



103rd Illinois General Assembly
HB 5021 and SB 3637 – NIMPA Summary of Pertinent Topics

Integrated Resource Planning

HB 5021 Section 15 describes the purpose and contents of integrated resource plans. Section 15 would require NIMPA to file an integrated resource plan with the Illinois Power Agency every three years. This would be in direct contrast to the desires of NIMPA's three member communities who have always wanted to perform resource planning at their own local level.

The required resource plan would be subject to oversight by the Illinois Power Agency. **NIMPA's Board, and NIMPA's member communities, would not have the final authority to approve a plan that they felt was most appropriate for the Agency and its members.**

NIMPA is a project-based Agency. Section 15 would necessitate that NIMPA establish a new project for the purpose of resource planning. NIMPA's member communities would incur costs to prepare a resource plan for the Agency every three years. Even though NIMPA has only one generation resource, Prairie State, it would still be required to file a comprehensive resource plan following all Illinois Power Agency guidelines.

HB 5021 would require NIMPA's member communities to also file integrated resource plans for their own respective utilities every three years. NIMPA's members would pay twice for separate planning efforts at both the local and agency level.

Sub-section 15 (d) (8) would require NIMPA to make annual filings with the Federal Energy Regulatory Commission (FERC). This would be a new unfunded mandate imposed on NIMPA and would come at additional cost to NIMPA's member communities.

Sub-Section 15 (e) would require that NIMPA identify all applicable programs, grants, loans or tax benefits under the Inflation Reduction Act of 2022. In order to comply with this requirement, NIMPA would need to retain the services of financial and tax experts who are familiar with the Act. This would result in additional costs for NIMPA's member communities.

Section 20 of HB 5021 outlines requirements for public meetings that NIMPA would be required to host prior to submittal of an integrated resource plan to the Illinois Power Agency. Section 20 requires that "Notice of the meetings shall be sent to all customers not less than 30 days prior to the meeting." This requirement would necessitate NIMPA having to send correspondence to residents of all three member communities at expense to the Agency and its member communities.

Section 25 of HB 5021 outlines requirements for submission of an integrated resource plan to the Illinois Power Agency and for public meetings that NIMPA would be required to host after submission. Sub-Section 25 (c)(2) states: "The utility (NIMPA) shall hold at least 2 public meetings, one in person (*presumably in Springfield*) and one remotely, where it shall make a representative available to address questions about the resource plan. The meetings shall be held no sooner than 15 days, and no later than 45 days, after the integrated resource plan is made available to the public."

HB Sub-Section 25 (d) would require NIMPA to retain legal and technical advisors who would be familiar with Illinois Power Agency proceedings to review and respond to any comments made by the public. This would result in additional costs to NIMPA's member communities.

"Free" Planning "Experts"

HB 5021, Section 30, Sub-section (g) states: "**Subject to appropriation**, if a utility elects to rely on an expert or expert consulting firm selected by the (*Illinois Power*) Agency, 90% of the costs assessed by the expert for development of the integrated resource plan shall be paid by the Agency, up to \$250,000, and the remainder paid by the utility".

This language was seemingly included as a "benefit" to public power agencies such as NIMPA; However, it is very important to note the following:

- 1) Nothing is free. If the Illinois Power Agency retains experts to prepare resource plans, then those experts will expect to be paid. HB 5021 is proposing to simply pass along the financial burden that it imposes on public power agencies to all taxpayers in the state.
- 2) Illinois is facing a budget crisis in 2025/26. The first three words "subject to appropriation" should be taken very seriously. The State will have very little incentive, and no specific obligation, to fund future planning programs for public power entities affected by HB 5021.
- 3) "Experts" provided by the Illinois Power Agency will have zero knowledge about NIMPA.
- 4) HB 5021 states that public power entities can have their own consultants apply to become "experts" for the Illinois Power Agency. There is a formal process in place that would make this possible; however, for the 2024 planning efforts that are required by HB 5021, the deadline to apply to become an "expert" has already passed. The deadline was August 2023. This means that any required plans in 2024 would need to be developed by "experts" who have no real knowledge of the utilities they are planning for. In addition, there is no obligation for the Illinois Power Agency to accept a public power entity's chosen consultant as one of their designated "experts". The consultant could go through the official request for qualifications process, at the expense of their public power client, and simply not be chosen by the Agency.

