



Sen. David Koehler

**Filed: 3/4/2011**

09700SB1884sam001

LRB097 10170 ASK 51941 a

1 AMENDMENT TO SENATE BILL 1884

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1884 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing  
5 Section 8-103 as follows:

6 (220 ILCS 5/8-103)

7 Sec. 8-103. Energy efficiency and demand-response  
8 measures.

9 (a) It is the policy of the State that electric utilities  
10 are required to use cost-effective energy efficiency and  
11 demand-response measures to reduce delivery load. Requiring  
12 investment in cost-effective energy efficiency and  
13 demand-response measures will reduce direct and indirect costs  
14 to consumers by decreasing environmental impacts and by  
15 avoiding or delaying the need for new generation, transmission,  
16 and distribution infrastructure. It serves the public interest

1 to allow electric utilities to recover costs for reasonably and  
2 prudently incurred expenses for energy efficiency and  
3 demand-response measures. As used in this Section,  
4 "cost-effective" means that the measures satisfy the total  
5 resource cost test. The low-income measures described in  
6 subsection (f)(4) of this Section shall not be required to meet  
7 the total resource cost test. For purposes of this Section, the  
8 terms "energy-efficiency", "demand-response", "electric  
9 utility", and "total resource cost test" shall have the  
10 meanings set forth in the Illinois Power Agency Act. For  
11 purposes of this Section, the amount per kilowatthour means the  
12 total amount paid for electric service expressed on a per  
13 kilowatthour basis. For purposes of this Section, the total  
14 amount paid for electric service includes without limitation  
15 estimated amounts paid for supply, transmission, distribution,  
16 surcharges, and add-on-taxes.

17 (b) Electric utilities shall implement cost-effective  
18 energy efficiency measures to meet the following incremental  
19 annual energy savings goals:

20 (1) 0.2% of energy delivered in the year commencing  
21 June 1, 2008;

22 (2) 0.4% of energy delivered in the year commencing  
23 June 1, 2009;

24 (3) 0.6% of energy delivered in the year commencing  
25 June 1, 2010;

26 (4) 0.8% of energy delivered in the year commencing

1 June 1, 2011;

2 (5) The higher of 1% of energy delivered in the year  
3 commencing June 1, 2012, or the amount necessary to produce  
4 net lifetime customer savings equal to the cost of any  
5 incremental capital investments made during the calendar  
6 year 2011 ~~1% of energy delivered in the year commencing~~  
7 ~~June 1, 2012;~~

8 (6) The higher of 1.4% of energy delivered in the year  
9 commencing June 1, 2013, or the amount necessary to produce  
10 net lifetime customer savings equal to the cost of any  
11 incremental capital investments made during calendar year  
12 2012 ~~1.4% of energy delivered in the year commencing June~~  
13 ~~1, 2013;~~

14 (7) The higher of 1.8% of energy delivered in the year  
15 commencing June 1, 2014, or the amount necessary to produce  
16 net lifetime customer savings equal to the cost of any  
17 incremental capital investment made during calendar year  
18 2013 ~~1.8% of energy delivered in the year commencing June~~  
19 ~~1, 2014; and~~

20 (8) In each year hereafter, the higher of 2% of energy  
21 delivered in the year commencing June 1, 2015, or the  
22 amount necessary to produce net lifetime customer savings  
23 equal to the cost of any incremental capital investment  
24 made during the preceding calendar year ~~2% of energy~~  
25 ~~delivered in the year commencing June 1, 2015 and each year~~  
26 ~~thereafter.~~

1       For purposes of this subsection (b), "incremental capital  
2 investments" means those investments that exceed the utility's  
3 capital spend in calendar years 2008, 2009, and 2010 as  
4 reported in the applicable Federal Energy Regulatory  
5 Commission Form 2, or if the FERC Form 2 was not filed, in the  
6 applicable Form 21 ILCC.

7       (c) Electric utilities shall implement cost-effective  
8 demand-response measures to reduce peak demand by 0.1% over the  
9 prior year for eligible retail customers, as defined in Section  
10 16-111.5 of this Act, and for customers that elect hourly  
11 service from the utility pursuant to Section 16-107 of this  
12 Act, provided those customers have not been declared  
13 competitive. This requirement commences June 1, 2008 and  
14 continues for 10 years.

