



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5643

Introduced 2/15/2012, by Rep. Chad Hays

#### SYNOPSIS AS INTRODUCED:

70 ILCS 1950/5  
70 ILCS 1950/10  
70 ILCS 1950/15  
70 ILCS 1950/20  
70 ILCS 1950/22 new  
70 ILCS 1950/25 new  
70 ILCS 1950/30 new

Amends the Renewable Energy Production District Act. Provides that the definition of "renewable energy facility" includes waste-to-energy concepts. Provides that any or all (now, any) areas within the boundaries of a single county may be incorporated as a single renewable energy production special district (now, renewable energy production district). Sets forth various powers of the board. Sets forth procedures for the dissolution of a district. Further provides that a district and its board and employees shall be afforded the protections afforded by the Local Governmental and Governmental Employees Tort Immunity Act. Effective immediately.

LRB097 20480 KMW 66017 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Renewable Energy Production District Act is  
5 amended by changing Sections 5, 10, 15, and 20 and by adding  
6 Sections 22, 25, and 30 as follows:

7 (70 ILCS 1950/5)

8 Sec. 5. Definitions ~~Definition~~.

9 "Board" means the board of trustees of a renewable energy  
10 production special district created under this Act.

11 "District" means a renewable energy production special  
12 district created under this Act.

13 "Renewable energy facility" means a generator attached to a  
14 building or parcel of land that is powered by solar electric  
15 energy or wind, dedicated crops grown for electricity  
16 generation, anaerobic digestion of livestock or food  
17 processing waste, fuel cells or microturbines powered by  
18 renewable fuels, ~~or~~ hydroelectric energy, or waste-to-energy  
19 concepts.

20 (Source: P.A. 97-265, eff. 8-8-11.)

21 (70 ILCS 1950/10)

22 Sec. 10. Renewable energy production special district.

1        (a) Any or all areas ~~area~~ within the boundaries of a single  
2 county may be incorporated as a single renewable energy  
3 production special district. The territory incorporated in a  
4 district formed under this Act shall be contiguous and may  
5 contain any territory not previously included in any renewable  
6 energy production district.

7        (b) Fifty or more of the legal voters resident within the  
8 limits of the proposed district or a majority if there are  
9 fewer than 100 legal voters, hereinafter referred to as the  
10 "petitioners", may petition the circuit court for the county in  
11 which the proposed district is located to cause the question to  
12 be submitted to the legal voters of the proposed district  
13 whether the proposed territory shall be organized as a  
14 renewable energy production special district under this Act.  
15 The petition shall be addressed to the court and shall set  
16 forth (i) ~~contain~~ a definite description of the boundaries of  
17 the territory to be embraced in the proposed district, (ii) and  
18 the name of the proposed district, and (iii) a request that the  
19 question be submitted to the legal voters of the proposed  
20 district. The territory incorporated in a district formed under  
21 this Act shall be contiguous and may contain any territory not  
22 previously included in any renewable energy production  
23 district.

24        ~~Upon filing a petition, in the office of the circuit clerk~~  
25 ~~of the county in which the petition is made, the court shall~~  
26 ~~consider the boundaries of the renewable energy production~~

1 ~~district whether the same shall be those stated in the petition~~  
2 ~~or otherwise.~~

3 (c) In the event that 2 or more petitions covering in part  
4 the same territory are filed prior to the public hearing upon  
5 the petition first filed, the petitions shall be consolidated  
6 for public hearing, and a hearing thereon may be continued to  
7 permit the giving of sufficient notice upon any petition or  
8 petitions.

9 (d) The petitioners shall give at least 20 days notice  
10 prior to a hearing ~~Notice shall be given by the court~~ of the  
11 time and place of a hearing upon the subject of the petition.  
12 The notice shall be published in one or more newspapers of  
13 general circulation within the proposed renewable energy  
14 production special district or, if there is no newspaper of  
15 general circulation within the proposed renewable energy  
16 production special district, then by posting ~~at least 10~~ copies  
17 in 10 of the most public places within the boundaries of the  
18 proposed district at least 20 days before the meeting ~~in~~  
19 ~~conspicuous places as far separated from each other as~~  
20 ~~consistently possible.~~

21 The filing fee on the petition and the costs of printing  
22 and publication or posting of notices of public hearings shall  
23 be paid by the petitioners.

