



## 97TH GENERAL ASSEMBLY

### State of Illinois

#### 2011 and 2012

##### HB6159

by Rep. Michelle Mussman

#### 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.

LRB097 18571 CEL 63803 b

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.

1           (2) "Campaign contribution" means a gift, subscription,  
2 loan, advance or deposit of money or anything of value, made  
3 for the purpose of electing a candidate to the board; or a  
4 contract, a promise or agreement, express or implied, whether  
5 or not legally enforceable, to make any campaign contribution;  
6 but does not include the value of services provided without  
7 compensation by individuals who volunteer a portion or all of  
8 their time on behalf of a candidate or political committee, or  
9 the use of real or personal property and the cost of  
10 invitations, food and beverages, voluntarily provided by an  
11 individual to a candidate in rendering voluntary personal  
12 services on the individual's residential premises for  
13 candidate-related activities if the cumulative value of the  
14 activities to the individual on behalf of any candidate does  
15 not exceed \$100 for any election.

16           (3) "Campaign expenditures" means a purchase, payment  
17 distribution, loan, advance, deposit or gift of money or  
18 anything of value, made for the purpose of electing a candidate  
19 to the board; or a contract, promise, or agreement, express or  
20 implied, whether or not legally enforceable, to make any  
21 campaign expenditure; but does not include the use of real or  
22 personal property and the cost of invitations, food and  
23 beverages, voluntarily provided by an individual to a candidate  
24 in rendering voluntary personal services on the individual's  
25 residential premises for candidate-related activities if the  
26 cumulative value of the activities by the individual on behalf

1 of any candidate does not exceed \$100 for any election.

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

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

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

9 (7) "District" means a corporation district, the  
10 boundaries of which are congruent with the boundaries of the  
11 Congressional districts in the State.

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

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

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

19 (10.5) "Petroleum consumer" means any individual located  
20 in this State who uses petroleum products, including, but not  
21 limited to, gasoline, diesel fuel, biodiesel, and E-85.

22 (10.10) "Petroleum provider" means any entity providing  
23 petroleum products to consumers.

24 (10.15) "Petroleum service" means the movement of  
25 petroleum products for use by petroleum consumers.

26 (11) "Political committee" means any committee, club,

1 association or other group of persons which make campaign  
2 expenditures or receive campaign contributions during the year  
3 before an election of the board.

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

23 (13) "Utility consumer" means any individual or entity,  
24 which is not governmental or a public utility, which is located  
25 in this State and which is furnished with a utility service by  
26 a public utility.

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

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

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

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

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

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

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

25           (Source: P.A. 86-101.)

1 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

2 Sec. 5. Powers and duties.

3 (1) The corporation shall:

4 (a) Represent and protect the interests of the  
5 residential utility consumers and petroleum consumers of  
6 this State. All actions by the corporation under this Act  
7 shall be directed toward such duty; provided that the  
8 corporation may also give due consideration to the  
9 interests of business in the State.

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

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

18 (a) To make, amend and repeal bylaws and rules for the  
19 regulation of its affairs and the conduct of its business;  
20 to adopt an official seal and alter it at pleasure; to  
21 maintain an office; to sue and be sued in its own name,  
22 plead and be impleaded; and to make and execute contracts  
23 and other instruments necessary or convenient to the  
24 exercise of the powers of the corporation.

25 (b) To employ such agents, employees and special

1 advisors as it finds necessary and to fix their  
2 compensation.

3 (c) To solicit and accept gifts, loans, including loans  
4 made by the Illinois Commerce Commission from funds  
5 appropriated for that purpose by law, or other aid in order  
6 to support activities concerning the interests of utility  
7 and petroleum consumers. Except as provided in Section 5.1,  
8 the corporation may not accept gifts, loans or other aid  
9 from any public utility or from any director, employee or  
10 agent or member of the immediate family of a director,  
11 employee or agent of any public utility or petroleum  
12 provider and, after the first election the corporation, may  
13 not accept from any individual, private corporation,  
14 association or partnership in any single year a total of  
15 more than \$1,000 in gifts. Under this paragraph, "aid" does  
16 not mean payment of membership dues.

17 (d) To intervene as a party or otherwise participate on  
18 behalf of utility and petroleum consumers in any proceeding  
19 which affects the interest of utility or petroleum  
20 consumers.

21 (e) To represent the interests of utility and petroleum  
22 consumers before the Illinois Commerce Commission, the  
23 Federal Energy Regulatory Commission, the Federal  
24 Communications Commission, the courts, and other public  
25 bodies, except that no director, employee or agent of the  
26 corporation may engage in lobbying without first complying



1 with any applicable statute, administrative rule or other  
2 regulation relating to lobbying.

