



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3111

Introduced 1/11/2022, by Sen. Donald P. DeWitte - Chapin Rose

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.21 new
220 ILCS 5/4-604.1 new

Amends the Public Utilities Act. Creates ethical standards applicable to renewable energy companies. Establishes a Renewable Energy Company Ethics and Compliance Monitor to oversee compliance by renewable energy companies as part of the Ethics and Accountability Division of the Illinois Commerce Commission. Provides that no later than 60 days after the effective date of the amendatory Act, each renewable energy company shall establish a position of Chief Ethics and Compliance Officer to ensure that the renewable energy company complies with the highest standards of ethical conduct. Provides that each renewable energy company shall be required to submit an annual ethics and compliance report to the Commission no later than May 1 of each year. Amends the Illinois Administrative Procedure Act to allow the Commission to adopt emergency rules. Effective immediately.

LRB102 22396 SPS 31536 b

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 Administrative Procedure Act is
5 amended by adding Section 5-45.21 as follows:

6 (5 ILCS 100/5-45.21 new)

7 Sec. 5-45.21. Emergency rulemaking; Illinois Commerce
8 Commission. To provide for the expeditious and timely
9 implementation of this amendatory Act of the 102nd General
10 Assembly, emergency rules implementing this amendatory Act of
11 the 102nd General Assembly may be adopted in accordance with
12 Section 5-45 by the Illinois Commerce Commission. The adoption
13 of emergency rules authorized by Section 5-45 and this Section
14 is deemed to be necessary for the public interest, safety, and
15 welfare.

16 This Section is repealed one year after the effective date
17 of this amendatory Act of the 102nd General Assembly.

18 Section 10. The Public Utilities Act is amended by adding
19 Section 4-604.1 as follows:

20 (220 ILCS 5/4-604.1 new)

21 Sec. 4-604.1. Renewable energy companies ethical conduct

1 and transparency.

2 (a) The standards set forth in this Section and the
3 Illinois Administrative Code rules implementing this Section
4 shall apply, to the extent practicable, to renewable energy
5 companies.

6 (b) Renewable Energy Company Ethics and Compliance
7 Monitor. To ensure that renewable energy companies meet the
8 highest level of ethical standards, including, but not limited
9 to, those standards established in this Section, the
10 Commission shall, within 60 days after the effective date of
11 this amendatory Act of the 102nd General Assembly, shall
12 create a new position of Renewable Energy Company Ethics and
13 Compliance Monitor as part of the Ethics and Accountability
14 Division who reports to the Executive Director of the
15 Commission. The role of the Renewable Energy Company Ethics
16 and Compliance Monitor shall be to oversee renewable energy
17 companies' compliance with the standards established in this
18 Section, the Illinois Administrative Code, and any other
19 regulatory or statutory obligation regarding standards of
20 ethical conduct. The responsibilities of the Renewable Energy
21 Company Ethics and Compliance Monitor shall include:

22 (1) Hiring additional staff for the Ethics and
23 Accountability Division, as deemed necessary to fulfill
24 the duties imposed under this Section.

25 (2) Overseeing each renewable energy company's Chief
26 Compliance and Ethics Officer's monitoring, auditing,

1 investigation, enforcement, reporting, disciplinary
2 activities, and any other actions required of the Chief
3 Compliance and Ethics Officer pursuant to subsection (c).
4 If the Renewable Energy Company Ethics and Compliance
5 Monitor finds a renewable energy company has not complied
6 with the standards set forth in this Section, or with
7 administrative rules implementing this Section, the
8 Renewable Energy Company Ethics and Compliance Monitor
9 shall detail such deficiencies in a report to the
10 Commission and shall include a recommendation for
11 Commission action.

12 (3) Documenting violations of the standards in this
13 Section or in related Sections of the Illinois
14 Administrative Code and, in coordination with the
15 renewable energy company's Chief Compliance and Ethics
16 Officer, ensuring each renewable energy company
17 administers appropriate internal disciplinary actions and
18 provides transparent reporting to the Commission. If there
19 are violations of the standards in this Section or in
20 related Sections of the Illinois Administrative Code where
21 the renewable energy company does not take disciplinary
22 action or where that action is not aligned with the
23 recommendation of the Renewable Energy Company Ethics and
24 Compliance Monitor, the Renewable Energy Company Ethics
25 and Compliance Monitor shall, within 30 days, report the
26 violation, the recommended disciplinary action, and the

1 renewable energy company's actual disciplinary action, to
2 the Executive Director of the Commission. Such reports
3 shall be included in the annual ethics report required by
4 paragraph (5) and must describe the violation and related
5 recommendations.

6 (4) Reviewing and keeping informed regarding internal
7 controls, code of ethical conduct, practices, procedures,
8 and conduct of each renewable energy company. The
9 Renewable Energy Company Ethics and Compliance Monitor may
10 recommend any new internal controls, policies, practices,
11 or procedures the renewable energy company should
12 undertake in order to ensure compliance with this Section
13 and with relevant Sections of the Illinois Administrative
14 Code.

