



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4183

Introduced 11/03/05, by Rep. Mike Boland

SYNOPSIS AS INTRODUCED:

220 ILCS 10/2	from Ch. 111 2/3, par. 902
220 ILCS 10/3	from Ch. 111 2/3, par. 903
220 ILCS 10/4	from Ch. 111 2/3, par. 904
220 ILCS 10/5	from Ch. 111 2/3, par. 905
220 ILCS 10/6	from Ch. 111 2/3, par. 906
220 ILCS 10/10	from Ch. 111 2/3, par. 910
220 ILCS 10/11	from Ch. 111 2/3, par. 911
220 ILCS 10/12	from Ch. 111 2/3, par. 912
220 ILCS 10/20	from Ch. 111 2/3, par. 920
220 ILCS 10/21	from Ch. 111 2/3, par. 921

Amends the Citizens Utility Board Act. Provides that the Citizens Utility Board shall represent and protect the interests of the residential utility customers and petroleum customers (now, just residential utility customers) of this State. Makes corresponding changes.

LRB094 14735 MKM 49705 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 5. The Citizens Utility Board Act is amended by
5 changing Sections 2, 3, 4, 5, 6, 10, 11, 12, 20, and 21 as
6 follows:

7 (220 ILCS 10/2) (from Ch. 111 2/3, par. 902)

8 Sec. 2. Purpose. The purpose of this Act is to promote the
9 health, welfare and prosperity of all the citizens of this
10 State by ensuring effective and democratic representation of
11 utility consumers before the Illinois Commerce Commission, the
12 Federal Energy Regulatory Commission, the Federal
13 Communications Commission, the courts, and other public bodies
14 and by providing for consumer education on utility service
15 prices and petroleum prices and on benefits and methods of
16 energy conservation. Such purpose shall be deemed a statewide
17 interest and not a private or special concern.

18 (Source: P.A. 83-945.)

19 (220 ILCS 10/3) (from Ch. 111 2/3, par. 903)

20 Sec. 3. Definitions. As used in this Act:

21 (1) "Board" means the board of directors of the
22 corporation.

23 (2) "Campaign contribution" means a gift, subscription,
24 loan, advance or deposit of money or anything of value, made
25 for the purpose of electing a candidate to the board; or a
26 contract, a promise or agreement, express or implied, whether
27 or not legally enforceable, to make any campaign contribution;
28 but does not include the value of services provided without
29 compensation by individuals who volunteer a portion or all of
30 their time on behalf of a candidate or political committee, or
31 the use of real or personal property and the cost of

1 invitations, food and beverages, voluntarily provided by an
2 individual to a candidate in rendering voluntary personal
3 services on the individual's residential premises for
4 candidate-related activities if the cumulative value of the
5 activities to the individual on behalf of any candidate does
6 not exceed \$100 for any election.

7 (3) "Campaign expenditures" means a purchase, payment
8 distribution, loan, advance, deposit or gift of money or
9 anything of value, made for the purpose of electing a candidate
10 to the board; or a contract, promise, or agreement, express or
11 implied, whether or not legally enforceable, to make any
12 campaign expenditure; but does not include the use of real or
13 personal property and the cost of invitations, food and
14 beverages, voluntarily provided by an individual to a candidate
15 in rendering voluntary personal services on the individual's
16 residential premises for candidate-related activities if the
17 cumulative value of the activities by the individual on behalf
18 of any candidate does not exceed \$100 for any election.

19 (4) "Class A utility" means any gas, electric or water
20 public utility with annual total gross operating revenues of
21 \$2.5 million or more or any telephone public utility with
22 annual total gross operating revenues of \$1,600,000 or more on
23 the effective date of this Act.

24 (5) "Corporation" means the citizens utility board.

25 (6) "Director" means any member of the board.

26 (7) "District" means a corporation district, the
27 boundaries of which are congruent with the boundaries of the
28 Congressional districts in the State.

29 (8) "Immediate family" of a person means the person's
30 spouse and legal dependents.

