



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1184

Introduced 2/8/2007, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

New Act

Creates the Affordable and Clean Energy Standards (ACES) Act. Provides the findings of the General Assembly. Provides that electric utilities shall utilize cost-effective energy efficiency and load management investment in their energy resource portfolios according to specified guidelines. Provides that the Capital Development Board shall adopt the 2006 International Energy Conservation Code, without amendment, as the statewide residential building code for new home construction and significant additions or remodels of existing homes. Includes a severability clause. Preempts home rule. Effective immediately.

LRB095 10949 MJR 31247 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

HOUSING
AFFORDABILITY
IMPACT 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 1. Short title. This Act may be cited as the
5 Affordable and Clean Energy Standards (ACES) Act.

6 Section 5. Findings. The General Assembly finds the
7 following:

8 (1) Energy efficiency is a cost-effective resource that
9 ensures affordable and reliable energy to Illinois consumers.

10 (2) It is desirable to obtain the environmental quality,
11 public health, employment, economic development, rate
12 stabilization, and fuel diversity benefits of developing new
13 renewable energy resources for use in Illinois.

14 (3) The General Assembly has previously found and declared
15 that the benefits of electricity from renewable energy
16 resources accrue to the public at large, thus consumers and
17 electric utilities and alternative retail electric suppliers
18 share an interest in developing and using a significant level
19 of these environmentally preferable resources in the State's
20 electricity supply portfolio.

21 (4) Energy efficiency and renewable energy in Illinois are
22 resources that are currently underutilized.

23 (5) Investment in energy efficiency and load management,

1 combined with energy efficiency codes and standards, present
2 important opportunities to increase Illinois' energy security,
3 protect Illinois energy consumers from price volatility,
4 preserve the State's natural resources and pursue an improved
5 environment in Illinois.

6 (6) It serves the public interest to support public utility
7 investments in cost-effective energy efficiency and load
8 management by allowing recovery of costs for reasonable and
9 prudently incurred expenses of energy efficiency, renewable
10 energy, and load management programs.

11 (7) Investments in energy efficiency and implementation of
12 utility energy efficiency programs dedicated to
13 economically-disadvantaged Illinois residents, in addition to
14 existing low-income weatherization programs managed by the
15 State of Illinois, will reduce the burden of utility costs on
16 low-income customers.

17 (8) Public utility investments in cost-effective energy
18 efficiency, renewable energy, and load management, combined
19 with the adoption of efficiency codes and standards, can
20 provide significant reductions in greenhouse gas emissions,
21 regulated air emissions, water consumption, and natural
22 resource depletion and can avoid or delay the need for more
23 expensive generation, transmission, and distribution
24 infrastructure.

25 Section 10. Definitions.

1 "Board" means the Capital Development Board.

2 "Code" means the 2006 International Energy Conservation
3 Code.

4 "Commission" means the Illinois Commerce Commission.

5 "Cost-effective" means that the program being evaluated
6 satisfies the total resource cost test as defined in this
7 Section.

8 "Department" means the Department of Commerce and Economic
9 Opportunity.

10 "Distribution cooperative utility" means a utility with
11 distribution facilities organized as a rural electric
12 cooperative.

13 "Energy conservation" is any reduction in electric power
14 consumption or natural gas consumption resulting from: (i)
15 increased energy efficiency in the production, transmission,
16 distribution, and customer end-use applications of electricity
17 and natural gas and (ii) increased customer knowledge
18 concerning the societal impacts of consumption. Such knowledge
19 may be the result of economically efficient energy prices or
20 other means of communication when prices are of the second best
21 nature.

22 "Energy efficiency" means measures, including energy
23 conservation measures, or programs that target consumer
24 behavior, equipment, or devices to result in a decrease in
25 consumption of electricity and natural gas without reducing the
26 amount or quality of energy services.

1 "External costs" or "negative externalities" are costs
2 imposed on society that are not directly borne by the producer
3 in production and delivery activities. Due to imperfections in,
4 or the absence of, markets, the producer's production, and
5 pricing decisions do not account for these costs.

