effective date of this amendatory Act of the 96th General Assembly.

The clean coal SNG brownfield facility shall submit to the Commission its estimate of the operations and maintenance costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of operations and maintenance costs submitted by the Capital Development Board. In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing

agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of operations and maintenance costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the operations and maintenance costs for the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility shall pay for the independent engineering expert's reasonable fees and such costs shall not be passed through to a utility or its customers. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers.

(3) Sequestration costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility. "Sequestration costs" means costs to be incurred by the clean coal SNG brownfield facility in accordance with its Commission-approved carbon capture and sequestration plan to:

(A) capture carbon dioxide;

(B) build, operate, and maintain a sequestration site in which carbon dioxide may be injected;

(C) build, operate, and maintain a carbon dioxide pipeline; and

(D) transport the carbon dioxide to the sequestration site or a pipeline.

The Commission shall assess the prudency of the sequestration costs for the clean coal SNG brownfield facility before construction commences at the sequestration site or pipeline. Any revenues the clean coal SNG brownfield facility receives as a result of the capture, transportation, or sequestration of carbon dioxide shall be first credited against all sequestration costs, with the positive balance, if any, treated as additional net revenue.

The Commission may, in its discretion, retain an expert to assist in its review of sequestration costs. The clean coal SNG brownfield facility shall pay for the expert's reasonable fees if an expert is retained by the Commission, and such costs shall not be passed through to a utility or its customers. Once made, the Commission's determination of the amount of recoverable sequestration costs shall not be increased unless the clean coal SNG brownfield facility can show by clear and convincing evidence that (i) the costs were not reasonably foreseeable; (ii) the costs were due to circumstances beyond the clean coal SNG brownfield facility's control; and (iii) the clean coal SNG brownfield facility took all reasonable steps to mitigate the costs. If the Commission determines that sequestration costs may be increased, the Commission shall provide for notice and a public hearing for approval of the increased sequestration costs.

(4) Actual delivered and processed fuel costs shall be set by the Illinois Power Agency through a SNG feedstock procurement, pursuant to Sections 1-20, 1-77, and 1-78 of the Illinois Power Agency Act, to be performed at least every 5 years and purchased by the clean coal SNG brownfield facility pursuant to feedstock procurement contracts developed by the Illinois Power Agency, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement and petroleum coke comprising the remainder of the SNG feedstock. If the Commission fails to approve a feedstock procurement plan or fails to approve the results of a feedstock procurement event, then the fuel shall be purchased by the company month-by-month on the spot market and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement. If a supplier defaults under the terms of a procurement contract, then the Illinois Power Agency shall immediately initiate a feedstock procurement process to obtain a replacement supply, and, prior to the conclusion of that process, fuel shall be purchased by the company month-by-month on the spot market and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement.

(5) Taxes and fees imposed by the federal government, the State, or any unit of local government applicable to the clean coal SNG brownfield facility, excluding income tax, shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement to the extent such taxes and fees were not applicable to the facility on the date of this amendatory Act of the 96th General Assembly.

(6) The actual transportation costs, in accordance with the applicable utility's tariffs, and third-party marketer costs incurred by the company, if any, associated with transporting the SNG from the clean coal SNG brownfield facility to the Chicago City-gate to sell such SNG into the natural gas markets shall be recoverable under the sourcing agreement.

(7) Unless otherwise provided, within 30 days after a decision of the Commission on recoverable costs under this Section, any interested party to the Commission's decision may apply for a rehearing with respect to the decision. The Commission shall receive and consider the application for rehearing and shall

grant or deny the application in whole or in part within 20 days after the date of the receipt of the application by the Commission. If no rehearing is applied for within the required 30 days or an application for rehearing is denied, then the Commission decision shall be final. If an application for rehearing is granted, then the Commission shall hold a rehearing within 30 days after granting the application. The decision of the Commission upon rehearing shall be final.

Any person affected by a decision of the Commission under this subsection (h-3) may have the decision reviewed only under and in accordance with the Administrative Review Law. Unless otherwise provided, the provisions of the Administrative Review Law, all amendments and modifications to that Law, and the rules adopted pursuant to that Law shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Commission under this subsection (h-3). The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(8) The Capital Development Board shall adopt and make public a policy detailing the process for retaining experts under this Section. Any experts retained to assist with calculating the range of capital costs or operations and maintenance costs shall be retained no later than 45 days after the effective date of this amendatory Act of the 96th General Assembly.

(h-4) No later than 60 days after the Illinois Power Agency submits the final draft sourcing agreement pursuant to subsection (h-1), the Commission shall approve a sourcing agreement containing the capital costs, rate of return, and operations and maintenance costs. Once the sourcing agreement is approved, then the gas utility subject to that sourcing agreement shall have 45 days after the date of the Commission's approval to enter into the sourcing agreement.

(h-5) The Attorney General, on behalf of the people of the State of Illinois, may specifically enforce the requirements of this subsection (h-5). All contracts under subsection (h) of this Act and all sourcing agreements under subsection (h-1) of this Act, regardless of duration, shall require the owner of any facility supplying SNG under the contract or sourcing agreement to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring of those sites. If, in any year, the owner of the facility described in subsection (h) of this Act fails to demonstrate that the ~~SNG~~ facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, then the owner of the facility must offset excess emissions. Any such carbon dioxide offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable; provided that the owner of the facility described in subsection (h) of this Act shall not be obligated to acquire carbon dioxide emission offsets to the extent that the cost of acquiring such offsets would exceed $40 million in any given year. No costs of any purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose must be permanently retired.

