



Rep. Robyn Gabel

Filed: 5/29/2014

09800SB2799ham002

LRB098 12336 HEP 60470 a

1 AMENDMENT TO SENATE BILL 2799

2 AMENDMENT NO. _____. Amend Senate Bill 2799 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 1-56 as follows:

6 (20 ILCS 3855/1-56)

7 Sec. 1-56. Illinois Power Agency Renewable Energy
8 Resources Fund.

9 (a) The Illinois Power Agency Renewable Energy Resources
10 Fund is created as a special fund in the State treasury.

11 (b) The Illinois Power Agency Renewable Energy Resources
12 Fund shall be administered by the Agency to procure renewable
13 energy resources. Prior to June 1, 2011, resources procured
14 pursuant to this Section shall be procured from facilities
15 located in Illinois, provided the resources are available from
16 those facilities. If resources are not available in Illinois,

1 then they shall be procured in states that adjoin Illinois. If
2 resources are not available in Illinois or in states that
3 adjoin Illinois, then they may be purchased elsewhere.
4 Beginning June 1, 2011, resources procured pursuant to this
5 Section shall be procured from facilities located in Illinois
6 or states that adjoin Illinois. If resources are not available
7 in Illinois or in states that adjoin Illinois, then they may be
8 procured elsewhere. To the extent available, at least 75% of
9 these renewable energy resources shall come from wind
10 generation. Of the renewable energy resources procured
11 pursuant to this Section at least the following specified
12 percentages shall come from photovoltaics on the following
13 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by
14 June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the
15 renewable energy resources procured pursuant to this Section,
16 at least the following percentages shall come from distributed
17 renewable energy generation devices: 0.5% by June 1, 2013,
18 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.
19 To the extent available, half of the renewable energy resources
20 procured from distributed renewable energy generation shall
21 come from devices of less than 25 kilowatts in nameplate
22 capacity. Renewable energy resources procured from distributed
23 generation devices may also count towards the required
24 percentages for wind and solar photovoltaics. Procurement of
25 renewable energy resources from distributed renewable energy
26 generation devices shall be done on an annual basis through

1 multi-year contracts of no less than 5 years, and shall consist
2 solely of renewable energy credits.

3 The Agency shall create credit requirements for suppliers
4 of distributed renewable energy. In order to minimize the
5 administrative burden on contracting entities, the Agency
6 shall solicit the use of third-party organizations to aggregate
7 distributed renewable energy into groups of no less than one
8 megawatt in installed capacity. These third-party
9 organizations shall administer contracts with individual
10 distributed renewable energy generation device owners. An
11 individual distributed renewable energy generation device
12 owner shall have the ability to measure the output of his or
13 her distributed renewable energy generation device.

14 (c) The Agency shall procure renewable energy resources at
15 least once each year in conjunction with a procurement event
16 for electric utilities required to comply with Section 1-75 of
17 the Act and shall, whenever possible, enter into long-term
18 contracts on an annual basis for a portion of the incremental
19 requirement for the given procurement year.

20 (d) The price paid to procure renewable energy credits
21 using monies from the Illinois Power Agency Renewable Energy
22 Resources Fund shall not exceed the winning bid prices paid for
23 like resources procured for electric utilities required to
24 comply with Section 1-75 of this Act.

25 (e) All renewable energy credits procured using monies from
26 the Illinois Power Agency Renewable Energy Resources Fund shall

1 be permanently retired.

2 (f) The procurement process described in this Section is
3 exempt from the requirements of the Illinois Procurement Code,
4 pursuant to Section 20-10 of that Code.

5 (g) All disbursements from the Illinois Power Agency
6 Renewable Energy Resources Fund shall be made only upon
7 warrants of the Comptroller drawn upon the Treasurer as
8 custodian of the Fund upon vouchers signed by the Director or
9 by the person or persons designated by the Director for that
10 purpose. The Comptroller is authorized to draw the warrant upon
11 vouchers so signed. The Treasurer shall accept all warrants so
12 signed and shall be released from liability for all payments
13 made on those warrants.

14 (h) The Illinois Power Agency Renewable Energy Resources
15 Fund shall not be subject to sweeps, administrative charges, or
16 chargebacks, including, but not limited to, those authorized
17 under Section 8h of the State Finance Act, that would in any
18 way result in the transfer of any funds from this Fund to any
19 other fund of this State or in having any such funds utilized
20 for any purpose other than the express purposes set forth in
21 this Section.

