



Sen. Don Harmon

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09800SB1132sam001

LRB098 04447 CEL 44857 a

1 AMENDMENT TO SENATE BILL 1132

2 AMENDMENT NO. _____. Amend Senate Bill 1132 by replacing
3 everything after the enacting clause with the following:

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

6 (20 ILCS 3855/1-92)

7 Sec. 1-92. Aggregation of electrical load by
8 municipalities, townships, and counties.

9 (a) The corporate authorities of a municipality, township
10 board, or county board of a county may adopt an ordinance under
11 which it may aggregate in accordance with this Section
12 residential and small commercial retail electrical loads
13 located, respectively, within the municipality, the township,
14 or the unincorporated areas of the county and, for that
15 purpose, may solicit bids and enter into service agreements to
16 facilitate for those loads the sale and purchase of electricity

1 and related services and equipment.

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

9 If the corporate authorities, township board, or the county
10 board seek to operate the aggregation program as an opt-out
11 program for residential and small commercial retail customers,
12 then prior to the adoption of an ordinance with respect to
13 aggregation of residential and small commercial retail
14 electric loads, the corporate authorities of a municipality,
15 the township board, or the county board of a county shall
16 submit a referendum to its residents to determine whether or
17 not the aggregation program shall operate as an opt-out program
18 for residential and small commercial retail customers.

19 In addition to the notice and conduct requirements of the
20 general election law, notice of the referendum shall state
21 briefly the purpose of the referendum. The question of whether
22 the corporate authorities, the township board, or the county
23 board shall adopt an opt-out aggregation program for
24 residential and small commercial retail customers shall be
25 submitted to the electors of the municipality, township board,
26 or county board at a regular election and approved by a

1 majority of the electors voting on the question. The corporate
2 authorities, township board, or county board must certify to
3 the proper election authority, which must submit the question
4 at an election in accordance with the Election Code.

5 The election authority must submit the question in
6 substantially the following form:

7 Shall the (municipality, township, or county in which
8 the question is being voted upon) have the authority to
9 arrange for the supply of electricity for its residential
10 and small commercial retail customers who have not opted
11 out of such program?

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

13 If a majority of the electors voting on the question vote
14 in the affirmative, then the corporate authorities, township
15 board, or county board may implement an opt-out aggregation
16 program for residential and small commercial retail customers.

17 A referendum must pass in each particular municipality,
18 township, or county that is engaged in the aggregation program.
19 If the referendum fails, then the corporate authorities,
20 township board, or county board shall operate the aggregation
21 program as an opt-in program for residential and small
22 commercial retail customers.

23 An ordinance under this Section shall specify whether the
24 aggregation will occur only with the prior consent of each
25 person owning, occupying, controlling, or using an electric
26 load center proposed to be aggregated. Nothing in this Section,

1 however, authorizes the aggregation of electric loads that are
2 served or authorized to be served by an electric cooperative as
3 defined by and pursuant to the Electric Supplier Act or loads
4 served by a municipality that owns and operates its own
5 electric distribution system. No aggregation shall take effect
6 unless approved by a majority of the members of the corporate
7 authority, township board, or county board voting upon the
8 ordinance.

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

11 For purposes of this Section, "township" means the portion
12 of a township that is an unincorporated portion of a county
13 that is not otherwise a part of a municipality. In addition to
14 such other limitations as are included in this Section, a
15 township board shall only have authority to aggregate
16 residential and small commercial customer loads in accordance
17 with this Section if the county board of the county in which
18 the township is located (i) is not also submitting a referendum
19 to its residents at the same general election that the township
20 board proposes to submit a referendum under this subsection
21 (a), (ii) has not received authorization through passage of a
22 referendum to operate an opt-out aggregation program for
23 residential and small commercial retail customers under this
24 subsection (a), and (iii) has not otherwise enacted an
25 ordinance under this subsection (a) authorizing the operation
26 of an opt-in aggregation program for residential and small

1 commercial retail customers as described in this Section.

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

16 (1) provide for universal access to all applicable
17 residential customers and equitable treatment of
18 applicable residential customers;

19 (2) describe demand management and energy efficiency
20 services to be provided to each class of customers; ~~and~~

21 (3) meet any requirements established by law
22 concerning aggregated service offered pursuant to this
23 Section; and.

24 (4) clearly establish the processes that will be
25 followed in advance of the expiration of any agreement with
26 a service provider to either extend the agreement with the

1 incumbent service provider, select a new service provider
2 through a competitive solicitation process, or terminate
3 the aggregation program.

4 (c) The corporate authorities shall utilize a formal and
5 public process for soliciting bids for electricity and other
6 related services and awarding proposed agreements for the
7 purchase of electricity and other related services shall be
8 conducted in the following order:

9 (1) The corporate authorities, township board, or
10 county board shall ~~may~~ solicit bids for electricity and
11 other related services.