6 "Large customer" means a utility customer at a single,
7 contiguous field, location, or facility, regardless of the
8 number of meters at that field, location, or facility, with
9 electricity consumption greater than 7,000 megawatt-hours per
10 year or natural gas use greater than 5,000 therms per year.

11 "Load management" means measures or programs that target
12 equipment or devices to result in decrease peak electricity
13 demand or shift demand from peak to off-peak periods

14 "Municipality" means any city, village, or incorporated
15 town.

16 "Planning costs" are the costs of evaluating the future
17 demand for energy services and of evaluating alternative
18 methods of satisfying that demand. Planning costs include, but
19 are not be limited to, costs associated with: (i) econometric
20 and end-use forecasting, (ii) identification and evaluation of
21 alternative demand-side and supply-side resource options, and
22 (iii) evaluation of externalities associated with alternative
23 resources.

24 "Portfolio development costs" are costs of preparing a
25 resource in a portfolio for prompt and timely acquisition.
26 Portfolio development costs include, but are not be limited to,

1 costs associated with: (i) negotiating contracts with
2 competitively acquired resources, (ii) acquiring and holding
3 resource options; and (iii) developing and maintaining the
4 capability to rapidly acquire demand-side resources.

5 "Residential building" means a detached one-family or
6 2-family dwelling or any building that is 3 stories or less in
7 height above grade that contains multiple dwelling units, in
8 which the occupants reside on a primarily permanent basis such
9 as a townhouse, a row house, an apartment house, a convent, a
10 monastery, a rectory, a fraternity or sorority house, a
11 dormitory, and a rooming house.

12 "Renewable energy resources" includes energy and renewable
13 energy credits from wind, solar thermal energy, photovoltaic
14 cells and panels, dedicated crops grown for energy production
15 and organic waste biomass, hydropower that does not involve new
16 construction or significant expansion of hydropower dams, and
17 other such alternative sources of environmentally preferable
18 energy. "Renewable energy resources" does not include energy
19 from the incineration, burning or heating of waste wood, tires,
20 garbage, general household, institutional and commercial
21 waste, industrial lunchroom or office waste, landscape waste,
22 or construction or demolition debris.

23 "Renewable energy credit" means a tradable credit that
24 represents the environmental attributes of a certain amount of
25 energy produced from a Renewable energy resource.

26 "Energy efficiency resources" means energy efficiency

1 programs designed to assist customers to use energy more
2 efficiently, reduce or control their consumption of energy, as
3 measured in kilowatts, kilowatthours or therms, or otherwise
4 control the level of their electric utility bills.

5 "Total resource cost test" means a standard that is met if,
6 for an investment in energy efficiency or load management, on a
7 life-cycle basis the avoided supply-side monetary costs are
8 greater than the monetary costs of the demand-side programs
9 borne by both the utility and the participants. A total
10 resource cost test:

11 (1) explicitly manages the consequences of uncertainty
12 and risk associated with a utility's market
13 characteristics and supply alternatives;

14 (2) integrates the demand-side and supply-side
15 resources that represent the least cost to society over the
16 long-term;

17 (3) explicitly weighs a broad range of resource
18 attributes (e.g., environmental externalities) in the
19 evaluation of alternative resources;

20 (4) is reasonably understandable to interested persons
21 (including members of the general public) and the
22 commission;

23 (5) involves stakeholders and non-utility expertise in
24 utility resource planning;

25 (6) results from a planning process within the utility
26 that facilitates communication and coordination among the

1 entities dealing with utility finances, demand forecasts,
2 and demand-side and supply-side resource evaluations, as
3 well as other relevant entities; and

4 (7) continually monitors and develops data on the cost
5 effectiveness and actual productivity of conservation
6 programs.

7 Section 15. Utility energy efficiency programs.

8 (a) It is the policy of the State that electric utilities
9 utilize cost-effective energy efficiency and load management
10 investments in their energy resource portfolios.

11 (b) Electric utilities shall use energy efficiency
12 resources to meet the following energy savings goals:

13 (1) 10% of projected load growth shall be met through
14 energy efficiency by 2008.

15 (2) 20% of projected load growth shall be met through
16 energy efficiency by 2009.

