



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0845

Introduced 2/2/2005, by Rep. Mike Boland

SYNOPSIS AS INTRODUCED:

220 ILCS 10/2	from Ch. 111 2/3, par. 902
220 ILCS 10/3	from Ch. 111 2/3, par. 903
220 ILCS 10/4	from Ch. 111 2/3, par. 904
220 ILCS 10/5	from Ch. 111 2/3, par. 905
220 ILCS 10/6	from Ch. 111 2/3, par. 906
220 ILCS 10/10	from Ch. 111 2/3, par. 910
220 ILCS 10/11	from Ch. 111 2/3, par. 911
220 ILCS 10/12	from Ch. 111 2/3, par. 912
220 ILCS 10/20	from Ch. 111 2/3, par. 920
220 ILCS 10/21	from Ch. 111 2/3, par. 921

Amends the Citizens Utility Board Act. Provides that the Citizens Utility Board shall represent and protect the interests of the residential utility and cable television customers (now, just residential utility customers) of this State. Makes corresponding changes.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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 Citizens Utility Board Act is amended by
5 changing Sections 2, 3, 4, 5, 6, 10, 11, 12, 20, and 21 as
6 follows:

7 (220 ILCS 10/2) (from Ch. 111 2/3, par. 902)

8 Sec. 2. Purpose. The purpose of this Act is to promote the
9 health, welfare and prosperity of all the citizens of this
10 State by ensuring effective and democratic representation of
11 utility consumers before the Illinois Commerce Commission, the
12 Federal Energy Regulatory Commission, the Federal
13 Communications Commission, the courts, and other public bodies
14 and by providing for consumer education on utility service and
15 cable television prices and on benefits and methods of energy
16 conservation. Such purpose shall be deemed a statewide interest
17 and not a private or special concern.

18 (Source: P.A. 83-945.)

19 (220 ILCS 10/3) (from Ch. 111 2/3, par. 903)

20 Sec. 3. Definitions. As used in this Act: (1) "Board" means
21 the board of directors of the corporation.

22 (2) "Campaign contribution" means a gift, subscription,
23 loan, advance or deposit of money or anything of value, made
24 for the purpose of electing a candidate to the board; or a
25 contract, a promise or agreement, express or implied, whether
26 or not legally enforceable, to make any campaign contribution;
27 but does not include the value of services provided without
28 compensation by individuals who volunteer a portion or all of
29 their time on behalf of a candidate or political committee, or
30 the use of real or personal property and the cost of
31 invitations, food and beverages, voluntarily provided by an

1 individual to a candidate in rendering voluntary personal
2 services on the individual's residential premises for
3 candidate-related activities if the cumulative value of the
4 activities to the individual on behalf of any candidate does
5 not exceed \$100 for any election.

6 (3) "Campaign expenditures" means a purchase, payment
7 distribution, loan, advance, deposit or gift of money or
8 anything of value, made for the purpose of electing a candidate
9 to the board; or a contract, promise, or agreement, express or
10 implied, whether or not legally enforceable, to make any
11 campaign expenditure; but does not include the use of real or
12 personal property and the cost of invitations, food and
13 beverages, voluntarily provided by an individual to a candidate
14 in rendering voluntary personal services on the individual's
15 residential premises for candidate-related activities if the
16 cumulative value of the activities by the individual on behalf
17 of any candidate does not exceed \$100 for any election.

18 (4) "Class A utility" means any gas, electric or water
19 public utility with annual total gross operating revenues of
20 \$2.5 million or more or any telephone public utility with
21 annual total gross operating revenues of \$1,600,000 or more on
22 the effective date of this Act.

23 (5) "Corporation" means the citizens utility board.

24 (6) "Director" means any member of the board.

25 (7) "District" means a corporation district, the
26 boundaries of which are congruent with the boundaries of the
27 Congressional districts in the State.

28 (8) "Immediate family" of a person means the person's
29 spouse and legal dependents.

30 (9) "Member" means any person who satisfies the
31 requirements for membership under Section 4.