If, in any year, the owner of a clean coal SNG brownfield facility fails to demonstrate that the clean coal SNG brownfield facility captured and sequestered at least 85% of the total carbon dioxide emissions that the facility would otherwise emit, then the owner of the clean coal SNG brownfield facility must pay a penalty of $20 per ton of excess carbon emissions up to $20,000,000, which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. Provided, however, to the extent that the owner of the clean coal SNG brownfield facility can demonstrate that the failure was as a result of acts of God (including fire, flood, earthquake, tornado, lightning, hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil disturbances; riots; nationalization; sabotage; blockage; or embargo, the owner of the clean coal SNG brownfield facility shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the Commission. If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of a clean coal SNG brownfield facility demonstrates that the clean coal SNG brownfield facility captured and sequestered more than 85% of the total carbon

emissions that the facility would otherwise emit, the owner of the clean coal SNG brownfield facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed on to a utility or its customers.

In addition to any penalty for the clean coal SNG brownfield facility's failure to capture and sequester at least its minimum sequestration requirement, the Attorney General, on behalf of the People of the State of Illinois, shall bring an action for specific performance of this subsection (h-5). Such action may be filed in any circuit court in Illinois. By entering into a sourcing agreement pursuant to subsection (h-1) of this Section, the clean coal SNG brownfield facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action for specific performance under this subsection (h-5).

In addition, carbon dioxide emission credits equivalent to 50% of the amount of credits associated with the required sequestration of carbon dioxide from the facility must be permanently retired. Compliance with the sequestration requirements and the offset purchase requirements specified in this subsection (h-5) for the facility described in subsection (h) of this Act shall be assessed annually by an independent expert retained by the owner of the ~~SNG~~ facility described in subsection (h) of this Act, with the advance written approval of the Attorney General. Compliance with the sequestration requirements and penalty requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If an expert is retained by the Commission, then the clean coal SNG brownfield facility shall pay for the expert's reasonable fees, and such costs shall not be passed through to a utility or its customers. A SNG facility operating pursuant to this subsection (h-5) shall not forfeit its designation as a clean coal SNG facility or a clean coal SNG brownfield facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased or requisite penalties are paid.

Responsibility for compliance with the sequestration requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall reside solely with the clean coal SNG brownfield facility regardless of whether the facility has contracted with another party to capture, transport, or sequester carbon dioxide.

(h-7) Sequestration permitting, oversight, and investigations.

(1) No clean coal facility or clean coal SNG brownfield facility may transport or sequester carbon dioxide unless the Commission approves the method of carbon dioxide transportation or sequestration. Such approval shall be required regardless of whether the facility has contracted with another to transport or sequester the carbon dioxide. Nothing in this subsection (h-7) shall release the owner or operator of a carbon dioxide sequestration site or carbon dioxide pipeline from any other permitting requirements under applicable State and federal laws, statutes, rules, or regulations.

(2) The Commission shall review carbon dioxide transportation and sequestration methods proposed by a clean coal facility or a clean coal SNG brownfield facility and shall approve those methods it deems reasonable and cost-effective. For purposes of this review, "cost-effective" means a commercially reasonable price for similar carbon dioxide transportation or sequestration techniques. In determining whether sequestration is reasonable and cost-effective, the Commission may consult with the Illinois State Geological Survey and retain third parties to assist in its determination, provided that such third parties shall not own or control any direct or indirect interest in the facility that is proposing the carbon dioxide transportation or the carbon dioxide sequestration method and shall have no contractual relationship with that facility. If a third party is retained by the Commission, then the facility proposing the carbon dioxide transportation or sequestration method shall pay for the expert's reasonable fees, and these costs shall not be passed through to a utility or its customers.

No later than 6 months prior to the date upon which the owner intends to commence construction of a clean coal facility or the clean coal SNG brownfield facility, the owner of the facility shall file with the Commission a carbon dioxide transportation or sequestration plan. The Commission shall hold a public hearing within 30 days after receipt of the facility's carbon dioxide transportation or sequestration plan. The Commission shall post notice of the review on its website upon submission of a carbon dioxide transportation or sequestration method and shall accept written public comments. The Commission shall take the comments into account when making its decision.

The Commission may not approve a carbon dioxide sequestration method if the owner or operator of the sequestration site has not received (i) an Underground Injection Control permit from the Illinois Environmental Protection Agency pursuant to the Environmental Protection Act; (ii) an Underground

Injection Control permit from the Illinois Department of Natural Resources pursuant to the Illinois Oil and Gas Act; or (iii) a permit similar to items (i) or (ii) from the state in which the sequestration site is located if the sequestration will take place outside of Illinois. The Commission shall approve or deny the carbon dioxide transportation or sequestration method within 90 days after the receipt of all required information.

(3) At least annually, the Illinois Environmental Protection Agency shall inspect all carbon dioxide sequestration sites in Illinois. The Illinois Environmental Protection Agency may, as often as deemed necessary, monitor and conduct investigations of those sites. The owner or operator of the sequestration site must cooperate with the Illinois Environmental Protection Agency investigations of carbon dioxide sequestration sites.

If the Illinois Environmental Protection Agency determines at any time a site creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall seal the site pursuant to the Environmental Protection Act. If the Illinois Environmental Protection Agency determines at any time a carbon dioxide sequestration site creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall request the State's Attorney or the Attorney General institute such action. The Illinois Environmental Protection Agency shall provide notice of any such actions as soon as possible on its website. The SNG facility shall incur all reasonable costs associated with any such inspection or monitoring of the sequestration sites, and these costs shall not be recoverable from utilities or their customers.

(4) At least annually, the Commission shall inspect all carbon dioxide pipelines in Illinois that transport carbon dioxide to ensure the safety and feasibility of those pipelines. The Commission may, as often as deemed necessary, monitor and conduct investigations of those pipelines. The owner or operator of the pipeline must cooperate with the Commission investigations of the carbon dioxide pipelines.