22 (i) Supplemental procurement process.

23 (1) Within 90 days after the effective date of this
24 amendatory Act of the 98th General Assembly, the Agency
25 shall develop a one-time supplemental procurement plan
26 limited to the procurement of renewable energy credits, if

1 available, from new or existing photovoltaics, including,
2 but not limited to, distributed photovoltaic generation.
3 Nothing in this subsection (i) requires procurement of wind
4 generation through the supplemental procurement.

5 Renewable energy credits procured from new
6 photovoltaics, including, but not limited to, distributed
7 photovoltaic generation, under this subsection (i) must be
8 procured from devices installed by a qualified person. In
9 its supplemental procurement plan, the Agency shall
10 establish contractually enforceable mechanisms for
11 ensuring that the installation of new photovoltaics is
12 performed by a qualified person.

13 For the purposes of this paragraph (1), "qualified
14 person" means a person who performs installations of
15 photovoltaics, including, but not limited to, distributed
16 photovoltaic generation, and who: (A) has completed an
17 apprenticeship as a journeyman electrician from a United
18 States Department of Labor registered electrical
19 apprenticeship and training program and received a
20 certification of satisfactory completion; or (B) does not
21 currently meet the criteria under clause (A) of this
22 paragraph (1), but is enrolled in a United States
23 Department of Labor registered electrical apprenticeship
24 program, provided that the person is directly supervised by
25 a person who meets the criteria under clause (A) of this
26 paragraph (1); or (C) has obtained one of the following

1 credentials in addition to attesting to satisfactory
2 completion of at least 5 years or 8,000 hours of documented
3 hands-on electrical experience: (i) a North American Board
4 of Certified Energy Practitioners (NABCEP) Installer
5 Certificate for Solar PV; (ii) an Underwriters
6 Laboratories (UL) PV Systems Installer Certificate; (iii)
7 an Electronics Technicians Association, International
8 (ETAI) Level 3 PV Installer Certificate; or (iv) an
9 Associate in Applied Science degree from an Illinois
10 Community College Board approved community college program
11 in renewable energy or a distributed generation
12 technology.

13 For the purposes of this paragraph (1), "directly
14 supervised" means that there is a qualified person who
15 meets the qualifications under clause (A) of this paragraph
16 (1) and who is available for supervision and consultation
17 regarding the work performed by persons under clause (B) of
18 this paragraph (1), including a final inspection of the
19 installation work that has been directly supervised to
20 ensure safety and conformity with applicable codes.

21 For the purposes of this paragraph (1), "install" means
22 the major activities and actions required to connect, in
23 accordance with applicable building and electrical codes,
24 the conductors, connectors, and all associated fittings,
25 devices, power outlets, or apparatuses mounted at the
26 premises that are directly involved in delivering energy to

1 the premises' electrical wiring from the photovoltaics,
2 including, but not limited to, to distributed photovoltaic
3 generation.

4 The renewable energy credits procured pursuant to the
5 supplemental procurement plan shall be procured using up to
6 \$30,000,000 from the Illinois Power Agency Renewable
7 Energy Resources Fund. The Agency shall not plan to use
8 funds from the Illinois Power Agency Renewable Energy
9 Resources Fund in excess of the monies on deposit in such
10 fund or projected to be deposited into such fund. The
11 supplemental procurement plan shall ensure adequate,
12 reliable, affordable, efficient, and environmentally
13 sustainable renewable energy resources (including credits)
14 at the lowest total cost over time, taking into account any
15 benefits of price stability.

16 To the extent available, 50% of the renewable energy
17 credits procured from distributed renewable energy
18 generation shall come from devices of less than 25
19 kilowatts in nameplate capacity. Procurement of renewable
20 energy credits from distributed renewable energy
21 generation devices shall be done through multi-year
22 contracts of no less than 5 years. The Agency shall create
23 credit requirements for counterparties. In order to
24 minimize the administrative burden on contracting
25 entities, the Agency shall solicit the use of third parties
26 to aggregate distributed renewable energy. These third

1 parties shall enter into and administer contracts with
2 individual distributed renewable energy generation device
3 owners. An individual distributed renewable energy
4 generation device owner shall have the ability to measure
5 the output of his or her distributed renewable energy
6 generation device.