24 (e) At the hearing on the petition, all persons in the  
25 proposed renewable energy production special district shall  
26 have an opportunity to present evidence be heard concerning the

1 creation, location, and boundary of the proposed district and  
2 make suggestions regarding the same, provided however, that the  
3 court may refuse to allow evidence or testimony deemed  
4 cumulative. After ~~and the court, after~~ hearing statements,  
5 evidence, and suggestions, the court shall fix and determine  
6 the limits and boundaries of the proposed district, and for  
7 that purpose and to that extent, may alter and amend the  
8 petition. In determining the limits and boundaries of the  
9 proposed district the court may consider, among other factors,  
10 the public interest and whether the territory contained within  
11 the proposed district contains only portions of one or more  
12 electoral district or districts. After the determination by the  
13 court the limits and boundaries shall be incorporated in an  
14 order, and the order shall be filed in the records of the  
15 court. Upon the entering of the order, the court shall certify  
16 the order and the proposition to the proper election officials,  
17 who shall submit the proposition to the voters at the next  
18 permissible ~~an~~ election in accordance with the general election  
19 law. In addition to the requirements of the general election  
20 law, notice of the referendum shall include a description of  
21 the boundaries of the territory to be embraced in the proposed  
22 district and the name of the proposed district.

23 The proposition shall be in substantially the following  
24 form:

25 Shall a renewable energy production special district  
26 to be known as the (name of the proposed district) be

1 incorporated?

2 The proposed district encompasses (description of  
3 territory in the proposed district).

4 Votes shall be recorded as "YES" or "NO".

5 The court shall cause a statement of the results of the  
6 election to be filed in the records of the court. If a majority  
7 of the votes cast upon the question are in favor of the  
8 incorporation of the proposed renewable energy production  
9 special district, then the district shall thereafter be an  
10 organized renewable energy production special district under  
11 this Act, and the court shall enter an order accordingly and  
12 cause the same to be filed in the records of the court and  
13 shall also send to the county clerk a certified copy of the  
14 order organizing the district.

15 (Source: P.A. 97-265, eff. 8-8-11.)

16 (70 ILCS 1950/15)

17 Sec. 15. Board of trustees.

18 (a) A renewable energy production district shall be  
19 governed by a board of trustees. The board of trustees shall  
20 consist of 5 members. A member of the board of trustees must  
21 reside within the territory embraced within the district.

22 Within 90 days after the order is entered organizing the  
23 district, the county board in which the renewable energy  
24 production district is located shall appoint the initial  
25 members of the board. Of the initial members, 3 shall serve for

1 a 3-year term and 2 shall serve for a 5-year term, as  
2 determined by lot. Thereafter, the members of the board shall  
3 serve for a 5-year term. Vacancies shall be filled in the same  
4 manner as appointments. ~~The members of the board shall annually~~  
5 ~~elect one member to serve as the chairperson.~~ Members of the  
6 board shall serve without compensation but may receive the  
7 reasonable cost of their travel expenses and may be reimbursed  
8 for actual expenses incurred in the performance of their  
9 official duties as members of the board.

10 (b) Within 60 days after appointment of the initial board  
11 of trustees, the board shall meet and elect a chairman, who  
12 shall thereafter be elected annually by the board, the  
13 secretary, and the treasurer. At the initial meeting, the board  
14 shall adopt by-laws that shall at a minimum (i) define the  
15 first and subsequent fiscal years of the district, (ii)  
16 determine the dates and times of other regular and special  
17 meetings of the board, and (iii) set forth the procedure for  
18 amending the by-laws.

19 (c) A majority of the members appointed shall constitute a  
20 quorum in order to do business.

