



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1448

Introduced 2/21/2007, by Rep. Mike Boland

SYNOPSIS AS INTRODUCED:

220 ILCS 10/2	from Ch. 111 2/3, par. 902
220 ILCS 10/3	from Ch. 111 2/3, par. 903
220 ILCS 10/4	from Ch. 111 2/3, par. 904
220 ILCS 10/5	from Ch. 111 2/3, par. 905
220 ILCS 10/6	from Ch. 111 2/3, par. 906
220 ILCS 10/10	from Ch. 111 2/3, par. 910
220 ILCS 10/11	from Ch. 111 2/3, par. 911
220 ILCS 10/12	from Ch. 111 2/3, par. 912
220 ILCS 10/20	from Ch. 111 2/3, par. 920
220 ILCS 10/21	from Ch. 111 2/3, par. 921

Amends the Citizens Utility Board Act. Provides that the Citizens Utility Board shall represent and protect the interests of the residential utility customers and petroleum customers (now, just residential utility customers) of this State. Makes corresponding changes.

LRB095 04231 MJR 24272 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE 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 5. The Citizens Utility Board Act is amended by
5 changing Sections 2, 3, 4, 5, 6, 10, 11, 12, 20, and 21 as
6 follows:

7 (220 ILCS 10/2) (from Ch. 111 2/3, par. 902)

8 Sec. 2. Purpose. The purpose of this Act is to promote the
9 health, welfare and prosperity of all the citizens of this
10 State by ensuring effective and democratic representation of
11 utility consumers before the Illinois Commerce Commission, the
12 Federal Energy Regulatory Commission, the Federal
13 Communications Commission, the courts, and other public bodies
14 and by providing for consumer education on utility service
15 prices and petroleum prices and on benefits and methods of
16 energy conservation. Such purpose shall be deemed a statewide
17 interest and not a private or special concern.

18 (Source: P.A. 83-945.)

19 (220 ILCS 10/3) (from Ch. 111 2/3, par. 903)

20 Sec. 3. Definitions. As used in this Act:

21 (1) "Board" means the board of directors of the
22 corporation.

1 (2) "Campaign contribution" means a gift, subscription,
2 loan, advance or deposit of money or anything of value, made
3 for the purpose of electing a candidate to the board; or a
4 contract, a promise or agreement, express or implied, whether
5 or not legally enforceable, to make any campaign contribution;
6 but does not include the value of services provided without
7 compensation by individuals who volunteer a portion or all of
8 their time on behalf of a candidate or political committee, or
9 the use of real or personal property and the cost of
10 invitations, food and beverages, voluntarily provided by an
11 individual to a candidate in rendering voluntary personal
12 services on the individual's residential premises for
13 candidate-related activities if the cumulative value of the
14 activities to the individual on behalf of any candidate does
15 not exceed \$100 for any election.

16 (3) "Campaign expenditures" means a purchase, payment
17 distribution, loan, advance, deposit or gift of money or
18 anything of value, made for the purpose of electing a candidate
19 to the board; or a contract, promise, or agreement, express or
20 implied, whether or not legally enforceable, to make any
21 campaign expenditure; but does not include the use of real or
22 personal property and the cost of invitations, food and
23 beverages, voluntarily provided by an individual to a candidate
24 in rendering voluntary personal services on the individual's
25 residential premises for candidate-related activities if the
26 cumulative value of the activities by the individual on behalf

1 of any candidate does not exceed \$100 for any election.

2 (4) "Class A utility" means any gas, electric or water
3 public utility with annual total gross operating revenues of
4 \$2.5 million or more or any telephone public utility with
5 annual total gross operating revenues of \$1,600,000 or more on
6 the effective date of this Act.

7 (5) "Corporation" means the citizens utility board.

8 (6) "Director" means any member of the board.

9 (7) "District" means a corporation district, the
10 boundaries of which are congruent with the boundaries of the
11 Congressional districts in the State.

12 (8) "Immediate family" of a person means the person's
13 spouse and legal dependents.