32 (10) "Periodic customer billing" means a demand for payment
33 for utility services by a public utility to a residential
34 utility consumer on a monthly or other regular basis.

35 (11) "Political committee" means any committee, club,
36 association or other group of persons which make campaign

1 expenditures or receive campaign contributions during the year
2 before an election of the board.

3 (12) "Public utility" means any person who owns, operates,
4 manages or controls any plant or equipment or any part of a
5 plant or equipment, within the State, for the conveyance of
6 telephone messages or for the production, transmission,
7 delivery or furnishing of heat, light, water or power either
8 directly or indirectly to or for the public. "Public utility"
9 includes any person engaged in the transmission or delivery of
10 natural gas for compensation within this State by means of
11 pipes or mains. "Public utility" does not include a cooperative
12 association organized for the purpose of furnishing telephone
13 service to its members only. "Public utility" does not include
14 electric cooperatives as defined in Section 3-119 of the Public
15 Utilities Act. However, "public utility" does not include
16 either public utilities that are owned and operated by a
17 political subdivision, public institution of higher education
18 or municipal corporation of this State or public utilities that
19 are owned by such political subdivision, public institution of
20 higher education, or municipal corporation and operated by any
21 of its lessees or operating agents.

22 (13) "Utility consumer" means any individual or entity,
23 which is not governmental or a public utility, which is located
24 in this State and which is furnished with a utility service by
25 a public utility.

26 (14) "Utility service" means electricity, natural gas,
27 water and telephone service supplied by a public utility.

28 (15) "Cable television consumer" means any individual or
29 non-governmental entity that is located in this State and that
30 is furnished with cable television service by a cable
31 television provider.

32 (16) "Cable television provider" means any entity
33 providing cable television service to cable television
34 consumers.

35 (17) "Cable television service" means the transmission of
36 television voice or data information through cable.

1 (Source: P.A. 91-357, eff. 7-29-99.)

2 (220 ILCS 10/4) (from Ch. 111 2/3, par. 904)

3 Sec. 4. Citizens utility board: formation and membership.

4 (1) There is created a nonprofit public body corporate and
5 politic to be known as the "Citizens Utility Board". Any
6 utility or cable television consumer who has submitted a
7 membership form and has contributed membership dues to the
8 corporation in the preceding 12 months shall be a member of the
9 corporation. A member may resign from membership at any time.

10 (2) The board shall, upon certification of their
11 nominations pursuant to subsection (2) of Section 12 and
12 request by the candidate, within 5 days provide to each
13 candidate for election to the board a current list of members
14 residing in the candidate's district. Such list shall include
15 the names and current addresses of members within such
16 district, and may be used by the candidate only for election
17 purposes.

18 (3) Notwithstanding any other provision of this Act or any
19 other provisions of law, if the corporation does not receive
20 contributions from at least 10,000 citizens of this State
21 within 3 years of the effective date of this Act, the
22 corporation shall be dissolved.

23 (Source: P.A. 86-101.)

24 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

25 Sec. 5. Powers and duties.

26 (1) The corporation shall:

27 (a) Represent and protect the interests of the
28 residential utility and cable television consumers of this
29 State. All actions by the corporation under this Act shall
30 be directed toward such duty; provided that the corporation
31 may also give due consideration to the interests of
32 business in the State.

33 (b) Inform, in so far as possible, all utility and
34 cable television consumers about the corporation,

1 including the procedure for obtaining membership in the
2 corporation.

3 (2) The corporation shall have all the powers necessary or
4 convenient for the effective representation and protection of
5 the interest of utility and cable television consumers and to
6 implement this Act, including the following powers in addition
7 to all other powers granted by this Act.

8 (a) To make, amend and repeal bylaws and rules for the
9 regulation of its affairs and the conduct of its business;
10 to adopt an official seal and alter it at pleasure; to
11 maintain an office; to sue and be sued in its own name,
12 plead and be impleaded; and to make and execute contracts
13 and other instruments necessary or convenient to the
14 exercise of the powers of the corporation.

