



Rep. Mike Fortner

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09500HB5257ham003

LRB095 19168 MJR 50984 a

1 AMENDMENT TO HOUSE BILL 5257

2 AMENDMENT NO. _____. Amend House Bill 5257 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by
5 adding Section 1-92 as follows:

6 (20 ILCS 3855/1-92 new)

7 Sec. 1-92. 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 residential and small
12 commercial retail electrical loads located, respectively,
13 within the municipality or the unincorporated areas of the
14 county and, for that purpose, may solicit bids and enter into
15 service agreements to facilitate for those loads the sale and
16 purchase of electricity and related services and equipment.

1 The corporate authorities or county board may also exercise
2 such authority jointly with any other municipality or county.
3 Two or more municipalities or counties, or a combination of
4 both, may initiate a process jointly to authorize aggregation
5 by a majority vote of each particular municipality or county as
6 required by this Section.

7 If the corporate authorities or the county board seek to
8 operate the aggregation program as an opt-out program for
9 residential and small commercial retail customers, then prior
10 to the adoption of an ordinance with respect to aggregation of
11 residential and small commercial retail electric loads, the
12 corporate authorities of a municipality or the county board of
13 a county shall submit a referendum to its residents to
14 determine whether or not the aggregation program shall operate
15 as an opt-out program for residential and small commercial
16 retail customers.

17 In addition to the notice and conduct requirements of the
18 general election law, notice of the referendum shall state
19 briefly the purpose of the referendum. The question of whether
20 the corporate authorities or the county board shall adopt an
21 opt-out aggregation program for residential and small
22 commercial retail customers shall be submitted to the electors
23 of the municipality or county board at a regular election and
24 approved by a majority of the electors voting on the question.
25 The corporate authorities or county board must certify to the
26 proper election authority, which must submit the question at an

1 election in accordance with the Election Code.

2 The election authority must submit the question in
3 substantially the following form:

4 Shall the (municipality or county in which the question
5 is being voted upon) have the authority to arrange for the
6 supply of electricity for its residential and small
7 commercial retail customers who have not opted out of such
8 program?

9 The election authority must record the votes as "Yes" or "No".

10 If a majority of the electors voting on the question vote
11 in the affirmative, then the corporate authorities or county
12 board may implement an opt-out aggregation program for
13 residential and small commercial retail customers.

14 A referendum must pass in each particular municipality or
15 county that is engaged in the aggregation program. If the
16 referendum fails, then the corporate authorities or county
17 board shall operate the aggregation program as an opt-in
18 program for residential and small commercial retail customers.

19 An ordinance under this Section shall specify whether the
20 aggregation will occur only with the prior consent of each
21 person owning, occupying, controlling, or using an electric
22 load center proposed to be aggregated. Nothing in this Section,
23 however, authorizes the aggregation of electric loads that are
24 served or authorized to be served by an electric cooperative as
25 defined by and pursuant to the Electric Supplier Act or loads
26 served by a municipality that owns and operates its own

1 electric distribution system. No aggregation shall take effect
2 unless approved by a majority of the members of the corporate
3 authority or county board voting upon the ordinance.

4 A governmental aggregator under this Section is not a
5 public utility or an alternative retail electric supplier.

6 (b) Upon the applicable requisite authority under this
7 Section, the corporate authorities or the county board, with
8 assistance from the Illinois Power Agency, shall develop a plan
9 of operation and governance for the aggregation program so
10 authorized. Before adopting a plan under this Section, the
11 corporate authorities or county board shall hold at least 2
12 public hearings on the plan. Before the first hearing, the
13 corporate authorities or county board shall publish notice of
14 the hearings once a week for 2 consecutive weeks in a newspaper
15 of general circulation in the jurisdiction. The notice shall
16 summarize the plan and state the date, time, and location of
17 each hearing. Any load aggregation plan established pursuant to
18 this Section shall:

19 (1) provide for universal access to all applicable
20 residential customers and equitable treatment of
21 applicable residential customers;

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

24 (3) meet any requirements established by law
25 concerning aggregated service offered pursuant to this
26 Section.