17 (3) 30% of projected load growth shall be met through
18 energy efficiency by 2010.

19 (4) 40% of projected load growth shall be met through
20 energy efficiency by 2011.

21 (5) 50% of projected load growth shall be met through
22 energy efficiency by 2012.

23 (6) 100% of projected load growth shall be met through
24 energy efficiency by 2015.

25 (7) If load growth is static, 1% of load shall be met

1 through energy efficiency.

2 (c) Within 3 months after the effective date of this Act,
3 the Commission shall adopt rules specifying the procedure for
4 electric utilities to develop and submit an energy efficiency
5 plan and, within 3 months after adoption of the rules and
6 biennially thereafter, Illinois electric utilities must file
7 an energy efficiency plan with the Commission.

8 In submitting proposed energy efficiency program plans and
9 funding levels to meet the savings goals adopted by this Act, a
10 utility must do all of the following:

11 (1) Demonstrate that its proposed level of electric and
12 natural gas energy efficiency program activities and
13 funding is consistent with the adopted electric and natural
14 gas savings goals.

15 (2) Present specific proposals for programs that
16 support new building and appliance standards.

17 (3) Present estimates of the net rate impacts and bill
18 impacts associated with the proposed portfolio of programs
19 designed to meet the adopted energy savings goals. The
20 utilities shall work with Commission to develop a
21 consistent format for presenting these estimates in their
22 filings.

23 (4) Present a suite of energy efficiency programs
24 targeted to households at or below 150% of the poverty
25 level at a level proportionate to those households' share
26 of total annual utility expenditures in Illinois.

1 (5) Demonstrate that their investments in energy
2 efficiency are cost effective, using the total resource
3 cost test.

4 Within 120 days of receiving an energy efficiency plan from
5 an electric or natural gas utility, the Commission shall
6 approve, reject, or modify the submitted plan.

7 (d) The Commission shall allow electric utilities to
8 recover the costs of investments in energy efficiency under the
9 following conditions:

10 (1) A public utility that undertakes energy efficiency
11 programs shall recover the costs of all the cost-effective
12 programs implemented after the effective date of this Act.

13 (2) A public utility that undertakes additional energy
14 efficiency programs beyond the requirements of this Act
15 shall recover the costs of all the cost-effective programs
16 implemented after the effective date through an approved
17 tariff rider.

18 (3) The tariff rider shall provide for the recovery on
19 a monthly basis or otherwise of all reasonable costs of
20 approved energy efficiency programs.

21 (e) The implementation of energy efficiency programs under
22 this plan shall be split between the utilities and the
23 Department of Commerce and Economic Opportunity as follows:

24 (1) Electric and natural gas utilities shall implement
25 75% of the energy efficiency programs.

26 Electric and natural gas utilities shall administer

1 energy savings incentive programs in a market-neutral,
2 nondiscriminatory manner.

3 Each electric and natural gas utility shall provide,
4 through market-based standard offer programs, incentives
5 sufficient for retail electric and natural gas providers
6 and competitive energy service providers to acquire
7 additional cost-effective energy efficiency according to
8 the goals set forth in the plan.

9 The guidelines provide the utilities with policy and
10 planning guidance. The guidelines do not specify the
11 outcome of the planning process nor mandate particular
12 investment decisions. Each utility's plan should be the
13 result of that utility's unique planning process and
14 judgment.

15 (2) The Department shall implement 25% of energy
16 efficiency programs by focusing on limited, targeted,
17 market-transformation and educational programs that shall
18 provide incentives sufficient for retail electric and
19 natural gas providers and competitive energy service
20 providers to acquire additional cost-effective energy
21 efficiency according to the goals set forth in the plan.

22 Section 20. Renewable portfolio standard.

23 (a) An electric utility shall procure or obtain renewable
24 energy resources in amounts equal to at least the following
25 percentages of the total electricity that it supplies to its

1 Illinois customers: 3% by December 31, 2008; 4% by December 31,
2 2009; 5% by December 31, 2010; 6% by December 31, 2011; 7% by
3 December 31, 2012; 8% by December 31, 2013; 9% by December 31,
4 2014; 10% by December 31, 2015, and 25% by 2025. To the extent
5 that it is available, at least 75% of the renewable energy
6 resources used to meet these standards shall come from wind
7 generation.