15 (b) To employ such agents, employees and special
16 advisors as it finds necessary and to fix their
17 compensation.

18 (c) To solicit and accept gifts, loans, including loans
19 made by the Illinois Commerce Commission from funds
20 appropriated for that purpose by law, or other aid in order
21 to support activities concerning the interests of utility
22 consumers. Except as provided in Section 5.1, the
23 corporation may not accept gifts, loans or other aid from
24 any public utility or from any director, employee or agent
25 or member of the immediate family of a director, employee
26 or agent of any public utility and, after the first
27 election the corporation, may not accept from any
28 individual, private corporation, association or
29 partnership in any single year a total of more than \$1,000
30 in gifts. Under this paragraph, "aid" does not mean payment
31 of membership dues.

32 (d) To intervene as a party or otherwise participate on
33 behalf of utility and cable television consumers in any
34 proceeding which affects the interest of utility or cable
35 television consumers.

36 (e) To represent the interests of utility and cable

1 television consumers before the Illinois Commerce
2 Commission, the Federal Energy Regulatory Commission, the
3 Federal Communications Commission, the courts, and other
4 public bodies, except that no director, employee or agent
5 of the corporation may engage in lobbying without first
6 complying with any applicable statute, administrative rule
7 or other regulation relating to lobbying.

8 (f) To establish annual dues which shall be set at a
9 level that provides sufficient funding for the corporation
10 to effectively perform its powers and duties, and is
11 affordable for as many utility and cable television
12 consumers as is possible.

13 (g) To implement solicitation for corporation funding
14 and membership.

15 (h) To seek tax exempt status under State and federal
16 law, including 501(c)(3) status under the United States
17 Internal Revenue Code.

18 (i) To provide information and advice to utility and
19 cable television consumers on any matter with respect to
20 utility or cable television service, including but not
21 limited to information and advice on benefits and methods
22 of energy conservation.

23 (3) The powers, duties, rights and privileges conferred or
24 imposed upon the corporation by this Act may not be
25 transferred.

26 (4) The corporation shall refrain from interfering with
27 collective bargaining rights of any employees of a public
28 utility.

29 (Source: P.A. 91-50, eff. 6-30-99.)

30 (220 ILCS 10/6) (from Ch. 111 2/3, par. 906)

31 Sec. 6. Board. The corporation shall be managed by, and its
32 powers, functions and duties shall be exercised through a board
33 to be composed as follows:

34 (1) Election and Terms of Directors. The Citizens Utility
35 Board Districts shall be divided into two groups for the

1 purpose of establishing terms for which the Directors shall be
2 elected in each group. One group shall be comprised of the even
3 numbered Congressional Districts. The odd numbered
4 Congressional Districts shall comprise the other group.

5 (a) The Interim Board, within 60 days after their
6 appointment, shall meet and publicly by lot determine which
7 group shall be the first group and which group shall be the
8 second. The board members or their successors from the first
9 group shall be elected for successive terms of two years, two
10 years and four years; and members or their successors from the
11 second group shall be elected for successive terms of four
12 years, two years and two years.

13 (b) The first election of directors of the board is to be
14 held no later than April 30, 1985. Subsequent elections of
15 directors of the board shall be held on March 31 of each
16 election year. If March 31 falls on a weekend or holiday, the
17 election shall occur on the next business day following March
18 31.

19 (c) Interim and elected board members shall serve until
20 their successors are elected and have qualified.

21 (d) In the year following each decennial census and within
22 45 days after the redistricted Congressional Districts are
23 enacted, the board shall allocate terms between the 2 groups of
24 districts publicly by lot as provided in paragraph (a). Board
25 members or their successors from the first group shall be
26 elected for successive terms of two years, four years and four
27 years; and members or their successors from the second group
28 shall be elected for successive terms of four years, four
29 years, and two years.

