



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB0264

Introduced 2/4/2009, by Sen. Michael W. Frerichs

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-119.1-4	from Ch. 24, par. 11-119.1-4
65 ILCS 5/11-119.2-4	from Ch. 24, par. 11-119.2-4

Amends the Illinois Municipal Code. Authorizes the Board of Directors of a municipal electric power agency and a municipal natural gas agency to determine and designate in their respective agency's bylaws the titles for the "presiding officers" of the Board of Directors (now, president and vice-president). Provides that the Board of Directors may select the titles for their respective agency's officers, employees, and agents. Deletes the requirement that at the first meeting of each fiscal year the Board of Directors elect certain officers.

LRB096 04646 RLJ 14705 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Sections 11-119.1-4 and 11-119.2-4 as follows:

6 (65 ILCS 5/11-119.1-4) (from Ch. 24, par. 11-119.1-4)

7 Sec. 11-119.1-4. Municipal Power Agencies. A. Any 2 or more  
8 municipalities, contiguous or noncontiguous, and which operate  
9 an electric utility system, may form a municipal power agency  
10 by the execution of an agency agreement authorized by an  
11 ordinance adopted by the governing body of each municipality.  
12 The agency agreement may state:

13 (1) that the municipal power agency is created and  
14 incorporated under the provisions of this Division as a body  
15 politic and corporate, municipal corporation and unit of local  
16 government of the State of Illinois;

17 (2) the name of the agency and the date of its  
18 establishment;

19 (3) that names of the municipalities which have adopted the  
20 agency agreement and constitute the initial members of the  
21 municipal power agency;

22 (4) the names and addresses of the persons initially  
23 appointed in the ordinances adopting the agency agreement to

1 serve on the Board of Directors and act as the representatives  
2 of the municipalities, respectively, in the exercise of their  
3 powers as members;

4 (5) the limitations, if any, upon the terms of office of  
5 the directors, provided that such directors shall always be  
6 selected and vacancies in their offices declared and filled by  
7 ordinances adopted by the governing body of the respective  
8 municipalities;

9 (6) the location by city, village or incorporated town in  
10 the State of Illinois of the principal office of the municipal  
11 power agency;

12 (7) provisions for the disposition, division or  
13 distribution of obligations, property and assets of the  
14 municipal power agency upon dissolution; and

15 (8) any other provisions for regulating the business of the  
16 municipal power agency or the conduct of its affairs which may  
17 be agreed to by the member municipalities, consistent with this  
18 Division, including, without limitation, any provisions for  
19 weighted voting among the member municipalities or by the  
20 directors.

21 B. The presiding ~~chief executive~~ officer of the Board of  
22 Directors of any municipal power agency established pursuant to  
23 this Division or such other officer selected by the Board of  
24 Directors, within 3 months after establishment, shall file a  
25 certified copy of the agency agreement and a list of the  
26 municipalities which have adopted the agreement with the

1 recorder of deeds of the county in which the principal office  
2 is located. The recorder of deeds shall record this certified  
3 copy and list and shall immediately transmit the certified copy  
4 and list to the Secretary of State, together with his  
5 certificate of recordation. The Secretary of State shall file  
6 these documents and issue his certificate of approval over his  
7 signature and the Great Seal of the State. The Secretary of  
8 State shall make and keep a register of municipal power  
9 agencies established under this Division.

10 C. Each municipality which becomes a member of the  
11 municipal power agency shall appoint a representative to serve  
12 on the Board of Directors, which representative may be a member  
13 of the governing body of the municipality. Each appointment  
14 shall be made by the mayor, or president, subject to the  
15 confirmation of the governing body. The directors so appointed  
16 shall hold office for a term of 3 years, or until a successor  
17 has been duly appointed and qualified, except that the  
18 directors first appointed shall determine by lot at their  
19 initial meeting the respective directors which shall serve for  
20 a term of one, 2 or 3 years from the date of that meeting. A  
21 vacancy shall be filled for the balance of the unexpired term  
22 in the same manner as the original appointment.

23 The Board of Directors is the corporate authority of the  
24 municipal power agency and shall exercise all the powers and  
25 manage and control all of the affairs and property of the  
26 agency. The Board of Directors shall have full power to pass

1 all necessary ordinances, resolutions, rules and regulations  
2 for the proper management and conduct of the business of the  
3 board, and for carrying into effect the objects for which the  
4 agency was established.