If the Commission determines at any time that a carbon dioxide pipeline creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Commission shall notify the Illinois Environmental Protection Agency of such conditions. If the Commission determines at any time a carbon dioxide pipeline creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Commission shall request the State's Attorney or the Attorney General institute such action. The Commission shall provide notice of any such actions as soon as possible on its website. The SNG facility shall incur all reasonable costs associated with any such inspection or monitoring of the sequestration sites, and these costs shall not be recoverable from a utility or its customers.

(h-9) The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from any new or amendatory legislation or other action. The State of Illinois pledges that the State will not enact any law or take any action to:

(1) break, or repeal the authority for, sourcing agreements approved by the Commission and entered into between public utilities and the clean coal SNG brownfield facility;

(2) deny public utilities full cost recovery for their costs incurred under those sourcing agreements; or

(3) deny the clean coal SNG brownfield facility full cost and revenue recovery as provided under those sourcing agreements that are recoverable pursuant to subsection (h-3) of this Section.

These pledges are for the benefit of the parties to those sourcing agreements and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG brownfield facility. The clean coal SNG brownfield facility is authorized to include and refer to these pledges in any financing agreement into which it may enter in regard to those sourcing agreements.

The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any other action, without impairment of the right of the clean coal SNG brownfield facility to recover prudently incurred increased costs or reduced revenue resulting from the new or amendatory legislation or other action, including, but not limited to, such legislation or other action that would (i) directly or indirectly raise the costs the clean coal SNG brownfield facility must incur; (ii) directly or indirectly place additional restrictions, regulations, or requirements on the clean coal SNG brownfield facility; (iii) prohibit sequestration in general or prohibit a specific sequestration method or project; or (iv) increase minimum sequestration requirements for the clean coal SNG brownfield facility to the extent technically feasible. The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from the new or amendatory legislation or other action as described in this subsection (h-9).

(h-10) Contract costs for SNG incurred by an Illinois gas utility are reasonable and prudent and recoverable through the purchased gas adjustment clause and are not subject to review or disallowance by

the Commission. Contract costs are costs incurred by the utility under the terms of a contract that incorporates the terms stated in subsection (h) of this Section as confirmed in writing by the Illinois Power Agency as set forth in subsection (h-20) of this Section, which confirmation shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. Any contract, the terms of which have been confirmed in writing by the Illinois Power Agency as set forth in subsection (h-20) of this Section and the performance of the parties under such contract cannot be grounds for challenging prudence or cost recovery by the utility through the purchased gas adjustment clause, and in such cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

The contracts entered into by Illinois gas utilities pursuant to subsection (h) of this Section shall provide that the utility retains the right to terminate the contract without further obligation or liability to any party if the contract has been impaired as a result of any legislative, administrative, judicial, or other governmental action that is taken that eliminates all or part of the prudence protection of this subsection (h-10) or denies the recoverability of all or part of the contract costs through the purchased gas adjustment clause. Should any Illinois gas utility exercise its right under this subsection (h-10) to terminate the contract, all contract costs incurred prior to termination are and will be deemed reasonable, prudent, and recoverable as and when incurred and not subject to review or disallowance by the Commission. Any order, issued by the State requiring or authorizing the discontinuation of the merchant function, defined as the purchase and sale of natural gas by an Illinois gas utility for the ultimate consumer in its service territory shall include provisions necessary to prevent the impairment of the value of any contract hereunder over its full term.

(h-11) All costs incurred by an Illinois gas utility in procuring SNG, including procuring SNG from a clean coal SNG brownfield facility or a third-party marketer pursuant to subsection (h-1), are reasonable and prudent and recoverable through the purchased gas adjustment clause and are not subject to review or disallowance by the Commission. Sourcing agreement costs are costs incurred by the utility under the terms of a sourcing agreement that incorporates the terms stated in subsection (h-1) of this Section as approved by the Commission as set forth in subsection (h-4) of this Section, which approval shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. Any sourcing agreement, the terms of which have been approved by the Commission as set forth in subsection (h-4) of this Section, and the performance of the parties under the sourcing agreement cannot be grounds for challenging prudence or cost recovery by the utility through the purchased gas adjustment clause, and in these cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

(h-15) With respect to each contract entered into by the company with an Illinois utility in accordance with the terms stated in subsection (h) of this Section, within 60 days following the completion of purchases of SNG, the Illinois Power Agency shall conduct an analysis to determine (i) the average contract SNG cost, which shall be calculated as the total amount paid to a company for SNG over the contract term, plus the cost to the utility of the required transportation and storage services of SNG, divided by the total number of MMBtus of SNG actually purchased under the utility contract; (ii) the average natural gas purchase cost, which shall be calculated as the total annual supply costs paid for natural gas (excluding SNG) purchased by such utility over the contract term, plus the costs of transportation and storage services of such natural gas (excluding such costs for SNG), divided by the total number of MMBtus of natural gas (excluding SNG) actually purchased by the utility during the contract term; (iii) the cost differential, which shall be the difference between the average contract SNG cost and the average natural gas purchase cost; and (iv) the revenue share target, which shall be the cost differential multiplied by the total amount of SNG purchased under such utility contract. If the average contract SNG cost is equal to or less than the average natural gas purchase cost, then the company shall have no further obligation to the utility. If the average contract SNG cost for such SNG contract is greater than the average natural gas purchase cost for such utility, then the company shall market the daily production of SNG and distribute on a monthly basis 5% of amounts collected with respect to such future sales to the utilities in proportion to each utility's SNG purchases from the company during the term of the SNG contract to be used to reduce the utility's natural gas costs through the purchased gas adjustment clause; such payments to the utility shall continue until such time as the sum of such payments equals the revenue share target of that utility. The company or utilities shall have no obligation to repay the revenue share target except as provided for in this subsection (h-15).