14 (9) "Member" means any person who satisfies the
15 requirements for membership under Section 4.

16 (10) "Periodic customer billing" means a demand for payment
17 for utility services by a public utility to a residential
18 utility consumer on a monthly or other regular basis.

19 (10.5) "Petroleum consumer" means any individual located
20 in this State who uses petroleum products, including, but not
21 limited to, gasoline, diesel fuel, biodiesel, and E-85.

22 (10.10) "Petroleum provider" means any entity providing
23 petroleum products to consumers.

24 (10.15) "Petroleum service" means the movement of
25 petroleum products for use by petroleum consumers.

26 (11) "Political committee" means any committee, club,

1 association or other group of persons which make campaign
2 expenditures or receive campaign contributions during the year
3 before an election of the board.

4 (12) "Public utility" means any person who owns, operates,
5 manages or controls any plant or equipment or any part of a
6 plant or equipment, within the State, for the conveyance of
7 telephone messages or for the production, transmission,
8 delivery or furnishing of heat, light, water or power either
9 directly or indirectly to or for the public. "Public utility"
10 includes any person engaged in the transmission or delivery of
11 natural gas for compensation within this State by means of
12 pipes or mains. "Public utility" does not include a cooperative
13 association organized for the purpose of furnishing telephone
14 service to its members only. "Public utility" does not include
15 electric cooperatives as defined in Section 3-119 of the Public
16 Utilities Act. However, "public utility" does not include
17 either public utilities that are owned and operated by a
18 political subdivision, public institution of higher education
19 or municipal corporation of this State or public utilities that
20 are owned by such political subdivision, public institution of
21 higher education, or municipal corporation and operated by any
22 of its lessees or operating agents.

23 (13) "Utility consumer" means any individual or entity,
24 which is not governmental or a public utility, which is located
25 in this State and which is furnished with a utility service by
26 a public utility.

1 (14) "Utility service" means electricity, natural gas,
2 water and telephone service supplied by a public utility.

3 (Source: P.A. 91-357, eff. 7-29-99.)

4 (220 ILCS 10/4) (from Ch. 111 2/3, par. 904)

5 Sec. 4. Citizens utility board: formation and membership.

6 (1) There is created a nonprofit public body corporate and
7 politic to be known as the "Citizens Utility Board". Any
8 utility or petroleum consumer who has submitted a membership
9 form and has contributed membership dues to the corporation in
10 the preceding 12 months shall be a member of the corporation. A
11 member may resign from membership at any time.

12 (2) The board shall, upon certification of their
13 nominations pursuant to subsection (2) of Section 12 and
14 request by the candidate, within 5 days provide to each
15 candidate for election to the board a current list of members
16 residing in the candidate's district. Such list shall include
17 the names and current addresses of members within such
18 district, and may be used by the candidate only for election
19 purposes.

20 (3) Notwithstanding any other provision of this Act or any
21 other provisions of law, if the corporation does not receive
22 contributions from at least 10,000 citizens of this State
23 within 3 years of the effective date of this Act, the
24 corporation shall be dissolved.

25 (Source: P.A. 86-101.)

1 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

2 Sec. 5. Powers and duties.

3 (1) The corporation shall:

4 (a) Represent and protect the interests of the
5 residential utility consumers and petroleum consumers of
6 this State. All actions by the corporation under this Act
7 shall be directed toward such duty; provided that the
8 corporation may also give due consideration to the
9 interests of business in the State.

10 (b) Inform, in so far as possible, all utility and
11 petroleum consumers about the corporation, including the
12 procedure for obtaining membership in the corporation.

13 (2) The corporation shall have all the powers necessary or
14 convenient for the effective representation and protection of
15 the interest of utility and petroleum consumers and to
16 implement this Act, including the following powers in addition
17 to all other powers granted by this Act.

18 (a) To make, amend and repeal bylaws and rules for the
19 regulation of its affairs and the conduct of its business;
20 to adopt an official seal and alter it at pleasure; to
21 maintain an office; to sue and be sued in its own name,
22 plead and be impleaded; and to make and execute contracts
23 and other instruments necessary or convenient to the
24 exercise of the powers of the corporation.

