



Sen. Sue Rezin

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1 AMENDMENT TO SENATE BILL 928

2 AMENDMENT NO. _____. Amend Senate Bill 928 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Section 8-508.1 as follows:

6 (220 ILCS 5/8-508.1) (from Ch. 111 2/3, par. 8-508.1)

7 Sec. 8-508.1. (a) As used in this Section:

8 (1) "Decommissioning" means the series of activities
9 undertaken at the time a nuclear power plant is permanently
10 retired from service to ensure that the final entombment,
11 decontamination, dismantlement, removal and disposal of
12 the plant, including the plant site, and of any radioactive
13 components and materials associated with the plant, is
14 accomplished in compliance with all applicable Illinois
15 and federal laws, and to ensure that such final disposition
16 does not pose any threat to the public health and safety.

1 (2) "Decommissioning costs" means all reasonable costs
2 and expenses incurred in connection with the entombment,
3 decontamination, dismantlement, removal and disposal of
4 the structures, systems and components of a nuclear power
5 plant at the time of decommissioning, including all
6 expenses to be incurred in connection with the preparation
7 for decommissioning, such as engineering and other
8 planning expenses, and to be incurred after the actual
9 decommissioning occurs, such as physical security and
10 radiation monitoring expenses, less proceeds of insurance,
11 salvage or resale of machinery, construction equipment or
12 apparatus the cost of which was charged as a
13 decommissioning expense.

14 (3) "Decommissioning trust" or "trust" means a
15 fiduciary account in a bank or other financial institution
16 established to hold the decommissioning funds provided
17 pursuant to subsection (b)(2) of this Section for the
18 eventual purpose of paying decommissioning costs, which
19 shall be separate from all other accounts and assets of the
20 public utility establishing the trust.

21 (4) "Nuclear power plant" or "plant" means a nuclear
22 fission thermal power plant. Each unit of a multi-unit site
23 shall be considered a separate plant.

24 (b) By 90 days after the effective date of this amendatory
25 Act of 1988, or by the date that the unit satisfies the
26 criteria used by the Internal Revenue Service for determining

1 when depreciation commences for federal income tax purposes on
2 a new generating unit, whichever is later, every public utility
3 that owns or operates, in whole or in part, a nuclear power
4 plant shall:

5 (1) establish 2 decommissioning trusts, which shall be
6 a "tax qualified" decommissioning trust and a "non-tax
7 qualified" decommissioning trust and shall hold the
8 decommissioning funds established by the public utility
9 for all nuclear power plants pursuant to subsection (b) (2)
10 of this Section;

11 (2) establish 2 decommissioning funds for each such
12 plant, each of which shall be held for a plant as a
13 separate account in a decommissioning trust; and

14 (3) designate an independent trustee, subject to the
15 approval of the Commission, to administer each of the
16 decommissioning trusts.

17 (c) The 2 decommissioning trusts shall be known as the "tax
18 qualified" decommissioning trust and the "non-tax qualified"
19 decommissioning trust respectively. Each trust shall be
20 established and maintained as follows:

21 (1) The "tax qualified" trust shall be established and
22 maintained in accordance with Section 468A of the Internal
23 Revenue Code of 1986 or any successor thereto and shall be
24 funded by the public utility for each such power plant
25 through annual payments by the public utility that shall
26 not exceed the maximum amount allowable as a deduction for

1 federal income tax purposes for the year for which the
2 payments were made, in accordance with Section 468A of the
3 Internal Revenue Code of 1986 or any successor thereto.

4 (2) The "non-tax qualified" decommissioning trust
5 shall be funded by the public utility for each such power
6 plant through annual payments by the public utility that
7 shall consist of the difference between the total amounts
8 of decommissioning expenses collected after the effective
9 date of this amendatory Act of 1988 through rates and
10 charges from the public utility's customers as provided by
11 the Commission minus the amounts contributed to the "tax
12 qualified" trust as provided by subsection (c)(1) of this
13 Section and deductible for federal income tax purposes in
14 accordance with Section 468A of the Internal Revenue Code
15 of 1986 or any successor thereto.

16 (3) The following restrictions shall apply in regard to
17 administration of each decommissioning trust:

18 (i) Distributions may be made from a nuclear
19 decommissioning trust only to satisfy the liabilities
20 of the public utility for nuclear decommissioning
21 costs relating to the nuclear power plant for which the
22 decommissioning fund was established and to pay
23 administrative costs, income taxes and other
24 incidental expenses of the trust.