(h-20) The General Assembly authorizes the Illinois Finance Authority to issue bonds to the maximum

extent permitted to finance coal gasification facilities described in this Section, which constitute both "industrial projects" under Article 801 of the Illinois Finance Authority Act and "clean coal and energy projects" under Sections 825-65 through 825-75 of the Illinois Finance Authority Act. The General Assembly further authorizes the Illinois Power Agency to become party to agreements and take such actions as necessary to enable the Illinois Power Agency or its designate to (i) review and confirm in writing that the terms stated in subsection (h) of this Section are incorporated in the SNG contract, and (ii) conduct an analysis pursuant to subsection (h-15) of this Section. Administrative costs incurred by the Illinois Finance Authority and Illinois Power Agency in performance of this subsection (h-20) shall be subject to reimbursement by the company on terms as the Illinois Finance Authority, the Illinois Power Agency, and the company may agree. The utility and its customers shall have no obligation to reimburse the company, the Illinois Finance Authority, or the Illinois Power Agency for any such costs.

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 95-1027, eff. 6-1-09; 96-1364, eff. 7-28-10.)

Section 15. The Illinois Gas Pipeline Safety Act is amended by changing Sections 2.02, 2.03, 2.04, and 3 as follows:

(220 ILCS 20/2.02) (from Ch. 111 2/3, par. 552.2)

Sec. 2.02. "Gas" means natural gas, flammable gas or gas which is toxic or corrosive. "Gas" also means carbon dioxide in any physical form, whenever transported by pipeline for the purpose of sequestration.

(Source: P.A. 76-1588.)

(220 ILCS 20/2.03) (from Ch. 111 2/3, par. 552.3)

Sec. 2.03. "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline or its storage, within this State and not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, except that it includes the transmission of gas through pipeline facilities within this State that transport gas from an interstate gas pipeline to a direct sales customer within this State purchasing gas for its own consumption. "Transportation of gas" also includes the conveyance of gas from a gas main through the primary fuel line to the outside wall of residential premises. If the gas meter is placed within 3 feet of the structure, the utility's responsibility shall end at the outlet side of the meter. "Transportation of gas" also includes the conveyance of carbon dioxide in any physical form for the purpose of sequestration.

(Source: P.A. 87-1092; 88-314.)

(220 ILCS 20/2.04) (from Ch. 111 2/3, par. 552.4)

Sec. 2.04. "Pipeline facilities" includes new and existing pipe rights-of-way and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation and includes facilities within this State that transport gas from an interstate gas pipeline to a direct sales customer within this State purchasing gas for its own consumption, but "rights-of-way" as used in this Act does not authorize the Commission to prescribe, under this Act, the location or routing of any pipeline facility. "Pipeline facilities" also includes new and existing pipes and lines and any other equipment, facility, or structure, except customer-owned branch lines connected to the primary fuel lines, used to convey gas from a gas main to the outside wall of residential premises, and any person who provides gas service directly to its residential customer through these facilities shall be deemed to operate such pipeline facilities for purposes of this Act irrespective of the ownership of the facilities or the location of the facilities with respect to the meter, except that a person who provides gas service to a "master meter system", as that term is defined at 49 C.F.R. Section 191.3, shall not be deemed to operate any facilities downstream of the master meter. "Pipeline facilities" also includes new and existing pipe rights-of-way and any equipment, facility, or building used in the transportation of carbon dioxide in any physical form for the purpose of sequestration.

(Source: P.A. 87-1092; 88-314.)

(220 ILCS 20/3) (from Ch. 111 2/3, par. 553)

Sec. 3. (a) As soon as practicable, but not later than 3 months after the effective date of this Act, the Commission shall adopt rules establishing minimum safety standards for the transportation of gas and for pipeline facilities. Such rules shall be at least as inclusive, as stringent, and compatible with, the minimum safety standards adopted by the Secretary of Transportation under the Federal Act. Thereafter, the Commission shall maintain such rules so that the rules are at least as inclusive, as stringent, and compatible with, the minimum standards from time to time in effect under the Federal Act. The Commission shall also adopt rules establishing minimum safety standards for the transportation of carbon dioxide in any physical form for the purpose of sequestration and for pipeline facilities used for that function.

(b) Standards established under this Act may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and initial testing are not applicable to pipeline facilities in existence on the date such standards are adopted. Whenever the Commission finds a particular facility to be hazardous to life or property, it may require the person operating such facility to take the steps necessary to remove the hazard.

(c) Standards established by the Commission under this Act shall, subject to paragraphs (a) and (b) of this Section 3, be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Commission shall consider: similar standards established in other states; relevant available pipeline safety data; whether such standards are appropriate for the particular type of pipeline transportation; the reasonableness of any proposed standards; and the extent to which such standards will contribute to public safety.

Rules adopted under this Act are subject to "The Illinois Administrative Procedure Act", approved September 22, 1975, as amended.

(Source: P.A. 83-333.)

Section 20. The Illinois Environmental Protection Act is amended by adding Section 13.7 as follows:

(415 ILCS 5/13.7 new)

Sec. 13.7. Carbon dioxide sequestration sites.

(a) For purposes of this Section, the term "carbon dioxide sequestration site" means a site or facility for which the Agency has issued a permit for the underground injection of carbon dioxide.

(b) The Agency shall inspect carbon dioxide sequestration sites for compliance with this Act, rules adopted under this Act, and permits issued by the Agency.

(c) If the Agency issues a seal order under Section 34 of this Act in relation to a carbon dioxide sequestration site, or if a civil action for an injunction to halt activity at a carbon dioxide sequestration site is initiated under Section 43 of this Act at the request of the Agency, then the Agency shall post notice of such action on its website.

(d) Persons seeking a permit or permit modification for the underground injection of carbon dioxide shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with review and issuance of the permit, including, but not limited to, costs associated with public hearings and the review of permit applications. Once a permit is issued, the permittee shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with inspections and other oversight of the carbon dioxide sequestration site. Persons liable for costs under this subsection (d) must pay the costs upon invoicing, or other request or demand for payment, by the Agency.