30 (2) Qualifications. A director shall be a resident of the
31 district he or she represents and member of the corporation. No
32 person who is an employee in any managerial or supervisory
33 capacity, director, officer or agent or who is a member of the
34 immediate family of any such employee, director, officer or
35 agent of any public utility or any cable television provider is
36 eligible to be a director. No director may hold any elective

1 position, be a candidate for any elective position, be a State
2 public official, be employed by the Illinois Commerce
3 Commission, or be employed in a governmental position exempt
4 from the Personnel Code.

5 (3) Director, Family Member Employment. No director, nor
6 member of his or her immediate family shall, either directly or
7 indirectly, be employed for compensation as a staff member or
8 consultant of the corporation.

9 (4) Meetings. The board shall hold regular meetings at
10 least once every 3 months on such dates and at such places as
11 it may determine. Special meetings may be called by the
12 president or by a majority of the directors upon at least 7
13 days' advance written notice. Unless otherwise provided in the
14 bylaws, a majority of the board of directors shall constitute a
15 quorum; provided, that in no event shall a quorum consist of
16 less than one-third of the board of directors. The act of the
17 majority of the directors, present at a meeting at which a
18 quorum is present, shall be the act of the board of directors
19 unless the act of a greater number is required by this Act or
20 bylaws. A summary of the minutes of every board meeting shall
21 be made available to each public library in the State upon
22 request and to individuals upon request.

23 (5) Expenses. A director may not receive any compensation
24 for his or her services but shall be reimbursed for necessary
25 expenses, including travel expenses incurred in the discharge
26 of duties. The board shall establish standard allowances for
27 mileage, room and meals and the purposes for which such
28 allowances may be made and shall determine the reasonableness
29 and necessity for such reimbursements. The board shall include
30 the schedule of such standard allowances in the annual report
31 under subsection (4) (d) of Section 7.

32 (6) Bonding. Directors and employees eligible to disburse
33 funds shall be bonded. The costs of such bonds shall be paid by
34 the corporation.

35 (Source: P.A. 84-1093.)

1 (220 ILCS 10/10) (from Ch. 111 2/3, par. 910)

2 Sec. 10. Prohibited Acts. (1) No person may interfere or
3 threaten to interfere with or cause any interference with
4 utility service or cable television service or with the utility
5 service or cable television service of or penalize any person
6 who contributes to the corporation or participates in any of
7 its activities, in retribution for such contribution or
8 participation.

9 (2) No person may act with intent to prevent, interfere
10 with or hinder the activities permitted under this Act.

11 (3) A person who violates this Section may be fined not
12 more than \$1,000. Each such violation shall constitute a
13 separate and continuing violation of this Act. A person who
14 knowingly and wilfully violates this Section may be imprisoned
15 not more than 6 months.

16 (Source: P.A. 83-945.)

17 (220 ILCS 10/11) (from Ch. 111 2/3, par. 911)

18 Sec. 11. Appointment of Interim Board of Directors. (1)
19 Within 90 days after the effective date of this Act, an interim
20 board of directors shall be appointed. The Board shall consist
21 of 11 members. The Governor shall appoint 3 members. The
22 President of the Senate, the Speaker of the House, the Minority
23 Leader of the Senate and the Minority Leader of the House shall
24 each appoint 2 members. The appointees shall reflect the
25 geographical diversity of this State and shall include
26 representation from minority groups, low-income persons, labor
27 organizations, business, women and senior citizens. No interim
28 director appointed under this Section may hold an elective
29 position, be a candidate for any elective position, or be a
30 State public official.

31 (2) The interim board appointed under this Section shall:

32 (a) As soon as possible after appointment, organize for the
33 transaction of business.

34 (b) Inform the utility and cable television consumers of
35 this State of the existence, nature and purposes of the

1 corporation, and encourage utility and cable television
2 consumers to join the corporation, to participate in the
3 corporation's activities and to contribute to the corporation.

4 (c) Establish annual dues to be in effect until such time
5 as an elected board assumes the duty as provided in paragraph
6 (2) (f) of Section 5.

7 (d) Elect officers as provided under Section 12.