1 (c) The process for soliciting bids for electricity and
2 other related services and awarding proposed agreements for the
3 purchase of electricity and other related services shall be
4 conducted in the following order:

5 (1) The corporate authorities or county board may
6 solicit bids for electricity and other related services.

7 (2) Notwithstanding Section 16-122 of the Public
8 Utilities Act and Section 2HH of the Consumer Fraud and
9 Deceptive Business Practices Act, an electric utility that
10 provides residential and small commercial retail electric
11 service in the aggregate area must, upon request of the
12 corporate authorities or the county board in the aggregate
13 area, submit to the requesting party, in an electronic
14 format, those names and addresses of residential and small
15 commercial retail customers in the aggregate area that are
16 reflected in the electric utility's records at the time of
17 the request. Any corporate authority or county board
18 receiving customer information from an electric utility
19 shall be subject to the limitations on the disclosure of
20 the information described in Section 16-122 of the Public
21 Utilities Act and Section 2HH of the Consumer Fraud and
22 Deceptive Business Practices Act, and an electric utility
23 shall not be held liable for any claims arising out of the
24 provision of information pursuant to this item (2).

25 (d) If the corporate authorities or county board operate
26 under an opt-in program for residential and small commercial

1 retail customers, then the corporate authorities or county
2 board shall comply with all of the following:

3 (1) Within 60 days after receiving the bids, the
4 corporate authorities or county board shall allow
5 residential and small commercial retail customers to
6 commit to the terms and conditions of a bid that has been
7 selected by the corporate authorities or county board.

8 (2) If (A) the corporate authorities or county board
9 award proposed agreements for the purchase of electricity
10 and other related services and (B) an agreement is reached
11 between the corporate authorities or county board for those
12 services, then customers committed to the terms and
13 conditions according to item (1) of this subsection (d)
14 shall be committed to the agreement.

15 (e) If the corporate authorities or county board operate as
16 an opt-out program for residential and small commercial retail
17 customers, then it shall be the duty of the aggregated entity
18 to fully inform residential and small commercial retail
19 customers in advance that they have the right to opt out of the
20 aggregation program. The disclosure shall prominently state
21 all charges to be made and shall include full disclosure of the
22 cost to obtain service pursuant to Section 16-103 of the Public
23 Utilities Act, how to access it, and the fact that it is
24 available to them without penalty, if they are currently
25 receiving service under that Section. The Illinois Power Agency
26 shall furnish, without charge, to any citizen a list of all

1 supply options available to them in a format that allows
2 comparison of prices and products.

3 The Illinois Power Agency shall provide assistance to
4 municipalities, counties, or associations working with
5 municipalities to help complete the plan and bidding process.

6 This Section does not prohibit municipalities or counties
7 from entering into an intergovernmental agreement to aggregate
8 residential and small commercial retail electric loads.

9 (f) Notwithstanding any other rulemaking authority that
10 may exist, neither the Governor nor any agency or agency head
11 under the jurisdiction of the Governor has any authority to
12 make or promulgate rules to implement or enforce the provisions
13 of this amendatory Act of the 95th General Assembly. If,
14 however, the Governor believes that rules are necessary to
15 implement or enforce the provisions of this amendatory Act of
16 the 95th General Assembly, the Governor may suggest rules to
17 the General Assembly by filing them with the Clerk of the House
18 and the Secretary of the Senate and by requesting that the
19 General Assembly authorize such rulemaking by law, enact those
20 suggested rules into law, or take any other appropriate action
21 in the General Assembly's discretion. Nothing contained in this
22 amendatory Act of the 95th General Assembly shall be
23 interpreted to grant rulemaking authority under any other
24 Illinois statute where such authority is not otherwise
25 explicitly given. For the purposes of this amendatory Act of
26 the 95th General Assembly, "rules" is given the meaning

1 contained in Section 1-70 of the Illinois Administrative
2 Procedure Act, and "agency" and "agency head" are given the
3 meanings contained in Sections 1-20 and 1-25 of the Illinois
4 Administrative Procedure Act to the extent that such
5 definitions apply to agencies or agency heads under the
6 jurisdiction of the Governor.

7 (220 ILCS 5/17-800 rep.)

8 Section 10. The Public Utilities Act is amended by
9 repealing Section 17-800."