15 (5) Publishing an annual ethics audit for each
16 renewable energy company describing the renewable energy
17 company's internal controls, policies, practices, and
18 procedures to comply with statutes, rules, court orders,
19 or other applicable authority. The report shall include a
20 record of any disciplinary actions taken related to
21 unethical conduct as well as any recommendations made by
22 the Renewable Energy Company Ethics and Compliance Monitor
23 and the renewable energy company's response to each
24 recommendation. This report must be made public and the
25 Commission may make necessary redactions.

26 (6) Monitoring, auditing, and subpoenaing all records

1 necessary for the Renewable Energy Company Ethics and
2 Compliance Monitor to meet the responsibilities imposed
3 under this Section and related rules, including, but not
4 limited to, contracts with third party entities,
5 accounting records, communication with public officials or
6 their staff, lobbying activities, expenses on lobbyists
7 and consultants, legal expenses, and internal compliance
8 policies.

9 (c)(1) No later than 60 days after the effective date of
10 this amendatory Act of the 102nd General Assembly, each
11 renewable energy company shall establish a position of Chief
12 Ethics and Compliance Officer if such position does not
13 already exist within the renewable energy company or at an
14 affiliated company, provided that if the position exists at an
15 affiliated company such individual may be designated to serve
16 in this role for the renewable energy company. The Chief
17 Ethics and Compliance Officer shall be responsible for
18 ensuring that the renewable energy company complies with the
19 highest standards of ethical conduct, including, but not
20 limited to, complying with the standards imposed under this
21 Section, those adopted pursuant to a rulemaking authorized by
22 this Section, and other applicable requirements of Illinois
23 law and rules.

24 (2) Each renewable energy company's Chief Ethics and
25 Compliance Officer shall:

26 (A) oversee creation and implementation of a code

1 of ethical conduct for the renewable energy company,
2 applicable to all directors, officers, employees, and
3 lobbyists of the renewable energy company, as well as
4 to all contractors, consultants, agents, vendors, and
5 business partners of the renewable energy company in
6 connection with their activities with or on behalf of
7 the renewable energy company;

8 (B) oversee training for renewable energy company
9 directors, officers, and employees, as well as
10 contractors, consultants, lobbyists, and political
11 consultants, on the renewable energy company's code of
12 ethical conduct, practices, and procedures to advise
13 agents, vendors, and business partners of the
14 renewable energy company of the applicability of the
15 code of ethical conduct to their activities with or on
16 behalf of the renewable energy company;

17 (C) oversee the ongoing monitoring of all
18 contractors, consultants, and vendors who are
19 contracted for the purpose of carrying out lobbying
20 activities to ensure their continued compliance with
21 applicable ethical standards;

22 (D) at least annually, oversee a review of the
23 renewable energy company's internal controls, code of
24 ethical conduct, practices, and procedures to assess
25 their continued effectiveness to ensure the highest
26 standards of ethical conduct among the renewable

1 energy company's directors, officers, employees,
2 contractors, consultants, lobbyists, vendors, agents
3 and business partners; and

4 (E) maintain records of all conduct determined to
5 be in violation of Illinois law, rules, and
6 regulations, and the renewable energy company's
7 response to that conduct, and make such records
8 available for inspection by the Renewable Energy
9 Company Ethics and Compliance Monitor.

10 (d) In addition to those standards established under this
11 Section, those adopted pursuant to a rulemaking authorized by
12 this Section, and other applicable requirements of Illinois
13 law and rules, each renewable energy company Chief Ethics and
14 Compliance Officer shall oversee and ensure the development
15 and implementation of internal controls, policies, and
16 procedures to achieve the objectives set forth in paragraphs
17 (1) through (3). Such implementation shall begin no later than
18 90 days after the effective date of this amendatory Act of the
19 102nd General Assembly.

20 (1) The hiring of contractors, consultants, and
21 vendors for the purpose of carrying out lobbying pursuant
22 to the Lobbyist Registration Act shall be reviewed and
23 approved by the Chief Ethics and Compliance Officer.

24 (2) No agreement between a renewable energy company
25 and a contractor, consultant, or vendor engaged for the
26 purpose of carrying out lobbying pursuant to the Lobbyist

1 Registration Act shall permit that contractor, consultant,
2 or vendor to subcontract any portion of that work.

3 (3) Renewable energy companies shall require
4 contractors, consultants, and vendors who are contracted
5 for the purpose of carrying out lobbying pursuant to the
6 Lobbyist Registration Act to provide detailed invoices and
7 reports describing activities taken and amounts billed for
8 such activities, including all persons involved and
9 anything of value requested or solicited or provided to
10 public officials or their staff, including hiring
11 requests. No such contractor, consultant, or vendor shall
12 be paid without having first submitted a detailed invoice
13 or report.