31 (9) "Member" means any person who satisfies the
32 requirements for membership under Section 4.

33 (10) "Periodic customer billing" means a demand for payment
34 for utility services by a public utility to a residential
35 utility consumer on a monthly or other regular basis.

36 (10.5) "Petroleum consumer" means any individual located

1 in this State who uses petroleum products, including, but not
2 limited to, gasoline, diesel fuel, biodiesel, and E-85.

3 (10.10) "Petroleum provider" means any entity providing
4 petroleum products to consumers.

5 (10.15) "Petroleum service" means the movement of
6 petroleum products for use by petroleum consumers.

7 (11) "Political committee" means any committee, club,
8 association or other group of persons which make campaign
9 expenditures or receive campaign contributions during the year
10 before an election of the board.

11 (12) "Public utility" means any person who owns, operates,
12 manages or controls any plant or equipment or any part of a
13 plant or equipment, within the State, for the conveyance of
14 telephone messages or for the production, transmission,
15 delivery or furnishing of heat, light, water or power either
16 directly or indirectly to or for the public. "Public utility"
17 includes any person engaged in the transmission or delivery of
18 natural gas for compensation within this State by means of
19 pipes or mains. "Public utility" does not include a cooperative
20 association organized for the purpose of furnishing telephone
21 service to its members only. "Public utility" does not include
22 electric cooperatives as defined in Section 3-119 of the Public
23 Utilities Act. However, "public utility" does not include
24 either public utilities that are owned and operated by a
25 political subdivision, public institution of higher education
26 or municipal corporation of this State or public utilities that
27 are owned by such political subdivision, public institution of
28 higher education, or municipal corporation and operated by any
29 of its lessees or operating agents.

30 (13) "Utility consumer" means any individual or entity,
31 which is not governmental or a public utility, which is located
32 in this State and which is furnished with a utility service by
33 a public utility.

34 (14) "Utility service" means electricity, natural gas,
35 water and telephone service supplied by a public utility.

36 (Source: P.A. 91-357, eff. 7-29-99.)

1 (220 ILCS 10/4) (from Ch. 111 2/3, par. 904)

2 Sec. 4. Citizens utility board: formation and membership.

3 (1) There is created a nonprofit public body corporate and
4 politic to be known as the "Citizens Utility Board". Any
5 utility or petroleum consumer who has submitted a membership
6 form and has contributed membership dues to the corporation in
7 the preceding 12 months shall be a member of the corporation. A
8 member may resign from membership at any time.

9 (2) The board shall, upon certification of their
10 nominations pursuant to subsection (2) of Section 12 and
11 request by the candidate, within 5 days provide to each
12 candidate for election to the board a current list of members
13 residing in the candidate's district. Such list shall include
14 the names and current addresses of members within such
15 district, and may be used by the candidate only for election
16 purposes.

17 (3) Notwithstanding any other provision of this Act or any
18 other provisions of law, if the corporation does not receive
19 contributions from at least 10,000 citizens of this State
20 within 3 years of the effective date of this Act, the
21 corporation shall be dissolved.

22 (Source: P.A. 86-101.)

23 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

24 Sec. 5. Powers and duties.

25 (1) The corporation shall:

26 (a) Represent and protect the interests of the
27 residential utility consumers and petroleum consumers of
28 this State. All actions by the corporation under this Act
29 shall be directed toward such duty; provided that the
30 corporation may also give due consideration to the
31 interests of business in the State.

32 (b) Inform, in so far as possible, all utility and
33 petroleum consumers about the corporation, including the
34 procedure for obtaining membership in the corporation.

1 (2) The corporation shall have all the powers necessary or
2 convenient for the effective representation and protection of
3 the interest of utility and petroleum consumers and to
4 implement this Act, including the following powers in addition
5 to all other powers granted by this Act.

6 (a) To make, amend and repeal bylaws and rules for the
7 regulation of its affairs and the conduct of its business;
8 to adopt an official seal and alter it at pleasure; to
9 maintain an office; to sue and be sued in its own name,
10 plead and be impleaded; and to make and execute contracts
11 and other instruments necessary or convenient to the
12 exercise of the powers of the corporation.