5 At the initial meeting of the Board of Directors to be held  
6 within 30 days after the date of establishment of the municipal  
7 power agency ~~and at the first meeting of each fiscal year~~  
8 ~~thereafter~~, the directors shall elect from their members a  
9 presiding officer to preside over the meetings of the Board of  
10 Directors ~~president~~ and an alternative presiding officer  
11 ~~vice-president~~ and may elect an executive board. The Board of  
12 Directors shall determine and designate in the agency's bylaws  
13 the titles for the presiding officers. The directors shall also  
14 elect a secretary and treasurer, who need not be directors. The  
15 board may select such other officers, employees and agents as  
16 deemed to be necessary, who need not be directors or residents  
17 of any of the municipalities which are members of the municipal  
18 power agency. The board may designate appropriate titles for  
19 all other officers, employees, and agents. All persons selected  
20 by the board shall hold their respective offices during the  
21 pleasure of the board, and give such bond as may be required by  
22 the board.

23 D. The bylaws of the municipal power agency, and any  
24 amendments thereto, shall be adopted by the Board of Directors  
25 by a majority vote (adjusted for weighted voting, if provided  
26 in the Agency Agreement) to provide the following:

- 1 (1) the conditions and obligations of membership, if any;
- 2 (2) the manner and time of calling regular and special  
3 meetings of the Board of Directors;
- 4 (3) the procedural rules of the Board of Directors;
- 5 (4) the composition, powers and responsibilities of any  
6 committee or executive board;
- 7 (5) the rights and obligations of new members, and the  
8 disposition of rights and obligations upon termination of  
9 membership; and
- 10 (6) such other rules or provisions for regulating the  
11 affairs of the municipal power agency as the board shall  
12 determine to be necessary.

13 E. Every municipal power agency shall maintain an office in  
14 the State of Illinois to be known as its principal office. When  
15 a municipal power agency desires to change the location of such  
16 office, it shall file with the Secretary of State a certificate  
17 of change of location, stating the new address and the  
18 effective date of change. Meetings of the Board of Directors  
19 may be held at any place within the State of Illinois,  
20 designated by the Board of Directors, after notice. Unless  
21 otherwise provided by the bylaws, an act of the majority of the  
22 directors present at a meeting at which a quorum is present is  
23 the act of the Board of Directors.

24 F. The Board of Directors shall hold at least one meeting  
25 each year for the election of officers and for the transaction  
26 of any other business. Special meetings of the Board of

1 Directors may be called for any purpose upon written request to  
2 the presiding officer of the Board of Directors ~~president~~ or  
3 secretary to call the meeting. Such officer shall give notice  
4 of the meeting to be held not less than 10 days and not more  
5 than 60 days after receipt of such request. Unless the bylaws  
6 provide for a different percentage, a quorum for a meeting of  
7 the Board of Directors is a majority of all members then in  
8 office. All meetings of the board shall be held in compliance  
9 with the provisions of "An Act in relation to meetings",  
10 approved July 11, 1957, as amended.

11 G. The agency agreement may be amended as proposed at any  
12 meeting of the Board of Directors for which notice, stating the  
13 purpose, shall be given to each director and, unless the bylaws  
14 prescribe otherwise, such amendment shall become effective  
15 when ratified by ordinances adopted by a majority of the  
16 governing bodies of the member municipalities. Each amendment,  
17 duly certified, shall be recorded and filed in the same manner  
18 as for the original agreement.

19 H. Each member municipality shall have full power and  
20 authority, subject to the provisions of its charter and laws  
21 regarding local finance, to appropriate money for the payment  
22 of the expenses of the municipal power agency and of its  
23 representative in exercising its functions as a member of the  
24 municipal power agency.

25 I. Any additional municipality which operates an electric  
26 utility system may join the municipal power agency, or any

1 member municipality may withdraw therefrom upon the approval by  
2 ordinance adopted by the governing body of the majority of the  
3 municipalities which are then members of the municipal power  
4 agency. Any new member shall agree to assume its proportionate  
5 share of the outstanding obligations of the municipal power  
6 agency and any member permitted to withdraw shall remain  
7 obligated to make payments under any outstanding contract or  
8 agreement with the municipal power agency. Any such change in  
9 membership shall be recorded and filed in the same manner as  
10 for the original agreement.