14 For purposes of this Section, "anything of value"
15 includes, but is not limited to, money, gifts, entertainment,
16 hiring referrals, and recommendations to the renewable energy
17 company, campaign contributions, vendor referrals, and
18 contributions to charitable organizations solicited by or on
19 behalf of the public official.

20 (e) Each renewable energy company shall be required to
21 submit an annual ethics and compliance report to the
22 Commission no later than May 1 of each year, beginning May 1,
23 2022. The renewable energy company's Chief Ethics and
24 Compliance Officer shall oversee the preparation and
25 submission of the report and shall certify it. Each report
26 shall describe in detail the renewable energy company's

1 internal controls, codes of ethical conduct, practices, and
2 procedures. The reporting implemented during the reporting
3 period to comply with the standards set forth in this Section,
4 rules adopted by the Commission, and other applicable
5 requirements of Illinois law and rules. Each report shall also
6 identify any material changes implemented to such internal
7 controls, code of ethical conduct, practices, and procedures
8 during the reporting period, as well as any material changes
9 implemented, or anticipated to be implemented, in the calendar
10 year in which the report is filed. Each report shall, for the
11 applicable reporting period include at least the following
12 information:

13 (1) a summary and description of the renewable energy
14 company's system of financial and accounting procedures,
15 internal controls, and practices, including an explanation
16 of how this system is reasonably designed to ensure the
17 maintenance of fair and accurate books, records, and
18 accounts and to provide reasonable assurances that
19 transactions are recorded as necessary to permit
20 preparation of financial statements in conformity with
21 generally accepted accounting principles and Commission
22 requirements and to maintain accountability for assets;

23 (2) a summary and description of the renewable energy
24 company's process for conducting an assessment of ethics
25 and compliance risks and a representation that an
26 assessment was conducted in accordance with those risks

1 and shared with the renewable energy company's senior
2 management and board of directors;

3 (3) a summary of the renewable energy company's
4 implementation of mechanisms, including, but not limited
5 to, training programs designed to ensure that its internal
6 controls, code of ethical conduct, practices, and
7 procedures are effectively communicated to all directors,
8 officers, employees, contractors, consultants, lobbyists,
9 vendors, agents, and business partners;

10 (4) a summary of the renewable energy company's
11 efforts to ensure that its directors and senior management
12 provide strong, explicit, and visible support and
13 commitment to its corporate policy against violations of
14 federal and State law;

15 (5) a summary of the renewable energy company's
16 implementation of mechanisms designed to effectively
17 enforce its internal controls, code of ethical conduct,
18 practices, and procedures, including appropriately
19 providing incentives for compliance, disciplining
20 violators, and applying such code, controls, policies,
21 practices, and procedures consistently and fairly
22 regardless of the position held by, or the importance of,
23 the director, officer, or employee; and

24 (6) a summary of the renewable energy company's
25 implementation of procedures to ensure that, where
26 misconduct is discovered, reasonable steps are taken to

1 remedy the harm resulting from such misconduct, including
2 disciplinary action, logging the conduct and the renewable
3 energy company's response as required by item (E) of
4 paragraph (2) of subsection (c) and assessing and
5 modifying as appropriate the internal controls, code,
6 policies, practices, and procedures necessary to ensure
7 that the compliance program is effective.

8 For purposes of this Section, "reporting period" means the
9 most recent 12-month calendar year period preceding the
10 applicable May 1 annual report filing date.

11 (f) Each renewable energy company that files a report
12 pursuant to subsection (e) must submit the specified filing
13 fee at the time the Chief Clerk of the Commission accepts the
14 filing. The filing fee applicable to each annual report is
15 \$15,000.

16 (g) In the event the Renewable Energy Company Ethics and
17 Compliance Monitor finds a renewable energy company does not
18 comply with any portion of this Section, or with the rules
19 adopted under this Section, the Renewable Energy Company
20 Ethics and Compliance Monitor shall issue a report to the
21 Commission detailing the renewable energy company's
22 deficiencies. The Commission shall have authority to open an
23 investigation and shall order remediation and penalties,
24 including fines, as appropriate.

25 (h) Each year, each renewable energy company in the State
26 shall remit amounts necessary for the Commission to pay the

1 wages, overhead, travel expenses, and other costs of the
2 Renewable Energy Company Ethics and Compliance Monitor. The
3 renewable energy company shall remit payment to the Commission
4 in an amount determined by the Commission based on that
5 renewable energy company's proportional share, by number of
6 customers.

7 (i) The costs of a renewable energy company that arise
8 from a criminal investigation or result from an investigation
9 initiated by the Commission as the result of an ethics
10 violation are not costs of service and shall not be
11 recoverable in rates.

12 (j) The Commission shall have the authority to adopt rules
13 and emergency rules where applicable to implement this
14 Section.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.