21 (d) Formal action of the board shall be in the form of an  
22 ordinance, resolution, motion, or other appropriate form,  
23 approved by a majority of the board members in attendance at a  
24 board meeting.

25 (Source: P.A. 97-265, eff. 8-8-11.)

1 (70 ILCS 1950/20)

2 Sec. 20. Powers of the board of trustees. The board shall  
3 exercise all of the powers and control all the affairs of a  
4 renewable energy production special district.

5 (a) The board may:

6 (1) finance, acquire, construct, operate, and  
7 maintain, or dispose of a renewable energy facility;

8 (2) contract with private or public entities to  
9 finance, acquire, construct, operate, or maintain, or  
10 dispose of a renewable energy facility for the district;

11 (3) solicit and accept moneys from any legal source;  
12 and

13 (4) sell the renewable energy produced by a renewable  
14 energy facility; -

15 (5) acquire, purchase, own, lease, rent, sell, and  
16 convey interests in real and tangible and intangible  
17 personal property;

18 (6) purchase insurance;

19 (7) sue and be sued;

20 (8) hire employees, prescribe their duties and fix  
21 their compensation;

22 (9) adopt and use a seal;

23 (10) make and execute contracts, loans, leases,  
24 subleases, installation purchase agreements, notes and  
25 other instruments evidencing financial obligations, and  
26 other instruments necessary or convenient in the exercise



1 of its powers;

2 (11) make, amend, and repeal bylaws, rules, and  
3 regulations not inconsistent with this Act;

4 (12) sell, lease, sublease, license, transfer, convey,  
5 or otherwise dispose of any of its real or personal  
6 property, or interests therein, in whole or in part, at any  
7 time upon such terms and conditions as it may determine;

8 (13) invest funds, not required for immediate  
9 disbursement, in property or agreements;

10 (14) apply for, accept and use grants, loans, or other  
11 financial assistance from any private entity or municipal,  
12 county, State, or Federal governmental agency or other  
13 public entity;

14 (15) employ or enter into contracts for the employment  
15 of any person, firm, or corporation, and for professional  
16 services, necessary or desirable for the accomplishment of  
17 the corporate objects of the district or the proper  
18 administration, management, protection or control of its  
19 property and assets; and

20 (16) make and execute all contracts and other  
21 instruments necessary or convenient to the exercise of its  
22 powers.

23 This Section shall be liberally construed to give effect to  
24 its purposes.

25 (b) The board must remit all money collected from a  
26 renewable energy facility, exclusive of operations,

1 maintenance, capital, debt service, and investment costs, to  
2 the county in which the district is located.

3 (Source: P.A. 97-265, eff. 8-8-11.)

4 (70 ILCS 1950/22 new)

5 Sec. 22. Dissolution of a district.

6 (a) Action to dissolve a district may be instituted either  
7 by action of a board or petition.

8 (b) If a district has fully discharged its debts and  
9 obligations, then a board may adopt an ordinance finding and  
10 determining that the foregoing condition has been met and that  
11 the public interest does not require continuation of the  
12 district. A copy of the ordinance shall be published in one or  
13 more newspapers of general circulation within the district or,  
14 if there is no newspaper of general circulation within the  
15 district, then by posting copies in 10 of the most public  
16 places within the boundaries of the proposed district. In  
17 addition to a copy of the ordinance, the publication or posting  
18 shall include a notice of (i) the specific number of voters  
19 required to sign a petition requesting the submission to the  
20 electors of the question of the dissolution of the district,  
21 (ii) the date by which the petition must be filed, and (iii)  
22 the official with whom or office at which the petition must be  
23 filed. Unless a petition is filed with the secretary of the  
24 board within 30 days after publication or posting containing  
25 the signatures of voters equal in number to 10% or more of the

1 total number of registered voters in the territory of the  
2 district requesting that the question of the dissolution of the  
3 Authority be submitted to an election, the district shall be  
4 deemed to be dissolved at the expiration of the 30-day period.  
5 If such a petition is filed, then the question of the  
6 dissolution of the district shall be certified by the board to  
7 the proper election authority, which shall submit the question  
8 to the electors of the district at the next permissible  
9 election in accordance with the general election law.

