

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 02/04/04, by Marlow H. Colvin

**SYNOPSIS AS INTRODUCED:**

220 ILCS 5/5-108.1 new  
220 ILCS 5/8-207.2 new  
220 ILCS 5/8-207.5 new  
220 ILCS 5/8-306 new  
305 ILCS 20/4.5 new  
305 ILCS 20/13

Amends the Public Utilities Act. Provides that every public utility that provides gas or electric service to residential customers as primary or secondary sources of heating or cooling must report all of the following information annually in writing to the Illinois Commerce Commission: (1) the number of accounts that are past due each month, (2) the aggregate amount of past due balances each month, (3) the number of disconnection notices issued to residential customers each month, (4) the number of residential customers disconnected each month, (5) the number of residential customers eligible for emergency services under the Energy Assistance Act each year, and (6) the aggregate amount of arrears that are written off as bad business debt each year. Requires a utility to reconnect service to LIHEAP-eligible households whose service was disconnected for nonpayment if the consumer (i) pays 20% of the outstanding bill for the household or \$250, whichever is less or (ii) agrees to a payment plan negotiated with the public utility by the local area agency on behalf of the consumer. Requires an electric or gas public utility to participate in the Percentage of Income Payment Plan established under the Energy Assistance Act and establish and implement an arrearage reduction program for consumers who are participating in the Plan. Provides that, if a public utility writes off uncollectable account arrearages as a bad business debt on its State or federal income tax return, the utility shall cease all collection activities for that debt and write the indebtedness off of its books. Amends the Energy Assistance Act. Requires the Department of Commerce and Economic Opportunity to institute a Percentage of Income Payment Plan to ensure the availability of heating, cooling, and electric service to low income citizens. Requires that the Plan be in operation by November 1, 2005. Authorizes the Department to enter into contracts and other agreements with local agencies for the purpose of administering the Plan. Provides that monies in the Supplemental Low-Income Energy Assistance Fund be used to to fund the Plan. Effective immediately.

LRB093 15704 AMC 46481 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public utilities.

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 Sections 5-108.1, 8-207.2, 8-207.5, and 8-306 as follows:

6 (220 ILCS 5/5-108.1 new)

7 Sec. 5-108.1. Report. Every public utility that provides  
8 gas or electric service to residential customers as primary or  
9 secondary sources of heating or cooling must report all of the  
10 following information annually in writing to the Illinois  
11 Commerce Commission:

12 (1) The number of accounts that are past due each  
13 month.

14 (2) The aggregate amount of past due balances each  
15 month.

16 (3) The number of disconnection notices issued to  
17 residential customers each month.

18 (4) The number of residential customers disconnected  
19 each month.

20 (5) The number of residential customers eligible for  
21 emergency services under the Energy Assistance Act each  
22 year.

23 (6) The aggregate amount of arrears that are written  
24 off as bad business debt each year.

25 (220 ILCS 5/8-207.2 new)

26 Sec. 8-207.2. Reconnection of LIHEAP-eligible households.  
27 Notwithstanding any other provision of this Act, a utility must  
28 reconnect service to LIHEAP-eligible households whose service  
29 was disconnected for nonpayment if the consumer (i) pays 20% of  
30 the outstanding bill for the household or \$250, whichever is  
31 less or (ii) agrees a payment plan negotiated with the public

1 utility by the local area agency on behalf of the consumer.  
2 Before reconnecting service a utility shall not impose any  
3 other condition upon a LIHEAP-eligible household except those  
4 provided in this subsection.

5 (220 ILCS 5/8-207.5 new)

6 Sec. 8-207.5. Percentage of Income Payment Plan.

7 (a) An electric or gas public utility that provides service  
8 to consumers in Illinois must participate in the Percentage of  
9 Income Payment Plan established under the Energy Assistance  
10 Act.

11 (b) As a part of the Percentage of Income Payment Plan, an  
12 electric or gas public utility must establish and implement an  
13 arrears reduction program for consumers who are  
14 participating in the Plan. The arrears reduction program  
15 shall provide that one-tenth of a participant's arrears shall  
16 be reduced for every 3 months of timely monthly payments under  
17 the Plan.

18 (c) Notwithstanding any other provision of this Act, an  
19 electric or gas public utility may not disconnect service to  
20 any residential customer who is a participant in the Percentage  
21 of Income Payment Plan.

22 (220 ILCS 5/8-306 new)

23 Sec. 8-306. Bad business debt. If a public utility writes  
24 off uncollectable account arrearages as a bad business debt on  
25 its State or federal income tax return, the utility shall cease  
26 all collection activities for that debt and write the  
27 indebtedness off of its books.

