



Rep. Mike Fortner

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09500HB5257ham001

LRB095 19168 MJR 49577 a

1 AMENDMENT TO HOUSE BILL 5257

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5257 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by  
5 adding Section 1-92 as follows:

6 (20 ILCS 3855/1-92 new)

7 Sec. 1-92. 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 residential and small  
12 commercial retail electrical loads located, respectively,  
13 within the municipality or the unincorporated areas of the  
14 county and, for that purpose, may solicit bids and enter into  
15 service agreements to facilitate for those loads the sale and  
16 purchase of electricity and related services and equipment.

1       The corporate authorities or county board may also exercise  
2 such authority jointly with any other municipality or county.  
3 Two or more municipalities or counties, or a combination of  
4 both, may initiate a process jointly to authorize aggregation  
5 by a majority vote of each particular municipality or county as  
6 required by this Section.

7       If the corporate authorities or the county board seek to  
8 operate the aggregation program as an opt-out program for  
9 residential retail customers, then prior to the adoption of an  
10 ordinance with respect to aggregation of residential retail  
11 electric loads, the corporate authorities of a municipality or  
12 the county board of a county shall submit a referendum to its  
13 residents to determine whether or not the aggregation program  
14 shall operate as an opt-out program for residential retail  
15 customers. A referendum must pass in each particular  
16 municipality or county that is engaged in the aggregation  
17 program. If the referendum fails, then the corporate  
18 authorities or county board shall operate the aggregation  
19 program as an opt-in program for residential retail customers.

20       An ordinance under this Section shall specify whether the  
21 aggregation will occur only with the prior consent of each  
22 person owning, occupying, controlling, or using an electric  
23 load center proposed to be aggregated. Nothing in this Section,  
24 however, authorizes the aggregation of electric loads that are  
25 served or authorized to be served by an electric cooperative as  
26 defined by and pursuant to the Electric Supplier Act or loads

1 served by a municipality that owns and operates its own  
2 electric distribution system. No aggregation shall take effect  
3 unless approved by a majority of the members of the corporate  
4 authority or county board voting upon the ordinance.

5 A governmental aggregator under this Section is not a  
6 public utility or an alternative retail electric supplier.

7 (b) Upon the applicable requisite authority under this  
8 Section, the corporate authorities or the county board, with  
9 assistance from the Illinois Power Agency, shall develop a plan  
10 of operation and governance for the aggregation program so  
11 authorized. Before adopting a plan under this Section, the  
12 corporate authorities or county board shall hold at least 2  
13 public hearings on the plan. Before the first hearing, the  
14 corporate authorities or county board shall publish notice of  
15 the hearings once a week for 2 consecutive weeks in a newspaper  
16 of general circulation in the jurisdiction. The notice shall  
17 summarize the plan and state the date, time, and location of  
18 each hearing. Any load aggregation plan established pursuant to  
19 this Section shall:

20 (1) provide for universal access to all applicable  
21 residential customers and equitable treatment of  
22 applicable residential customers;

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

25 (3) meet any requirements established by law  
26 concerning aggregated service offered pursuant to this

1       Section.

2       (c) The process for soliciting bids for electricity and  
3 other related services and awarding proposed agreements for the  
4 purchase of electricity and other related services shall be  
5 conducted in the following order:

6           (1) The corporate authorities or county board may  
7 solicit bids for electricity and other related services.

8           (2) An electric utility that provides residential  
9 retail service in the aggregate area must submit the names  
10 and addresses of residential retail customers in the  
11 aggregate area to the corporate authorities or the county  
12 board in an electronic format.

13       (d) If the corporate authorities or county board operate  
14 under an opt-in program for residential retail customers, then  
15 the corporate authorities or county board shall comply with all  
16 of the following:

17           (1) Within 60 days after receiving the bids, the  
18 corporate authorities or county board shall allow  
19 residential customers to commit to the terms and conditions  
20 of a bid that has been selected by the corporate  
21 authorities or county board.

22           (2) If (A) the corporate authorities or county board  
23 award proposed agreements for the purchase of electricity  
24 and other related services and (B) an agreement is reached  
25 between the corporate authorities or county board for those  
26 services, then customers committed to the terms and

1 conditions according to item (3) of this subsection (b)  
2 shall be committed to the agreement.

3 (e) If the corporate authorities or county board operate as  
4 an opt-out program for residential retail customers, then it  
5 shall be the duty of the aggregated entity to fully inform  
6 residential retail customers in advance that they have the  
7 right to opt out of the aggregation program. The disclosure  
8 shall prominently state all charges to be made and shall  
9 include full disclosure of the cost to obtain service pursuant  
10 to Section 16-103 of the Public Utilities Act, how to access  
11 it, and the fact that it is available to them without penalty,  
12 if they are currently receiving service under that Section. The  
13 Illinois Power Agency shall furnish, without charge, to any  
14 citizen a list of all supply options available to them in a  
15 format that allows comparison of prices and products.

16 The Illinois Power Agency shall provide assistance to  
17 municipalities, counties, or associations working with  
18 municipalities to help complete the plan and bidding process.

19 This Section does not prohibit municipalities or counties  
20 from entering into an intergovernmental agreement to aggregate  
21 residential retail electric loads.

22 (f) Notwithstanding any other rulemaking authority that  
23 may exist, neither the Governor nor any agency or agency head  
24 under the jurisdiction of the Governor has any authority to  
25 make or promulgate rules to implement or enforce the provisions  
26 of this amendatory Act of the 95th General Assembly. If,

1 however, the Governor believes that rules are necessary to  
2 implement or enforce the provisions of this amendatory Act of  
3 the 95th General Assembly, the Governor may suggest rules to  
4 the General Assembly by filing them with the Clerk of the House  
5 and the Secretary of the Senate and by requesting that the  
6 General Assembly authorize such rulemaking by law, enact those  
7 suggested rules into law, or take any other appropriate action  
8 in the General Assembly's discretion. Nothing contained in this  
9 amendatory Act of the 95th General Assembly shall be  
10 interpreted to grant rulemaking authority under any other  
11 Illinois statute where such authority is not otherwise  
12 explicitly given. For the purposes of this amendatory Act of  
13 the 95th General Assembly, "rules" is given the meaning  
14 contained in Section 1-70 of the Illinois Administrative  
15 Procedure Act, and "agency" and "agency head" are given the  
16 meanings contained in Sections 1-20 and 1-25 of the Illinois  
17 Administrative Procedure Act to the extent that such  
18 definitions apply to agencies or agency heads under the  
19 jurisdiction of the Governor.

20 (220 ILCS 5/17-800 rep.)

21 Section 10. The Public Utilities Act is amended by  
22 repealing Section 17-800."