15       (d) Notwithstanding the requirements of subsections (b)  
16 and (c) of this Section, an electric utility shall reduce the  
17 amount of energy efficiency and demand-response measures  
18 implemented in any single year by an amount necessary to limit  
19 the estimated average increase in the amounts paid by retail  
20 customers in connection with electric service due to the cost  
21 of those measures to:

22               (1) in 2008, no more than 0.5% of the amount paid per  
23 kilowatthour by those customers during the year ending May  
24 31, 2007;

25               (2) in 2009, the greater of an additional 0.5% of the  
26 amount paid per kilowatthour by those customers during the

1 year ending May 31, 2008 or 1% of the amount paid per  
2 kilowatthour by those customers during the year ending May  
3 31, 2007;

4 (3) in 2010, the greater of an additional 0.5% of the  
5 amount paid per kilowatthour by those customers during the  
6 year ending May 31, 2009 or 1.5% of the amount paid per  
7 kilowatthour by those customers during the year ending May  
8 31, 2007;

9 (4) in 2011, the greater of an additional 0.5% of the  
10 amount paid per kilowatthour by those customers during the  
11 year ending May 31, 2010 or 2% of the amount paid per  
12 kilowatthour by those customers during the year ending May  
13 31, 2007; and

14 (5) thereafter, the amount of energy efficiency and  
15 demand-response measures implemented for any single year  
16 shall be reduced by an amount necessary to limit the  
17 estimated average net increase due to the cost of these  
18 measures included in the amounts paid by eligible retail  
19 customers in connection with electric service to no more  
20 than the greater of 2.015% of the amount paid per  
21 kilowatthour by those customers during the year ending May  
22 31, 2007 or the incremental amount per kilowatthour paid  
23 for these measures in 2011, unless the Commission concludes  
24 during a plan filing proceeding under subsection (f) of  
25 this Section that the limitation would result in the  
26 utility foregoing cost-effective opportunities for savings

1       that would otherwise create net aggregate bill reductions  
2       for its customers.

3       No later than June 30, 2011, the Commission shall review  
4       the limitation on the amount of energy efficiency and  
5       demand-response measures implemented pursuant to this Section  
6       and report to the General Assembly its findings as to whether  
7       that limitation unduly constrains the procurement of energy  
8       efficiency and demand-response measures.

9       (e) Electric utilities shall be responsible for overseeing  
10      the design, development, and filing of energy efficiency and  
11      demand-response plans with the Commission. Electric utilities  
12      shall implement 100% of the demand-response measures in the  
13      plans. Electric utilities shall implement 75% of the energy  
14      efficiency measures approved by the Commission, and may, as  
15      part of that implementation, outsource various aspects of  
16      program development and implementation. The remaining 25% of  
17      those energy efficiency measures approved by the Commission  
18      shall be implemented by the Department of Commerce and Economic  
19      Opportunity, and must be designed in conjunction with the  
20      utility and the filing process. The Department may outsource  
21      development and implementation of energy efficiency measures.  
22      A minimum of 10% of the entire portfolio of cost-effective  
23      energy efficiency measures shall be procured from units of  
24      local government, municipal corporations, school districts,  
25      and community college districts. The Department shall  
26      coordinate the implementation of these measures.

1           The apportionment of the dollars to cover the costs to  
2 implement the Department's share of the portfolio of energy  
3 efficiency measures shall be made to the Department once the  
4 Department has executed grants or contracts for energy  
5 efficiency measures and provided supporting documentation for  
6 those grants and the contracts to the utility.

7           The details of the measures implemented by the Department  
8 shall be submitted by the Department to the Commission in  
9 connection with the utility's filing regarding the energy  
10 efficiency and demand-response measures that the utility  
11 implements.

12          A utility providing approved energy efficiency and  
13 demand-response measures in the State shall be permitted to  
14 recover costs of those measures through an automatic adjustment  
15 clause tariff filed with and approved by the Commission. The  
16 tariff shall be established outside the context of a general  
17 rate case. Each year the Commission shall initiate a review to  
18 reconcile any amounts collected with the actual costs and to  
19 determine the required adjustment to the annual tariff factor  
20 to match annual expenditures.