7 In developing the supplemental procurement plan, the
8 Agency shall hold at least one workshop open to the public
9 within 90 days after the effective date of this amendatory
10 Act of the 98th General Assembly and shall consider any
11 comments made by stakeholders or the public. Upon
12 development of the supplemental procurement plan within
13 this 90-day period, copies of the supplemental procurement
14 plan shall be posted and made publicly available on the
15 Agency's and Commission's websites. All interested parties
16 shall have 14 days following the date of posting to provide
17 comment to the Agency on the supplemental procurement plan.
18 All comments submitted to the Agency shall be specific,
19 supported by data or other detailed analyses, and, if
20 objecting to all or a portion of the supplemental
21 procurement plan, accompanied by specific alternative
22 wording or proposals. All comments shall be posted on the
23 Agency's and Commission's websites. Within 14 days
24 following the end of the 14-day review period, the Agency
25 shall revise the supplemental procurement plan as
26 necessary based on the comments received and file its

1 revised supplemental procurement plan with the Commission
2 for approval.

3 (2) Within 5 days after the filing of the supplemental
4 procurement plan at the Commission, any person objecting to
5 the supplemental procurement plan shall file an objection
6 with the Commission. Within 10 days after the filing, the
7 Commission shall determine whether a hearing is necessary.
8 The Commission shall enter its order confirming or
9 modifying the supplemental procurement plan within 90 days
10 after the filing of the supplemental procurement plan by
11 the Agency.

12 (3) The Commission shall approve the supplemental
13 procurement plan of renewable energy credits to be procured
14 from new or existing photovoltaics, including, but not
15 limited to, distributed photovoltaic generation, if the
16 Commission determines that it will ensure adequate,
17 reliable, affordable, efficient, and environmentally
18 sustainable electric service in the form of renewable
19 energy credits at the lowest total cost over time, taking
20 into account any benefits of price stability.

21 (4) The supplemental procurement process under this
22 subsection (i) shall include each of the following
23 components:

24 (A) Procurement administrator. The Agency may
25 retain a procurement administrator in the manner set
26 forth in item (2) of subsection (a) of Section 1-75 of

1 this Act to conduct the supplemental procurement or may
2 elect to use the same procurement administrator
3 administering the Agency's annual procurement under
4 Section 1-75.

5 (B) Procurement monitor. The procurement monitor
6 retained by the Commission pursuant to Section
7 16-111.5 of the Public Utilities Act shall:

8 (i) monitor interactions among the procurement
9 administrator and bidders and suppliers;

10 (ii) monitor and report to the Commission on
11 the progress of the supplemental procurement
12 process;

13 (iii) provide an independent confidential
14 report to the Commission regarding the results of
15 the procurement events;

16 (iv) assess compliance with the procurement
17 plan approved by the Commission for the
18 supplemental procurement process;

19 (v) preserve the confidentiality of supplier
20 and bidding information in a manner consistent
21 with all applicable laws, rules, regulations, and
22 tariffs;

23 (vi) provide expert advice to the Commission
24 and consult with the procurement administrator
25 regarding issues related to procurement process
26 design, rules, protocols, and policy-related

1 matters;

2 (vii) consult with the procurement
3 administrator regarding the development and use of
4 benchmark criteria, standard form contracts,
5 credit policies, and bid documents; and

6 (viii) perform, with respect to the
7 supplemental procurement process, any other
8 procurement monitor duties specifically delineated
9 within subsection (i) of this Section.

10 (C) Solicitation, pre-qualification, and
11 registration of bidders. The procurement administrator
12 shall disseminate information to potential bidders to
13 promote a procurement event, notify potential bidders
14 that the procurement administrator may enter into a
15 post-bid price negotiation with bidders that meet the
16 applicable benchmarks, provide supply requirements,
17 and otherwise explain the competitive procurement
18 process. In addition to such other publication as the
19 procurement administrator determines is appropriate,
20 this information shall be posted on the Agency's and
21 the Commission's websites. The procurement
22 administrator shall also administer the
23 prequalification process, including evaluation of
24 credit worthiness, compliance with procurement rules,
25 and agreement to the standard form contract developed
26 pursuant to item (D) of this paragraph (4). The

1 procurement administrator shall then identify and
2 register bidders to participate in the procurement
3 event.

