



Rep. Robert W. Pritchard

**Filed: 2/27/2013**

09800HB1743ham001

LRB098 05689 CEL 41219 a

1 AMENDMENT TO HOUSE BILL 1743

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1743 by replacing  
3 everything after the enacting clause with the following:

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

6 (20 ILCS 3855/1-92)

7 Sec. 1-92. Aggregation of electrical load by  
8 municipalities, townships, and counties.

9 (a) The corporate authorities of a municipality, township  
10 board, or county board of a county may adopt an ordinance under  
11 which it may aggregate in accordance with this Section  
12 residential and small commercial retail electrical loads  
13 located, respectively, within the municipality, the township,  
14 or the unincorporated areas of the county and, for that  
15 purpose, may solicit bids and enter into service agreements to  
16 facilitate for those loads the sale and purchase of electricity

1 and related services and equipment.

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

9 If the corporate authorities, township board, or the county  
10 board seek to operate the aggregation program as an opt-out  
11 program for residential and small commercial retail customers,  
12 then prior to the adoption of an ordinance with respect to  
13 aggregation of residential and small commercial retail  
14 electric loads, the corporate authorities of a municipality,  
15 the township board, or the county board of a county shall  
16 submit a referendum to its residents to determine whether or  
17 not the aggregation program shall operate as an opt-out program  
18 for residential and small commercial retail customers. Any  
19 county board that seeks to submit such a referendum to its  
20 residents shall do so only in unincorporated areas of the  
21 county where no electric aggregation ordinance has been  
22 adopted.

23 In addition to the notice and conduct requirements of the  
24 general election law, notice of the referendum shall state  
25 briefly the purpose of the referendum. The question of whether  
26 the corporate authorities, the township board, or the county

1 board shall adopt an opt-out aggregation program for  
2 residential and small commercial retail customers shall be  
3 submitted to the electors of the municipality, township board,  
4 or county board at a regular election and approved by a  
5 majority of the electors voting on the question. The corporate  
6 authorities, township board, or county board must certify to  
7 the proper election authority, which must submit the question  
8 at an election in accordance with the Election Code.

9 The election authority must submit the question in  
10 substantially the following form:

11 Shall the (municipality, township, or county in which  
12 the question is being voted upon) have the authority to  
13 arrange for the supply of electricity for its residential  
14 and small commercial retail customers who have not opted  
15 out of such program?

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

17 If a majority of the electors voting on the question vote  
18 in the affirmative, then the corporate authorities, township  
19 board, or county board may implement an opt-out aggregation  
20 program for residential and small commercial retail customers.

21 A referendum must pass in each particular municipality,  
22 township, or county that is engaged in the aggregation program.  
23 If the referendum fails, then the corporate authorities,  
24 township board, or county board shall operate the aggregation  
25 program as an opt-in program for residential and small  
26 commercial retail customers.

1           An ordinance under this Section shall specify whether the  
2 aggregation will occur only with the prior consent of each  
3 person owning, occupying, controlling, or using an electric  
4 load center proposed to be aggregated. Nothing in this Section,  
5 however, authorizes the aggregation of electric loads that are  
6 served or authorized to be served by an electric cooperative as  
7 defined by and pursuant to the Electric Supplier Act or loads  
8 served by a municipality that owns and operates its own  
9 electric distribution system. No aggregation shall take effect  
10 unless approved by a majority of the members of the corporate  
11 authority, township board, or county board voting upon the  
12 ordinance.

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

15           For purposes of this Section, "township" means the portion  
16 of a township that is an unincorporated portion of a county  
17 that is not otherwise a part of a municipality. In addition to  
18 such other limitations as are included in this Section, a  
19 township board shall only have authority to aggregate  
20 residential and small commercial customer loads in accordance  
21 with this Section if the county board of the county in which  
22 the township is located (i) is not also submitting a referendum  
23 to its residents at the same general election that the township  
24 board proposes to submit a referendum under this subsection  
25 (a), (ii) has not received authorization through passage of a  
26 referendum to operate an opt-out aggregation program for

1 residential and small commercial retail customers under this  
2 subsection (a), and (iii) has not otherwise enacted an  
3 ordinance under this subsection (a) authorizing the operation  
4 of an opt-in aggregation program for residential and small  
5 commercial retail customers as described in this Section.