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

8 (g) To implement solicitation for corporation funding  
9 and membership.

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

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

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

21 (4) The corporation shall refrain from interfering with  
22 collective bargaining rights of any employees of a public  
23 utility.

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

25 (220 ILCS 10/6) (from Ch. 111 2/3, par. 906)

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

4           (1) Election and Terms of Directors. The Citizens Utility  
5 Board Districts shall be divided into two groups for the  
6 purpose of establishing terms for which the Directors shall be  
7 elected in each group. One group shall be comprised of the even  
8 numbered Congressional Districts. The odd numbered  
9 Congressional Districts shall comprise the other group.

10           (a) The Interim Board, within 60 days after their  
11 appointment, shall meet and publicly by lot determine which  
12 group shall be the first group and which group shall be the  
13 second. The board members or their successors from the  
14 first group shall be elected for successive terms of two  
15 years, two years and four years; and members or their  
16 successors from the second group shall be elected for  
17 successive terms of four years, two years and two years.

18           (b) The first election of directors of the board is to  
19 be held no later than April 30, 1985. Subsequent elections  
20 of directors of the board shall be held on March 31 of each  
21 election year. If March 31 falls on a weekend or holiday,  
22 the election shall occur on the next business day following  
23 March 31.

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

26           (d) In the year following each decennial census and

1 within 45 days after the redistricted Congressional  
2 Districts are enacted, the board shall allocate terms  
3 between the 2 groups of districts publicly by lot as  
4 provided in paragraph (a). Board members or their  
5 successors from the first group shall be elected for  
6 successive terms of two years, four years and four years;  
7 and members or their successors from the second group shall  
8 be elected for successive terms of four years, four years,  
9 and two years.

10 (2) Qualifications. A director shall be a resident of the  
11 district he or she represents and member of the corporation. No  
12 person who is an employee in any managerial or supervisory  
13 capacity, director, officer or agent or who is a member of the  
14 immediate family of any such employee, director, officer or  
15 agent of any public utility or any petroleum provider is  
16 eligible to be a director. No director may hold any elective  
17 position, be a candidate for any elective position, be a State  
18 public official, be employed by the Illinois Commerce  
19 Commission, or be employed in a governmental position exempt  
20 from the Personnel Code.

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

25 (4) Meetings. The board shall hold regular meetings at  
26 least once every 3 months on such dates and at such places as

1 it may determine. Special meetings may be called by the  
2 president or by a majority of the directors upon at least 7  
3 days' advance written notice. Unless otherwise provided in the  
4 bylaws, a majority of the board of directors shall constitute a  
5 quorum; provided, that in no event shall a quorum consist of  
6 less than one-third of the board of directors. The act of the  
7 majority of the directors, present at a meeting at which a  
8 quorum is present, shall be the act of the board of directors  
9 unless the act of a greater number is required by this Act or  
10 bylaws. A summary of the minutes of every board meeting shall  
11 be made available to each public library in the State upon  
12 request and to individuals upon request.

13 (5) Expenses. A director may not receive any compensation  
14 for his or her services but shall be reimbursed for necessary  
15 expenses, including travel expenses incurred in the discharge  
16 of duties. The board shall establish standard allowances for  
17 mileage, room and meals and the purposes for which such  
18 allowances may be made and shall determine the reasonableness  
19 and necessity for such reimbursements. The board shall include  
20 the schedule of such standard allowances in the annual report  
21 under subsection (4) (d) of Section 7.

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

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

1 (220 ILCS 10/10) (from Ch. 111 2/3, par. 910)

2 Sec. 10. Prohibited Acts.

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

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

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

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

17 (220 ILCS 10/11) (from Ch. 111 2/3, par. 911)

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

19 (1) Within 90 days after the effective date of this Act, an  
20 interim board of directors shall be appointed. The Board shall  
21 consist of 11 members. The Governor shall appoint 3 members.  
22 The President of the Senate, the Speaker of the House, the  
23 Minority Leader of the Senate and the Minority Leader of the  
24 House shall each appoint 2 members. The appointees shall  
25 reflect the geographical diversity of this State and shall

1 include representation from minority groups, low-income  
2 persons, labor organizations, business, women and senior  
3 citizens. No interim director appointed under this Section may  
4 hold an elective position, be a candidate for any elective  
5 position, or be a State public official.

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

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

9 (b) Inform the utility and petroleum consumers of this  
10 State of the existence, nature and purposes of the  
11 corporation, and encourage utility and petroleum consumers  
12 to join the corporation, to participate in the  
13 corporation's activities and to contribute to the  
14 corporation.

