



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0219

Introduced 1/13/2005, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

220 ILCS 5/17-800 new

Amends the Public Utilities Act. Authorizes municipalities and counties to aggregate customers for the purchase of electricity. Provides for approval of aggregation by the voters. Requires the Commerce Commission to review aggregation plans.

LRB094 05383 MKM 35428 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning the distribution of electricity.

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

4 Section 5. The Public Utilities Act is amended by adding
5 Section 17-800 as follows:

6 (220 ILCS 5/17-800 new)

7 Sec. 17-800. Aggregation of electrical load by
8 municipalities and counties.

9 (a) The corporate authorities of a municipality or county
10 board of a county may adopt an ordinance, under which it may
11 aggregate in accordance with this Section one or more classes
12 of the retail electrical loads located, respectively, within
13 the municipality or county and, for that purpose, may solicit
14 bids and enter into service agreements to facilitate for those
15 loads the sale and purchase of electricity and related services
16 and equipment. The corporate authorities or county board also
17 may exercise such authority jointly with any other municipality
18 or county. An ordinance under this Section shall specify
19 whether the aggregation will occur only with the prior consent
20 of each person owning, occupying, controlling, or using an
21 electric load center proposed to be aggregated or will occur
22 automatically for all such persons pursuant to the opt-out
23 requirements of this Section. Nothing in this Section, however,
24 authorizes the aggregation of retail electric loads of an
25 electric load center that is located in the certified territory
26 of a nonprofit electric supplier or an electric load center
27 served by distribution facilities of a municipal electric
28 utility. If an ordinance adopted under this Section specifies
29 that aggregation will occur automatically, the corporate
30 authorities or county board shall certify the question of the
31 authority to aggregate in accordance with the Election Code to
32 the election authority for submission to the voters at the next

1 election. No aggregation pursuant to an ordinance adopted under
2 this Section that provides for an election under this Section
3 shall take effect unless approved by a majority of the electors
4 voting upon the ordinance at the election held pursuant to this
5 Section.

6 No corporate authority or county board acting pursuant to
7 an ordinance under this Section that provides for automatic
8 aggregation shall aggregate the electrical load of any electric
9 load center located within its jurisdiction unless it clearly
10 discloses to the person owning, occupying, controlling, or
11 using the load center that the person will be enrolled
12 automatically in the aggregation program and will remain so
13 enrolled unless the person affirmatively elects by a stated
14 procedure not to be so enrolled. The disclosure shall state
15 prominently the rates, charges, and other terms and conditions
16 of enrollment. The stated procedure shall allow any person
17 enrolled in the aggregation program the opportunity to opt out
18 of the program every 3 years, without paying an exit fee. Any
19 such person that leaves the aggregation program pursuant to the
20 stated procedure shall default to the bundled utility service
21 until the person chooses an alternative supplier or returns to
22 the aggregation program.

23 A governmental aggregator under this Section is not a
24 public utility or an alternative retail electric supplier and
25 shall be subject to supervision and regulation by the
26 Commission only to the extent provided in this Section.

27 A municipality may initiate a process to authorize
28 aggregation by a majority vote of the municipal council, with
29 the approval of the mayor. A county may initiate the process to
30 authorize aggregation by a majority vote of the county board.
31 Two or more municipalities or counties, or a combination of
32 both, may initiate a process jointly to authorize aggregation
33 by a majority vote of each particular municipality or county as
34 herein required.

35 Upon the applicable requisite authority under this
36 Section, the corporate authorities or the county board shall

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

11 (1) provide for universal access to all applicable
12 customers and equitable treatment of applicable classes of
13 customers;

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

16 (3) meet any requirements established by law or the
17 Commission concerning aggregated service offered pursuant
18 to this Section.

19 The plan shall be filed with the Commission for review and
20 approval and shall include, without limitation, an
21 organizational structure of the program, its operations, and
22 funding; the methods of establishing rates and allocating costs
23 among participants; the methods for entering and terminating
24 agreements with other entities; the rights and
25 responsibilities of program participants, including the terms
26 and conditions under which retail customers who have chosen to
27 opt out of the aggregated service may take service from the
28 aggregated entity; and procedures for termination of the
29 program. Within 120 days after receipt of the plan, the
30 Commission shall issue an order either approving or rejecting
31 the plan. If the Commission rejects the plan, it shall state
32 detailed reasons for rejecting the plan in its order. Upon
33 approval of the plan, the corporate authorities or county board
34 may solicit bids for electricity and other related services
35 pursuant to the methods established in the plan. The corporate
36 authorities or county board shall report the results of this

1 solicitation and proposed agreement awards to the Commission,
2 which shall have 15 business days to suspend such awards if the
3 solicitation or awards are not in conformance with the plan or
4 if the cost for energy would in the first year exceed the cost
5 of that energy if that energy was obtained from an electric
6 utility under Section 16-103 by citizens in the municipality or
7 county or group of municipalities and counties, unless the
8 applicant can demonstrate that the cost for energy under the
9 aggregation plan will be lower in the subsequent years or the
10 applicant can demonstrate that such excess cost is due to the
11 purchase of renewable energy. If the Commission does not
12 suspend the proposed contract awards within 15 business days
13 after filing, the corporate authorities or county board shall
14 have the right to award the proposed agreements.

15 It shall be the duty of the aggregated entity to fully
16 inform retail customers in advance of automatic enrollment that
17 they are to be automatically enrolled and that they have the
18 right to opt out of the aggregated entity without penalty. The
19 disclosure shall prominently state all charges to be made and
20 shall include full disclosure of the cost to obtain service
21 pursuant to Section 16-103, how to access it, and the fact that
22 it is available to them without penalty, if they are currently
23 receiving service under that Section. The Commission shall
24 furnish, without charge, to any citizen a list of all supply
25 options available to them in a format that allows comparison of
26 prices and products.

27 (b) The Commission shall promulgate rules by which the
28 corporate authorities or county board may request information
29 from the electric utility or utilities whose customers may be
30 included in its aggregation plan. The rules shall ensure that
31 municipalities and counties have reasonable and timely access
32 to information pertinent to the formation of a plan and
33 solicitation of bids to serve customers, that confidentiality
34 of individuals is protected, and that charges for production of
35 such data are reasonable and not unduly burdensome to the
36 corporate authorities or county board. Information to be

1 provided by the electric utility to the municipality or county
2 shall include, but is not limited to, the following:

- 3 (1) billing and electric load data by customer class;
4 (2) forecasts of electric demand; and
5 (3) for the purpose of opt-out notification, the names,
6 addresses, and meter and account numbers of customers who
7 do not take service from an alternative retail electric
8 supplier.