11 J. Any 2 or more municipal power agencies organized  
12 pursuant to this Division may consolidate to form a new  
13 municipal power agency when approved by ordinance adopted by  
14 the governing body of each municipality which is a member of  
15 the respective municipal power agency and by the execution of  
16 an agency agreement as provided in this Section.

17 (Source: P.A. 83-997.)

18 (65 ILCS 5/11-119.2-4) (from Ch. 24, par. 11-119.2-4)

19 Sec. 11-119.2-4. A. Any 2 or more municipalities,  
20 contiguous or noncontiguous, and which operate a natural gas  
21 plant or system, may form a municipal natural gas agency by the  
22 execution of an agency agreement authorized by an ordinance  
23 adopted by the governing body of each municipality. The agency  
24 agreement may state:

25 (1) that the municipal natural gas agency is created and



1 incorporated under the provisions of this Division as a body  
2 politic and corporate, municipal corporation and unit of local  
3 government of the State of Illinois;

4 (2) the name of the agency and the date of its  
5 establishment;

6 (3) the names of the municipalities which have adopted the  
7 agency agreement and constitute the initial members of the  
8 municipal natural gas agency;

9 (4) the names and addresses of the persons initially  
10 appointed in the ordinances adopting the agency agreement to  
11 serve on the Board of Directors and act as the representatives  
12 of the municipalities, respectively, in the exercise of their  
13 powers as members;

14 (5) the limitations, if any, upon the terms of office of  
15 the directors, provided that such directors shall always be  
16 selected and vacancies in their offices declared and filled by  
17 ordinances adopted by the governing body of the respective  
18 municipalities;

19 (6) the location by city, village or incorporated town in  
20 the State of Illinois of the principal office of the municipal  
21 natural gas agency;

22 (7) provisions for the disposition, division or  
23 distribution of obligations, property and assets of the  
24 municipal natural gas agency upon dissolution; and

25 (8) any other provisions for regulating the business of the  
26 municipal natural gas agency or the conduct of its affairs

1 which may be agreed to by the member municipalities, consistent  
2 with this Division, including, without limitation, any  
3 provisions for weighted voting among the member municipalities  
4 or by the directors.

5 B. The presiding ~~chief executive~~ officer of the Board of  
6 Directors of any municipal natural gas agency established  
7 pursuant to this Division or such other officer selected by the  
8 Board of Directors, within 3 months after establishment, shall  
9 file a certified copy of the agency agreement and a list of the  
10 municipalities which have adopted the agreement with the  
11 recorder of the county in which the principal office is  
12 located. The recorder shall record this certified copy and list  
13 and shall immediately transmit the certified copy and list to  
14 the Secretary of State, together with his certificate of  
15 recordation. The Secretary of State shall file these documents  
16 and issue his certificate of approval over his signature and  
17 the Great Seal of the State. The Secretary of State shall make  
18 and keep a register of municipal natural gas agencies  
19 established under this Division.

20 C. Each municipality which becomes a member of the  
21 municipal natural gas agency shall appoint a representative to  
22 serve on the Board of Directors, which representative may be a  
23 member of the governing body of the municipality. Each  
24 appointment shall be made by the mayor, or president, subject  
25 to the confirmation of the governing body. The directors so  
26 appointed shall hold office for a term of 3 years, or until a

1 successor has been duly appointed and qualified, except that  
2 the directors first appointed shall determine by lot at their  
3 initial meeting the respective directors which shall serve for  
4 a term of one, 2 or 3 years from the date of that meeting. A  
5 vacancy shall be filled for the balance of the unexpired term  
6 in the same manner as the original appointment.

7 The Board of Directors is the corporate authority of the  
8 municipal natural gas agency and shall exercise all the powers  
9 and manage and control all of the affairs and property of the  
10 agency. The Board of Directors shall have full power to pass  
11 all necessary ordinances, resolutions, rules and regulations  
12 for the proper management and conduct of the business of the  
13 board, and for carrying into effect the objects for which the  
14 agency was established.