Moneys collected under this subsection (d) shall be deposited into the Environmental Protection Permit and Inspection Fund established under Section 22.8 of this Act. The Agency may adopt rules relating to the collection of costs due under this subsection (d).

(e) The Agency shall not issue a permit or permit modification for the underground injection of carbon dioxide unless all costs for which the permitee is liable under subsection (d) of this Section have been paid.

(f) No person shall fail or refuse to pay costs for which the person is liable under subsection (d) of this Section.

Section 85. Rulemaking. The Illinois Environmental Protection Agency, the Illinois Commerce Commission, the Capital Development Board, and the Illinois Department of Natural Resources shall have rulemaking authority to implement the provisions of this amendatory Act of the 96th General Assembly.

Section 90. Inseverability. The provisions of this Act are mutually dependent and inseverable. If any provision is held invalid, then this entire Act, including all new and amendatory provisions, is invalid.

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

AMENDMENT NO. 2. Amend Senate Bill 3388, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, by deleting line 19 on page 63 through line 7 on page 65.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 3776. Having been reproduced, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 3776 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Private Activity Bond Approval Act.

Section 5. Public policy. It is the policy of this State that in order to maintain an effective system of monitoring the use of federal subsidies within the State, facilities within the State proposed to be financed with bonds issued by an issuer that does not have jurisdiction over the location of those facilities must receive prior approval from the Governor in accordance with this Act.

Section 10. Definition. "Host approval" means an approval by an applicable elected representative of a governmental unit, for purposes of Section 147(f)(2)(A)(ii) of the Internal Revenue Code, having jurisdiction over the area in which a facility is located that is to be financed with bonds issued by an issuer that does not have jurisdiction over the location of the facility.

Section 15. Qualifications for facility requiring host approval.

(a) Host approval shall not be granted unless and until the Governor has received the items and information listed in subsection (b) of this Section and has issued an approval as set forth in subsection (c) of this Section.

(b) The following items and information must be received by the Governor:

(1) a copy of the notice of public hearing pertaining to the facilities;

(2) minutes or another official record of the public hearing;

(3) the maximum stated principal amount of the bonds;

(4) a description of the facility, including its location;

(5) a description of the plan of finance;

(6) the name of the issuer of the bonds; and

(7) the name of the initial owner or principal user of the facility.

(c) If, and only if, the Governor determines that the facility and the items and information submitted under subsection (b) of this Section are consistent with the laws and public policy of the State and are in the best interest of the State, then the Governor shall issue a written approval under this Section authorizing the governmental unit to grant its host approval in its discretion.

Section 99. Effective date. This Act takes effect January 1, 2011.".

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 3778. Having been reproduced, was taken up and read by title a second time.

The following amendment was offered in the Committee on Mass Transit, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 3778 by replacing everything after the enacting clause with the following:

"Section 5. The Downstate Public Transportation Act is amended by changing Section 2-15.2 as follows:

(30 ILCS 740/2-15.2)

Sec. 2-15.2. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every participant, as defined in Section 2-2.02 (1)(a), shall be provided without charge to all senior citizen residents of the participant aged 65 and older, under such conditions as shall be prescribed by the participant.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every participant, as defined in Section 2-2.02 (1)(a), shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the participant. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the participant from providing reduced fares as may be

required by federal law.
(Source: P.A. 95-708, eff. 1-18-08.)

Section 10. The Metropolitan Transit Authority Act is amended by changing Section 51 as follows:
(70 ILCS 3605/51)

Sec. 51. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Board shall be provided without charge to all senior citizens of the Metropolitan Region (as such term is defined in 70 ILCS 3615/1.03) aged 65 and older, under such conditions as shall be prescribed by the Board.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Board shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the Board. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the Board from providing reduced fares as may be required by federal law.
(Source: P.A. 95-708, eff. 1-18-08.)

Section 15. The Local Mass Transit District Act is amended by changing Section 8.6 as follows:
(70 ILCS 3610/8.6)

Sec. 8.6. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every District shall be provided without charge to all senior citizens of the District aged 65 and older, under such conditions as shall be prescribed by the District.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every District shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the District. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the District from providing reduced fares as may be required by federal law.
(Source: P.A. 95-708, eff. 1-18-08.)

Section 20. The Regional Transportation Authority Act is amended by changing Sections 3A.15 and 3B.14 as follows:
(70 ILCS 3615/3A.15)

Sec. 3A.15. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Suburban Bus Board shall be provided without charge to all senior citizens of the Metropolitan Region aged 65 and older, under such conditions as shall be prescribed by the Suburban Bus Board.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Suburban Bus Board shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the Suburban Bus Board. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the Suburban Bus Board from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

(70 ILCS 3615/3B.14)

Sec. 3B.14. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Commuter Rail Board shall be provided without charge to all senior citizens of the Metropolitan Region aged 65 and older, under such conditions as shall be prescribed by the Commuter Rail Board.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Commuter Rail Board shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the Commuter Rail Board. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the Commuter Rail Board from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

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

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

AGREED RESOLUTIONS

HOUSE RESOLUTIONS 593, 1499, 1500, 1501, 1502, 1503, 1504, 1507, 1508, 1509, 1511, 1512, 1513 and 1514 were taken up for consideration.

Representative Currie moved the adoption of the agreed resolutions.

The motion prevailed and the agreed resolutions were adopted.

SUSPEND POSTING REQUIREMENTS

Pursuant to Rule 25, Representative Feigenholtz moved to suspend the posting requirements of Rule 21 in relation Senate Bill 150 to be heard in Committee.

The motion prevailed.

At the hour of 3:22 o'clock p.m., Representative Currie moved that the House do now adjourn until Tuesday, November 30, 2010, at 9:30 o'clock a.m., allowing perfunctory time for the Clerk.

The motion prevailed.

And the House stood adjourned.

