

HB0351



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0351

Introduced 1/22/2007, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

220 ILCS 5/17-800 new

Amends the Public Utilities Act. Authorizes municipalities and counties to aggregate customers for the purchase of electricity. Provides for approval of aggregation by the voters. Requires the Commerce Commission to review aggregation plans.

LRB095 05290 MJR 25368 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Public Utilities Act is amended by adding
5 Section 17-800 as follows:

6 (220 ILCS 5/17-800 new)

7 Sec. 17-800. Aggregation of electrical load by
8 municipalities and counties.

9 (a) The corporate authorities of a municipality or county
10 board of a county may adopt an ordinance, under which it may
11 aggregate in accordance with this Section one or more classes
12 of the retail electrical loads located, respectively, within
13 the municipality or county and, for that purpose, may solicit
14 bids and enter into service agreements to facilitate for those
15 loads the sale and purchase of electricity and related services
16 and equipment. The corporate authorities or county board also
17 may exercise such authority jointly with any other municipality
18 or county. An ordinance under this Section shall specify
19 whether the aggregation will occur only with the prior consent
20 of each person owning, occupying, controlling, or using an
21 electric load center proposed to be aggregated or will occur
22 automatically for all such persons pursuant to the opt-out
23 requirements of this Section. Nothing in this Section, however,

1 authorizes the aggregation of retail electric loads of an
2 electric load center that is located in the certified territory
3 of a nonprofit electric supplier or an electric load center
4 served by distribution facilities of a municipal electric
5 utility. If an ordinance adopted under this Section specifies
6 that aggregation will occur automatically, the corporate
7 authorities or county board shall certify the question of the
8 authority to aggregate in accordance with the Election Code to
9 the election authority for submission to the voters at the next
10 election. No aggregation pursuant to an ordinance adopted under
11 this Section that provides for an election under this Section
12 shall take effect unless approved by a majority of the electors
13 voting upon the ordinance at the election held pursuant to this
14 Section.

15 No corporate authority or county board acting pursuant to
16 an ordinance under this Section that provides for automatic
17 aggregation shall aggregate the electrical load of any electric
18 load center located within its jurisdiction unless it clearly
19 discloses to the person owning, occupying, controlling, or
20 using the load center that the person will be enrolled
21 automatically in the aggregation program and will remain so
22 enrolled unless the person affirmatively elects by a stated
23 procedure not to be so enrolled. The disclosure shall state
24 prominently the rates, charges, and other terms and conditions
25 of enrollment. The stated procedure shall allow any person
26 enrolled in the aggregation program the opportunity to opt out

1 of the program every 3 years, without paying an exit fee. Any
2 such person that leaves the aggregation program pursuant to the
3 stated procedure shall default to the bundled utility service
4 until the person chooses an alternative supplier or returns to
5 the aggregation program.

6 A governmental aggregator under this Section is not a
7 public utility or an alternative retail electric supplier and
8 shall be subject to supervision and regulation by the
9 Commission only to the extent provided in this Section.

10 A municipality may initiate a process to authorize
11 aggregation by a majority vote of the municipal council, with
12 the approval of the mayor. A county may initiate the process to
13 authorize aggregation by a majority vote of the county board.
14 Two or more municipalities or counties, or a combination of
15 both, may initiate a process jointly to authorize aggregation
16 by a majority vote of each particular municipality or county as
17 herein required.

18 Upon the applicable requisite authority under this
19 Section, the corporate authorities or the county board shall
20 develop a plan of operation and governance for the aggregation
21 program so authorized. Before adopting a plan under this
22 Section, the corporate authorities or county board shall hold
23 at least 2 public hearings on the plan. Before the first
24 hearing, the corporate authorities or county board shall
25 publish notice of the hearings once a week for 2 consecutive
26 weeks in a newspaper of general circulation in the

1 jurisdiction. The notice shall summarize the plan and state the
2 date, time, and location of each hearing. Any load aggregation
3 plan established pursuant to this Section shall:

4 (1) provide for universal access to all applicable
5 customers and equitable treatment of applicable classes of
6 customers;

7 (2) describe demand management and energy efficiency
8 services to be provided to each class of customers; and

9 (3) meet any requirements established by law or the
10 Commission concerning aggregated service offered pursuant
11 to this Section.

12 The plan shall be filed with the Commission for review and
13 approval and shall include, without limitation, an
14 organizational structure of the program, its operations, and
15 funding; the methods of establishing rates and allocating costs
16 among participants; the methods for entering and terminating
17 agreements with other entities; the rights and
18 responsibilities of program participants, including the terms
19 and conditions under which retail customers who have chosen to
20 opt out of the aggregated service may take service from the
21 aggregated entity; and procedures for termination of the
22 program. Within 120 days after receipt of the plan, the
23 Commission shall issue an order either approving or rejecting
24 the plan. If the Commission rejects the plan, it shall state
25 detailed reasons for rejecting the plan in its order. Upon
26 approval of the plan, the corporate authorities or county board

1 may solicit bids for electricity and other related services
2 pursuant to the methods established in the plan. The corporate
3 authorities or county board shall report the results of this
4 solicitation and proposed agreement awards to the Commission,
5 which shall have 15 business days to suspend such awards if the
6 solicitation or awards are not in conformance with the plan or
7 if the cost for energy would in the first year exceed the cost
8 of that energy if that energy was obtained from an electric
9 utility under Section 16-103 of this Act by citizens in the
10 municipality or county or group of municipalities and counties,
11 unless the applicant can demonstrate that the cost for energy
12 under the aggregation plan will be lower in the subsequent
13 years or the applicant can demonstrate that such excess cost is
14 due to the purchase of renewable energy. If the Commission does
15 not suspend the proposed contract awards within 15 business
16 days after filing, the corporate authorities or county board
17 shall have the right to award the proposed agreements.

18 It shall be the duty of the aggregated entity to fully
19 inform retail customers in advance of automatic enrollment that
20 they are to be automatically enrolled and that they have the
21 right to opt out of the aggregated entity without penalty. The
22 disclosure shall prominently state all charges to be made and
23 shall include full disclosure of the cost to obtain service
24 pursuant to Section 16-103 of this Act, how to access it, and
25 the fact that it is available to them without penalty, if they
26 are currently receiving service under that Section. The

1 Commission shall furnish, without charge, to any citizen a list
2 of all supply options available to them in a format that allows
3 comparison of prices and products.

4 (b) The Commission shall promulgate rules by which the
5 corporate authorities or county board may request information
6 from the electric utility or utilities whose customers may be
7 included in its aggregation plan. The rules shall ensure that
8 municipalities and counties have reasonable and timely access
9 to information pertinent to the formation of a plan and
10 solicitation of bids to serve customers, that confidentiality
11 of individuals is protected, and that charges for production of
12 such data are reasonable and not unduly burdensome to the
13 corporate authorities or county board. Information to be
14 provided by the electric utility to the municipality or county
15 shall include, but is not limited to, the following:

16 (1) billing and electric load data by customer class;

17 (2) forecasts of electric demand; and

18 (3) for the purpose of opt-out notification, the names,
19 addresses, and meter and account numbers of customers who
20 do not take service from an alternative retail electric
21 supplier.