



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-SEVENTH GENERAL ASSEMBLY**

**127TH LEGISLATIVE DAY**

**Perfunctory Session**

**MONDAY, JUNE 18, 2012**

**11:03 O'CLOCK A.M.**

**SENATE**  
**Daily Journal Index**  
**127th Legislative Day**

<b>Action</b>	<b>Page(s)</b>
Appointment Messages .....	6
Message from the President .....	3, 4
Presentation of Senate Resolutions No'd. 814-818 .....	4
Presentation of Senate Resolutions No'd. 819-822 .....	5
Report(s) Received .....	3

<b>Bill Number</b>	<b>Legislative Action</b>	<b>Page(s)</b>
SR 0821	Committee on Assignments .....	5

The Senate met pursuant to the directive of the President.  
Pursuant to Senate Rule 2-5(c)2, the Secretary of the Senate conducted the perfunctory session.  
Silent prayer was observed.

**REPORTS RECEIVED**

The Secretary placed before the Senate the following reports:

Metropolitan Pier and Exposition Authority's Summary of Operating Results vs. Budget for the Nine Months ended March 31, 2012, submitted by the Metropolitan Pier and Exposition Authority.

Illiana Expressway - Will, Kankakee (IL) and Lake (IN) Counties Legislative Report - June 1, 2012, submitted by the Department of Transportation.

Energy Efficiency Trust Fund Program Report, January 2011 through December 2011, submitted by the Department of Commerce and Economic Opportunity.

Qualified Energy Conservation Bonds Allocations as of June 14, 2012, submitted by the Illinois Finance Authority.

Report on the consolidation of LIHEAP and IHWAP to the Department of Commerce and Economic Opportunity pursuant to E.O. 2009-2, submitted by the Department of Commerce and Economic Opportunity.

Good Samaritan Energy Trust Fund Annual Report, May 2012, submitted by the Department of Commerce and Economic Opportunity.

Energy Conservation Technical Assistance Update, January 2011 through December 2011, submitted by the Department of Commerce and Economic Opportunity.

Report #15 Pursuant to the Taxpayer Accountability and Budget Stabilization Act, submitted by the Office of the Auditor General.

Illinois Annual Performance Report, Early Intervention Program, July 1, 2010 - June 30, 2011, submitted by the Department of Human Services.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

**MESSAGES FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, IL 62706  
217-782-2728

June 18, 2012

Mr. Tim Anderson  
Secretary of the Senate  
Room 403 State House  
Springfield, IL 62706

Dear Mr. Secretary:

[June 18, 2012]

Pursuant to Rule 2-10, I am scheduling a Senate Perfunctory Session to convene on Monday, June 18, 2012.

Sincerely,  
s/John J. Cullerton  
John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, IL 62706  
217-782-2728

June 11, 2012

Mr. Tim Anderson  
Secretary of the Senate  
Room 403 State House  
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 2-10, I am scheduling a Senate Perfunctory Session to convene on Wednesday, November 14, 2012.

Sincerely,  
s/John J. Cullerton  
John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**PRESENTATION OF RESOLUTIONS**

**SENATE RESOLUTION NO. 814**

Offered by Senator Hunter and all Senators:  
Mourns the death of Khalidun "Khal" Everage of Chicago.

**SENATE RESOLUTION NO. 815**

Offered by Senator LaHood and all Senators:  
Mourns the death of Irene C. Ricca of Morton, formerly of Bartonville.

**SENATE RESOLUTION NO. 816**

Offered by Senator Duffy and all Senators:  
Mourns the death of Victoria K. Bicouvaris of Fox River Grove.

**SENATE RESOLUTION NO. 817**

Offered by Senator McCann and all Senators:  
Mourns the death of Robert M. Evans of Carlinville.

**SENATE RESOLUTION NO. 818**

Offered by Senator McCann and all Senators:  
Mourns the death of Kenneth L. Edwards of Pittsfield.

[June 18, 2012]

**SENATE RESOLUTION NO. 819**

Offered by Senator Koehler and all Senators:  
Mourns the death of Mary Belle Lyons of Peoria, formerly of Hanna City.

**SENATE RESOLUTION NO. 820**

Offered by Senator Koehler and all Senators:  
Mourns the death of Sidney Peter Ross, Jr., of Peoria.

**SENATE RESOLUTION NO. 822**

Offered by Senator LaHood and all Senators:  
Mourns the death of U.S. Army Corporal Bryant J. "B.J." Luxmore of New Windsor.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar

Senators Cullerton - Radogno offered the following Senate Resolution, which was referred to the Committee on Assignments:

**SENATE RESOLUTION NO. 821**

WHEREAS, The 97th Illinois General Assembly passed Senate Bill 1652 and House Bill 3036 with supermajority votes in both legislative chambers; Senate Bill 1652 became law on October 26, 2011 as Public Act 97-616 and House Bill 3036 became law on December 30, 2011 as Public Act 97-646; and

WHEREAS, Public Act 97-616, which is commonly referred to as the Energy Infrastructure Modernization Act, confers substantial benefits upon the State's electric utility customers; it established detailed infrastructure investment plans to modernize and upgrade the State's aging electric grid in order to ensure the continued provision of safe, reliable, and affordable service to Illinoisans; participating utilities that elect to undertake the infrastructure investment plan may recover their costs through a performance-based formula rate tariff mechanism, which was designed to increase predictability, stability, and transparency in the ratemaking process; and

WHEREAS, Public Act 97-646 was enacted as "trailer legislation" to Public Act 97-616 with the intent to amend the Energy Infrastructure Modernization Act to provide additional benefits to customers; and

