

SB3170



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3170

Introduced 2/1/2012, by Sen. Suzi Schmidt

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-92

Amends the Illinois Power Agency Act. Provides that township boards may adopt ordinances under which they may aggregate residential and small commercial retail electrical loads located within the township. Effective immediately.

LRB097 17604 CEL 62811 b

A BILL FOR

1 AN ACT concerning utilities.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Section 1-92 as follows:

6 (20 ILCS 3855/1-92)

7 Sec. 1-92. Aggregation of electrical load by
8 municipalities, townships, and counties.

9 (a) The corporate authorities of a municipality, township
10 board, or county board of a county may adopt an ordinance under
11 which it may aggregate in accordance with this Section
12 residential and small commercial retail electrical loads
13 located, respectively, within the municipality, the township,
14 or the unincorporated areas of the county and, for that
15 purpose, may solicit bids and enter into service agreements to
16 facilitate for those loads the sale and purchase of electricity
17 and related services and equipment.

18 The corporate authorities, township board, or county board
19 may also exercise such authority jointly with any other
20 municipality, township, or county. Two or more municipalities,
21 townships, or counties, or a combination of both, may initiate
22 a process jointly to authorize aggregation by a majority vote
23 of each particular municipality, township, or county as

1 required by this Section.

2 If the corporate authorities, township board, or the county
3 board seek to operate the aggregation program as an opt-out
4 program for residential and small commercial retail customers,
5 then prior to the adoption of an ordinance with respect to
6 aggregation of residential and small commercial retail
7 electric loads, the corporate authorities of a municipality, the township board, or the county board of a county shall
8 submit a referendum to its residents to determine whether or
9 not the aggregation program shall operate as an opt-out program
10 for residential and small commercial retail customers.
11

12 In addition to the notice and conduct requirements of the
13 general election law, notice of the referendum shall state
14 briefly the purpose of the referendum. The question of whether
15 the corporate authorities, the township board, or the county
16 board shall adopt an opt-out aggregation program for
17 residential and small commercial retail customers shall be
18 submitted to the electors of the municipality, township board,
19 or county board at a regular election and approved by a
20 majority of the electors voting on the question. The corporate
21 authorities, township board, or county board must certify to
22 the proper election authority, which must submit the question
23 at an election in accordance with the Election Code.

24 The election authority must submit the question in
25 substantially the following form:

26 Shall the (municipality, township, or county in which

1 the question is being voted upon) have the authority to
2 arrange for the supply of electricity for its residential
3 and small commercial retail customers who have not opted
4 out of such program?

5 The election authority must record the votes as "Yes" or "No".

6 If a majority of the electors voting on the question vote
7 in the affirmative, then the corporate authorities, township
8 board, or county board may implement an opt-out aggregation
9 program for residential and small commercial retail customers.

10 A referendum must pass in each particular municipality,
11 township, or county that is engaged in the aggregation program.
12 If the referendum fails, then the corporate authorities,
13 township board, or county board shall operate the aggregation
14 program as an opt-in program for residential and small
15 commercial retail customers.

16 An ordinance under this Section shall specify whether the
17 aggregation will occur only with the prior consent of each
18 person owning, occupying, controlling, or using an electric
19 load center proposed to be aggregated. Nothing in this Section,
20 however, authorizes the aggregation of electric loads that are
21 served or authorized to be served by an electric cooperative as
22 defined by and pursuant to the Electric Supplier Act or loads
23 served by a municipality that owns and operates its own
24 electric distribution system. No aggregation shall take effect
25 unless approved by a majority of the members of the corporate
26 authority, township board, or county board voting upon the

1 ordinance.