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

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

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

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

1 Section.

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

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

9 (1.5) A township board shall request from the electric  
10 utility those residential and small commercial customers  
11 within their aggregate area either by zip code or zip codes  
12 or other means as determined by the electric utility. The  
13 electric utility shall then provide to the township board  
14 the residential and small commercial customers, including  
15 the names and addresses of residential and small commercial  
16 customers, electronically. The township board shall be  
17 responsible for authenticating the residential and small  
18 commercial customers contained in this listing and  
19 providing edits of the data to affirm, add, or delete the  
20 residential and small commercial customers located within  
21 its jurisdiction. The township board shall provide the  
22 edited list to the electric utility in an electronic format  
23 or other means selected by the electric utility and certify  
24 that the information is accurate.

25 (2) Notwithstanding Section 16-122 of the Public  
26 Utilities Act and Section 2HH of the Consumer Fraud and

1 Deceptive Business Practices Act, an electric utility that  
2 provides residential and small commercial retail electric  
3 service in the aggregate area must, upon request of the  
4 corporate authorities, township board, or the county board  
5 in the aggregate area, submit to the requesting party, in  
6 an electronic format, those account numbers, names, and  
7 addresses of residential and small commercial retail  
8 customers in the aggregate area that are reflected in the  
9 electric utility's records at the time of the request;  
10 provided, however, that any township board has first  
11 provided an accurate customer list to the electric utility  
12 as provided for herein.

13 Any corporate authority, township board, or county board  
14 receiving customer information from an electric utility shall  
15 be subject to the limitations on the disclosure of the  
16 information described in Section 16-122 of the Public Utilities  
17 Act and Section 2HH of the Consumer Fraud and Deceptive  
18 Business Practices Act, and an electric utility shall not be  
19 held liable for any claims arising out of the provision of  
20 information pursuant to this item (2).

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

26 (1) Within 60 days after receiving the bids, the

1 corporate authorities, township board, or county board  
2 shall allow residential and small commercial retail  
3 customers to commit to the terms and conditions of a bid  
4 that has been selected by the corporate authorities,  
5 township board, or county board.

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

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



1 allows comparison of prices and products.

2 (f) Any person or entity retained by a municipality or  
3 county, or jointly by more than one such unit of local  
4 government, to provide input, guidance, or advice in the  
5 selection of an electricity supplier for an aggregation program  
6 shall disclose in writing to the involved units of local  
7 government the nature of any relationship through which the  
8 person or entity may receive, either directly or indirectly,  
9 commissions or other remuneration as a result of the selection  
10 of any particular electricity supplier. The written disclosure  
11 must be made prior to formal approval by the involved units of  
12 local government of any professional services agreement with  
13 the person or entity, or no later than October 1, 2012 with  
14 respect to any such professional services agreement entered  
15 into prior to the effective date of this amendatory Act of the  
16 97th General Assembly. The disclosure shall cover all direct  
17 and indirect relationships through which commissions or  
18 remuneration may result, including the pooling of commissions  
19 or remuneration among multiple persons or entities, and shall  
20 identify all involved electricity suppliers. The disclosure  
21 requirements in this subsection (f) are to be liberally  
22 construed to ensure that the nature of financial interests are  
23 fully revealed, and these disclosure requirements shall apply  
24 regardless of whether the involved person or entity is licensed  
25 under Section 16-115C of the Public Utilities Act. Any person  
26 or entity that fails to make the disclosure required under this

1 subsection (f) is liable to the involved units of local  
2 government in an amount equal to all compensation paid to such  
3 person or entity by the units of local government for the  
4 input, guidance, or advice in the selection of an electricity  
5 supplier, plus reasonable attorneys fees and court costs  
6 incurred by the units of local government in connection with  
7 obtaining such amount.

8 (g) The Illinois Power Agency shall provide assistance to  
9 municipalities, townships, counties, or associations working  
10 with municipalities to help complete the plan and bidding  
11 process.

12 (h) This Section does not prohibit municipalities or  
13 counties from entering into an intergovernmental agreement to  
14 aggregate residential and small commercial retail electric  
15 loads.

16 (Source: P.A. 96-176, eff. 1-1-10; 97-338, eff. 8-12-11;  
17 97-823, eff. 7-18-12; 97-1067, eff. 8-24-12; revised  
18 9-20-12.)".