25 (b) To employ such agents, employees and special

1 advisors as it finds necessary and to fix their
2 compensation.

3 (c) To solicit and accept gifts, loans, including loans
4 made by the Illinois Commerce Commission from funds
5 appropriated for that purpose by law, or other aid in order
6 to support activities concerning the interests of utility
7 and petroleum consumers. Except as provided in Section 5.1,
8 the corporation may not accept gifts, loans or other aid
9 from any public utility or from any director, employee or
10 agent or member of the immediate family of a director,
11 employee or agent of any public utility or petroleum
12 provider and, after the first election the corporation, may
13 not accept from any individual, private corporation,
14 association or partnership in any single year a total of
15 more than \$1,000 in gifts. Under this paragraph, "aid" does
16 not mean payment of membership dues.

17 (d) To intervene as a party or otherwise participate on
18 behalf of utility and petroleum consumers in any proceeding
19 which affects the interest of utility or petroleum
20 consumers.

21 (e) To represent the interests of utility and petroleum
22 consumers before the Illinois Commerce Commission, the
23 Federal Energy Regulatory Commission, the Federal
24 Communications Commission, the courts, and other public
25 bodies, except that no director, employee or agent of the
26 corporation may engage in lobbying without first complying

1 with any applicable statute, administrative rule or other
2 regulation relating to lobbying.

3 (f) To establish annual dues which shall be set at a
4 level that provides sufficient funding for the corporation
5 to effectively perform its powers and duties, and is
6 affordable for as many utility and petroleum consumers as
7 is possible.

8 (g) To implement solicitation for corporation funding
9 and membership.

10 (h) To seek tax exempt status under State and federal
11 law, including 501(c)(3) status under the United States
12 Internal Revenue Code.

13 (i) To provide information and advice to utility and
14 petroleum consumers on any matter with respect to utility
15 or petroleum service, including but not limited to
16 information and advice on benefits and methods of energy
17 conservation.

18 (3) The powers, duties, rights and privileges conferred or
19 imposed upon the corporation by this Act may not be
20 transferred.

21 (4) The corporation shall refrain from interfering with
22 collective bargaining rights of any employees of a public
23 utility.

24 (Source: P.A. 91-50, eff. 6-30-99.)

25 (220 ILCS 10/6) (from Ch. 111 2/3, par. 906)

1 Sec. 6. Board. The corporation shall be managed by, and its
2 powers, functions and duties shall be exercised through a board
3 to be composed as follows:

4 (1) Election and Terms of Directors. The Citizens Utility
5 Board Districts shall be divided into two groups for the
6 purpose of establishing terms for which the Directors shall be
7 elected in each group. One group shall be comprised of the even
8 numbered Congressional Districts. The odd numbered
9 Congressional Districts shall comprise the other group.

10 (a) The Interim Board, within 60 days after their
11 appointment, shall meet and publicly by lot determine which
12 group shall be the first group and which group shall be the
13 second. The board members or their successors from the first
14 group shall be elected for successive terms of two years, two
15 years and four years; and members or their successors from the
16 second group shall be elected for successive terms of four
17 years, two years and two years.

18 (b) The first election of directors of the board is to be
19 held no later than April 30, 1985. Subsequent elections of
20 directors of the board shall be held on March 31 of each
21 election year. If March 31 falls on a weekend or holiday, the
22 election shall occur on the next business day following March
23 31.

24 (c) Interim and elected board members shall serve until
25 their successors are elected and have qualified.

26 (d) In the year following each decennial census and within

1 45 days after the redistricted Congressional Districts are
2 enacted, the board shall allocate terms between the 2 groups of
3 districts publicly by lot as provided in paragraph (a). Board
4 members or their successors from the first group shall be
5 elected for successive terms of two years, four years and four
6 years; and members or their successors from the second group
7 shall be elected for successive terms of four years, four
8 years, and two years.

