

As Reported by the House Public Utilities and Energy Committee

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 85

Representative Blessing

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A BILL

To amend section 4928.20 and to enact section 4928.21 1
of the Revised Code to limit retail electric 2
service automatic governmental aggregation and to 3
create a "Do Not Aggregate" list. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4928.20 be amended and section 5
4928.21 of the Revised Code be enacted to read as follows: 6

Sec. 4928.20. (A) The legislative authority of a municipal 7
corporation may adopt an ordinance, or the board of township 8
trustees of a township or the board of county commissioners of a 9
county may adopt a resolution, under which, on or after the 10
starting date of competitive retail electric service, it may 11
aggregate in accordance with this section the retail electrical 12
loads located, respectively, within the municipal corporation, 13
township, or unincorporated area of the county and, for that 14
purpose, may enter into service agreements to facilitate for those 15
loads the sale and purchase of electricity. The legislative 16
authority or board also may exercise such authority jointly with 17
any other such legislative authority or board. ~~An~~ For customers 18
that are not mercantile commercial customers, an ordinance or 19
resolution under this division shall specify whether the 20

aggregation will occur only with the prior consent of each person 21
owning, occupying, controlling, or using an electric load center 22
proposed to be aggregated or will occur automatically for all such 23
persons pursuant to the opt-out requirements of division (D) of 24
this section. The aggregation of mercantile commercial customers 25
shall occur only with the prior consent of each person owning, 26
occupying, controlling, or using an electric load center proposed 27
to be aggregated. Nothing in this division, however, authorizes 28
the aggregation of such retail electric loads of an electric load 29
center, as defined in section 4933.81 of the Revised Code, that is 30
located in the certified territory of a nonprofit electric 31
supplier under sections 4933.81 to 4933.90 of the Revised Code or 32
an electric load center served by transmission or distribution 33
facilities of a municipal electric utility. 34

(B) If an ordinance or resolution adopted under division (A) 35
of this section specifies that aggregation of customers that are 36
not mercantile commercial customers will occur automatically as 37
described in that division, the ordinance or resolution shall 38
direct the board of elections to submit the question of the 39
authority to aggregate to the electors of the respective municipal 40
corporation, township, or unincorporated area of a county at a 41
special election on the day of the next primary or general 42
election in the municipal corporation, township, or county. The 43
legislative authority or board shall certify a copy of the 44
ordinance or resolution to the board of elections not less than 45
seventy-five days before the day of the special election. No 46
ordinance or resolution adopted under division (A) of this section 47
that provides for an election under this division shall take 48
effect unless approved by a majority of the electors voting upon 49
the ordinance or resolution at the election held pursuant to this 50
division. 51

(C) Upon the applicable requisite authority under divisions 52

(A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section that provides for automatic aggregation of customers that are not mercantile commercial customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every two years, without paying a switching fee. Any such person that opts out of the aggregation program pursuant to the stated procedure shall default to the standard service offer provided under division (A) of section 4928.14 or division (D) of section 4928.35 of the Revised Code until the person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to division (A)

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to (D) of this section, resolutions may be proposed by initiative 85
or referendum petitions in accordance with sections 731.28 to 86
731.41 of the Revised Code. 87

(2) With respect to a governmental aggregation for a township 88
or the unincorporated area of a county, which aggregation is 89
authorized pursuant to division (A) to (D) of this section, 90
resolutions may be proposed by initiative or referendum petitions 91
in accordance with sections 731.28 to 731.40 of the Revised Code, 92
except that: 93

(a) The petitions shall be filed, respectively, with the 94
township clerk or the board of county commissioners, who shall 95
perform those duties imposed under those sections upon the city 96
auditor or village clerk. 97

(b) The petitions shall contain the signatures of not less 98
than ten per cent of the total number of electors in, 99
respectively, the township or the unincorporated area of the 100
county who voted for the office of governor at the preceding 101
general election for that office in that area. 102

(F) A governmental aggregator under division (A) of this 103
section is not a public utility engaging in the wholesale purchase 104
and resale of electricity, and provision of the aggregated service 105
is not a wholesale utility transaction. A governmental aggregator 106
shall be subject to supervision and regulation by the public 107
utilities commission only to the extent of any competitive retail 108
electric service it provides and commission authority under this 109
chapter. 110

(G) This section does not apply in the case of a municipal 111
corporation that supplies such aggregated service to electric load 112
centers to which its municipal electric utility also supplies a 113
noncompetitive retail electric service through transmission or 114
distribution facilities the utility singly or jointly owns or 115

operates.	116
<u>(H) A governmental aggregator shall not include in its</u>	117
<u>aggregation the accounts of any of the following:</u>	118
<u>(1) A customer that has opted out of the aggregation;</u>	119
<u>(2) A customer in contract with a certified competitive</u>	120
<u>retail electric services provider;</u>	121
<u>(3) A customer that has a special contract with an electric</u>	122
<u>distribution utility;</u>	123
<u>(4) A customer that is not located within the governmental</u>	124
<u>aggregator's governmental boundaries.</u>	125
<u>(5) Subject to division (C) of section 4928.21 of the Revised</u>	126
<u>Code, a customer who appears on the "do not aggregate" list</u>	127
<u>maintained under that section.</u>	128
<u>Sec. 4928.21.</u> <u>(A) A customer that desires to remove itself</u>	129
<u>from the pool of customers eligible to participate in governmental</u>	130
<u>aggregation under section 4928.20 of the Revised Code may register</u>	131
<u>with the public utilities commission to appear on the "do not</u>	132
<u>aggregate" list.</u>	133
<u>(B) The commission, by rule, shall establish a "do not</u>	134
<u>aggregate" list. The commission shall maintain the "do not</u>	135
<u>aggregate" list and make it publicly available on the commission's</u>	136
<u>web site.</u>	137
<u>(C) If a customer is enrolled in a governmental aggregation</u>	138
<u>program at the time the customer first appears on the "do not</u>	139
<u>aggregate" list, the governmental aggregator shall remove the</u>	140
<u>customer from the program at the next two-year opt out opportunity</u>	141
<u>that is available to the customer under division (D) of section</u>	142
<u>4928.20 of the Revised Code.</u>	143
Section 2. That existing section 4928.20 of the Revised Code	144

is hereby repealed.

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