

HB2623



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2623

Introduced 2/21/2013, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-92

Amends the Illinois Power Agency Act. Provides that a municipality or other aggregator of electrical load has the authority to require disclosure of the source of the power utilized under the aggregation.

LRB098 09597 JLS 39743 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 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
17 and related services and equipment.

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

1 required by this Section.

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

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

24 The election authority must submit the question in
25 substantially the following form:

26 Shall the (municipality, township, or county in which

1 the question is being voted upon) have the authority to
2 arrange for the supply of electricity for its residential
3 and small commercial retail customers who have not opted
4 out of such program?

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

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

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

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

1 ordinance.

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

4 For purposes of this Section, "township" means the portion
5 of a township that is an unincorporated portion of a county
6 that is not otherwise a part of a municipality. In addition to
7 such other limitations as are included in this Section, a
8 township board shall only have authority to aggregate
9 residential and small commercial customer loads in accordance
10 with this Section if the county board of the county in which
11 the township is located (i) is not also submitting a referendum
12 to its residents at the same general election that the township
13 board proposes to submit a referendum under this subsection
14 (a), (ii) has not received authorization through passage of a
15 referendum to operate an opt-out aggregation program for
16 residential and small commercial retail customers under this
17 subsection (a), and (iii) has not otherwise enacted an
18 ordinance under this subsection (a) authorizing the operation
19 of an opt-in aggregation program for residential and small
20 commercial retail customers as described in this Section.

21 (b) Upon the applicable requisite authority under this
22 Section, the corporate authorities, the township board, or the
23 county board, with assistance from the Illinois Power Agency,
24 shall develop a plan of operation and governance for the
25 aggregation program so authorized. Before adopting a plan under
26 this Section, the corporate authorities, township board, or

1 county board shall hold at least 2 public hearings on the plan.
2 Before the first hearing, the corporate authorities, township
3 board, or county board shall publish notice of the hearings
4 once a week for 2 consecutive weeks in a newspaper of general
5 circulation in the jurisdiction. The notice shall summarize the
6 plan and state the date, time, and location of each hearing.
7 Any load aggregation plan established pursuant to this Section
8 shall:

9 (1) provide for universal access to all applicable
10 residential customers and equitable treatment of
11 applicable residential customers;

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

14 (3) meet any requirements established by law
15 concerning aggregated service offered pursuant to this
16 Section.

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

21 (1) The corporate authorities, township board, or
22 county board may solicit bids for electricity and other
23 related services. The bid specifications may include a
24 provision requiring the bidder to disclose the source of
25 electricity being provided.

26 (1.5) A township board shall request from the electric

1 utility those residential and small commercial customers
2 within their aggregate area either by zip code or zip codes
3 or other means as determined by the electric utility. The
4 electric utility shall then provide to the township board
5 the residential and small commercial customers, including
6 the names and addresses of residential and small commercial
7 customers, electronically. The township board shall be
8 responsible for authenticating the residential and small
9 commercial customers contained in this listing and
10 providing edits of the data to affirm, add, or delete the
11 residential and small commercial customers located within
12 its jurisdiction. The township board shall provide the
13 edited list to the electric utility in an electronic format
14 or other means selected by the electric utility and certify
15 that the information is accurate.

16 (2) Notwithstanding Section 16-122 of the Public
17 Utilities Act and Section 2HH of the Consumer Fraud and
18 Deceptive Business Practices Act, an electric utility that
19 provides residential and small commercial retail electric
20 service in the aggregate area must, upon request of the
21 corporate authorities, township board, or the county board
22 in the aggregate area, submit to the requesting party, in
23 an electronic format, those account numbers, names, and
24 addresses of residential and small commercial retail
25 customers in the aggregate area that are reflected in the
26 electric utility's records at the time of the request;

1 provided, however, that any township board has first
2 provided an accurate customer list to the electric utility
3 as provided for herein.

4 Any corporate authority, township board, or county board
5 receiving customer information from an electric utility shall
6 be subject to the limitations on the disclosure of the
7 information described in Section 16-122 of the Public Utilities
8 Act and Section 2HH of the Consumer Fraud and Deceptive
9 Business Practices Act, and an electric utility shall not be
10 held liable for any claims arising out of the provision of
11 information pursuant to this item (2).

12 (d) If the corporate authorities, township board, or county
13 board operate under an opt-in program for residential and small
14 commercial retail customers, then the corporate authorities,
15 township board, or county board shall comply with all of the
16 following:

17 (1) Within 60 days after receiving the bids, the
18 corporate authorities, township board, or county board
19 shall allow residential and small commercial retail
20 customers to commit to the terms and conditions of a bid
21 that has been selected by the corporate authorities,
22 township board, or county board.

23 (2) If (A) the corporate authorities, township board,
24 or county board award proposed agreements for the purchase
25 of electricity and other related services and (B) an
26 agreement is reached between the corporate authorities,

1 township board, or county board for those services, then
2 customers committed to the terms and conditions according
3 to item (1) of this subsection (d) shall be committed to
4 the agreement.

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

19 (f) Any person or entity retained by a municipality or
20 county, or jointly by more than one such unit of local
21 government, to provide input, guidance, or advice in the
22 selection of an electricity supplier for an aggregation program
23 shall disclose in writing to the involved units of local
24 government the nature of any relationship through which the
25 person or entity may receive, either directly or indirectly,
26 commissions or other remuneration as a result of the selection

1 of any particular electricity supplier. The written disclosure
2 must be made prior to formal approval by the involved units of
3 local government of any professional services agreement with
4 the person or entity, or no later than October 1, 2012 with
5 respect to any such professional services agreement entered
6 into prior to the effective date of this amendatory Act of the
7 97th General Assembly. The disclosure shall cover all direct
8 and indirect relationships through which commissions or
9 remuneration may result, including the pooling of commissions
10 or remuneration among multiple persons or entities, and shall
11 identify all involved electricity suppliers. The disclosure
12 requirements in this subsection (f) are to be liberally
13 construed to ensure that the nature of financial interests are
14 fully revealed, and these disclosure requirements shall apply
15 regardless of whether the involved person or entity is licensed
16 under Section 16-115C of the Public Utilities Act. Any person
17 or entity that fails to make the disclosure required under this
18 subsection (f) is liable to the involved units of local
19 government in an amount equal to all compensation paid to such
20 person or entity by the units of local government for the
21 input, guidance, or advice in the selection of an electricity
22 supplier, plus reasonable attorneys fees and court costs
23 incurred by the units of local government in connection with
24 obtaining such amount.

25 (g) The Illinois Power Agency shall provide assistance to
26 municipalities, townships, counties, or associations working

1 with municipalities to help complete the plan and bidding
2 process.

3 (h) This Section does not prohibit municipalities or
4 counties from entering into an intergovernmental agreement to
5 aggregate residential and small commercial retail electric
6 loads.

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