2 A governmental aggregator under this Section is not a
3 public utility or an alternative retail electric supplier.

4 (b) Upon the applicable requisite authority under this
5 Section, the corporate authorities, the township board, or the
6 county board, with assistance from the Illinois Power Agency,
7 shall develop a plan of operation and governance for the
8 aggregation program so authorized. Before adopting a plan under
9 this Section, the corporate authorities, township board, or
10 county board shall hold at least 2 public hearings on the plan.
11 Before the first hearing, the corporate authorities, township
12 board, or county board shall publish notice of the hearings
13 once a week for 2 consecutive weeks in a newspaper of general
14 circulation in the jurisdiction. The notice shall summarize the
15 plan and state the date, time, and location of each hearing.
16 Any load aggregation plan established pursuant to this Section
17 shall:

18 (1) provide for universal access to all applicable
19 residential customers and equitable treatment of
20 applicable residential customers;

21 (2) describe demand management and energy efficiency
22 services to be provided to each class of customers; and

23 (3) meet any requirements established by law
24 concerning aggregated service offered pursuant to this
25 Section.

26 (c) The process for soliciting bids for electricity and

1 other related services and awarding proposed agreements for the
2 purchase of electricity and other related services shall be
3 conducted in the following order:

4 (1) The corporate authorities, township board, or
5 county board may solicit bids for electricity and other
6 related services.

7 (2) Notwithstanding Section 16-122 of the Public
8 Utilities Act and Section 2HH of the Consumer Fraud and
9 Deceptive Business Practices Act, an electric utility that
10 provides residential and small commercial retail electric
11 service in the aggregate area must, upon request of the
12 corporate authorities, the township board, or the county
13 board in the aggregate area, submit to the requesting
14 party, in an electronic format, those account numbers,
15 names, and addresses of residential and small commercial
16 retail customers in the aggregate area that are reflected
17 in the electric utility's records at the time of the
18 request. Any corporate authority, township board, or
19 county board receiving customer information from an
20 electric utility shall be subject to the limitations on the
21 disclosure of the information described in Section 16-122
22 of the Public Utilities Act and Section 2HH of the Consumer
23 Fraud and Deceptive Business Practices Act, and an electric
24 utility shall not be held liable for any claims arising out
25 of the provision of information pursuant to this item (2).

26 (d) If the corporate authorities, township board, or county

1 board operate under an opt-in program for residential and small
2 commercial retail customers, then the corporate authorities,
3 township board, or county board shall comply with all of the
4 following:

5 (1) Within 60 days after receiving the bids, the
6 corporate authorities, township board, or county board
7 shall allow residential and small commercial retail
8 customers to commit to the terms and conditions of a bid
9 that has been selected by the corporate authorities,
10 township board, or county board.

11 (2) If (A) the corporate authorities, township board,
12 or county board award proposed agreements for the purchase
13 of electricity and other related services and (B) an
14 agreement is reached between the corporate authorities,
15 township board, or county board for those services, then
16 customers committed to the terms and conditions according
17 to item (1) of this subsection (d) shall be committed to
18 the agreement.

19 (e) If the corporate authorities, township board, or county
20 board operate as an opt-out program for residential and small
21 commercial retail customers, then it shall be the duty of the
22 aggregated entity to fully inform residential and small
23 commercial retail customers in advance that they have the right
24 to opt out of the aggregation program. The disclosure shall
25 prominently state all charges to be made and shall include full
26 disclosure of the cost to obtain service pursuant to Section

1 16-103 of the Public Utilities Act, how to access it, and the
2 fact that it is available to them without penalty, if they are
3 currently receiving service under that Section. The Illinois
4 Power Agency shall furnish, without charge, to any citizen a
5 list of all supply options available to them in a format that
6 allows comparison of prices and products.

7 The Illinois Power Agency shall provide assistance to
8 municipalities, townships, counties, or associations working
9 with municipalities to help complete the plan and bidding
10 process.

11 This Section does not prohibit municipalities or counties
12 from entering into an intergovernmental agreement to aggregate
13 residential and small commercial retail electric loads.

14 (Source: P.A. 96-176, eff. 1-1-10; 97-338, eff. 8-12-11.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.