



Sen. Don Harmon

Filed: 5/22/2014

09800HB2427sam003

LRB098 09433 RPS 60013 a

1 AMENDMENT TO HOUSE BILL 2427

2 AMENDMENT NO. _____. Amend House Bill 2427 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 1-56 as follows:

6 (20 ILCS 3855/1-56)

7 Sec. 1-56. Illinois Power Agency Renewable Energy
8 Resources Fund.

9 (a) The Illinois Power Agency Renewable Energy Resources
10 Fund is created as a special fund in the State treasury.

11 (b) The Illinois Power Agency Renewable Energy Resources
12 Fund shall be administered by the Agency to procure renewable
13 energy resources. Prior to June 1, 2011, resources procured
14 pursuant to this Section shall be procured from facilities
15 located in Illinois, provided the resources are available from
16 those facilities. If resources are not available in Illinois,

1 then they shall be procured in states that adjoin Illinois. If
2 resources are not available in Illinois or in states that
3 adjoin Illinois, then they may be purchased elsewhere.
4 Beginning June 1, 2011, resources procured pursuant to this
5 Section shall be procured from facilities located in Illinois
6 or states that adjoin Illinois. If resources are not available
7 in Illinois or in states that adjoin Illinois, then they may be
8 procured elsewhere. To the extent available, at least 75% of
9 these renewable energy resources shall come from wind
10 generation. Of the renewable energy resources procured
11 pursuant to this Section at least the following specified
12 percentages shall come from photovoltaics on the following
13 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by
14 June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the
15 renewable energy resources procured pursuant to this Section,
16 at least the following percentages shall come from distributed
17 renewable energy generation devices: 0.5% by June 1, 2013,
18 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.
19 To the extent available, half of the renewable energy resources
20 procured from distributed renewable energy generation shall
21 come from devices of less than 25 kilowatts in nameplate
22 capacity. Renewable energy resources procured from distributed
23 generation devices may also count towards the required
24 percentages for wind and solar photovoltaics. Procurement of
25 renewable energy resources from distributed renewable energy
26 generation devices shall be done on an annual basis through

1 multi-year contracts of no less than 5 years, and shall consist
2 solely of renewable energy credits.

3 The Agency shall create credit requirements for suppliers
4 of distributed renewable energy. In order to minimize the
5 administrative burden on contracting entities, the Agency
6 shall solicit the use of third-party organizations to aggregate
7 distributed renewable energy into groups of no less than one
8 megawatt in installed capacity. These third-party
9 organizations shall administer contracts with individual
10 distributed renewable energy generation device owners. An
11 individual distributed renewable energy generation device
12 owner shall have the ability to measure the output of his or
13 her distributed renewable energy generation device.

14 (c) The Agency shall procure renewable energy resources at
15 least once each year in conjunction with a procurement event
16 for electric utilities required to comply with Section 1-75 of
17 the Act and shall, whenever possible, enter into long-term
18 contracts on an annual basis for a portion of the incremental
19 requirement for the given procurement year.

20 (d) The price paid to procure renewable energy credits
21 using monies from the Illinois Power Agency Renewable Energy
22 Resources Fund shall not exceed the winning bid prices paid for
23 like resources procured for electric utilities required to
24 comply with Section 1-75 of this Act.

25 (e) All renewable energy credits procured using monies from
26 the Illinois Power Agency Renewable Energy Resources Fund shall

1 be permanently retired.

2 (f) The procurement process described in this Section is
3 exempt from the requirements of the Illinois Procurement Code,
4 pursuant to Section 20-10 of that Code.

5 (g) All disbursements from the Illinois Power Agency
6 Renewable Energy Resources Fund shall be made only upon
7 warrants of the Comptroller drawn upon the Treasurer as
8 custodian of the Fund upon vouchers signed by the Director or
9 by the person or persons designated by the Director for that
10 purpose. The Comptroller is authorized to draw the warrant upon
11 vouchers so signed. The Treasurer shall accept all warrants so
12 signed and shall be released from liability for all payments
13 made on those warrants.

14 (h) The Illinois Power Agency Renewable Energy Resources
15 Fund shall not be subject to sweeps, administrative charges, or
16 chargebacks, including, but not limited to, those authorized
17 under Section 8h of the State Finance Act, that would in any
18 way result in the transfer of any funds from this Fund to any
19 other fund of this State or in having any such funds utilized
20 for any purpose other than the express purposes set forth in
21 this Section.

22 (i) Supplemental procurement process.

