



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB6719

by Rep. John E. Bradley

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-20  
220 ILCS 5/2-101

from Ch. 111 2/3, par. 2-101

Amends the Illinois Power Agency Act and the Public Utilities Act to provide that on the effective date of the amendatory Act, all powers and duties of the Illinois Commerce Commission under the Public Utilities Act shall be transferred to the Illinois Power Agency, and references in other Sections of the Public Utilities Act to the Illinois Commerce Commission shall be deemed to refer to the Illinois Power Agency. Provides that all rules, standards, and procedures adopted by the Illinois Commerce Commission under this Act shall continue in effect as the rules, standards, and procedures of the Illinois Power Agency, until they are modified or abolished by the Illinois Power Agency. Effective immediately.

LRB095 14482 MJR 40388 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 1-20 as follows:

6 (20 ILCS 3855/1-20)

7 Sec. 1-20. General powers of the Agency.

8 (a) The Agency is authorized to do each of the following:

9 (1) Develop electricity procurement plans to ensure  
10 adequate, reliable, affordable, efficient, and  
11 environmentally sustainable electric service at the lowest  
12 total cost over time, taking into account any benefits of  
13 price stability, for electric utilities that on December  
14 31, 2005 provided electric service to at least 100,000  
15 customers in Illinois. The procurement plans shall be  
16 updated on an annual basis and shall include electricity  
17 generated from renewable resources sufficient to achieve  
18 the standards specified in this Act.

19 (2) Conduct competitive procurement processes to  
20 procure the supply resources identified in the procurement  
21 plan, pursuant to Section 16-111.5 of the Public Utilities  
22 Act.

23 (3) Develop electric generation and co-generation

1 facilities that use indigenous coal or renewable  
2 resources, or both, financed with bonds issued by the  
3 Illinois Finance Authority.

4 (4) Supply electricity from the Agency's facilities at  
5 cost to one or more of the following: municipal electric  
6 systems, governmental aggregators, or rural electric  
7 cooperatives in Illinois.

8 (b) Except as otherwise limited by this Act, the Agency has  
9 all of the powers necessary or convenient to carry out the  
10 purposes and provisions of this Act, including without  
11 limitation, each of the following:

12 (1) To have a corporate seal, and to alter that seal at  
13 pleasure, and to use it by causing it or a facsimile to be  
14 affixed or impressed or reproduced in any other manner.

15 (2) To use the services of the Illinois Finance  
16 Authority necessary to carry out the Agency's purposes.

17 (3) To negotiate and enter into loan agreements and  
18 other agreements with the Illinois Finance Authority.

19 (4) To obtain and employ personnel and hire consultants  
20 that are necessary to fulfill the Agency's purposes, and to  
21 make expenditures for that purpose within the  
22 appropriations for that purpose.

23 (5) To purchase, receive, take by grant, gift, devise,  
24 bequest, or otherwise, lease, or otherwise acquire, own,  
25 hold, improve, employ, use, and otherwise deal in and with,  
26 real or personal property whether tangible or intangible,

1 or any interest therein, within the State.

2 (6) To acquire real or personal property, whether  
3 tangible or intangible, including without limitation  
4 property rights, interests in property, franchises,  
5 obligations, contracts, and debt and equity securities,  
6 and to do so by the exercise of the power of eminent domain  
7 in accordance with Section 1-21; except that any real  
8 property acquired by the exercise of the power of eminent  
9 domain must be located within the State.

10 (7) To sell, convey, lease, exchange, transfer,  
11 abandon, or otherwise dispose of, or mortgage, pledge, or  
12 create a security interest in, any of its assets,  
13 properties, or any interest therein, wherever situated.

14 (8) To purchase, take, receive, subscribe for, or  
15 otherwise acquire, hold, make a tender offer for, vote,  
16 employ, sell, lend, lease, exchange, transfer, or  
17 otherwise dispose of, mortgage, pledge, or grant a security  
18 interest in, use, and otherwise deal in and with, bonds and  
19 other obligations, shares, or other securities (or  
20 interests therein) issued by others, whether engaged in a  
21 similar or different business or activity.

22 (9) To make and execute agreements, contracts, and  
23 other instruments necessary or convenient in the exercise  
24 of the powers and functions of the Agency under this Act,  
25 including contracts with any person, local government,  
26 State agency, or other entity; and all State agencies and

1 all local governments are authorized to enter into and do  
2 all things necessary to perform any such agreement,  
3 contract, or other instrument with the Agency. No such  
4 agreement, contract, or other instrument shall exceed 40  
5 years.

6 (10) To lend money, invest and reinvest its funds in  
7 accordance with the Public Funds Investment Act, and take  
8 and hold real and personal property as security for the  
9 payment of funds loaned or invested.

10 (11) To borrow money at such rate or rates of interest  
11 as the Agency may determine, issue its notes, bonds, or  
12 other obligations to evidence that indebtedness, and  
13 secure any of its obligations by mortgage or pledge of its  
14 real or personal property, machinery, equipment,  
15 structures, fixtures, inventories, revenues, grants, and  
16 other funds as provided or any interest therein, wherever  
17 situated.

18 (12) To enter into agreements with the Illinois Finance  
19 Authority to issue bonds whether or not the income  
20 therefrom is exempt from federal taxation.

21 (13) To procure insurance against any loss in  
22 connection with its properties or operations in such amount  
23 or amounts and from such insurers, including the federal  
24 government, as it may deem necessary or desirable, and to  
25 pay any premiums therefor.

26 (14) To negotiate and enter into agreements with

1 trustees or receivers appointed by United States  
2 bankruptcy courts or federal district courts or in other  
3 proceedings involving adjustment of debts and authorize  
4 proceedings involving adjustment of debts and authorize  
5 legal counsel for the Agency to appear in any such  
6 proceedings.