8 (e) Employ such staff as the interim directors deem
9 necessary to carry out the purposes of this Section. The
10 interim board appointed under this Section shall follow the
11 procedures required under Section 7.2 if it hires an executive
12 director of the corporation.

13 (f) Make all necessary preparations for the first election
14 of directors, oversee the election campaign and tally the votes
15 under Section 12.

16 (g) Solicit funds for the corporation.

17 (h) Carry out all other duties and exercise all other
18 powers accorded to the board under this Act including the
19 powers given to the corporation under Section 9.

20 (Source: P.A. 83-945.)

21 (220 ILCS 10/12) (from Ch. 111 2/3, par. 912)

22 Sec. 12. (1) Eligibility. To be eligible for election to
23 the board, a candidate must:

24 (a) Meet the qualifications for directors under subsection
25 (2) of Section 6.

26 (b) Have his or her nomination certified by the board under
27 subsection (2) of this Section.

28 (c) Submit to the board a statement of financial interests
29 under subsection (3) and a statement of personal background and
30 positions under subsection (4).

31 (d) Make the affirmation under subsection (3) (e).

32 (2) Nomination. A candidate for election to the board shall
33 circulate or have a member of the corporation circulate a
34 petition for nomination on the candidate's behalf not sooner
35 than 120 days preceding the election and shall file the

1 petition with the corporation not later than 60 days prior to
2 the election. The petition for nomination shall be signed by at
3 least 5% or 30, whichever is less, of the members residing in
4 his or her district. The board shall verify the validity of the
5 signatures by comparing them to the signatures on the
6 membership applications and the current list of members
7 maintained by the Board. Within 14 days after the petition is
8 due, the board shall determine whether a sufficient number of
9 signatures are valid. If the board determines a sufficient
10 number are valid, it shall certify the nomination of the
11 candidate.

12 (3) Statement of financial interests. A candidate for
13 election to the board whose nomination is certified under
14 subsection (2) shall submit to the board, not later than 60
15 days prior to the election, a statement of financial interests
16 upon a form provided by the board. The statement of financial
17 interests shall include the following information:

18 (a) The occupation, employer and position at place of
19 employment of the candidate and of his or her immediate family
20 members.

21 (b) A list of all corporate directorships or other offices,
22 and of all fiduciary relationships, held in the past 3 years by
23 the candidate and by his or her immediate family members.

24 (c) The name of any creditor to whom the candidate or a
25 member of the candidate's immediate family owes \$10,000 or
26 more.

27 (d) The name of any corporation in which the candidate
28 holds a security, the current market value of which is \$5,000
29 or more.

30 (e) An affirmation, subject to penalty of perjury, that the
31 information contained in the statement of financial interests
32 is true and complete.

33 (4) Statement of personal background and positions. A
34 candidate for election to the board whose nomination is
35 certified under subsection (2) shall submit to the board, not
36 later than 60 days prior to the election, on a form to be

1 provided by the board, a statement concerning his or her
2 personal background and positions on issues relating to public
3 utilities or cable television or the operations of the
4 corporation. The statement shall contain an affirmation,
5 subject to penalty of perjury, that the candidate meets the
6 qualifications prescribed for directors in subsection (2) of
7 Section 6.

8 (5) Restrictions on a reporting of campaign contributions
9 and expenditures. (a) No candidate may accept more than \$200 in
10 campaign contributions from any person or political committee
11 from one year before the date of an election through the date
12 of the election.

13 (b) Each candidate for election to the board shall keep
14 complete records of all contributions to his or her campaign of
15 \$25 or more from one year before the date of an election
16 through the date of the election, and, at the board's request,
17 shall make such records available for inspection by the board.

18 (c) As a condition for receiving the benefits of the
19 board's mailing under subsection (6), a candidate for election
20 to the board shall agree in writing to incur no more than
21 \$2,500 in campaign expenditures from the time he or she
22 commences circulation of petitions for nomination or from 4
23 months prior to the election, whichever is earlier, through the
24 date of the election.