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

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

19 (e) Employ such staff as the interim directors deem  
20 necessary to carry out the purposes of this Section. The  
21 interim board appointed under this Section shall follow the  
22 procedures required under Section 7.2 if it hires an  
23 executive director of the corporation.

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

1 (g) Solicit funds for the corporation.

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

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

6 (220 ILCS 10/12) (from Ch. 111 2/3, par. 912)

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

9 (a) Meet the qualifications for directors under  
10 subsection (2) of Section 6.

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

13 (c) Submit to the board a statement of financial  
14 interests under subsection (3) and a statement of personal  
15 background and positions under subsection (4).

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

17 (2) Nomination. A candidate for election to the board shall  
18 circulate or have a member of the corporation circulate a  
19 petition for nomination on the candidate's behalf not sooner  
20 than 120 days preceding the election and shall file the  
21 petition with the corporation not later than 60 days prior to  
22 the election. The petition for nomination shall be signed by at  
23 least 5% or 30, whichever is less, of the members residing in  
24 his or her district. The board shall verify the validity of the  
25 signatures by comparing them to the signatures on the

1 membership applications and the current list of members  
2 maintained by the Board. Within 14 days after the petition is  
3 due, the board shall determine whether a sufficient number of  
4 signatures are valid. If the board determines a sufficient  
5 number are valid, it shall certify the nomination of the  
6 candidate.

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

13 (a) The occupation, employer and position at place of  
14 employment of the candidate and of his or her immediate  
15 family members.

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

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

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

26 (e) An affirmation, subject to penalty of perjury, that



1 the information contained in the statement of financial  
2 interests is true and complete.

3 (4) Statement of personal background and positions. A  
4 candidate for election to the board whose nomination is  
5 certified under subsection (2) shall submit to the board, not  
6 later than 60 days prior to the election, on a form to be  
7 provided by the board, a statement concerning his or her  
8 personal background and positions on issues relating to public  
9 utilities, petroleum, or the operations of the corporation. The  
10 statement shall contain an affirmation, subject to penalty of  
11 perjury, that the candidate meets the qualifications  
12 prescribed for directors in subsection (2) of Section 6.

13 (5) Restrictions on a reporting of campaign contributions  
14 and expenditures.

15 (a) No candidate may accept more than \$200 in campaign  
16 contributions from any person or political committee from  
17 one year before the date of an election through the date of  
18 the election.

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

25 (c) As a condition for receiving the benefits of the  
26 board's mailing under subsection (6), a candidate for

1 election to the board shall agree in writing to incur no  
2 more than \$2,500 in campaign expenditures from the time he  
3 or she commences circulation of petitions for nomination or  
4 from 4 months prior to the election, whichever is earlier,  
5 through the date of the election.

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

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

17 (f) No candidate for election to the board may use any  
18 campaign contribution for any purpose except for campaign  
19 expenditures. Any campaign contribution not expended shall  
20 be donated no later than 90 days after the election to the  
21 corporation or to any charitable organization at the option  
22 of the candidate.

23 (6) Election procedures.

24 (a) The board shall mail or distribute to each member's  
25 address on file with the corporation, not sooner than 30  
26 and not later than 10 days before the date fixed for the

1 election:

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

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

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

21 (c) Voting shall be by secret ballot.

22 (d) The board shall tally votes with all reasonable  
23 speed and shall inform the membership promptly of the names  
24 of the candidates elected.

25 (e) For each district the board within 30 days of the  
26 election shall certify the candidate elected to the board

1 if the candidate has the most votes in the district and if  
2 he or she has complied with this Section.

3 (f) If a vacancy in nomination occurs because no  
4 candidate has filed for nomination, the board by a majority  
5 of those voting shall appoint a member of the corporation  
6 who resides in the district where the vacancy exists to be  
7 the candidate.

8 (g) If the candidate with the most votes dies, declines  
9 or resigns from candidacy prior to being certified under  
10 paragraph (e), or for any other reason is not certified  
11 under paragraph (e), the office for which the candidate ran  
12 shall be vacant and shall be filled by the board as  
13 provided herein.

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

24 (7) Election rules. The board may prescribe rules for the  
25 conduct of elections and election campaigns not inconsistent  
26 with this Act.

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

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

3 Sec. 20. Liability of public utility. No public utility or  
4 petroleum provider shall be liable on any claim based on any  
5 action it is required to take to be in compliance with this  
6 Act.

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

8 (220 ILCS 10/21) (from Ch. 111 2/3, par. 921)

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

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