25 (ii) Any assets in a nuclear decommissioning trust
26 that exceed the amount necessary to pay the nuclear

1 decommissioning costs of the nuclear power plant for
2 which the decommissioning fund was established shall
3 be refunded to the public utility that established the
4 fund for the purpose of refunds or credits, as soon as
5 practicable, to the utility's customers.

6 (iii) In the event a public utility sells or
7 otherwise disposes of its direct ownership interest,
8 or any part thereof, in a nuclear power plant with
9 respect to which a nuclear decommissioning fund has
10 been established, the assets of the fund shall be
11 distributed to the public utility to the extent of the
12 reductions in its liability for future decommissioning
13 after taking into account the liabilities of the public
14 utility for future decommissioning of such nuclear
15 power plant and the liabilities that have been assumed
16 by another entity. The public utility shall, as soon as
17 practicable, provide refunds or credits to its
18 customers representing the full amount of the
19 reductions in its liability for future
20 decommissioning.

21 (iv) The trustee shall invest the "tax qualified"
22 trust assets only in secure assets that are prudent
23 investments for assets held in trust and in such a way
24 as to attempt to maximize the after-tax return on funds
25 invested, subject to the limitations specified in
26 Section 468A of the Internal Revenue Code of 1986 or

1 any successor thereto.

2 (v) The trustee shall invest the "non-tax
3 qualified" trust assets only in secure assets that are
4 prudent investments for assets held in trust and in
5 such a way as to attempt to maximize the after-tax
6 return on funds invested. However the trustee shall not
7 invest any portion of the "non-tax qualified" trust's
8 funds in the securities or assets of any operator of a
9 nuclear power plant.

10 (vi) The "non-tax qualified" trust shall be
11 subject to the prohibitions against self-dealing
12 applicable to the "tax qualified" trust as specified in
13 Section 468A of the Internal Revenue Code of 1986, or
14 any successor thereto.

15 (vii) All income earned by the trust's funds shall
16 become a part of the trust's funds and subject to the
17 provisions of this Section.

18 (viii) The Commission may adopt by rule or
19 regulation such further restrictions as it deems
20 necessary for the sound management of the trust's
21 funds, consistent with the purposes of this Section.

22 (d) By 90 days after the effective date of this amendatory
23 Act of 1988, the Commission shall determine an appropriate
24 method to segregate, either internally or externally, all
25 decommissioning funds collected prior to the effective date of
26 this amendatory Act of 1988 by the utility from its customers,

1 and shall order any change in past decommissioning funding
2 methods that the Commission finds necessary. In making its
3 determination of the appropriate funding method, the
4 Commission shall give consideration to, but not be limited by,
5 all applicable federal regulations. The change in funding
6 method shall be phased-in over an appropriate period of time.

7 (e) The trustee of a trust shall report annually to the
8 Commission, or more frequently if ordered by the Commission.
9 The report shall include:

10 (1) the trust's State and federal tax returns;

11 (2) a report on the trust's portfolio of investments
12 and the return thereon;

13 (3) the date and amount of payments received by the
14 trust from the public utility;

15 (4) a copy of all correspondence between the trust and
16 the Internal Revenue Service; and

17 (5) any other information the Commission orders the
18 trust to provide.

19 (f) A nuclear decommissioning trust established pursuant
20 to this Section shall be exempt from taxation in Illinois.

21 (g) When a company announces the permanent closure or
22 decommissioning of a nuclear power plant, the following shall
23 begin immediately:

24 (1) property tax payments and assessed values of the
25 retired plant must, at a minimum, level out over the next
26 10 years in a 10% descending step plan over that 10-year

1 timeframe;

2 (2) the company shall use \$10,000,000 from
3 shareholders to fund a new economic development fund
4 controlled by an economic development organization as
5 designated by the host county of the former reactor. The
6 fund shall be used to develop and implement an economic
7 recovery plan, including new workforce development
8 programs and new employee training programs for the
9 surrounding geographic region affected by the closure;

10 (3) twenty members shall be appointed by the local
11 communities and county governments affected by the closure
12 in the regional area to an advisory panel to ensure
13 community input in the decommissioning process. The
14 company shall provide information to the advisory panel
15 regarding the decommissioning process, future land uses,
16 and any other information required by the panel to carry
17 out the panel's duties; and

18 (4) the shareholders of the decommissioned nuclear
19 power plant shall fund emergency response funds at the
20 level funded prior to the plant closure announcement until
21 the fuel is moved to dry cask storage and the reactor is
22 completely decommissioned. The shareholders may be
23 reimbursed by any eligible funds from the Illinois
24 Emergency Management Agency.

25 (Source: P.A. 85-1400.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".