25 (d) Each candidate for election to the board shall keep
26 complete records of his or her campaign expenditures, and, at
27 the board's request, shall make such records available for
28 inspection by the board.

29 (e) No earlier than 14 days and no later than 8 days
30 preceding the election and no earlier than 21 days and no later
31 than 30 days after the election, each candidate for election to
32 the board shall submit to the board, on a form provided by the
33 board, an accurate statement of his or her campaign
34 contributions, swearing that he or she has fully complied with
35 the requirements of this subsection.

36 (f) No candidate for election to the board may use any

1 campaign contribution for any purpose except for campaign
2 expenditures. Any campaign contribution not expended shall be
3 donated no later than 90 days after the election to the
4 corporation or to any charitable organization at the option of
5 the candidate.

6 (6) Election procedures. (a) The board shall mail or
7 distribute to each member's address on file with the
8 corporation, not sooner than 30 and not later than 10 days
9 before the date fixed for the election:

10 (i) An official ballot listing all candidates for director
11 from the member's district whose nominations the board has
12 certified and who satisfy the requirements of subsection (1).
13 The board shall include with the ballot each candidate's
14 statement of financial interests submitted under subsection
15 (3).

16 (ii) The statement by each candidate for election to the
17 board of personal background and positions as required under
18 subsection (4), if the candidate has agreed in writing to limit
19 his or her campaign expenditures under subsection (5) (c).

20 (b) Each member may vote in the election by returning his
21 or her official ballot in person or by first class mail,
22 properly marked, to the ballot return location designated by
23 the corporation. Ballots returned to the location designated by
24 the corporation must be postmarked on or before the date fixed
25 for the election or must be received at the ballot return
26 location designated by the corporation on or before the date
27 fixed for the election.

28 (c) Voting shall be by secret ballot.

29 (d) The board shall tally votes with all reasonable speed
30 and shall inform the membership promptly of the names of the
31 candidates elected.

32 (e) For each district the board within 30 days of the
33 election shall certify the candidate elected to the board if
34 the candidate has the most votes in the district and if he or
35 she has complied with this Section.

36 (f) If a vacancy in nomination occurs because no candidate

1 has filed for nomination, the board by a majority of those
2 voting shall appoint a member of the corporation who resides in
3 the district where the vacancy exists to be the candidate.

4 (g) If the candidate with the most votes dies, declines or
5 resigns from candidacy prior to being certified under paragraph
6 (e), or for any other reason is not certified under paragraph
7 (e), the office for which the candidate ran shall be vacant and
8 shall be filled by the board as provided herein.

9 (h) If a vacancy on the Board occurs, with more than 12
10 months remaining in the term, the Board shall set a date for a
11 special election for the district for the purpose of electing a
12 director to serve out the term of the vacant office and shall
13 so notify every member in the district. The election may not be
14 less than 2 months nor more than 4 months after such
15 notification. An election under this Section shall be conducted
16 in the same manner as other elections of directors are
17 conducted. The seat shall remain vacant if there is 8 months or
18 less remaining in the term.

19 (7) Election rules. The board may prescribe rules for the
20 conduct of elections and election campaigns not inconsistent
21 with this Act.

22 (Source: P.A. 84-1093.)

23 (220 ILCS 10/20) (from Ch. 111 2/3, par. 920)

24 Sec. 20. Liability of public utility. No public utility or
25 cable television provider shall be liable on any claim based on
26 any action it is required to take to be in compliance with this
27 Act.

28 (Source: P.A. 83-945.)

29 (220 ILCS 10/21) (from Ch. 111 2/3, par. 921)

30 Sec. 21. Home rule preemption. The provisions of this Act
31 are declared to be an exclusive exercise of power by the State
32 of Illinois pursuant to paragraphs (h) or (i) of Section 6 of
33 Article VII of the Illinois Constitution. No home rule unit may
34 impose any requirement or regulation on any public utility or

1 cable television provider inconsistent with or in addition to
2 the requirements or regulations set forth in this Act.

3 (Source: P.A. 83-945.)