9 (2) Qualifications. A director shall be a resident of the
10 district he or she represents and member of the corporation. No
11 person who is an employee in any managerial or supervisory
12 capacity, director, officer or agent or who is a member of the
13 immediate family of any such employee, director, officer or
14 agent of any public utility or any petroleum provider is
15 eligible to be a director. No director may hold any elective
16 position, be a candidate for any elective position, be a State
17 public official, be employed by the Illinois Commerce
18 Commission, or be employed in a governmental position exempt
19 from the Personnel Code.

20 (3) Director, Family Member Employment. No director, nor
21 member of his or her immediate family shall, either directly or
22 indirectly, be employed for compensation as a staff member or
23 consultant of the corporation.

24 (4) Meetings. The board shall hold regular meetings at
25 least once every 3 months on such dates and at such places as
26 it may determine. Special meetings may be called by the

1 president or by a majority of the directors upon at least 7
2 days' advance written notice. Unless otherwise provided in the
3 bylaws, a majority of the board of directors shall constitute a
4 quorum; provided, that in no event shall a quorum consist of
5 less than one-third of the board of directors. The act of the
6 majority of the directors, present at a meeting at which a
7 quorum is present, shall be the act of the board of directors
8 unless the act of a greater number is required by this Act or
9 bylaws. A summary of the minutes of every board meeting shall
10 be made available to each public library in the State upon
11 request and to individuals upon request.

12 (5) Expenses. A director may not receive any compensation
13 for his or her services but shall be reimbursed for necessary
14 expenses, including travel expenses incurred in the discharge
15 of duties. The board shall establish standard allowances for
16 mileage, room and meals and the purposes for which such
17 allowances may be made and shall determine the reasonableness
18 and necessity for such reimbursements. The board shall include
19 the schedule of such standard allowances in the annual report
20 under subsection (4) (d) of Section 7.

21 (6) Bonding. Directors and employees eligible to disburse
22 funds shall be bonded. The costs of such bonds shall be paid by
23 the corporation.

24 (Source: P.A. 84-1093.)

25 (220 ILCS 10/10) (from Ch. 111 2/3, par. 910)

1 Sec. 10. Prohibited Acts.

2 (1) No person may interfere or threaten to interfere with
3 or cause any interference with utility service or petroleum
4 service or with the utility service or petroleum service of or
5 penalize any person who contributes to the corporation or
6 participates in any of its activities, in retribution for such
7 contribution or participation.

8 (2) No person may act with intent to prevent, interfere
9 with or hinder the activities permitted under this Act.

10 (3) A person who violates this Section may be fined not
11 more than \$1,000. Each such violation shall constitute a
12 separate and continuing violation of this Act. A person who
13 knowingly and wilfully violates this Section may be imprisoned
14 not more than 6 months.

15 (Source: P.A. 83-945.)

16 (220 ILCS 10/11) (from Ch. 111 2/3, par. 911)

17 Sec. 11. Appointment of Interim Board of Directors.

18 (1) Within 90 days after the effective date of this Act, an
19 interim board of directors shall be appointed. The Board shall
20 consist of 11 members. The Governor shall appoint 3 members.
21 The President of the Senate, the Speaker of the House, the
22 Minority Leader of the Senate and the Minority Leader of the
23 House shall each appoint 2 members. The appointees shall
24 reflect the geographical diversity of this State and shall
25 include representation from minority groups, low-income

1 persons, labor organizations, business, women and senior
2 citizens. No interim director appointed under this Section may
3 hold an elective position, be a candidate for any elective
4 position, or be a State public official.

5 (2) The interim board appointed under this Section shall:

6 (a) As soon as possible after appointment, organize for the
7 transaction of business.

8 (b) Inform the utility and petroleum consumers of this
9 State of the existence, nature and purposes of the corporation,
10 and encourage utility and petroleum consumers to join the
11 corporation, to participate in the corporation's activities
12 and to contribute to the corporation.

13 (c) Establish annual dues to be in effect until such time
14 as an elected board assumes the duty as provided in paragraph
15 (2) (f) of Section 5.

16 (d) Elect officers as provided under Section 12.

