



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0722

Introduced 2/6/2009, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-92 new
220 ILCS 5/17-800 rep.

Amends the Illinois Power Agency Act. Provides that the corporate authorities of a municipality or county board of a county may adopt an ordinance under which it may aggregate in accordance with specified provisions residential and small commercial retail electrical loads located within the municipality or the unincorporated areas of the county. Contains provisions concerning the actions the corporate authorities or a county board may take with respect to aggregation. Provides that if the corporate authorities or the county board seek to operate the aggregation program as an opt-out program for residential and small commercial retail customers, then prior to the adoption of an ordinance with respect to the loads, the corporate authorities of a municipality or the county board of a county shall submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out program. Requires that the corporate authorities or county board must work with the Illinois Power Agency to develop a plan of operation and governance for the aggregation program. Contains provisions concerning the process for soliciting bids for electricity and other related services. Provides that if the corporate authorities or a county board decides to operate as an opt-in program, then it must comply with specified requirements. Contains notice requirements concerning the existence of an opt-out provision in the aggregation program. Repeals a provision in the Public Utilities Act concerning the aggregation of electrical load by municipalities and counties.

LRB096 08034 MJR 18140 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning utilities.

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

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.

17 The corporate authorities or county board may also exercise
18 such authority jointly with any other municipality or county.
19 Two or more municipalities or counties, or a combination of
20 both, may initiate a process jointly to authorize aggregation
21 by a majority vote of each particular municipality or county as
22 required by this Section.

23 If the corporate authorities or the county board seek to

1 operate the aggregation program as an opt-out program for
2 residential and small commercial retail customers, then prior
3 to the adoption of an ordinance with respect to aggregation of
4 residential and small commercial retail electric loads, the
5 corporate authorities of a municipality or the county board of
6 a county shall submit a referendum to its residents to
7 determine whether or not the aggregation program shall operate
8 as an opt-out program for residential and small commercial
9 retail customers.

10 In addition to the notice and conduct requirements of the
11 general election law, notice of the referendum shall state
12 briefly the purpose of the referendum. The question of whether
13 the corporate authorities or the county board shall adopt an
14 opt-out aggregation program for residential and small
15 commercial retail customers shall be submitted to the electors
16 of the municipality or county board at a regular election and
17 approved by a majority of the electors voting on the question.
18 The corporate authorities or county board must certify to the
19 proper election authority, which must submit the question at an
20 election in accordance with the Election Code.

21 The election authority must submit the question in
22 substantially the following form:

23 Shall the (municipality or county in which the question
24 is being voted upon) have the authority to arrange for the
25 supply of electricity for its residential and small
26 commercial retail customers who have not opted out of such

1 program?

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

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

7 A referendum must pass in each particular municipality or
8 county that is engaged in the aggregation program. If the
9 referendum fails, then the corporate authorities or county
10 board shall operate the aggregation program as an opt-in
11 program for residential and small commercial retail customers.

12 An ordinance under this Section shall specify whether the
13 aggregation will occur only with the prior consent of each
14 person owning, occupying, controlling, or using an electric
15 load center proposed to be aggregated. Nothing in this Section,
16 however, authorizes the aggregation of electric loads that are
17 served or authorized to be served by an electric cooperative as
18 defined by and pursuant to the Electric Supplier Act or loads
19 served by a municipality that owns and operates its own
20 electric distribution system. No aggregation shall take effect
21 unless approved by a majority of the members of the corporate
22 authority or county board voting upon the ordinance.

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

25 (b) Upon the applicable requisite authority under this
26 Section, the corporate authorities or the county board, with

1 assistance from the Illinois Power Agency, shall develop a plan
2 of operation and governance for the aggregation program so
3 authorized. Before adopting a plan under this Section, the
4 corporate authorities or county board shall hold at least 2
5 public hearings on the plan. Before the first hearing, the
6 corporate authorities or county board shall publish notice of
7 the hearings once a week for 2 consecutive weeks in a newspaper
8 of general circulation in the jurisdiction. The notice shall
9 summarize the plan and state the date, time, and location of
10 each hearing. Any load aggregation plan established pursuant to
11 this Section shall:

12 (1) provide for universal access to all applicable
13 residential customers and equitable treatment of
14 applicable residential customers;

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

17 (3) meet any requirements established by law
18 concerning aggregated service offered pursuant to this
19 Section.

20 (c) The process for soliciting bids for electricity and
21 other related services and awarding proposed agreements for the
22 purchase of electricity and other related services shall be
23 conducted in the following order:

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

26 (2) Notwithstanding Section 16-122 of the Public

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

18 (d) If the corporate authorities or county board operate
19 under an opt-in program for residential and small commercial
20 retail customers, then the corporate authorities or county
21 board shall comply with all of the following:

22 (1) Within 60 days after receiving the bids, the
23 corporate authorities or county board shall allow
24 residential and small commercial retail customers to
25 commit to the terms and conditions of a bid that has been
26 selected by the corporate authorities or county board.

1 (2) If (A) the corporate authorities or county board
2 award proposed agreements for the purchase of electricity
3 and other related services and (B) an agreement is reached
4 between the corporate authorities or county board for those
5 services, then customers committed to the terms and
6 conditions according to item (1) of this subsection (d)
7 shall be committed to the agreement.

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

22 The Illinois Power Agency shall provide assistance to
23 municipalities, counties, or associations working with
24 municipalities to help complete the plan and bidding process.

25 This Section does not prohibit municipalities or counties
26 from entering into an intergovernmental agreement to aggregate

1 residential and small commercial retail electric loads.

2 (220 ILCS 5/17-800 rep.)

3 Section 10. The Public Utilities Act is amended by
4 repealing Section 17-800.