13 (b) To employ such agents, employees and special
14 advisors as it finds necessary and to fix their
15 compensation.

16 (c) To solicit and accept gifts, loans, including loans
17 made by the Illinois Commerce Commission from funds
18 appropriated for that purpose by law, or other aid in order
19 to support activities concerning the interests of utility
20 and petroleum consumers. Except as provided in Section 5.1,
21 the corporation may not accept gifts, loans or other aid
22 from any public utility or from any director, employee or
23 agent or member of the immediate family of a director,
24 employee or agent of any public utility or petroleum
25 provider and, after the first election the corporation, may
26 not accept from any individual, private corporation,
27 association or partnership in any single year a total of
28 more than \$1,000 in gifts. Under this paragraph, "aid" does
29 not mean payment of membership dues.

30 (d) To intervene as a party or otherwise participate on
31 behalf of utility and petroleum consumers in any proceeding
32 which affects the interest of utility or petroleum
33 consumers.

34 (e) To represent the interests of utility and petroleum
35 consumers before the Illinois Commerce Commission, the
36 Federal Energy Regulatory Commission, the Federal

1 Communications Commission, the courts, and other public
2 bodies, except that no director, employee or agent of the
3 corporation may engage in lobbying without first complying
4 with any applicable statute, administrative rule or other
5 regulation relating to lobbying.

6 (f) To establish annual dues which shall be set at a
7 level that provides sufficient funding for the corporation
8 to effectively perform its powers and duties, and is
9 affordable for as many utility and petroleum consumers as
10 is possible.

11 (g) To implement solicitation for corporation funding
12 and membership.

13 (h) To seek tax exempt status under State and federal
14 law, including 501(c)(3) status under the United States
15 Internal Revenue Code.

16 (i) To provide information and advice to utility and
17 petroleum consumers on any matter with respect to utility
18 or petroleum service, including but not limited to
19 information and advice on benefits and methods of energy
20 conservation.

21 (3) The powers, duties, rights and privileges conferred or
22 imposed upon the corporation by this Act may not be
23 transferred.

24 (4) The corporation shall refrain from interfering with
25 collective bargaining rights of any employees of a public
26 utility.

27 (Source: P.A. 91-50, eff. 6-30-99.)

28 (220 ILCS 10/6) (from Ch. 111 2/3, par. 906)

29 Sec. 6. Board. The corporation shall be managed by, and its
30 powers, functions and duties shall be exercised through a board
31 to be composed as follows:

32 (1) Election and Terms of Directors. The Citizens Utility
33 Board Districts shall be divided into two groups for the
34 purpose of establishing terms for which the Directors shall be
35 elected in each group. One group shall be comprised of the even

1 numbered Congressional Districts. The odd numbered
2 Congressional Districts shall comprise the other group.

3 (a) The Interim Board, within 60 days after their
4 appointment, shall meet and publicly by lot determine which
5 group shall be the first group and which group shall be the
6 second. The board members or their successors from the first
7 group shall be elected for successive terms of two years, two
8 years and four years; and members or their successors from the
9 second group shall be elected for successive terms of four
10 years, two years and two years.

11 (b) The first election of directors of the board is to be
12 held no later than April 30, 1985. Subsequent elections of
13 directors of the board shall be held on March 31 of each
14 election year. If March 31 falls on a weekend or holiday, the
15 election shall occur on the next business day following March
16 31.

17 (c) Interim and elected board members shall serve until
18 their successors are elected and have qualified.

19 (d) In the year following each decennial census and within
20 45 days after the redistricted Congressional Districts are
21 enacted, the board shall allocate terms between the 2 groups of
22 districts publicly by lot as provided in paragraph (a). Board
23 members or their successors from the first group shall be
24 elected for successive terms of two years, four years and four
25 years; and members or their successors from the second group
26 shall be elected for successive terms of four years, four
27 years, and two years.