17 (e) Employ such staff as the interim directors deem
18 necessary to carry out the purposes of this Section. The
19 interim board appointed under this Section shall follow the
20 procedures required under Section 7.2 if it hires an executive
21 director of the corporation.

22 (f) Make all necessary preparations for the first election
23 of directors, oversee the election campaign and tally the votes
24 under Section 12.

25 (g) Solicit funds for the corporation.

26 (h) Carry out all other duties and exercise all other

1 powers accorded to the board under this Act including the
2 powers given to the corporation under Section 9.

3 (Source: P.A. 83-945.)

4 (220 ILCS 10/12) (from Ch. 111 2/3, par. 912)

5 Sec. 12. (1) Eligibility. To be eligible for election to
6 the board, a candidate must:

7 (a) Meet the qualifications for directors under subsection
8 (2) of Section 6.

9 (b) Have his or her nomination certified by the board under
10 subsection (2) of this Section.

11 (c) Submit to the board a statement of financial interests
12 under subsection (3) and a statement of personal background and
13 positions under subsection (4).

14 (d) Make the affirmation under subsection (3) (e).

15 (2) Nomination. A candidate for election to the board shall
16 circulate or have a member of the corporation circulate a
17 petition for nomination on the candidate's behalf not sooner
18 than 120 days preceding the election and shall file the
19 petition with the corporation not later than 60 days prior to
20 the election. The petition for nomination shall be signed by at
21 least 5% or 30, whichever is less, of the members residing in
22 his or her district. The board shall verify the validity of the
23 signatures by comparing them to the signatures on the
24 membership applications and the current list of members
25 maintained by the Board. Within 14 days after the petition is

1 due, the board shall determine whether a sufficient number of
2 signatures are valid. If the board determines a sufficient
3 number are valid, it shall certify the nomination of the
4 candidate.

5 (3) Statement of financial interests. A candidate for
6 election to the board whose nomination is certified under
7 subsection (2) shall submit to the board, not later than 60
8 days prior to the election, a statement of financial interests
9 upon a form provided by the board. The statement of financial
10 interests shall include the following information:

11 (a) The occupation, employer and position at place of
12 employment of the candidate and of his or her immediate family
13 members.

14 (b) A list of all corporate directorships or other offices,
15 and of all fiduciary relationships, held in the past 3 years by
16 the candidate and by his or her immediate family members.

17 (c) The name of any creditor to whom the candidate or a
18 member of the candidate's immediate family owes \$10,000 or
19 more.

20 (d) The name of any corporation in which the candidate
21 holds a security, the current market value of which is \$5,000
22 or more.

23 (e) An affirmation, subject to penalty of perjury, that the
24 information contained in the statement of financial interests
25 is true and complete.

26 (4) Statement of personal background and positions. A

1 candidate for election to the board whose nomination is
2 certified under subsection (2) shall submit to the board, not
3 later than 60 days prior to the election, on a form to be
4 provided by the board, a statement concerning his or her
5 personal background and positions on issues relating to public
6 utilities, petroleum, or the operations of the corporation. The
7 statement shall contain an affirmation, subject to penalty of
8 perjury, that the candidate meets the qualifications
9 prescribed for directors in subsection (2) of Section 6.

10 (5) Restrictions on a reporting of campaign contributions
11 and expenditures. (a) No candidate may accept more than \$200 in
12 campaign contributions from any person or political committee
13 from one year before the date of an election through the date
14 of the election.

15 (b) Each candidate for election to the board shall keep
16 complete records of all contributions to his or her campaign of
17 \$25 or more from one year before the date of an election
18 through the date of the election, and, at the board's request,
19 shall make such records available for inspection by the board.

20 (c) As a condition for receiving the benefits of the
21 board's mailing under subsection (6), a candidate for election
22 to the board shall agree in writing to incur no more than
23 \$2,500 in campaign expenditures from the time he or she
24 commences circulation of petitions for nomination or from 4
25 months prior to the election, whichever is earlier, through the
26 date of the election.

