

Public Act 96-0103 (SB 1906) Illinois Finance Authority (“IFA”)

CLARIFIES EXISTING BONDING AUTHORITY FOR RENEWABLE ENERGY & CLEAN COAL PROJECTS

INCREASES AGRI-BUSINESS GUARANTEE PROJECT AUTHORIZATION

Senate Sponsors: Koehler-Jacobs-Wilhelmi-Frerichs-McCarter-Forby-Dahl-
Righter-O. Jones-Collins-Sullivan-Sandoval-Clayborne-Risinger-Trotter

Senate concurred in House Amendment 3 on May 30, 2009 (52-0-1)

House Sponsors: Black-Mautino-Jehan Gordon-Holbrook-Graham-McGuire-Jerry Mitchell-Leitch-Lyons-
Riley-Winters-Beiser-Phelps-Zalewski-Harris-Ford-Hoffman-Verschoore-Michael Smith-Burns-Moffitt

House Amendment 3 Passed House on May 28, 2009 (118-0)

What does PA 96-0103 (SB 1906) do?

1. SB 1906 clarifies both the IFA’s existing bonding authority and its ability to provide credit enhancement (loans guaranteed by a pledge of the State’s additional security or moral obligation) for renewable energy and coal projects up to \$3 billion.
2. SB 1906 also increases the IFA’s loan guarantee limit for Agri-Business projects from \$75 million to \$225 million.
3. SB 1906’s effective date is January 1, 2010.

Reasons PA 96-0103 (SB 1906) was signed:

- **The Federal Government is allocating more than \$70 billion in federal renewable energy loan guarantees competitively. State commitment is essential for Illinois to effectively compete for these resources.**
 - The United States Department of Energy (“USDOE”) has stressed the need for state to provide commitments as part of USDOE’s evaluation of individual project applications for federal resources. Through the *Illinois Energy Team* (IFA, IEPA, DCEO, Argonne, U of I, SIU, WSU, ISU, EIU), Illinois (according to USDOE consultants) has met one part of the commitment (cooperation of State entities). What is missing, particularly in this difficult credit market, is the financing tool provided by SB 1906. The “additional security” (moral obligation) authorized by SB 1906 will allow Illinois to compete effectively for federal resources and help facilitate the financing of energy projects in our State in the midst of a major crisis in the credit markets.
- **Clarifies existing bonding authority for energy projects that is already in statute.**
 - Since 2001, IFA and its predecessor, the Illinois Development Finance Authority (“IDFA”), had up to \$2.7 billion in bonding authority for clean coal and renewable energy projects. In 2003, this bonding authority was increased to \$3 billion and a pledge of the State’s “additional security” (moral obligation) as a credit enhancement was added. To date, neither this existing bonding authority nor the pledge of “additional security” has been used.
 - SB 1906 clarifies ambiguity in the statute with respect to availability of the pledge of “additional security” (moral obligation). With this clarification, it is far more likely that this important State resource will be used to finance projects that will promote energy independence and create jobs.

- **Updates definitions of “Renewable Energy Project” and “Clean Coal Project” through reference to the Illinois Power Authority Act while retaining the existing statutory definitions of qualifying “Coal Projects.”** SB 1906 also adds:
 - Environmentally preferable practices and technologies that improve the production of renewable fuels in existing plants to the definition of “Renewable Energy Project”;
 - Transmission lines and associated equipment to the definitions of “Renewable Energy Project” and “Clean Coal Project”; and
 - Carbon sequestration and transportation technologies as well as carbon abatement technology for existing generating plants to the definition of “Clean Coal Project.”

- **Agri-Business Guarantee Increase.**
 - Since 2004, IFA’s agribusiness guarantee authority has been \$75 million.
 - SB 1906 increases the Agri-Business guarantee to \$225 million and allows guarantees for certain “Renewable Energy Projects.” SB 1906 will allow the IFA to continue to assist traditional agricultural projects, such as livestock facilities and farm purchases, as well as renewable energy projects.
 - The Agri-Business guarantee is a full faith & credit guarantee of the State of Illinois.

Changes being implemented at IFA to enact PA 96-0103 (SB 1906):

The credit enhancement resources that SB 1906 will provide to the IFA represent a larger and fundamentally different scale of commitment to the financing of energy projects than current exists in IFA’s existing programs and projects (e.g., federally tax exempt conduit debt (obligation of the borrower); moral obligation for local governments (smaller); agri-business guarantees (smaller); participation loans (IFA funds). The IFA Board recognizes this increased risk and has addressed it in two ways. First, it has directed IFA management to hire staff and develop policies and procedures to effectively underwrite these projects. This process is currently being implemented in anticipation of SB 1906 becoming law. Second, it has created additional board oversight of the energy sector through the Energy Subcommittee chaired by Dr. Roger Herrin.

Legislative Procedural background of P.A. 96-0103 (SB 1906):

Amendment 3 to SB 1906 deleted underlying language of SB 1906 (original bill synopsis: authorization of IFA multistate bonding authority for conduit bonds) and became the bill. With some modifications requested by stakeholders, HA 3 to SB 1906 is substantially the same as SB 1912. SB 1912 passed the Senate with 54 votes on April 1, 2009 (Jacobs-Koehler-Frerichs-Raoul-Risinger-Noland-Righter-Brady).

SB 1906 was supported by:

- American Wind Energy Association (support letter)
- AFL-CIO
- Laborers’ International Union-Midwest Region
- Illinois Attorney General
- DCEO
- IBEW Local 51
- IUOE Local 150
- Illinois Corn Growers
- Illinois Coal Association
- Association of Illinois Electric Co-Ops
- Invenergy
- Peabody Coal
- Peoria Building Trades
- FutureGen (support letter)

The following supported SB 1912 (substantially the same as SB 1906):

- Wind for Illinois
- Illinois Farm Bureau
- Illinois Municipal Electric Agency
- Tech America
- Illinois Science and Technology Coalition
- Illinois Biotechnology Industry Organization

The following are neutral on SB 1906:

- Environmental Law and Policy Center (coal concerns)
- Sierra Club (coal concerns)
- Dynegy
- Ameren
- Midwest Generation

Statutes impacted by SB 1906:

- Illinois Finance Authority Act
 - 20 ILCS 3501/825-65; 825-70; 825-75; 830-25
- Department of Commerce & Economic Opportunity Law
 - 20 ILCS 605/605-332
- Illinois Power Agency Act
 - 20 ILCS 3855/1-10

Updated Relevant Statutory Definitions:

Section 1-10 of the Illinois Power Agency Act:

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P.A. 95-1027 (SB 1987)

"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 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 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 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 the effective date of this amendatory Act of the 95th General Assembly.

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P.A. 96-784 (SB 658)

"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 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.

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P.A. 96-159 (SB 2150)

"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, burning, or heating of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than tree waste, railroad crossties, utility poles, and construction or demolition debris, other than untreated and unadulterated waste wood.