23 (1) Within 90 days after the effective date of this
24 amendatory Act of the 98th General Assembly, the Agency
25 shall file with the Commission a one-time supplemental
26 procurement plan limited to the procurement of renewable

1 energy credits, if available, from new or existing
2 photovoltaics, including, but not limited to, distributed
3 photovoltaic generation. Nothing in this subsection (i)
4 requires procurement of wind generation through the
5 supplemental procurement.

6 The renewable energy credits procured pursuant to the
7 supplemental procurement plan shall be procured using up to
8 \$30,000,000 from the Illinois Power Agency Renewable
9 Energy Resources Fund. The Agency shall not plan to use
10 funds from the Illinois Power Agency Renewable Energy
11 Resources Fund in excess of the monies on deposit in such
12 fund or projected to be deposited into such fund. The
13 supplemental procurement plan shall ensure adequate,
14 reliable, affordable, efficient, and environmentally
15 sustainable renewable energy resources (including credits)
16 at the lowest total cost over time, taking into account any
17 benefits of price stability.

18 To the extent available, 50% of the renewable energy
19 credits procured from distributed renewable energy
20 generation shall come from devices of less than 25
21 kilowatts in nameplate capacity. Procurement of renewable
22 energy credits from distributed renewable energy
23 generation devices shall be done through multi-year
24 contracts of no less than 5 years. The Agency shall create
25 credit requirements for counterparties. In order to
26 minimize the administrative burden on contracting

1 entities, the Agency shall solicit the use of third parties
2 to aggregate distributed renewable energy. These third
3 parties shall enter into and administer contracts with
4 individual distributed renewable energy generation device
5 owners. An individual distributed renewable energy
6 generation device owner shall have the ability to measure
7 the output of his or her distributed renewable energy
8 generation device.

9 In developing the supplemental procurement plan, the
10 Agency shall hold at least one workshop open to the public
11 within 90 days after the effective date of this amendatory
12 Act of the 98th General Assembly and shall consider any
13 comments made by stakeholders or the public. Upon
14 development of the supplemental procurement plan within
15 this 90-day period, copies of the supplemental procurement
16 plan shall be posted and made publicly available on the
17 Agency's and Commission's websites. All interested parties
18 shall have 14 days following the date of posting to provide
19 comment to the Agency on the supplemental procurement plan.
20 All comments submitted to the Agency shall be specific,
21 supported by data or other detailed analyses, and, if
22 objecting to all or a portion of the supplemental
23 procurement plan, accompanied by specific alternative
24 wording or proposals. All comments shall be posted on the
25 Agency's and Commission's websites. Within 14 days
26 following the end of the 14-day review period, the Agency

1 shall revise the supplemental procurement plan as
2 necessary based on the comments received and file its
3 revised supplemental procurement plan with the Commission
4 for approval.

5 (2) Within 5 days after the filing of the final
6 supplemental procurement plan at the Commission, any
7 person objecting to the supplemental procurement plan
8 shall file an objection with the Commission. Within 10 days
9 after the filing, the Commission shall determine whether a
10 hearing is necessary. The Commission shall enter its order
11 confirming or modifying the supplemental procurement plan
12 within 90 days after the filing of the supplemental
13 procurement plan by the Agency.

14 (3) The Commission shall approve the supplemental
15 procurement plan of the renewable energy credits to be
16 procured from new or existing photovoltaics, including,
17 but not limited to, distributed photovoltaic generation,
18 if the Commission determines that it will ensure adequate,
19 reliable, affordable, efficient, and environmentally
20 sustainable electric service in the form of renewable
21 energy credits at the lowest total cost over time, taking
22 into account any benefits of price stability.

23 (4) The supplemental procurement process under this
24 subsection (i) shall include each of the following
25 components:

26 (A) Procurement administrator. The Agency may

1 retain a procurement administrator in the manner set
2 forth in item (2) of subsection (a) of Section 1-75 of
3 this Act to conduct the supplemental procurement or may
4 elect to use the same procurement administrator
5 administering the Agency's annual procurement under
6 Section 1-75.

7 (B) Solicitation, pre-qualification, and
8 registration of bidders. The procurement administrator
9 shall disseminate information to potential bidders to
10 promote a procurement event, notify potential bidders
11 that the procurement administrator may enter into a
12 post-bid price negotiation with bidders that meet the
13 applicable benchmarks, provide supply requirements,
14 and otherwise explain the competitive procurement
15 process. In addition to such other publication as the
16 procurement administrator determines is appropriate,
17 this information shall be posted on the Agency's and
18 the Commission's websites. The procurement
19 administrator shall also administer the
20 prequalification process, including evaluation of
21 credit worthiness, compliance with procurement rules,
22 and agreement to the standard form contract developed
23 pursuant to item (C) of this paragraph (4). The
24 procurement administrator shall then identify and
25 register bidders to participate in the procurement
26 event.