28 (2) Qualifications. A director shall be a resident of the
29 district he or she represents and member of the corporation. No
30 person who is an employee in any managerial or supervisory
31 capacity, director, officer or agent or who is a member of the
32 immediate family of any such employee, director, officer or
33 agent of any public utility or any petroleum provider is
34 eligible to be a director. No director may hold any elective
35 position, be a candidate for any elective position, be a State
36 public official, be employed by the Illinois Commerce

1 Commission, or be employed in a governmental position exempt
2 from the Personnel Code.

3 (3) Director, Family Member Employment. No director, nor
4 member of his or her immediate family shall, either directly or
5 indirectly, be employed for compensation as a staff member or
6 consultant of the corporation.

7 (4) Meetings. The board shall hold regular meetings at
8 least once every 3 months on such dates and at such places as
9 it may determine. Special meetings may be called by the
10 president or by a majority of the directors upon at least 7
11 days' advance written notice. Unless otherwise provided in the
12 bylaws, a majority of the board of directors shall constitute a
13 quorum; provided, that in no event shall a quorum consist of
14 less than one-third of the board of directors. The act of the
15 majority of the directors, present at a meeting at which a
16 quorum is present, shall be the act of the board of directors
17 unless the act of a greater number is required by this Act or
18 bylaws. A summary of the minutes of every board meeting shall
19 be made available to each public library in the State upon
20 request and to individuals upon request.

21 (5) Expenses. A director may not receive any compensation
22 for his or her services but shall be reimbursed for necessary
23 expenses, including travel expenses incurred in the discharge
24 of duties. The board shall establish standard allowances for
25 mileage, room and meals and the purposes for which such
26 allowances may be made and shall determine the reasonableness
27 and necessity for such reimbursements. The board shall include
28 the schedule of such standard allowances in the annual report
29 under subsection (4) (d) of Section 7.

30 (6) Bonding. Directors and employees eligible to disburse
31 funds shall be bonded. The costs of such bonds shall be paid by
32 the corporation.

33 (Source: P.A. 84-1093.)

34 (220 ILCS 10/10) (from Ch. 111 2/3, par. 910)

35 Sec. 10. Prohibited Acts.

1 (1) No person may interfere or threaten to interfere with
2 or cause any interference with utility service or petroleum
3 service or with the utility service or petroleum service of or
4 penalize any person who contributes to the corporation or
5 participates in any of its activities, in retribution for such
6 contribution or participation.

7 (2) No person may act with intent to prevent, interfere
8 with or hinder the activities permitted under this Act.

9 (3) A person who violates this Section may be fined not
10 more than \$1,000. Each such violation shall constitute a
11 separate and continuing violation of this Act. A person who
12 knowingly and wilfully violates this Section may be imprisoned
13 not more than 6 months.

14 (Source: P.A. 83-945.)

15 (220 ILCS 10/11) (from Ch. 111 2/3, par. 911)

16 Sec. 11. Appointment of Interim Board of Directors.

17 (1) Within 90 days after the effective date of this Act, an
18 interim board of directors shall be appointed. The Board shall
19 consist of 11 members. The Governor shall appoint 3 members.
20 The President of the Senate, the Speaker of the House, the
21 Minority Leader of the Senate and the Minority Leader of the
22 House shall each appoint 2 members. The appointees shall
23 reflect the geographical diversity of this State and shall
24 include representation from minority groups, low-income
25 persons, labor organizations, business, women and senior
26 citizens. No interim director appointed under this Section may
27 hold an elective position, be a candidate for any elective
28 position, or be a State public official.

29 (2) The interim board appointed under this Section shall:

30 (a) As soon as possible after appointment, organize for the
31 transaction of business.

32 (b) Inform the utility and petroleum consumers of this
33 State of the existence, nature and purposes of the corporation,
34 and encourage utility and petroleum consumers to join the
35 corporation, to participate in the corporation's activities

1 and to contribute to the corporation.

2 (c) Establish annual dues to be in effect until such time
3 as an elected board assumes the duty as provided in paragraph
4 (2) (f) of Section 5.

5 (d) Elect officers as provided under Section 12.