1 (d) Each candidate for election to the board shall keep
2 complete records of his or her campaign expenditures, and, at
3 the board's request, shall make such records available for
4 inspection by the board.

5 (e) No earlier than 14 days and no later than 8 days
6 preceding the election and no earlier than 21 days and no later
7 than 30 days after the election, each candidate for election to
8 the board shall submit to the board, on a form provided by the
9 board, an accurate statement of his or her campaign
10 contributions, swearing that he or she has fully complied with
11 the requirements of this subsection.

12 (f) No candidate for election to the board may use any
13 campaign contribution for any purpose except for campaign
14 expenditures. Any campaign contribution not expended shall be
15 donated no later than 90 days after the election to the
16 corporation or to any charitable organization at the option of
17 the candidate.

18 (6) Election procedures. (a) The board shall mail or
19 distribute to each member's address on file with the
20 corporation, not sooner than 30 and not later than 10 days
21 before the date fixed for the election:

22 (i) An official ballot listing all candidates for director
23 from the member's district whose nominations the board has
24 certified and who satisfy the requirements of subsection (1).
25 The board shall include with the ballot each candidate's
26 statement of financial interests submitted under subsection

1 (3).

2 (ii) The statement by each candidate for election to the
3 board of personal background and positions as required under
4 subsection (4), if the candidate has agreed in writing to limit
5 his or her campaign expenditures under subsection (5) (c).

6 (b) Each member may vote in the election by returning his
7 or her official ballot in person or by first class mail,
8 properly marked, to the ballot return location designated by
9 the corporation. Ballots returned to the location designated by
10 the corporation must be postmarked on or before the date fixed
11 for the election or must be received at the ballot return
12 location designated by the corporation on or before the date
13 fixed for the election.

14 (c) Voting shall be by secret ballot.

15 (d) The board shall tally votes with all reasonable speed
16 and shall inform the membership promptly of the names of the
17 candidates elected.

18 (e) For each district the board within 30 days of the
19 election shall certify the candidate elected to the board if
20 the candidate has the most votes in the district and if he or
21 she has complied with this Section.

22 (f) If a vacancy in nomination occurs because no candidate
23 has filed for nomination, the board by a majority of those
24 voting shall appoint a member of the corporation who resides in
25 the district where the vacancy exists to be the candidate.

26 (g) If the candidate with the most votes dies, declines or

1 resigns from candidacy prior to being certified under paragraph
2 (e), or for any other reason is not certified under paragraph
3 (e), the office for which the candidate ran shall be vacant and
4 shall be filled by the board as provided herein.

5 (h) If a vacancy on the Board occurs, with more than 12
6 months remaining in the term, the Board shall set a date for a
7 special election for the district for the purpose of electing a
8 director to serve out the term of the vacant office and shall
9 so notify every member in the district. The election may not be
10 less than 2 months nor more than 4 months after such
11 notification. An election under this Section shall be conducted
12 in the same manner as other elections of directors are
13 conducted. The seat shall remain vacant if there is 8 months or
14 less remaining in the term.

15 (7) Election rules. The board may prescribe rules for the
16 conduct of elections and election campaigns not inconsistent
17 with this Act.

18 (Source: P.A. 84-1093.)

19 (220 ILCS 10/20) (from Ch. 111 2/3, par. 920)

20 Sec. 20. Liability of public utility. No public utility or
21 petroleum provider shall be liable on any claim based on any
22 action it is required to take to be in compliance with this
23 Act.

24 (Source: P.A. 83-945.)

1 (220 ILCS 10/21) (from Ch. 111 2/3, par. 921)

2 Sec. 21. Home rule preemption. The provisions of this Act
3 are declared to be an exclusive exercise of power by the State
4 of Illinois pursuant to paragraphs (h) or (i) of Section 6 of
5 Article VII of the Illinois Constitution. No home rule unit may
6 impose any requirement or regulation on any public utility or
7 petroleum provider inconsistent with or in addition to the
8 requirements or regulations set forth in this Act.

9 (Source: P.A. 83-945.)