1 (C) Standard contract forms and credit terms and
2 instruments. The procurement administrator, in
3 consultation with the Agency, the Commission, and
4 other interested parties and subject to Commission
5 oversight, shall develop and provide standard contract
6 forms for the supplier contracts that meet generally
7 accepted industry practices as well as include any
8 applicable State of Illinois terms and conditions that
9 are required for contracts entered into by an agency of
10 the State of Illinois. Standard credit terms and
11 instruments that meet generally accepted industry
12 practices shall be similarly developed. The
13 procurement administrator shall make available to the
14 Commission all written comments it receives on the
15 contract forms, credit terms, or instruments. If the
16 procurement administrator cannot reach agreement with
17 the parties as to the contract terms and conditions,
18 the procurement administrator must notify the
19 Commission of any disputed terms and the Commission
20 shall resolve the dispute. The terms of the contracts
21 shall not be subject to negotiation by winning bidders,
22 and the bidders must agree to the terms of the contract
23 in advance so that winning bids are selected solely on
24 the basis of price.

25 (D) Requests for proposals; competitive
26 procurement process. The procurement administrator

1 shall design and issue requests for proposals to supply
2 renewable energy credits in accordance with the
3 supplemental procurement plan, as approved by the
4 Commission. The requests for proposals shall set forth
5 a procedure for sealed, binding commitment bidding
6 with pay-as-bid settlement, and provision for
7 selection of bids on the basis of price, provided,
8 however, that no bid shall be accepted if it exceeds
9 the benchmark developed pursuant to item (E) of this
10 paragraph (4).

11 (E) Benchmarks. Benchmarks for each product to be
12 procured shall be developed by the procurement
13 administrator in consultation with Commission staff,
14 the Agency, and the procurement monitor for use in this
15 supplemental procurement.

16 (F) A plan for implementing contingencies in the
17 event of supplier default, Commission rejection of
18 results, or any other cause.

19 (5) Within 2 business days after opening the sealed
20 bids, the procurement administrator shall submit a
21 confidential report to the Commission. The report shall
22 contain the results of the bidding for each of the products
23 along with the procurement administrator's recommendation
24 for the acceptance and rejection of bids based on the price
25 benchmark criteria and other factors observed in the
26 process. The procurement monitor also shall submit a

1 confidential report to the Commission within 2 business
2 days after opening the sealed bids. The report shall
3 contain the procurement monitor's assessment of bidder
4 behavior in the process as well as an assessment of the
5 procurement administrator's compliance with the
6 procurement process and rules. The Commission shall review
7 the confidential reports submitted by the procurement
8 administrator and procurement monitor and shall accept or
9 reject the recommendations of the procurement
10 administrator within 2 business days after receipt of the
11 reports.

12 (6) Within 3 business days after the Commission
13 decision approving the results of a procurement event, the
14 Agency shall enter into binding contractual arrangements
15 with the winning suppliers using the standard form
16 contracts.

17 (7) The names of the successful bidders and the average
18 of the winning bid prices for each contract type and for
19 each contract term shall be made available to the public
20 within 2 days after the supplemental procurement event. The
21 Commission, the procurement monitor, the procurement
22 administrator, the Agency, and all participants in the
23 procurement process shall maintain the confidentiality of
24 all other supplier and bidding information in a manner
25 consistent with all applicable laws, rules, regulations,
26 and tariffs. Confidential information, including the

1 confidential reports submitted by the procurement
2 administrator and procurement monitor pursuant to this
3 Section, shall not be made publicly available and shall not
4 be discoverable by any party in any proceeding, absent a
5 compelling demonstration of need, nor shall those reports
6 be admissible in any proceeding other than one for law
7 enforcement purposes.

8 (8) The supplemental procurement provided in this
9 subsection (i) shall not be subject to the requirements and
10 limitations of subsections (c) and (d) of this Section.

11 (9) The Agency may assess fees to each bidder to
12 recover the costs incurred in connection with a procurement
13 process held pursuant to this Section, including, but not
14 limited to, the cost of developing the supplemental
15 procurement plan, the procurement administrator, and the
16 cost of the retirement of Renewable Energy Credits
17 purchased pursuant to the supplemental procurement.

18 (Source: P.A. 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10;
19 96-1437, eff. 8-17-10; 97-616, eff. 10-26-11.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."