12 (1.5) A township board shall request from the electric
13 utility those residential and small commercial customers
14 within their aggregate area either by zip code or zip codes
15 or other means as determined by the electric utility. The
16 electric utility shall then provide to the township board
17 the residential and small commercial customers, including
18 the names and addresses of residential and small commercial
19 customers, electronically. The township board shall be
20 responsible for authenticating the residential and small
21 commercial customers contained in this listing and
22 providing edits of the data to affirm, add, or delete the
23 residential and small commercial customers located within
24 its jurisdiction. The township board shall provide the
25 edited list to the electric utility in an electronic format
26 or other means selected by the electric utility and certify

1 that the information is accurate.

2 (2) Notwithstanding Section 16-122 of the Public
3 Utilities Act and Section 2HH of the Consumer Fraud and
4 Deceptive Business Practices Act, an electric utility that
5 provides residential and small commercial retail electric
6 service in the aggregate area must, upon request of the
7 corporate authorities, township board, or the county board
8 in the aggregate area, submit to the requesting party, in
9 an electronic format, those account numbers, names, and
10 addresses of residential and small commercial retail
11 customers in the aggregate area that are reflected in the
12 electric utility's records at the time of the request;
13 provided, however, that any township board has first
14 provided an accurate customer list to the electric utility
15 as provided for herein.

16 Any corporate authority, township board, or county board
17 receiving customer information from an electric utility shall
18 be subject to the limitations on the disclosure of the
19 information described in Section 16-122 of the Public Utilities
20 Act and Section 2HH of the Consumer Fraud and Deceptive
21 Business Practices Act, and an electric utility shall not be
22 held liable for any claims arising out of the provision of
23 information pursuant to this item (2).

24 (d) If the corporate authorities, township board, or county
25 board operate under an opt-in program for residential and small
26 commercial retail customers, then the corporate authorities,

1 township board, or county board shall comply with all of the
2 following:

3 (1) Within 60 days after receiving the bids, the
4 corporate authorities, township board, or county board
5 shall allow residential and small commercial retail
6 customers to commit to the terms and conditions of a bid
7 that has been selected by the corporate authorities,
8 township board, or county board.

9 (2) If (A) the corporate authorities, township board,
10 or county board award proposed agreements for the purchase
11 of electricity and other related services and (B) an
12 agreement is reached between the corporate authorities,
13 township board, or county board for those services, then
14 customers committed to the terms and conditions according
15 to item (1) of this subsection (d) shall be committed to
16 the agreement.

17 (e) If the corporate authorities, township board, or county
18 board operate as an opt-out program for residential and small
19 commercial retail customers, then it shall be the duty of the
20 aggregated entity to fully inform residential and small
21 commercial retail customers in advance that they have the right
22 to opt out of the aggregation program. The disclosure shall
23 prominently state all charges to be made and shall include full
24 disclosure of the cost to obtain service pursuant to Section
25 16-103 of the Public Utilities Act, how to access it, and the
26 fact that it is available to them without penalty, if they are

1 currently receiving service under that Section. The Illinois
2 Power Agency shall furnish, without charge, to any citizen a
3 list of all supply options available to them in a format that
4 allows comparison of prices and products.

5 (f) Any person or entity retained by a municipality or
6 county, or jointly by more than one such unit of local
7 government, to provide input, guidance, or advice in the
8 selection of an electricity supplier for an aggregation program
9 shall disclose in writing to the involved units of local
10 government the nature of any relationship through which the
11 person or entity may receive, either directly or indirectly,
12 commissions or other remuneration as a result of the selection
13 of any particular electricity supplier. The written disclosure
14 must be made prior to formal approval by the involved units of
15 local government of any professional services agreement with
16 the person or entity, or no later than October 1, 2012 with
17 respect to any such professional services agreement entered
18 into prior to the effective date of this amendatory Act of the
19 97th General Assembly. The disclosure shall cover all direct
20 and indirect relationships through which commissions or
21 remuneration may result, including the pooling of commissions
22 or remuneration among multiple persons or entities, and shall
23 identify all involved electricity suppliers. The disclosure
24 requirements in this subsection (f) are to be liberally
25 construed to ensure that the nature of financial interests are
26 fully revealed, and these disclosure requirements shall apply

1 regardless of whether the involved person or entity is licensed
2 under Section 16-115C of the Public Utilities Act. Any person
3 or entity that fails to make the disclosure required under this
4 subsection (f) is liable to the involved units of local
5 government in an amount equal to all compensation paid to such
6 person or entity by the units of local government for the
7 input, guidance, or advice in the selection of an electricity
8 supplier, plus reasonable attorneys fees and court costs
9 incurred by the units of local government in connection with
10 obtaining such amount.

11 (g) The Illinois Power Agency shall provide assistance to
12 municipalities, townships, counties, or associations working
13 with municipalities to help complete the plan and bidding
14 process.

15 (h) This Section does not prohibit municipalities or
16 counties from entering into an intergovernmental agreement to
17 aggregate residential and small commercial retail electric
18 loads.

19 (Source: P.A. 96-176, eff. 1-1-10; 97-338, eff. 8-12-11;
20 97-823, eff. 7-18-12; 97-1067, eff. 8-24-12; revised
21 9-20-12.)".