Renewable Portfolio Standard

HB 5021 re-introduces a mandatory Renewable Portfolio Standard for public power entities. The topic of a mandated RPS was debated most recently during the CEJA process.

Sub-Section 15 (f) would require NIMPA to procure renewable energy for its member communities. Based on how the legislation is currently drafted, and given the NIMPA is a project-based agency, Sub-Section 15 (f) would also require NIMPA's member communities to procure renewable energy for their own respective utilities. The requirement for a double-purchase of renewable energy would result in substantial new costs for NIMPA's member communities.

Revisions to Open Meetings Act

HB 5021, Section 45 would revise the Open Meetings Act. Under current law, NIMPA is permitted to enter executive session to discuss existing and proposed “contracts relating to the purchase, sale or delivery of electricity...” Section 45 would revise language within the Open Meetings Act to eliminate NIMPA’s right to discuss existing contracts and instead permit executive session discussions only when they involve: “(i) trade secrets, (ii) ongoing contract negotiations or results of a request for proposals relating to the purchase, sale, or delivery of electricity or natural gas from nonaffiliate entities, or (iii) information prohibited from disclosure by a regional transmission organization to ensure the integrity of competitive markets”.

If passed as new legislation, HB 5021’s proposed revisions to the Open Meetings Act would have a potential to create legal conflicts related to NIMPA’s Participation Agreement with Prairie State and also NIMPA’s Power Sales Agreements with its member communities. If legal conflicts are created by the new legislation, then NIMPA would incur new expenses to support legal action against the State of Illinois to protect its rights to discuss existing contractual agreements in accordance with terms and conditions that it is currently bound under. The cost of any such legal action would be borne by NIMPA’s member communities.

Public Utilities Act Jurisdiction

Under current law Investor-Owned Utilities, such as ComEd, Ameren, NICOR, etc., are governed under the Public Utilities Act. HB 5021 would revise jurisdictional definitions within the Public Utilities Act to remove exclusions for Joint Action Agencies, such as NIMPA. As a result, NIMPA would be subject to multiple layers of State oversight that would undermine the basic model of local control and local oversight.

SB 3637 contains identical language to HB 5021 except for the following Section related to Cost of Service Studies:

Cost of Service Study

Section 30 of SB 3637 is a new Section that was not included within HB 5021. Section 30 would require NIMPA to complete a cost-of-service study by November 1, 2024 and every three (3) years thereafter.

NIMPA is a project-based Agency. Section 30 of SB 3637 would necessitate that NIMPA establish a new project for the purpose of developing cost of service studies. NIMPA’s member communities would incur costs to prepare cost of service studies every three years. Even though NIMPA has only one generation resource, Prairie State, it would still be required to submit comprehensive cost of service studies to the Illinois Commerce Commission.

NIMPA’s Board, and NIMPA’s member communities, would not have the final authority to approve the cost of service studies. Instead, that final approval authority would be transferred to the Illinois Commerce Commission.

SB 3637 would require NIMPA to develop cost of service studies consistent with studies that are required by the Illinois Commerce Commission for ComEd and Ameren. ComEd has approximately 4 million customers and Ameren has approximately 1.2 million customers. The scope of a cost of service study for those utilities is substantially different than what would be required for an agency like NIMPA.

In order to comply with Section 30 of SB 3637, NIMPA would need to retain the services of financial and legal experts familiar with the Illinois Commerce Commission. This would result in additional costs for NIMPA's member communities.