28 Section 10. The Energy Assistance Act is amended by  
29 changing Section 13 and by adding Section 4.5 as follows:

30 (305 ILCS 20/4.5 new)

31 Sec. 4.5. Percentage of Income Payment Plan.

32 (a) As part of the energy assistance program established

1 under Section 4, the Department must institute a Percentage of  
2 Income Payment Plan to further ensure the availability of  
3 heating, cooling, and electric service to low income citizens.  
4 The Department shall implement the Plan by rule. The Plan shall  
5 be consistent with the objectives of this Section. The  
6 Department shall ensure that the Plan is in operation by  
7 November 1, 2005, and may enter into such contracts and other  
8 agreements with local agencies as may be necessary for the  
9 purpose of administering the Plan.

10 (b) Illinois energy assistance consumers shall have the  
11 option of participating in the Percentage of Income Payment  
12 Plan. The Percentage of Income Payment Plan shall be a  
13 year-round program that requires participants to pay 7% of  
14 their income for the primary energy source for heating and  
15 cooling and 3% of their income for the secondary energy source  
16 for heating and cooling. Households that use electricity as  
17 their sole energy source can elect to participate in the  
18 Percentage of Income Payment Plan and pay 10% of their income  
19 to the utility supplying electricity. All percentage of income  
20 payments shall first be applied to the consumer's current  
21 monthly payment obligation. For months in which the consumer's  
22 payment under the Percentage of Income Payment Plan exceeds his  
23 or her current bill, the balance of the payment shall be  
24 applied to any default under a deferred payment plan or, if  
25 none, to the consumer's arrearage, if any. If there is no  
26 default amount or arrearage, the overpayment shall be retained  
27 by the utility and treated as a budget plan payment to be  
28 credited to the consumer against potential arrearages in the  
29 future. For months in which the consumer's payment under the  
30 Percentage of Income Payment Plan is less than his or her  
31 current bill, the balance of the current bill shall be paid to  
32 the utility out of the State LIHEAP fund. Prior to entering  
33 into a Percentage of Income Payment Plan, the local area agency  
34 shall counsel the consumer as to the possible benefits of the  
35 Percentage of Income Payment Plan and will work with the  
36 consumer to develop an energy payment plan that meets the needs

1 of the consumer.

2 (c) The amount of a consumer's percentage of income payment  
3 shall be based on an annual report on average energy usage  
4 issued by the Illinois Department of Natural Resources. Any  
5 consumption of energy over the average use amount shall be the  
6 responsibility of the consumer.

7 (d) The LIHEAP flat grant direct vendor payment program in  
8 existence prior to the effective date of this amendatory Act of  
9 the 93rd General Assembly shall continue in effect for eligible  
10 consumers that (i) have utility costs included as an  
11 undesignated portion of the rent("heat-in-rent" consumers) or  
12 (ii) have home-delivered fuel or that purchase fuel in bulk for  
13 residential use. However, "heat-in-rent" consumers who pay  
14 separately for electricity may participate in a 3% percentage  
15 of income payment plan, and "electricity-in rent" consumers who  
16 pay separately for gas service may participate in a 7%  
17 percentage of income payment plan.

18 (e) A LIHEAP flat grant shall be available to eligible  
19 consumers who elect not to participate in the Percentage of  
20 Income Payment Program. The amount of the flat grant shall be  
21 set by the Department of Commerce and Economic Opportunity in  
22 consultation with the Policy Advisory Committee, taking into  
23 consideration the amount of available LIHEAP funds. The flat  
24 grant amount shall be set at a level that encourages  
25 participation in the Percentage of Income Payment Plan.

26 (f) Emergency Services grants under LIHEAP shall be limited  
27 to the amount necessary to reconnect service to the household  
28 unless another emergency exists such as the need for repairs or  
29 service in the dwelling.

30 (g) The General Assembly finds that energy efficiency is an  
31 important component of LIHEAP because it helps the State  
32 control costs by lowering the heating and cooling bills of  
33 eligible consumers. The Department, in consultation with the  
34 Policy Advisory Committee, shall establish an energy  
35 efficiency and weatherization program targeted, to the extent  
36 practicable, to high-cost high-volume use buildings occupied

1 by LIHEAP-eligible consumers with the goal of reducing the  
2 energy bills of the occupants. Acceptance of energy efficiency  
3 and weatherization services provided under LIHEAP shall be a  
4 condition for participation in the Percentage of Income Payment  
5 Plan. The energy efficiency component of LIHEAP shall (i)  
6 target the highest cost households for weatherization and (ii)  
7 provide no-cost or low-cost efficiency strategies for all  
8 participants. The Department and the Policy Advisory Committee  
9 shall review appropriate data provided by consumers, local area  
10 agencies and other appropriate sources in deciding how to  
11 target energy efficiency resources.