10 The question shall be in substantially the following form:

11 Shall the (name of the district) be dissolved?

12 Votes shall be recorded as "YES" or "NO".

13 The result of the election shall be entered upon the  
14 corporate records of the district. If a majority of the ballots  
15 cast on the question are marked "yes", then the district shall  
16 be dissolved. But if a majority of the ballots on the question  
17 are marked "no", the board shall proceed with the affairs of  
18 the district as though the dissolution ordinance had never been  
19 adopted, and the question shall not again be submitted to the  
20 voters for a period of 2 years. When the business and affairs  
21 of any district have been concluded after dissolution, that  
22 fact shall be certified by the chair of its board to the county  
23 clerk of the county where the district was located.

24 (c) 10% or more of the total number of registered voters  
25 resident within the territory of the district, hereinafter  
26 referred to as the "petitioners", may petition the circuit

1 court for the county where the proposed district is located to  
2 cause the question to be submitted to the legal voters of the  
3 proposed district whether the district shall be dissolved. The  
4 petition shall be addressed to the court and shall set forth  
5 (i) the name of the district, (ii) an allegation that the  
6 district has fully discharged its debts and obligations, and  
7 (iii) a request that the question be submitted to the electors  
8 residing within the limits of the district whether the district  
9 shall be dissolved.

10 The petitioners shall give at least 20 calendar days notice  
11 of the time and place of a hearing upon the subject of the  
12 petition. The notice shall be published in one or more  
13 newspapers of general circulation within the district or, if  
14 there is no newspaper of general circulation within the  
15 district, then by posting the notice at least 20 calendar days  
16 prior to the hearing in 10 of the most public places within the  
17 boundaries of the proposed district. All costs relating to the  
18 filing of the petition and the costs of printing and  
19 publication or posting of notices of public hearing thereon  
20 shall be paid by the petitioners.

21 At the hearing on the petition all persons in the district  
22 shall have an opportunity to present evidence and be heard  
23 concerning the dissolution of the district, provided, however,  
24 that the court may refuse to allow evidence or testimony deemed  
25 cumulative.

26 After hearing statements, evidence, and suggestions, the

1 court shall determine whether the district has fully discharged  
2 its debts and obligations and, if so, the court shall enter an  
3 order that the proposition whether the district shall be  
4 dissolved be submitted to the electors residing within the  
5 limits of the district. Upon the entering of such an order the  
6 court shall certify the order and the proposition to the proper  
7 election officials, who shall submit the proposition to the  
8 voters at the next permissible election in accordance with the  
9 general election law.

10 The question shall be in substantially the following form:

11 Shall the (name of the district) be dissolved?

12 Votes shall be recorded as "YES" or "NO".

13 The result of the election shall be entered upon the  
14 corporate records of the district. If a majority of the ballots  
15 cast on the question are marked "yes", then the district shall  
16 be dissolved. But if a majority of the ballots on the question  
17 are marked "no", the board shall proceed with the affairs of  
18 the district as though dissolution had never been considered,  
19 and the question shall not again be submitted to the voters for  
20 a period of 2 years. When the business and affairs of any  
21 district have been concluded after dissolution, that fact shall  
22 be certified by the chair of its board to the county clerk of  
23 the county where the district was located.

24 (70 ILCS 1950/25 new)

25 Sec. 25. Liability. A renewable energy production district

1 and its board and employees shall be afforded the protections  
2 afforded by the Local Governmental and Governmental Employees  
3 Tort Immunity Act.

4 (70 ILCS 1950/30 new)

5 Sec. 30. Records of a district. The board shall adopt rules  
6 and regulations for the retention and proper safe keeping and  
7 maintenance of its permanent records and for the recording of  
8 the corporate actions of the district. The district shall be  
9 subject to the provisions of the Local Records Act.

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.