6 (e) Employ such staff as the interim directors deem
7 necessary to carry out the purposes of this Section. The
8 interim board appointed under this Section shall follow the
9 procedures required under Section 7.2 if it hires an executive
10 director of the corporation.

11 (f) Make all necessary preparations for the first election
12 of directors, oversee the election campaign and tally the votes
13 under Section 12.

14 (g) Solicit funds for the corporation.

15 (h) Carry out all other duties and exercise all other
16 powers accorded to the board under this Act including the
17 powers given to the corporation under Section 9.

18 (Source: P.A. 83-945.)

19 (220 ILCS 10/12) (from Ch. 111 2/3, par. 912)

20 Sec. 12. (1) Eligibility. To be eligible for election to
21 the board, a candidate must:

22 (a) Meet the qualifications for directors under subsection
23 (2) of Section 6.

24 (b) Have his or her nomination certified by the board under
25 subsection (2) of this Section.

26 (c) Submit to the board a statement of financial interests
27 under subsection (3) and a statement of personal background and
28 positions under subsection (4).

29 (d) Make the affirmation under subsection (3) (e).

30 (2) Nomination. A candidate for election to the board shall
31 circulate or have a member of the corporation circulate a
32 petition for nomination on the candidate's behalf not sooner
33 than 120 days preceding the election and shall file the
34 petition with the corporation not later than 60 days prior to
35 the election. The petition for nomination shall be signed by at

1 least 5% or 30, whichever is less, of the members residing in
2 his or her district. The board shall verify the validity of the
3 signatures by comparing them to the signatures on the
4 membership applications and the current list of members
5 maintained by the Board. Within 14 days after the petition is
6 due, the board shall determine whether a sufficient number of
7 signatures are valid. If the board determines a sufficient
8 number are valid, it shall certify the nomination of the
9 candidate.

10 (3) Statement of financial interests. A candidate for
11 election to the board whose nomination is certified under
12 subsection (2) shall submit to the board, not later than 60
13 days prior to the election, a statement of financial interests
14 upon a form provided by the board. The statement of financial
15 interests shall include the following information:

16 (a) The occupation, employer and position at place of
17 employment of the candidate and of his or her immediate family
18 members.

19 (b) A list of all corporate directorships or other offices,
20 and of all fiduciary relationships, held in the past 3 years by
21 the candidate and by his or her immediate family members.

22 (c) The name of any creditor to whom the candidate or a
23 member of the candidate's immediate family owes \$10,000 or
24 more.

25 (d) The name of any corporation in which the candidate
26 holds a security, the current market value of which is \$5,000
27 or more.

28 (e) An affirmation, subject to penalty of perjury, that the
29 information contained in the statement of financial interests
30 is true and complete.

31 (4) Statement of personal background and positions. A
32 candidate for election to the board whose nomination is
33 certified under subsection (2) shall submit to the board, not
34 later than 60 days prior to the election, on a form to be
35 provided by the board, a statement concerning his or her
36 personal background and positions on issues relating to public

1 utilities, petroleum, or the operations of the corporation. The
2 statement shall contain an affirmation, subject to penalty of
3 perjury, that the candidate meets the qualifications
4 prescribed for directors in subsection (2) of Section 6.

5 (5) Restrictions on a reporting of campaign contributions
6 and expenditures. (a) No candidate may accept more than \$200 in
7 campaign contributions from any person or political committee
8 from one year before the date of an election through the date
9 of the election.

10 (b) Each candidate for election to the board shall keep
11 complete records of all contributions to his or her campaign of
12 \$25 or more from one year before the date of an election
13 through the date of the election, and, at the board's request,
14 shall make such records available for inspection by the board.

15 (c) As a condition for receiving the benefits of the
16 board's mailing under subsection (6), a candidate for election
17 to the board shall agree in writing to incur no more than
18 \$2,500 in campaign expenditures from the time he or she
19 commences circulation of petitions for nomination or from 4
20 months prior to the election, whichever is earlier, through the
21 date of the election.