4 (D) Standard contract forms and credit terms and
5 instruments. The procurement administrator, in
6 consultation with the Agency, the Commission, and
7 other interested parties and subject to Commission
8 oversight, shall develop and provide standard contract
9 forms for the supplier contracts that meet generally
10 accepted industry practices as well as include any
11 applicable State of Illinois terms and conditions that
12 are required for contracts entered into by an agency of
13 the State of Illinois. Standard credit terms and
14 instruments that meet generally accepted industry
15 practices shall be similarly developed. Contracts for
16 new photovoltaics shall include a provision attesting
17 that the supplier will use a qualified person for the
18 installation of the device pursuant to paragraph (1) of
19 subsection (i) of this Section. The procurement
20 administrator shall make available to the Commission
21 all written comments it receives on the contract forms,
22 credit terms, or instruments. If the procurement
23 administrator cannot reach agreement with the parties
24 as to the contract terms and conditions, the
25 procurement administrator must notify the Commission
26 of any disputed terms and the Commission shall resolve

1 the dispute. The terms of the contracts shall not be
2 subject to negotiation by winning bidders, and the
3 bidders must agree to the terms of the contract in
4 advance so that winning bids are selected solely on the
5 basis of price.

6 (E) Requests for proposals; competitive
7 procurement process. The procurement administrator
8 shall design and issue requests for proposals to supply
9 renewable energy credits in accordance with the
10 supplemental procurement plan, as approved by the
11 Commission. The requests for proposals shall set forth
12 a procedure for sealed, binding commitment bidding
13 with pay-as-bid settlement, and provision for
14 selection of bids on the basis of price, provided,
15 however, that no bid shall be accepted if it exceeds
16 the benchmark developed pursuant to item (F) of this
17 paragraph (4).

18 (F) Benchmarks. Benchmarks for each product to be
19 procured shall be developed by the procurement
20 administrator in consultation with Commission staff,
21 the Agency, and the procurement monitor for use in this
22 supplemental procurement.

23 (G) A plan for implementing contingencies in the
24 event of supplier default, Commission rejection of
25 results, or any other cause.

26 (5) Within 2 business days after opening the sealed

1 bids, the procurement administrator shall submit a
2 confidential report to the Commission. The report shall
3 contain the results of the bidding for each of the products
4 along with the procurement administrator's recommendation
5 for the acceptance and rejection of bids based on the price
6 benchmark criteria and other factors observed in the
7 process. The procurement monitor also shall submit a
8 confidential report to the Commission within 2 business
9 days after opening the sealed bids. The report shall
10 contain the procurement monitor's assessment of bidder
11 behavior in the process as well as an assessment of the
12 procurement administrator's compliance with the
13 procurement process and rules. The Commission shall review
14 the confidential reports submitted by the procurement
15 administrator and procurement monitor and shall accept or
16 reject the recommendations of the procurement
17 administrator within 2 business days after receipt of the
18 reports.

19 (6) Within 3 business days after the Commission
20 decision approving the results of a procurement event, the
21 Agency shall enter into binding contractual arrangements
22 with the winning suppliers using the standard form
23 contracts.

24 (7) The names of the successful bidders and the average
25 of the winning bid prices for each contract type and for
26 each contract term shall be made available to the public

1 within 2 days after the supplemental procurement event. The
2 Commission, the procurement monitor, the procurement
3 administrator, the Agency, and all participants in the
4 procurement process shall maintain the confidentiality of
5 all other supplier and bidding information in a manner
6 consistent with all applicable laws, rules, regulations,
7 and tariffs. Confidential information, including the
8 confidential reports submitted by the procurement
9 administrator and procurement monitor pursuant to this
10 Section, shall not be made publicly available and shall not
11 be discoverable by any party in any proceeding, absent a
12 compelling demonstration of need, nor shall those reports
13 be admissible in any proceeding other than one for law
14 enforcement purposes.

15 (8) The supplemental procurement provided in this
16 subsection (i) shall not be subject to the requirements and
17 limitations of subsections (c) and (d) of this Section.

18 (9) Expenses incurred in connection with the
19 procurement process held pursuant to this Section,
20 including, but not limited to, the cost of developing the
21 supplemental procurement plan, the procurement
22 administrator, procurement monitor, and the cost of the
23 retirement of renewable energy credits purchased pursuant
24 to the supplemental procurement shall be paid for from the
25 Illinois Power Agency Renewable Energy Resources Fund. The
26 Agency shall enter into an interagency agreement with the

1 Commission to reimburse the Commission for its costs
2 associated with the procurement monitor for the
3 supplemental procurement process.

4 (Source: P.A. 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10;
5 96-1437, eff. 8-17-10; 97-616, eff. 10-26-11.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."