8 (b) For the purpose of this Section, the required
9 procurement of renewable energy resources for a particular year
10 shall be measured as a percentage of the actual amount of
11 electricity (megawatthours) supplied by the electric utility
12 in the calendar year ending immediately prior to the
13 procurement.

14 (c) Notwithstanding the requirements of subsection (a), an
15 electric utility may reduce the amount of electric energy
16 procured under new contracts from renewable energy resources in
17 any single year by an amount necessary to limit the estimated
18 average net increase to customers, due to these contracts, to
19 be no more than 1.5% of customers' total electricity bills for
20 the calendar year ending immediately prior to the procurement,
21 subject to adjustments for any known subsequent rate increases.
22 Any reductions in one year shall be offset by additional
23 procurement in the following years subject to the annual
24 limitation set forth above.

25 (d) In order to achieve improved air and water quality,
26 additional environmental benefits, better public health, and

1 economic development for Illinois, renewable energy resources
2 shall be counted for the purpose of meeting the renewable
3 energy standards set forth in subsection (a) of this Section
4 only if they are generated from facilities located in the State
5 or in a serious or severe ozone non-attainment area, as
6 designated by the United States Environmental Protection
7 Agency, in another directly adjacent state. Renewable energy
8 resources may be counted for purposes of the renewable energy
9 standards set forth in subsection (a) of this Section after
10 December 31, 2010 if they are generated from a facility
11 anywhere in a directly adjacent state or in any state that is
12 currently in the United States Environmental Protection Agency
13 Region V, and if that state has entered into an agreement with
14 the State as provided in subsection (e), and if the renewable
15 energy resources procured meet the formula set forth in
16 subsection (b) of this Section.

17 (e) The Department of Commerce and Economic Opportunity and
18 other state officials shall attempt to work with public
19 officials in directly adjacent states and other states
20 currently in United States Environmental Protection Agency
21 Region V to develop an agreement in which electric utilities in
22 the State shall be allowed, after December 31, 2010, to count
23 for the purpose of meeting the designated renewable energy
24 standards set forth in subsection (a) of this Section some
25 renewable energy resources generated in a directly adjacent
26 state or in any state that is currently in United States

1 Environmental Protection Agency Region V if that state has
2 enacted renewable energy portfolio standards and that other
3 state also allows renewable energy resources generated in the
4 State to be counted towards meeting its statutory renewable
5 energy standards on substantially the same basis. For the
6 purposes of such an agreement, all renewable energy resources
7 procured must meet the method of calculation set forth in this
8 Act.

9 (f) Each electric utility shall report to the Commission on
10 compliance with these standards by April 1 of each year,
11 beginning in 2008.

12 (g) If an electric utility does not procure or obtain the
13 full amount of renewable energy resources specified by the
14 standards in subsection (a) of this Section, as modified by the
15 limitations of subsection (c) of this Section, then the
16 electric utility shall pay a penalty of \$40 per megawatthour
17 each year for any shortfall unless and until the utility makes
18 sufficient purchases to meet the requirement. Provided,
19 however, that, if the electric utility proves to the Commission
20 that renewable energy resources are not available in sufficient
21 quantities to meet the renewable energy standards set forth in
22 subsection (a) of this Section, as modified by the limitations
23 of subsection (c) of this Section, and, if the Commission finds
24 that the electric utility has, in fact, proved that the
25 renewable energy resources are not available in sufficient
26 quantities, after notice and a hearing conducted in accordance

1 with the Commission's rules of practice, then the Commission
2 shall waive the penalty. Any penalty payment shall be deposited
3 into the Renewable Energy Resources Trust Fund to be used by
4 the Department of Commerce and Economic Opportunity for the
5 sole purposes of supporting the actual development,
6 construction, and utilization of renewable energy projects in
7 the State.