21          Each utility shall include, in its recovery of costs, the  
22 costs estimated for both the utility's and the Department's  
23 implementation of energy efficiency and demand-response  
24 measures. Costs collected by the utility for measures  
25 implemented by the Department shall be submitted to the  
26 Department pursuant to Section 605-323 of the Civil

1 Administrative Code of Illinois and shall be used by the  
2 Department solely for the purpose of implementing these  
3 measures. A utility shall not be required to advance any moneys  
4 to the Department but only to forward such funds as it has  
5 collected. The Department shall report to the Commission on an  
6 annual basis regarding the costs actually incurred by the  
7 Department in the implementation of the measures. Any changes  
8 to the costs of energy efficiency measures as a result of plan  
9 modifications shall be appropriately reflected in amounts  
10 recovered by the utility and turned over to the Department.

11 The portfolio of measures, administered by both the  
12 utilities and the Department, shall, in combination, be  
13 designed to achieve the annual savings targets described in  
14 subsections (b) and (c) of this Section, as modified by  
15 subsection (d) of this Section.

16 The utility and the Department shall agree upon a  
17 reasonable portfolio of measures and determine the measurable  
18 corresponding percentage of the savings goals associated with  
19 measures implemented by the utility or Department.

20 No utility shall be assessed a penalty under subsection (f)  
21 of this Section for failure to make a timely filing if that  
22 failure is the result of a lack of agreement with the  
23 Department with respect to the allocation of responsibilities  
24 or related costs or target assignments. In that case, the  
25 Department and the utility shall file their respective plans  
26 with the Commission and the Commission shall determine an



1 appropriate division of measures and programs that meets the  
2 requirements of this Section.

3 If the Department is unable to meet incremental annual  
4 performance goals for the portion of the portfolio implemented  
5 by the Department, then the utility and the Department shall  
6 jointly submit a modified filing to the Commission explaining  
7 the performance shortfall and recommending an appropriate  
8 course going forward, including any program modifications that  
9 may be appropriate in light of the evaluations conducted under  
10 item (7) of subsection (f) of this Section. In this case, the  
11 utility obligation to collect the Department's costs and turn  
12 over those funds to the Department under this subsection (e)  
13 shall continue only if the Commission approves the  
14 modifications to the plan proposed by the Department.

15 (f) No later than November 15, 2007, each electric utility  
16 shall file an energy efficiency and demand-response plan with  
17 the Commission to meet the energy efficiency and  
18 demand-response standards for 2008 through 2010. Every 3 years  
19 thereafter, each electric utility shall file, no later than  
20 October 1, an energy efficiency and demand-response plan with  
21 the Commission. If a utility does not file such a plan by  
22 October 1 of an applicable year, it shall face a penalty of  
23 \$100,000 per day until the plan is filed. Each utility's plan  
24 shall set forth the utility's proposals to meet the utility's  
25 portion of the energy efficiency standards identified in  
26 subsection (b) and the demand-response standards identified in

1 subsection (c) of this Section as modified by subsections (d)  
2 and (e), taking into account the unique circumstances of the  
3 utility's service territory. The Commission shall seek public  
4 comment on the utility's plan and shall issue an order  
5 approving or disapproving each plan within 3 months after its  
6 submission. If the Commission disapproves a plan, the  
7 Commission shall, within 30 days, describe in detail the  
8 reasons for the disapproval and describe a path by which the  
9 utility may file a revised draft of the plan to address the  
10 Commission's concerns satisfactorily. If the utility does not  
11 refile with the Commission within 60 days, the utility shall be  
12 subject to penalties at a rate of \$100,000 per day until the  
13 plan is filed. This process shall continue, and penalties shall  
14 accrue, until the utility has successfully filed a portfolio of  
15 energy efficiency and demand-response measures. Penalties  
16 shall be deposited into the Energy Efficiency Trust Fund. In  
17 submitting proposed energy efficiency and demand-response  
18 plans and funding levels to meet the savings goals adopted by  
19 this Act the utility shall:

20 (1) Demonstrate that its proposed energy efficiency  
21 and demand-response measures will achieve the requirements  
22 that are identified in subsections (b) and (c) of this  
23 Section, as modified by subsections (d) and (e).

24 (2) Present specific proposals to implement new  
25 building and appliance standards that have been placed into  
26 effect.

1           (3) Present estimates of the total amount paid for  
2 electric service expressed on a per kilowatthour basis  
3 associated with the proposed portfolio of measures  
4 designed to meet the requirements that are identified in  
5 subsections (b) and (c) of this Section, as modified by  
6 subsections (d) and (e).