WHEREAS, To make this investment possible, the performance-based formula rate tariff must, among other things, establish and set forth certain protocols providing that participating utilities recover the costs of service and these investments, including, but not limited to, allowing for the recovery of an "investment return on pension assets net of deferred tax benefits equal to the utility's long-term debt cost of capital as of the end of the applicable calendar year", which is set forth in subparagraph (D) of paragraph (4) of subsection (c) of Section 16-108.5 of the Public Utilities Act; and

WHEREAS, In so providing, the General Assembly did not, and did not intend to, overturn or generally depart from Illinois Commerce Commission practice and law regarding the establishment of these protocols, including the electric utility's ability to continue to recover a return on its pension assets as the Commission has previously allowed; and

WHEREAS, No statutory authority was given to the Illinois Commerce Commission to deny recovery of a return on what is commonly referred to as, what is reported in the Federal Energy Regulatory Commission Form 1 (FERC Form 1) as, and what the General Assembly regarded to be a pension asset; and

WHEREAS, The Energy Infrastructure Modernization Act further provides in subsections (c) and (d) of Section 16-108.5 that those amounts to be credited or charged to customers following the annual reconciliation process under the performance-based formula rate shall be "with interest" so the utility will be made whole for unrecovered amounts that were prudently and reasonably incurred and customers

[June 18, 2012]

will be made whole for amounts they overpaid, if any; and

WHEREAS, Such interest is intended to be set at the utility's weighted average cost of capital, determined in accordance with the statute, which represents the reasonable cost and means of financing a utility's investments and operating costs, so that the utility and customers are made whole when charges or credits are necessary to reconcile to actual prudent and reasonable investments and costs; and

WHEREAS, The Energy Infrastructure Modernization Act also provides that the final year-end cost data filed in FERC Form 1 should generally be used to determine rates; and

WHEREAS, No statutory authority was given to the Illinois Commerce Commission to set rate base and capital structure using average numbers that do not represent final year-end values reflected in the FERC Form 1, and the Illinois Commerce Commission's use of such average is contrary to the statute; and

WHEREAS, The Illinois Supreme and Appellate Courts have consistently held that, because the administrative agencies are creatures of statute, administrative agencies possess only those powers expressly delegated by law and may not act beyond its statutorily delegated authority; and

WHEREAS, The Illinois Supreme and Appellate Courts have consistently held that public policy in Illinois is expressed by the General Assembly, and it is not the province of an administrative agency to inquire into the wisdom and propriety of the legislature's act or to substitute its own judgment for that of the legislature; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we express serious concerns that the Illinois Commerce Commission Order, entered on May 29, 2012 in Commission Docket No. 11-0721, fails to reflect the statutory directives and the intent of the Illinois General Assembly by: (1) not allowing Commonwealth Edison Company to earn a return on what is commonly referred to as, identified in the FERC Form 1 as, and what the General Assembly referred to as a pension asset in subparagraph (D) of paragraph (4) of subsection (c) of Section 16-108.5; (2) assessing interest on those amounts to be credited or charged to customers as set forth in subsection (d) of Section 16-108.5 of the Public Utilities Act at an amount that is not based on the utility's weighted average cost of capital; and (3) determining rate base and capital structure using an average, rather than the year-end amounts as reflected in FERC Form 1; and be it further

RESOLVED, That we urge that the Illinois Commerce Commission rehear the matter and, upon rehearing, reach a decision that reflects statutory directives and the intent of the Illinois General Assembly in passing Public Acts 97-616 and 97-646 as reaffirmed in this resolution; and be it further

RESOLVED, That suitable copies of this resolution be delivered to the Governor of the State of Illinois and the Chairman and Commissioners of the Illinois Commerce Commission.

## APPOINTMENT MESSAGES

### **Appointment Message No. 0451**

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Public Guardian

Agency or Other Body: DuPage County

Start Date: June 1, 2012

[June 18, 2012]

End Date: December 2, 2013

Name: Jennifer Martyn

Residence: 3181 Foxridge Ct., Woodridge, IL 60517

Annual Compensation: Unsalariated

Per diem: Not Applicable

Nominee's Senator: Senator Kirk W. Dillard

Most Recent Holder of Office: Robert I. Mork

Superseded Appointment Message: Not Applicable

**Appointment Message No. 0452**

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Jesse White, Secretary of State, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Commissioner

Agency or Other Body: Executive Ethics Commission

Start Date: July 1, 2012

End Date: June 30, 2016

Name: Maria B. Kuzas

Residence: 3700 N. Lake Shore Dr., Apt. 104, Chicago, IL 60613

Annual Compensation: \$37,571

Per diem: Not Applicable

Nominee's Senator: Senator John J. Cullerton

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Appointment Message 448 of the 97th General Assembly

**Appointment Message No. 0453**

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Jesse White, Secretary of State, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Secretary of State Merit Commission

[June 18, 2012]

Start Date: July 1, 2012

End Date: June 30, 2016

Name: James Taylor

Residence: 2641 S. Franklin Street Rd., Decatur, IL 62521

Annual Compensation: \$12,906

Per diem: Not Applicable

Nominee's Senator: Senator William E. Brady

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Appointment Message 447 of the 97th General Assembly

Under the rules, the foregoing Appointment Messages were referred to the Committee on Assignments.

At the hour of 11:06 o'clock a.m., pursuant to **House Joint Resolution No. 94**, the Chair announced the Senate stand adjourned until Wednesday, November 14, 2012, in perfunctory session, or until the call of the President.

[June 18, 2012]