

1 AN ACT concerning State government.

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,
8 the township board, or the county board of a county shall
9 submit a referendum to its residents to determine whether or
10 not the aggregation program shall operate as an opt-out program
11 for residential and small commercial retail customers. Any
12 county board that seeks to submit such a referendum to its
13 residents shall do so only in unincorporated areas of the
14 county where no electric aggregation ordinance has been
15 adopted.

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

1 at an election in accordance with the Election Code.

2 The election authority must submit the question in
3 substantially the following form:

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

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

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

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

20 An ordinance under this Section shall specify whether the
21 aggregation will occur only with the prior consent of each
22 person owning, occupying, controlling, or using an electric
23 load center proposed to be aggregated. Nothing in this Section,
24 however, authorizes the aggregation of electric loads that are
25 served or authorized to be served by an electric cooperative as
26 defined by and pursuant to the Electric Supplier Act or loads

1 served by a municipality that owns and operates its own
2 electric distribution system. No aggregation shall take effect
3 unless approved by a majority of the members of the corporate
4 authority, township board, or county board voting upon the
5 ordinance.

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

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

25 (b) Upon the applicable requisite authority under this
26 Section, the corporate authorities, the township board, or the

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

13 (1) provide for universal access to all applicable
14 residential customers and equitable treatment of
15 applicable residential customers;

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

18 (3) meet any requirements established by law
19 concerning aggregated service offered pursuant to this
20 Section.

21 (c) The process for soliciting bids for electricity and
22 other related services and awarding proposed agreements for the
23 purchase of electricity and other related services shall be
24 conducted in the following order:

25 (1) The corporate authorities, township board, or
26 county board may solicit bids for electricity and other

1 related services.

2 (1.5) A township board shall request from the electric
3 utility those residential and small commercial customers
4 within their aggregate area either by zip code or zip codes
5 or other means as determined by the electric utility. The
6 electric utility shall then provide to the township board
7 the residential and small commercial customers, including
8 the names and addresses of residential and small commercial
9 customers, electronically. The township board shall be
10 responsible for authenticating the residential and small
11 commercial customers contained in this listing and
12 providing edits of the data to affirm, add, or delete the
13 residential and small commercial customers located within
14 its jurisdiction. The township board shall provide the
15 edited list to the electric utility in an electronic format
16 or other means selected by the electric utility and certify
17 that the information is accurate.

18 (2) Notwithstanding Section 16-122 of the Public
19 Utilities Act and Section 2HH of the Consumer Fraud and
20 Deceptive Business Practices Act, an electric utility that
21 provides residential and small commercial retail electric
22 service in the aggregate area must, upon request of the
23 corporate authorities, township board, or the county board
24 in the aggregate area, submit to the requesting party, in
25 an electronic format, those account numbers, names, and
26 addresses of residential and small commercial retail

1 customers in the aggregate area that are reflected in the
2 electric utility's records at the time of the request;
3 provided, however, that any township board has first
4 provided an accurate customer list to the electric utility
5 as provided for herein.

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

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

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

25 (2) If (A) the corporate authorities, township board,
26 or county board award proposed agreements for the purchase

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

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

21 (f) Any person or entity retained by a municipality or
22 county, or jointly by more than one such unit of local
23 government, to provide input, guidance, or advice in the
24 selection of an electricity supplier for an aggregation program
25 shall disclose in writing to the involved units of local
26 government the nature of any relationship through which the

1 person or entity may receive, either directly or indirectly,
2 commissions or other remuneration as a result of the selection
3 of any particular electricity supplier. The written disclosure
4 must be made prior to formal approval by the involved units of
5 local government of any professional services agreement with
6 the person or entity, or no later than October 1, 2012 with
7 respect to any such professional services agreement entered
8 into prior to the effective date of this amendatory Act of the
9 97th General Assembly. The disclosure shall cover all direct
10 and indirect relationships through which commissions or
11 remuneration may result, including the pooling of commissions
12 or remuneration among multiple persons or entities, and shall
13 identify all involved electricity suppliers. The disclosure
14 requirements in this subsection (f) are to be liberally
15 construed to ensure that the nature of financial interests are
16 fully revealed, and these disclosure requirements shall apply
17 regardless of whether the involved person or entity is licensed
18 under Section 16-115C of the Public Utilities Act. Any person
19 or entity that fails to make the disclosure required under this
20 subsection (f) is liable to the involved units of local
21 government in an amount equal to all compensation paid to such
22 person or entity by the units of local government for the
23 input, guidance, or advice in the selection of an electricity
24 supplier, plus reasonable attorneys fees and court costs
25 incurred by the units of local government in connection with
26 obtaining such amount.

1 (g) The Illinois Power Agency shall provide assistance to
2 municipalities, townships, counties, or associations working
3 with municipalities to help complete the plan and bidding
4 process.

5 (h) This Section does not prohibit municipalities or
6 counties from entering into an intergovernmental agreement to
7 aggregate residential and small commercial retail electric
8 loads.

9 (Source: P.A. 96-176, eff. 1-1-10; 97-338, eff. 8-12-11;
10 97-823, eff. 7-18-12; 97-1067, eff. 8-24-12; revised 9-20-12.)