7           (4) Coordinate with the Department to present a  
8 portfolio of energy efficiency measures proportionate to  
9 the share of total annual utility revenues in Illinois from  
10 households at or below 150% of the poverty level. The  
11 energy efficiency programs shall be targeted to households  
12 with incomes at or below 80% of area median income.

13           (5) Demonstrate that its overall portfolio of energy  
14 efficiency and demand-response measures, not including  
15 programs covered by item (4) of this subsection (f), are  
16 cost-effective using the total resource cost test and  
17 represent a diverse cross-section of opportunities for  
18 customers of all rate classes to participate in the  
19 programs.

20           (6) Include a proposed cost-recovery tariff mechanism  
21 to fund the proposed energy efficiency and demand-response  
22 measures and to ensure the recovery of the prudently and  
23 reasonably incurred costs of Commission-approved programs.

24           (7) Provide for an annual independent evaluation of the  
25 performance of the cost-effectiveness of the utility's  
26 portfolio of measures and the Department's portfolio of

1 measures, as well as a full review of the 3-year results of  
2 the broader net program impacts and, to the extent  
3 practical, for adjustment of the measures on a  
4 going-forward basis as a result of the evaluations. The  
5 resources dedicated to evaluation shall not exceed 3% of  
6 portfolio resources in any given year.

7 (g) No more than 3% of energy efficiency and  
8 demand-response program revenue may be allocated for  
9 demonstration of breakthrough equipment and devices.

10 (h) This Section does not apply to an electric utility that  
11 on December 31, 2005 provided electric service to fewer than  
12 100,000 customers in Illinois.

13 (i) If, after 2 years, an electric utility fails to meet  
14 the efficiency standard specified in subsection (b) of this  
15 Section, as modified by subsections (d) and (e), it shall make  
16 a contribution to the Low-Income Home Energy Assistance  
17 Program. The combined total liability for failure to meet the  
18 goal shall be \$1,000,000, which shall be assessed as follows: a  
19 large electric utility shall pay \$665,000, and a medium  
20 electric utility shall pay \$335,000. If, after 3 years, an  
21 electric utility fails to meet the efficiency standard  
22 specified in subsection (b) of this Section, as modified by  
23 subsections (d) and (e), it shall make a contribution to the  
24 Low-Income Home Energy Assistance Program. The combined total  
25 liability for failure to meet the goal shall be \$1,000,000,  
26 which shall be assessed as follows: a large electric utility

1 shall pay \$665,000, and a medium electric utility shall pay  
2 \$335,000. In addition, the responsibility for implementing the  
3 energy efficiency measures of the utility making the payment  
4 shall be transferred to the Illinois Power Agency if, after 3  
5 years, or in any subsequent 3-year period, the utility fails to  
6 meet the efficiency standard specified in subsection (b) of  
7 this Section, as modified by subsections (d) and (e). The  
8 Agency shall implement a competitive procurement program to  
9 procure resources necessary to meet the standards specified in  
10 this Section as modified by subsections (d) and (e), with costs  
11 for those resources to be recovered in the same manner as  
12 products purchased through the procurement plan as provided in  
13 Section 16-111.5. The Director shall implement this  
14 requirement in connection with the procurement plan as provided  
15 in Section 16-111.5.

16 For purposes of this Section, (i) a "large electric  
17 utility" is an electric utility that, on December 31, 2005,  
18 served more than 2,000,000 electric customers in Illinois; (ii)  
19 a "medium electric utility" is an electric utility that, on  
20 December 31, 2005, served 2,000,000 or fewer but more than  
21 100,000 electric customers in Illinois; and (iii) Illinois  
22 electric utilities that are affiliated by virtue of a common  
23 parent company are considered a single electric utility.

24 (j) If, after 3 years, or any subsequent 3-year period, the  
25 Department fails to implement the Department's share of energy  
26 efficiency measures required by the standards in subsection

1 (b), then the Illinois Power Agency may assume responsibility  
2 for and control of the Department's share of the required  
3 energy efficiency measures. The Agency shall implement a  
4 competitive procurement program to procure resources necessary  
5 to meet the standards specified in this Section, with the costs  
6 of these resources to be recovered in the same manner as  
7 provided for the Department in this Section.

8 (k) No electric utility shall be deemed to have failed to  
9 meet the energy efficiency standards to the extent any such  
10 failure is due to a failure of the Department or the Agency.

11 (Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08;  
12 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-1000, eff.  
13 7-2-10.)

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