22 (d) Each candidate for election to the board shall keep
23 complete records of his or her campaign expenditures, and, at
24 the board's request, shall make such records available for
25 inspection by the board.

26 (e) No earlier than 14 days and no later than 8 days
27 preceding the election and no earlier than 21 days and no later
28 than 30 days after the election, each candidate for election to
29 the board shall submit to the board, on a form provided by the
30 board, an accurate statement of his or her campaign
31 contributions, swearing that he or she has fully complied with
32 the requirements of this subsection.

33 (f) No candidate for election to the board may use any
34 campaign contribution for any purpose except for campaign
35 expenditures. Any campaign contribution not expended shall be
36 donated no later than 90 days after the election to the

1 corporation or to any charitable organization at the option of
2 the candidate.

3 (6) Election procedures. (a) The board shall mail or
4 distribute to each member's address on file with the
5 corporation, not sooner than 30 and not later than 10 days
6 before the date fixed for the election:

7 (i) An official ballot listing all candidates for director
8 from the member's district whose nominations the board has
9 certified and who satisfy the requirements of subsection (1).
10 The board shall include with the ballot each candidate's
11 statement of financial interests submitted under subsection
12 (3).

13 (ii) The statement by each candidate for election to the
14 board of personal background and positions as required under
15 subsection (4), if the candidate has agreed in writing to limit
16 his or her campaign expenditures under subsection (5) (c).

17 (b) Each member may vote in the election by returning his
18 or her official ballot in person or by first class mail,
19 properly marked, to the ballot return location designated by
20 the corporation. Ballots returned to the location designated by
21 the corporation must be postmarked on or before the date fixed
22 for the election or must be received at the ballot return
23 location designated by the corporation on or before the date
24 fixed for the election.

25 (c) Voting shall be by secret ballot.

26 (d) The board shall tally votes with all reasonable speed
27 and shall inform the membership promptly of the names of the
28 candidates elected.

29 (e) For each district the board within 30 days of the
30 election shall certify the candidate elected to the board if
31 the candidate has the most votes in the district and if he or
32 she has complied with this Section.

33 (f) If a vacancy in nomination occurs because no candidate
34 has filed for nomination, the board by a majority of those
35 voting shall appoint a member of the corporation who resides in
36 the district where the vacancy exists to be the candidate.

1 (g) If the candidate with the most votes dies, declines or
2 resigns from candidacy prior to being certified under paragraph
3 (e), or for any other reason is not certified under paragraph
4 (e), the office for which the candidate ran shall be vacant and
5 shall be filled by the board as provided herein.

6 (h) If a vacancy on the Board occurs, with more than 12
7 months remaining in the term, the Board shall set a date for a
8 special election for the district for the purpose of electing a
9 director to serve out the term of the vacant office and shall
10 so notify every member in the district. The election may not be
11 less than 2 months nor more than 4 months after such
12 notification. An election under this Section shall be conducted
13 in the same manner as other elections of directors are
14 conducted. The seat shall remain vacant if there is 8 months or
15 less remaining in the term.

16 (7) Election rules. The board may prescribe rules for the
17 conduct of elections and election campaigns not inconsistent
18 with this Act.

19 (Source: P.A. 84-1093.)

20 (220 ILCS 10/20) (from Ch. 111 2/3, par. 920)

21 Sec. 20. Liability of public utility. No public utility or
22 petroleum provider shall be liable on any claim based on any
23 action it is required to take to be in compliance with this
24 Act.

25 (Source: P.A. 83-945.)

26 (220 ILCS 10/21) (from Ch. 111 2/3, par. 921)

27 Sec. 21. Home rule preemption. The provisions of this Act
28 are declared to be an exclusive exercise of power by the State
29 of Illinois pursuant to paragraphs (h) or (i) of Section 6 of
30 Article VII of the Illinois Constitution. No home rule unit may
31 impose any requirement or regulation on any public utility or
32 petroleum provider inconsistent with or in addition to the
33 requirements or regulations set forth in this Act.

34 (Source: P.A. 83-945.)