12 (h) The costs of operating the Percentage of Income Payment  
13 Plan as part of LIHEAP shall be paid out of the Supplemental  
14 Low-Income Energy Assistance Fund. To meet the anticipated  
15 increase in costs, the following portfolio of funding sources  
16 for the State LIHEAP fund shall be added to existing funding  
17 sources:

18 (1) The Department shall use financial hedging tools to  
19 minimize its vulnerability to periodic swings in the cost  
20 of natural gas. The Department, in consultation with the  
21 Policy Advisory Committee, shall predetermine the annual  
22 amount of LIHEAP funding available for hedging strategies.  
23 This amount shall be based on projections of the cost of  
24 natural gas and the projected natural gas consumption by  
25 consumers participating in a Percentage of Income Payment  
26 Plan. The Department shall put out for competitive bidding  
27 the development and implementation of the hedging  
28 strategy. Money saved by the use of hedging strategies in  
29 colder-than-normal winters shall be used to pay for the  
30 cost of hedging strategies during warmer-than-normal  
31 winters.

32 (2) The Department shall apply the savings realized  
33 from lower flat grants to LIHEAP-eligible consumers who opt  
34 not to participate in the Percentage of Income Payment Plan  
35 and lower average emergency services grants to help cover  
36 the additional costs of the energy assistance program

1 changes created by this amendatory Act of the 93rd General  
2 Assembly.

3 (3) The savings in LIHEAP funds resulting from the  
4 alleviation of arrearages for eligible consumers resulting  
5 from the program changes created by this amendatory Act of  
6 the 93rd General Assembly shall be applied to help cover  
7 the additional costs resulting from this amendatory Act of  
8 the 93rd General Assembly.

9 (4) Bulk purchasing and other cost-saving practices  
10 shall be used to reduce LIHEAP expenditures. These savings  
11 shall be applied to the additional costs created by this  
12 amendatory Act of the 93rd General Assembly.

13 (5) Interest earned on funds deposited in the LIHEAP  
14 funds shall be applied to the cost of the LIHEAP program.

15 (i) The Department may adopt any rules necessary for the  
16 implementation of this Section.

17 (305 ILCS 20/13)

18 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

19 (a) The Supplemental Low-Income Energy Assistance Fund is  
20 hereby created as a special fund in the State Treasury. The  
21 Supplemental Low-Income Energy Assistance Fund is authorized  
22 to receive, by statutory deposit, the moneys collected pursuant  
23 to this Section. Subject to appropriation, the Department shall  
24 use moneys from the Supplemental Low-Income Energy Assistance  
25 Fund for payments to electric or gas public utilities,  
26 municipal electric or gas utilities, and electric cooperatives  
27 on behalf of their customers who are participants in the  
28 program authorized by Section 4 of this Act, for administration  
29 of the Percentage of Income Payment Plan under Section 4.5 of  
30 this Act, for the provision of weatherization services and for  
31 administration of the Supplemental Low-Income Energy  
32 Assistance Fund. The yearly expenditures for weatherization  
33 may not exceed 10% of the amount collected during the year  
34 pursuant to this Section. The yearly administrative expenses of  
35 the Supplemental Low-Income Energy Assistance Fund may not

1 exceed 10% of the amount collected during that year pursuant to  
2 this Section.

3 (b) Notwithstanding the provisions of Section 16-111 of the  
4 Public Utilities Act but subject to subsection (k) of this  
5 Section, each public utility, electric cooperative, as defined  
6 in Section 3.4 of the Electric Supplier Act, and municipal  
7 utility, as referenced in Section 3-105 of the Public Utilities  
8 Act, that is engaged in the delivery of electricity or the  
9 distribution of natural gas within the State of Illinois shall,  
10 effective January 1, 1998, assess each of its customer accounts  
11 a monthly Energy Assistance Charge for the Supplemental  
12 Low-Income Energy Assistance Fund. The delivering public  
13 utility, municipal electric or gas utility, or electric or gas  
14 cooperative for a self-assessing purchaser remains subject to  
15 the collection of the fee imposed by this Section. The monthly  
16 charge shall be as follows:

17 (1) \$0.40 per month on each account for residential  
18 electric service;

19 (2) \$0.40 per month on each account for residential gas  
20 service;

21 (3) \$4 per month on each account for non-residential  
22 electric service which had less than 10 megawatts of peak  
23 demand during the previous calendar year;

24 (4) \$4 per month on each account for non-residential  
25 gas service which had distributed to it less than 4,000,000  
26 therms of gas during the previous calendar year;

27 (5) \$300 per month on each account for non-residential  
28 electric service which had 10 megawatts or greater of peak  
29 demand during the previous calendar year; and

30 (6) \$300 per month on each account for non-residential  
31 gas service which had 4,000,000 or more therms of gas  
32 distributed to it during the previous calendar year.

