



Sen. Suzi Schmidt

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09700SB3170sam002

LRB097 17604 CEL 67893 a

1 AMENDMENT TO SENATE BILL 3170

2 AMENDMENT NO. _____. Amend Senate Bill 3170, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 3855/1-92)

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

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

1 facilitate for those loads the sale and purchase of electricity
2 and related services and equipment.

3 The corporate authorities, township board, or county board
4 may also exercise such authority jointly with any other
5 municipality, township, or county. Two or more municipalities, townships,
6 townships, or counties, or a combination of both, may initiate
7 a process jointly to authorize aggregation by a majority vote
8 of each particular municipality, township, or county as
9 required by this Section.

10 If the corporate authorities, township board, or the county
11 board seek to operate the aggregation program as an opt-out
12 program for residential and small commercial retail customers,
13 then prior to the adoption of an ordinance with respect to
14 aggregation of residential and small commercial retail
15 electric loads, the corporate authorities of a municipality, the township board,
16 the township board, or the county board of a county shall
17 submit a referendum to its residents to determine whether or
18 not the aggregation program shall operate as an opt-out program
19 for residential and small commercial retail customers.

20 In addition to the notice and conduct requirements of the
21 general election law, notice of the referendum shall state
22 briefly the purpose of the referendum. The question of whether
23 the corporate authorities, the township board, or the county
24 board shall adopt an opt-out aggregation program for
25 residential and small commercial retail customers shall be
26 submitted to the electors of the municipality, township board,

1 or county board at a regular election and approved by a
2 majority of the electors voting on the question. The corporate
3 authorities, township board, or county board must certify to
4 the proper election authority, which must submit the question
5 at an election in accordance with the Election Code.

6 The election authority must submit the question in
7 substantially the following form:

8 Shall the (municipality, township, or county in which
9 the question is being voted upon) have the authority to
10 arrange for the supply of electricity for its residential
11 and small commercial retail customers who have not opted
12 out of such program?

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

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

18 A referendum must pass in each particular municipality, township,
19 township, or county that is engaged in the aggregation program.
20 If the referendum fails, then the corporate authorities, township,
21 township board, or county board shall operate the aggregation
22 program as an opt-in program for residential and small
23 commercial retail customers.

24 An ordinance under this Section shall specify whether the
25 aggregation will occur only with the prior consent of each
26 person owning, occupying, controlling, or using an electric

1 load center proposed to be aggregated. Nothing in this Section,
2 however, authorizes the aggregation of electric loads that are
3 served or authorized to be served by an electric cooperative as
4 defined by and pursuant to the Electric Supplier Act or loads
5 served by a municipality that owns and operates its own
6 electric distribution system. No aggregation shall take effect
7 unless approved by a majority of the members of the corporate
8 authority, township board, or county board voting upon the
9 ordinance.

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

12 For purposes of this Section, "township" means the portion
13 of a township that is an unincorporated portion of a county
14 that is not otherwise a part of a municipality. In addition to
15 such other limitations as are included in this Section, a
16 township board shall only have authority to aggregate
17 residential and small commercial customer loads in accordance
18 with this Section if the county board of the county in which
19 the township is located (i) is not also submitting a referendum
20 to its residents at the same general election that the township
21 board proposes to submit a referendum under this subsection
22 (a), (ii) has not received authorization through passage of a
23 referendum to operate an opt-out aggregation program for
24 residential and small commercial retail customers under to this
25 subsection (a), and (iii) has not otherwise enacted an
26 ordinance under this subsection (a) authorizing the operation

1 of an opt-in aggregation program for residential and small
2 commercial retail customers as described in this Section.

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

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

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

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

25 (c) The process for soliciting bids for electricity and
26 other related services and awarding proposed agreements for the

1 purchase of electricity and other related services shall be
2 conducted in the following order:

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

6 (2) Notwithstanding Section 16-122 of the Public
7 Utilities Act and Section 2HH of the Consumer Fraud and
8 Deceptive Business Practices Act, an electric utility that
9 provides residential and small commercial retail electric
10 service in the aggregate area must: τ

11 (A) upon request of the corporate authorities or
12 the county board in the aggregate area, submit to the
13 requesting party, in an electronic format, those
14 account numbers, names, and addresses of residential
15 and small commercial retail customers in the aggregate
16 area that are reflected in the electric utility's
17 records at the time of the request; and

18 (B) following the township board's submission to
19 the electric utility of those zip codes included in the
20 aggregate area, submit to the township board, in an
21 electronic format or other means selected by the
22 electric utility, those names and addresses of
23 residential and small commercial retail customers that
24 are located in such zip codes as reflected in the
25 electric utility's records at the time of the request;
26 upon the township board's receipt of the information

1 provided by the electric utility, the township board
2 shall review the information and submit to the electric
3 utility, in an electronic format or other means
4 selected by the utility, either confirmation that the
5 information is accurate or corrections to the
6 information.

7 Any corporate authority, township board, or county board
8 receiving customer information from an electric utility shall
9 be subject to the limitations on the disclosure of the
10 information described in Section 16-122 of the Public Utilities
11 Act and Section 2HH of the Consumer Fraud and Deceptive
12 Business Practices Act, and an electric utility shall not be
13 held liable for any claims arising out of the provision of
14 information pursuant to this item (2).

15 (d) If the corporate authorities, township board, or county
16 board operate under an opt-in program for residential and small
17 commercial retail customers, then the corporate authorities, ,
18 township board, or county board shall comply with all of the
19 following:

20 (1) Within 60 days after receiving the bids, the
21 corporate authorities, township board, or county board
22 shall allow residential and small commercial retail
23 customers to commit to the terms and conditions of a bid
24 that has been selected by the corporate authorities, ,
25 township board, or county board.

26 (2) If (A) the corporate authorities, township board,

1 or county board award proposed agreements for the purchase
2 of electricity and other related services and (B) an
3 agreement is reached between the corporate authorities,
4 township board, or county board for those services, then
5 customers committed to the terms and conditions according
6 to item (1) of this subsection (d) shall be committed to
7 the agreement.

8 (e) If the corporate authorities, township board, or county
9 board operate as an opt-out program for residential and small
10 commercial retail customers, then it shall be the duty of the
11 aggregated entity to fully inform residential and small
12 commercial retail customers in advance that they have the right
13 to opt out of the aggregation program. The disclosure shall
14 prominently state all charges to be made and shall include full
15 disclosure of the cost to obtain service pursuant to Section
16 16-103 of the Public Utilities Act, how to access it, and the
17 fact that it is available to them without penalty, if they are
18 currently receiving service under that Section. The Illinois
19 Power Agency shall furnish, without charge, to any citizen a
20 list of all supply options available to them in a format that
21 allows comparison of prices and products.

22 The Illinois Power Agency shall provide assistance to
23 municipalities, townships, counties, or associations working
24 with municipalities to help complete the plan and bidding
25 process.

26 This Section does not prohibit municipalities or counties

1 from entering into an intergovernmental agreement to aggregate
2 residential and small commercial retail electric loads.

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".