



Rep. Mike Fortner

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09500HB5257ham002

LRB095 19168 MJR 50634 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.

16 In addition to the notice and conduct requirements of the
17 general election law, notice of the referendum shall state
18 briefly the purpose of the referendum and shall describe the
19 potential impact on residential retail customers' choice of
20 electric supplier and electric rates. The question of whether
21 the corporate authorities or the county board shall adopt an
22 opt-out aggregation program for residential retail customers
23 shall be submitted to the electors of the municipality or
24 county board at a regular election and approved by a majority
25 of the electors voting on the question. The corporate
26 authorities or county board must certify to the proper election

1 authority, which must submit the question at an election in
2 accordance with the Election Code.

3 The election authority must submit the question in
4 substantially the following form:

5 Shall the (municipality or county in which the question
6 is being voted upon) have the authority to arrange for the
7 supply of electricity for its residential retail customers
8 who have not opted out of such program?

9 The election authority must record the votes as "Yes" or "No".

10 If a majority of the electors voting on the question vote
11 in the affirmative, then the corporate authorities or county
12 board may implement an opt-out aggregation program for
13 residential retail customers.

14 A referendum must pass in each particular municipality or
15 county that is engaged in the aggregation program. If the
16 referendum fails, then the corporate authorities or county
17 board shall operate the aggregation program as an opt-in
18 program for residential retail customers.

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

1 electric distribution system. No aggregation shall take effect
2 unless approved by a majority of the members of the corporate
3 authority or county board voting upon the ordinance.

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

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

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

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

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

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

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

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

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

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

21 (2) If (A) the corporate authorities or county board
22 award proposed agreements for the purchase of electricity
23 and other related services and (B) an agreement is reached
24 between the corporate authorities or county board for those
25 services, then customers committed to the terms and
26 conditions according to item (1) of this subsection (d)

1 shall be committed to the agreement.

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

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

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

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

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

19 (220 ILCS 5/17-800 rep.)

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