33 (c) For purposes of this Section:

34 (1) "residential electric service" means electric  
35 utility service for household purposes delivered to a  
36 dwelling of 2 or fewer units which is billed under a



1 residential rate, or electric utility service for  
2 household purposes delivered to a dwelling unit or units  
3 which is billed under a residential rate and is registered  
4 by a separate meter for each dwelling unit;

5 (2) "residential gas service" means gas utility  
6 service for household purposes distributed to a dwelling of  
7 2 or fewer units which is billed under a residential rate,  
8 or gas utility service for household purposes distributed  
9 to a dwelling unit or units which is billed under a  
10 residential rate and is registered by a separate meter for  
11 each dwelling unit;

12 (3) "non-residential electric service" means electric  
13 utility service which is not residential electric service;  
14 and

15 (4) "non-residential gas service" means gas utility  
16 service which is not residential gas service.

17 (d) At least 45 days prior to the date on which it must  
18 begin assessing Energy Assistance Charges, each public utility  
19 engaged in the delivery of electricity or the distribution of  
20 natural gas shall file with the Illinois Commerce Commission  
21 tariffs incorporating the Energy Assistance Charge in other  
22 charges stated in such tariffs.

23 (e) The Energy Assistance Charge assessed by electric and  
24 gas public utilities shall be considered a charge for public  
25 utility service.

26 (f) By the 20th day of the month following the month in  
27 which the charges imposed by the Section were collected, each  
28 public utility, municipal utility, and electric cooperative  
29 shall remit to the Department of Revenue all moneys received as  
30 payment of the Energy Assistance Charge on a return prescribed  
31 and furnished by the Department of Revenue showing such  
32 information as the Department of Revenue may reasonably  
33 require. If a customer makes a partial payment, a public  
34 utility, municipal utility, or electric cooperative may elect  
35 either: (i) to apply such partial payments first to amounts  
36 owed to the utility or cooperative for its services and then to

1 payment for the Energy Assistance Charge or (ii) to apply such  
2 partial payments on a pro-rata basis between amounts owed to  
3 the utility or cooperative for its services and to payment for  
4 the Energy Assistance Charge.

5 (g) The Department of Revenue shall deposit into the  
6 Supplemental Low-Income Energy Assistance Fund all moneys  
7 remitted to it in accordance with subsection (f) of this  
8 Section.

9 (h) (Blank).

10 On or before December 31, 2002, the Department shall  
11 prepare a report for the General Assembly on the expenditure of  
12 funds appropriated from the Low-Income Energy Assistance Block  
13 Grant Fund for the program authorized under Section 4 of this  
14 Act.

15 (i) The Department of Revenue may establish such rules as  
16 it deems necessary to implement this Section.

17 (j) The Department of Commerce and Economic Opportunity  
18 ~~Community Affairs~~ may establish such rules as it deems  
19 necessary to implement this Section.

20 (k) The charges imposed by this Section shall only apply to  
21 customers of municipal electric or gas utilities and electric  
22 or gas cooperatives if the municipal electric or gas utility or  
23 electric or gas cooperative makes an affirmative decision to  
24 impose the charge. If a municipal electric or gas utility or an  
25 electric cooperative makes an affirmative decision to impose  
26 the charge provided by this Section, the municipal electric or  
27 gas utility or electric cooperative shall inform the Department  
28 of Revenue in writing of such decision when it begins to impose  
29 the charge. If a municipal electric or gas utility or electric  
30 or gas cooperative does not assess this charge, the Department  
31 may not use funds from the Supplemental Low-Income Energy  
32 Assistance Fund to provide benefits to its customers under the  
33 program authorized by Section 4 of this Act.

34 In its use of federal funds under this Act, the Department  
35 may not cause a disproportionate share of those federal funds  
36 to benefit customers of systems which do not assess the charge

1 provided by this Section.

2 This Section is repealed effective December 31, 2007 unless  
3 renewed by action of the General Assembly. The General Assembly  
4 shall consider the results of the evaluations described in  
5 Section 8 in its deliberations.

6 (Source: P.A. 92-690, eff. 7-18-02; revised 12-6-03.)

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