NO. 1

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
QUORUM ROLL CALL FOR ATTENDANCE

November 29, 2010

0 YEAS 0 NAYS 113 PRESENT

P Acevedo	P Davis, Monique	P Kosel	P Reboletti
P Arroyo	P Davis, William	P Lang	P Reis
P Bassi	P DeLuca	P Leitch	P Reitz
P Beaubien	E Dugan	P Lilly	P Riley
P Beiser	P Dunkin	P Lyons	P Rita
P Bellock	P Durkin	P Mathias	P Rose
P Berrios	P Eddy	P Mautino	P Sacia
P Biggins	P Farnham	P May	P Saviano
P Black	P Feigenholtz	P Mayfield	P Schmitz
P Boland	P Flider	P McAsey	P Senger
P Bost	P Flowers	P McAuliffe	P Sente
P Bradley	P Ford	P McCarthy	P Smith
P Brady	E Fortner	P McGuire	P Sommer
P Brauer	P Franks	P Mell	P Soto
P Burke	P Fritchey (ADDED)	P Mendoza	P Stephens
P Burns (ADDED)	P Froehlich	E Miller	P Sullivan
P Carberry	P Gabel	P Mitchell, Bill	P Thapedi
P Cavaletto	P Golar	P Mitchell, Jerry	P Tracy
P Chapa LaVia	P Gordon, Careen	P Moffitt	P Tryon
P Coladipietro	P Gordon, Jehan	E Mulligan	P Turner
P Cole	P Hannig	E Myers	P Verschoore
P Collins	P Harris	P Nekritz	P Wait
P Colvin	P Hatcher	P O'Sullivan	P Walker
P Connelly	P Hernandez (ADDED)	P Osmond	P Watson
P Coulson	P Hoffman	P Osterman	P Winters
P Crespo	P Holbrook	P Phelps	P Yarbrough
P Cross	P Howard	P Pihos	P Zalewski
P Cultra	P Jackson	P Poe	P Mr. Speaker
P Currie	P Jakobsson	P Pritchard	
P D'Amico	P Jefferson	P Ramey	

E - Denotes Excused Absence

NO. 2

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 2635
HEALTHCARE JOBS-FEE SPLITTING
MOTION TO OVERRIDE TOTAL VETO
THREE-FIFTHS VOTE REQUIRED
PREVAILED

November 29, 2010

83 YEAS 29 NAYS 0 PRESENT

Y Acevedo	Y Davis, Monique	Y Kosel	Y Reboletti
Y Arroyo	Y Davis, William	Y Lang	Y Reis
Y Bassi	Y DeLuca	N Leitch	Y Reitz
Y Beaubien	E Dugan	Y Lilly	N Riley
Y Beiser	N Dunkin	Y Lyons	Y Rita
Y Bellock	N Durkin	N Mathias	E Rose
Y Berrios	N Eddy	Y Mautino	Y Sacia
Y Biggins	Y Farnham	Y May	Y Saviano
Y Black	N Feigenholtz	Y Mayfield	Y Schmitz
Y Boland	N Flider	Y McAsey	Y Senger
Y Bost	N Flowers	Y McAuliffe	Y Sente
Y Bradley	N Ford	Y McCarthy	Y Smith
Y Brady	E Fortner	Y McGuire	N Sommer
Y Brauer	N Franks	N Mell	N Soto
Y Burke	N Fritchey	Y Mendoza	N Stephens
Y Burns	N Froehlich	E Miller	Y Sullivan
Y Carberry	N Gabel	Y Mitchell, Bill	Y Thapedi
Y Cavaletto	Y Golar	Y Mitchell, Jerry	Y Tracy
Y Chapa LaVia	N Gordon, Careen	N Moffitt	Y Tryon
N Coladipietro	Y Gordon, Jehan	E Mulligan	Y Turner
Y Cole	Y Hannig	E Myers	N Verschoore
Y Collins	Y Harris	N Nekritz	Y Wait
Y Colvin	Y Hatcher	Y O'Sullivan	Y Walker
N Connelly	Y Hernandez	Y Osmond	Y Watson
N Coulson	N Hoffman	N Osterman	Y Winters
Y Crespo	N Holbrook	Y Phelps	Y Yarbrough
Y Cross	Y Howard	Y Pihos	Y Zalewski
Y Cultra	Y Jackson	Y Poe	Y Mr. Speaker
Y Currie	Y Jakobsson	N Pritchard	
Y D'Amico	Y Jefferson	Y Ramey	

E - Denotes Excused Absence

NO. 3

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 2544
INTERSTATE INS REG COMPACT
MOTION TO OVERRIDE AMENDATORY VETO
THREE-FIFTHS VOTE REQUIRED
PREVAILED

November 29, 2010

111 YEAS 0 NAYS 0 PRESENT

Y Acevedo	Y Davis, Monique	Y Kosel	Y Reboletti
Y Arroyo	Y Davis, William	Y Lang	Y Reis
Y Bassi	Y DeLuca	Y Leitch	Y Reitz
Y Beaubien	E Dugan	Y Lilly	Y Riley
Y Beiser	Y Dunkin	Y Lyons	Y Rita
Y Bellock	Y Durkin	Y Mathias	E Rose
Y Berrios	Y Eddy	Y Mautino	Y Sacia
Y Biggins	Y Farnham	Y May	Y Saviano
Y Black	Y Feigenholtz	Y Mayfield	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Sente
Y Bradley	Y Ford	Y McCarthy	Y Smith
Y Brady	E Fortner	A McGuire	Y Sommer
Y Brauer	Y Franks	Y Mell	Y Soto
Y Burke	Y Fritchey	Y Mendoza	Y Stephens
Y Burns	Y Froehlich	E Miller	Y Sullivan
Y Carberry	Y Gabel	Y Mitchell, Bill	Y Thapedi
Y Cavaletto	Y Golar	Y Mitchell, Jerry	Y Tracy
Y Chapa LaVia	Y Gordon, Careen	Y Moffitt	Y Tryon
Y Coladipietro	Y Gordon, Jehan	E Mulligan	Y Turner
Y Cole	Y Hannig	E Myers	Y Verschoore
Y Collins	Y Harris	Y Nekritz	Y Wait
Y Colvin	Y Hatcher	Y O'Sullivan	Y Walker
Y Connelly	Y Hernandez	Y Osmond	Y Watson
Y Coulson	Y Hoffman	Y Osterman	Y Winters
Y Crespo	Y Holbrook	Y Phelps	Y Yarbrough
Y Cross	Y Howard	Y Pihos	Y Zalewski
Y Cultra	Y Jackson	Y Poe	Y Mr. Speaker
Y Currie	Y Jakobsson	Y Pritchard	
Y D'Amico	Y Jefferson	Y Ramey	