15 At the initial meeting of the Board of Directors to be held  
16 within 30 days after the date of establishment of the municipal  
17 natural gas agency ~~and at the first meeting of each fiscal year~~  
18 ~~thereafter~~, the directors shall elect from their members a  
19 presiding officer to preside over the meetings of the Board of  
20 Directors ~~president~~ and an alternate presiding officer  
21 ~~vice-president~~ and may elect an executive board. The Board of  
22 Directors shall determine and designate in the agency's bylaws  
23 the titles for the presiding officers. The directors shall also  
24 elect a secretary and treasurer, who need not be directors. The  
25 board may select such other officers, employees and agents as  
26 deemed to be necessary, who need not be directors or residents

1 of any of the municipalities which are members of the municipal  
2 natural gas agency. The board may designate appropriate titles  
3 for all other officers, employees, and agents. All persons  
4 selected by the board shall hold their respective offices  
5 during the pleasure of the board, and give such bond as may be  
6 required by the board.

7 D. The bylaws of the municipal natural gas agency, and any  
8 amendments thereto, shall be adopted by the Board of Directors  
9 by a majority vote (adjusted for weighted voting, if provided  
10 in the Agency Agreement) to provide the following:

11 (1) the conditions and obligations of membership, if any;

12 (2) the manner and time of calling regular and special  
13 meetings of the Board of Directors;

14 (3) the procedural rules of the Board of Directors;

15 (4) the composition, powers and responsibilities of any  
16 committee or executive board;

17 (5) the rights and obligations of new members, and the  
18 disposition of rights and obligations upon termination of  
19 membership; and

20 (6) such other rules or provisions for regulating the  
21 affairs of the municipal natural gas agency as the board shall  
22 determine to be necessary.

23 E. Every municipal natural gas agency shall maintain an  
24 office in the State of Illinois to be known as its principal  
25 office. When a municipal natural gas agency desires to change  
26 the location of such office, it shall file with the Secretary

1 of State a certificate of change of location, stating the new  
2 address and the effective date of change. Meetings of the Board  
3 of Directors may be held at any place within the State of  
4 Illinois, designated by the Board of Directors, after notice.  
5 Unless otherwise provided by the bylaws, an act of the majority  
6 of the directors present at a meeting at which a quorum is  
7 present is the act of the Board of Directors.

8 F. The Board of Directors shall hold at least one meeting  
9 each year for the election of officers and for the transaction  
10 of any other business. Special meetings of the Board of  
11 Directors may be called for any purpose upon written request to  
12 the presiding officer of the Board of Directors ~~president~~ or  
13 secretary to call the meeting. Such officer shall give notice  
14 of the meeting to be held not less than 10 days and not more  
15 than 60 days after receipt of such request. Unless the bylaws  
16 provide for a different percentage, a quorum for a meeting of  
17 the Board of Directors is a majority of all members then in  
18 office. All meetings of the board shall be held in compliance  
19 with the provisions of the Open Meetings Act.

20 G. The agency agreement may be amended as proposed at any  
21 meeting of the Board of Directors for which notice, stating the  
22 purpose, shall be given to each director and, unless the bylaws  
23 prescribe otherwise, such amendment shall become effective  
24 when ratified by ordinances adopted by a majority of the  
25 governing bodies of the member municipalities. Each amendment,  
26 duly certified, shall be recorded and filed in the same manner

1 as for the original agreement.

2 H. Each member municipality shall have full power and  
3 authority, subject to the provisions of its charter and laws  
4 regarding local finance, to appropriate money for the payment  
5 of the expenses of the municipal natural gas agency and of its  
6 representative in exercising its functions as a member of the  
7 municipal natural gas agency.

8 I. Any additional municipality which operates a natural gas  
9 plant or system may join the municipal natural gas agency, or  
10 any member municipality may withdraw therefrom upon the  
11 approval by ordinance adopted by the governing body of the  
12 majority of the municipalities which are then members of the  
13 municipal natural gas agency. Any new member shall agree to  
14 assume its proportionate share of the outstanding obligations  
15 of the municipal natural gas agency and any member permitted to  
16 withdraw shall remain obligated to make payments under any  
17 outstanding contract or agreement with the municipal natural  
18 gas agency. Any such change in membership shall be recorded and  
19 filed in the same manner as for the original agreement.

20 J. Any 2 or more municipal natural gas agencies organized  
21 pursuant to this Division may consolidate to form a new  
22 municipal natural gas agency when approved by ordinance adopted  
23 by the governing body of each municipality which is a member of  
24 the respective municipal natural gas agency and by the  
25 execution of an agency agreement as provided in this Section.

26 (Source: P.A. 84-1221.)