8 (h) The Commission shall promulgate rules as necessary
9 within 12 months after the effective date of this Act to assist
10 in implementing this Section including, but not limited to,
11 methods of procurement, accounting, tracking, and reporting in
12 order to achieve the full objectives of this Section. The rules
13 shall also provide for recovery of costs incurred and the pass
14 through to customers of any savings achieved by electric
15 utilities as a result of procuring or obtaining the renewable
16 energy resources specified under subsection (a) of this
17 Section. The rate elements and rates used for such cost
18 recovery may be established by the electric utility, subject to
19 the Commission's review and approval, outside the context of a
20 general rate case.

21 (i) In connection with their compliance with the
22 requirements of subsection (a) of this Section, electric
23 utilities may enter into long-term contracts of up to 20 years
24 in length with providers of renewable energy resources, and the
25 costs or savings associated with those contracts shall be
26 reflected in tariffed rates for the duration of those

1 contracts.

2 (j) Nothing shall prohibit an electric utility from issuing
3 a competitive solicitation for renewable energy resources in
4 order to meet the standards of subsection (a) of this Section
5 and from beginning to recover the associated costs in advance
6 of the conclusion of the rulemaking referenced in subsection
7 (h) of this Section, provided that such electric utility shall
8 have first requested and received Commission approval for the
9 design and conduct of such solicitation and the associated cost
10 recovery methodology and tariff, which the Commission shall
11 review and consider.

12 Section 25. Residential building energy code; home rule.

13 (a) The Board shall adopt the 2006 International Energy
14 Conservation Code (IECC), without amendment, as the statewide
15 residential building code for new home construction and
16 significant additions or remodels of existing homes.

17 (b) Except as otherwise provided by this Act, the Code
18 shall apply to any residential building or structure in this
19 State for which a building permit application is received by a
20 municipality or county on or after the effective date of this
21 Act.

22 The following buildings shall be exempt from the Energy
23 Efficient Building Code:

24 (1) Buildings otherwise exempt from the provisions of a
25 locally adopted building code and buildings that do not

1 contain a conditioned space.

2 (2) Buildings that do not use either electricity or
3 fossil fuel for comfort conditioning. For purposes of
4 determining whether this exemption applies, a building
5 will be presumed to be heated by electricity, even in the
6 absence of equipment used for electric comfort heating,
7 whenever the building is provided with electrical service
8 in excess of 100 amps, unless the code enforcement official
9 determines that this electrical service is necessary for
10 purposes other than providing electric comfort heating.

11 (3) Buildings that are listed on the National Register
12 of Historic Places or the Illinois Register of Historic
13 Places and buildings that have been designated as
14 historically significant by a local governing body that is
15 authorized to make such designations.

16 (c) The Board, or the Illinois Building Commission as
17 directed by the Board, shall make available implementation
18 materials that explain the requirements of the Code and
19 describe methods of compliance acceptable to Code enforcement
20 officials. The materials shall include software tools,
21 simplified prescriptive options, and other materials as
22 appropriate. The simplified materials shall be designed for
23 projects in which a design professional may not be involved.
24 The Board shall provide local jurisdictions with technical
25 assistance concerning implementation and enforcement of the
26 Code.

1 (d) The Board shall determine procedures for compliance
2 with the Code. These procedures may include but need not be
3 limited to certification by a national, State, or local
4 accredited energy conservation program or inspections from
5 private Code-certified inspectors using the Code.

6 (e) The Board may adopt any rules that are necessary for
7 the enforcement of this Act.

8 (f) In the development of Code adaptations, rules, and
9 procedures for compliance with the Code, the Capital
10 Development Board, or the Illinois Building Commission as
11 directed by the Board, shall seek input from representatives
12 from the building trades, design professionals, construction
13 professionals, code administrators, and other interested
14 entities affected.

15 (g) No unit of local government, including any home rule
16 unit, shall have the authority to regulate energy efficient
17 building standards in a manner that is less stringent than the
18 provisions contained in this Act. This subsection (g) is a
19 limitation under subsection (i) of Section 6 of Article VII of
20 the Illinois Constitution on the concurrent exercise by home
21 rule units of powers and functions exercised by the State.

22 Section 97. Severability. The provisions of this Act are
23 severable under Section 1.31 of the Statute on Statutes.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.