E - Denotes Excused Absence

NO. 4

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
HOUSE BILL 1565
PUBLIC EMPLOYEE BENEFITS-TECH
THIRD READING
PASSED

November 29, 2010

105 YEAS 6 NAYS 0 PRESENT

Y Acevedo	Y Davis, Monique	Y Kosel	Y Reboletti
Y Arroyo	Y Davis, William	Y Lang	Y Reis
Y Bassi	Y DeLuca	Y Leitch	Y Reitz
N Beaubien	E Dugan	Y Lilly	Y Riley
Y Beiser	Y Dunkin	Y Lyons	Y Rita
Y Bellock	Y Durkin	Y Mathias	E Rose
Y Berrios	Y Eddy	Y Mautino	Y Sacia
Y Biggins	Y Farnham	Y May	Y Saviano
Y Black	Y Feigenholtz	Y Mayfield	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Sente
Y Bradley	Y Ford	Y McCarthy	Y Smith
Y Brady	E Fortner	A McGuire	Y Sommer
Y Brauer	Y Franks	Y Mell	Y Soto
Y Burke	Y Fritchey	Y Mendoza	Y Stephens
Y Burns	Y Froehlich	E Miller	N Sullivan
Y Carberry	Y Gabel	Y Mitchell, Bill	Y Thapedi
Y Cavaletto	Y Golar	Y Mitchell, Jerry	Y Tracy
Y Chapa LaVia	Y Gordon, Careen	Y Moffitt	Y Tryon
Y Coladipietro	Y Gordon, Jehan	E Mulligan	Y Turner
N Cole	Y Hannig	E Myers	Y Verschoore
Y Collins	Y Harris	Y Nekritz	Y Wait
Y Colvin	Y Hatcher	Y O'Sullivan	Y Walker
Y Connelly	Y Hernandez	Y Osmond	Y Watson
N Coulson	Y Hoffman	Y Osterman	Y Winters
Y Crespo	Y Holbrook	Y Phelps	Y Yarbrough
N Cross	Y Howard	Y Pihos	Y Zalewski
N Cultra	Y Jackson	Y Poe	Y Mr. Speaker
Y Currie	Y Jakobsson	Y Pritchard	
Y D'Amico	Y Jefferson	Y Ramey	

E - Denotes Excused Absence

NO. 5

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
HOUSE BILL 1606
LOCAL GOVERNMENT-TECH
THIRD READING
PASSED

November 29, 2010

78 YEAS 33 NAYS 0 PRESENT

Y Acevedo	Y Davis, Monique	Y Kosel	N Reboletti
Y Arroyo	Y Davis, William	Y Lang	N Reis
N Bassi	N DeLuca	N Leitch	Y Reitz
N Beaubien	E Dugan	Y Lilly	Y Riley
Y Beiser	Y Dunkin	Y Lyons	Y Rita
Y Bellock	Y Durkin	N Mathias	E Rose
Y Berrios	N Eddy	Y Mautino	N Sacia
Y Biggins	Y Farnham	Y May	N Saviano
N Black	Y Feigenholtz	Y Mayfield	N Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
N Bost	Y Flowers	N McAuliffe	Y Sente
Y Bradley	Y Ford	Y McCarthy	Y Smith
N Brady	E Fortner	A McGuire	N Sommer
Y Brauer	Y Franks	Y Mell	Y Soto
Y Burke	Y Fritchey	Y Mendoza	N Stephens
Y Burns	Y Froehlich	E Miller	N Sullivan
Y Carberry	Y Gabel	Y Mitchell, Bill	Y Thapedi
N Cavaletto	Y Golar	N Mitchell, Jerry	N Tracy
Y Chapa LaVia	Y Gordon, Careen	N Moffitt	Y Tryon
N Coladipietro	Y Gordon, Jehan	E Mulligan	Y Turner
N Cole	Y Hannig	E Myers	Y Verschoore
Y Collins	Y Harris	Y Nekritz	Y Wait
Y Colvin	N Hatcher	Y O'Sullivan	Y Walker
N Connelly	Y Hernandez	N Osmond	N Watson
N Coulson	Y Hoffman	Y Osterman	Y Winters
Y Crespo	Y Holbrook	Y Phelps	Y Yarbrough
N Cross	Y Howard	Y Pihos	Y Zalewski
N Cultra	Y Jackson	Y Poe	Y Mr. Speaker
Y Currie	Y Jakobsson	N Pritchard	
Y D'Amico	Y Jefferson	N Ramey	