7 (15) To file a petition under Chapter 9 of Title 11 of  
8 the United States Bankruptcy Code or take other similar  
9 action for the adjustment of its debts.

10 (16) To enter into management agreements for the  
11 operation of any of the property or facilities owned by the  
12 Agency.

13 (17) To enter into an agreement to transfer and to  
14 transfer any land, facilities, fixtures, or equipment of  
15 the Agency to one or more municipal electric systems,  
16 governmental aggregators, or rural electric agencies or  
17 cooperatives, for such consideration and upon such terms as  
18 the Agency may determine to be in the best interest of the  
19 citizens of Illinois.

20 (18) To enter upon any lands and within any building  
21 whenever in its judgment it may be necessary for the  
22 purpose of making surveys and examinations to accomplish  
23 any purpose authorized by this Act.

24 (19) To maintain an office or offices at such place or  
25 places in the State as it may determine.

26 (20) To request information, and to make any inquiry,

1 investigation, survey, or study that the Agency may deem  
2 necessary to enable it effectively to carry out the  
3 provisions of this Act.

4 (21) To accept and expend appropriations.

5 (22) To engage in any activity or operation that is  
6 incidental to and in furtherance of efficient operation to  
7 accomplish the Agency's purposes.

8 (23) To adopt, revise, amend, and repeal rules with  
9 respect to its operations, properties, and facilities as  
10 may be necessary or convenient to carry out the purposes of  
11 this Act, subject to the provisions of the Illinois  
12 Administrative Procedure Act and Sections 1-22 and 1-35 of  
13 this Act.

14 (24) To establish and collect charges and fees as  
15 described in this Act.

16 (25) The Illinois Power Agency has the powers and  
17 duties transferred to that Agency under Section 2-101 of  
18 the Public Utilities Act.

19 (Source: P.A. 95-481, eff. 8-28-07.)

20 Section 10. The Public Utilities Act is amended by changing  
21 Section 2-101 as follows:

22 (220 ILCS 5/2-101) (from Ch. 111 2/3, par. 2-101)

23 Sec. 2-101. Commerce Commission created. There is created  
24 an Illinois Commerce Commission consisting of 5 members not

1 more than 3 of whom shall be members of the same political  
2 party at the time of appointment. The Governor shall appoint  
3 the members of such Commission by and with the advice and  
4 consent of the Senate. In case of a vacancy in such office  
5 during the recess of the Senate the Governor shall make a  
6 temporary appointment until the next meeting of the Senate,  
7 when he shall nominate some person to fill such office; and any  
8 person so nominated who is confirmed by the Senate, shall hold  
9 his office during the remainder of the term and until his  
10 successor shall be appointed and qualified. Each member of the  
11 Commission shall hold office for a term of 5 years from the  
12 third Monday in January of the year in which his predecessor's  
13 term expires.

14 Notwithstanding any provision of this Section to the  
15 contrary, the term of office of each member of the Commission  
16 is terminated on the effective date of this amendatory Act of  
17 1995, but the incumbent members shall continue to exercise all  
18 of the powers and be subject to all of the duties of members of  
19 the Commission until their respective successors are appointed  
20 and qualified. Of the members initially appointed under the  
21 provisions of this amendatory Act of 1995, one member shall be  
22 appointed for a term of office which shall expire on the third  
23 Monday of January, 1997; 2 members shall be appointed for terms  
24 of office which shall expire on the third Monday of January,  
25 1998; one member shall be appointed for a term of office which  
26 shall expire on the third Monday of January, 1999; and one



1 member shall be appointed for a term of office which shall  
2 expire on the third Monday of January, 2000. Each respective  
3 successor shall be appointed for a term of 5 years from the  
4 third Monday of January of the year in which his predecessor's  
5 term expires in accordance with the provisions of the first  
6 paragraph of this Section.

7 Each member shall serve until his successor is appointed  
8 and qualified, except that if the Senate refuses to consent to  
9 the appointment of any member, such office shall be deemed  
10 vacant, and within 2 weeks of the date the Senate refuses to  
11 consent to the reappointment of any member, such member shall  
12 vacate such office. The Governor shall from time to time  
13 designate the member of the Commission who shall be its  
14 chairman. Consistent with the provisions of this Act, the  
15 Chairman shall be the chief executive officer of the Commission  
16 for the purpose of ensuring that the Commission's policies are  
17 properly executed.

18 If there is no vacancy on the Commission, 4 members of the  
19 Commission shall constitute a quorum to transact business;  
20 otherwise, a majority of the Commission shall constitute a  
21 quorum to transact business, and no vacancy shall impair the  
22 right of the remaining commissioners to exercise all of the  
23 powers of the Commission. Every finding, order, or decision  
24 approved by a majority of the members of the Commission shall  
25 be deemed to be the finding, order, or decision of the  
26 Commission.

1       On the effective date of this amendatory Act of the 95th  
2 General Assembly, all powers and duties of the Illinois  
3 Commerce Commission under this Act shall be transferred to the  
4 Illinois Power Agency, and references in other Sections of this  
5 Act to the Illinois Commerce Commission shall be deemed to  
6 refer to the Illinois Power Agency. All rules, standards, and  
7 procedures adopted by the Illinois Commerce Commission under  
8 this Act shall continue in effect as the rules, standards, and  
9 procedures of the Illinois Power Agency, until they are  
10 modified or abolished by the Illinois Power Agency.

11       (Source: P.A. 92-22, eff. 6-30-01.)

12       Section 99. Effective date. This Act takes effect upon  
13 becoming law.