E - Denotes Excused Absence

NO. 6

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
HOUSE BILL 1631
LOCAL GOVERNMENT-TECH
THIRD READING
PASSED

November 29, 2010

95 YEAS 16 NAYS 0 PRESENT

Y Acevedo	Y Davis, Monique	N Kosel	Y Reboletti
Y Arroyo	Y Davis, William	Y Lang	Y Reis
N Bassi	Y DeLuca	Y Leitch	Y Reitz
Y Beaubien	E Dugan	Y Lilly	Y Riley
Y Beiser	Y Dunkin	Y Lyons	Y Rita
Y Bellock	Y Durkin	Y Mathias	E Rose
Y Berrios	N Eddy	Y Mautino	Y Sacia
Y Biggins	Y Farnham	N May	Y Saviano
N Black	Y Feigenholtz	Y Mayfield	N Schmitz
Y Boland	Y Flider	Y McAsey	N Senger
Y Bost	Y Flowers	Y McAuliffe	Y Sente
Y Bradley	Y Ford	Y McCarthy	Y Smith
Y Brady	E Fortner	A McGuire	Y Sommer
Y Brauer	N Franks	Y Mell	Y Soto
Y Burke	N Fritchey	Y Mendoza	Y Stephens
Y Burns	Y Froehlich	E Miller	Y Sullivan
Y Carberry	Y Gabel	N Mitchell, Bill	Y Thapedi
Y Cavaletto	Y Golar	Y Mitchell, Jerry	N Tracy
Y Chapa LaVia	Y Gordon, Careen	Y Moffitt	Y Tryon
Y Coladipietro	Y Gordon, Jehan	E Mulligan	Y Turner
N Cole	Y Hannig	E Myers	Y Verschoore
Y Collins	Y Harris	Y Nekritz	Y Wait
Y Colvin	Y Hatcher	Y O'Sullivan	Y Walker
Y Connelly	Y Hernandez	N Osmond	N Watson
N Coulson	Y Hoffman	Y Osterman	Y Winters
Y Crespo	Y Holbrook	Y Phelps	Y Yarbrough
Y Cross	Y Howard	N Pihos	Y Zalewski
Y Cultra	Y Jackson	Y Poe	Y Mr. Speaker
Y Currie	Y Jakobsson	Y Pritchard	
Y D'Amico	Y Jefferson	Y Ramey	

E - Denotes Excused Absence

151ST LEGISLATIVE DAY

Perfunctory Session

MONDAY, NOVEMBER 29, 2010

At the hour of 4:22 o'clock p.m., the House convened perfunctory session.

TEMPORARY COMMITTEE ASSIGNMENTS

Representative Harris replaced Representative Colvin in the Committee on Personnel and Pensions on November 29, 2010.

Representative Lang replaced Representative Acevedo in the Committee on Personnel and Pensions on November 29, 2010.

REPORT FROM STANDING COMMITTEES

Representative Nekritz, Chairperson, from the Committee on Personnel and Pensions to which the following were referred, action taken on November 29, 2010, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 3538.

The committee roll call vote on Senate Bill 3538 is as follows:

6, Yeas; 4, Nays; 0, Answering Present.

Y McCarthy(D), Chairperson
N Poe(R), Republican Spokesperson
N Brady(R)
Y Burke(D)
N McAuliffe(R)
Y Harris (replacing Colvin)
Y Lang (replacing Acevedo)
N Brauer(R)
Y May(D)
Y Nekritz(D)

HOUSE JOINT RESOLUTIONS CONSTITUTIONAL AMENDMENTS FIRST READING

Representative Farnham introduced the following:

HOUSE JOINT RESOLUTION
CONSTITUTIONAL AMENDMENT 59

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to add Section 2.1 to Article VIII of the Illinois Constitution as follows:

ARTICLE VIII
FINANCE

SECTION 2.1. LIMITATIONS ON APPROPRIATIONS AND TRANSFERS

(a) For the fiscal year ending in 2014 and each fiscal year thereafter, aggregate appropriations and transfers from the general funds are limited as provided in this Section. "General funds" include the general revenue fund and any other funds designated by the General Assembly by law making specific reference to this Section. "Appropriations and transfers" do not include (i) reappropriations from a previous fiscal year,

(ii) those made for debt service payments, and (iii) those made to a budget stabilization fund.

(b) Aggregate fiscal year appropriations and transfers from the general funds may not exceed the limitation amount. The limitation amount is the aggregate amount of appropriations and transfers from the general funds in the previous fiscal year, including increased amounts under subsection (c), as adjusted. The adjustment is the average annual percentage change in the average per capita personal income for Illinois for the five most recent calendar years for which data is available, as defined and reported by the United States Department of Commerce, or its successor.

(c) The Governor may declare a fiscal emergency by filing a declaration with the Secretary of State and copies with the Senate and House of Representatives. The declaration must be limited to only one State fiscal year, set forth compelling reasons for declaring a fiscal emergency, and request that the limitation amount for that fiscal year be increased by a specific dollar amount. If the Comptroller and Treasurer advise the General Assembly that they concur in the Governor's declaration, then by a record vote of three-fifths of the members elected in each house, the General Assembly by law may authorize increased appropriations and transfers in a specific dollar amount that is no more than the increased amount requested by the Governor in the declaration.

(d) If the general funds revenues for a fiscal year exceed the limitation amount for that fiscal year, then those excess revenues must be deposited into one or more budget stabilization funds. A budget stabilization fund must be designated by law making specific reference to this Section or, in the absence of law, by the Comptroller. If the aggregate unexpended and unobligated amount in the budget stabilization funds at the end of a fiscal year exceeds an amount equal to ten percent of the limitation amount for that fiscal year, then that excess shall be refunded in a manner and in amounts determined by the General Assembly by law.

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.

The foregoing HOUSE JOINT RESOLUTION CONSTITUTIONAL AMENDMENT 59 was taken up, read in full a first time, ordered reproduced and placed in the Committee on Rules.

HOUSE BILL ON SECOND READING

Having been reproduced, the following bill was taken up, read by title a second time and held on the order of Second Reading: HOUSE BILL 1915.

SENATE BILL ON SECOND READING

Having been reproduced, the following bill was taken up, read by title a second time and held on the order of Second Reading: SENATE BILL 3538.

SENATE BILL ON FIRST READING

Having been reproduced, the following bill was taken up, read by title a first time and placed in the Committee on Rules: SENATE BILL 647 (Coulson).

At the hour of 4:25 o'clock p.m., the House Perfunctory Session adjourned.