

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 1027:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapters 1 and 30 of Title 36 of the Official Code of Georgia Annotated, relating
2 to general provisions applicable to counties only and general provisions applicable to
3 municipal corporations only, respectively, so as to authorize certain long-term contracts for
4 the sale of electric power; to amend Article 3 of Chapter 3 of Title 46 of the Official Code
5 of Georgia Annotated, relating to the Municipal Electric Authority of Georgia, so as to
6 provide certain mandatory and optional contract terms and conditions between the authority,
7 certain political subdivisions, and large load customers; to provide for a definition; to provide
8 for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 1 of Title 36 of the Official Code of Georgia Annotated, relating to general
12 provisions applicable to counties only, is amended by revising Code Section 36-1-26, relating
13 to contracts for utility services and terms and conditions, as follows:

14 "36-1-26.

15 The governing authority of any county in this state may authorize the execution of one or
16 more contracts which specify the rates, fees, or other charges which will be charged and

17 collected by the county for electric, natural gas, or water utility services to be provided by
18 the county to one or more of its utility customers. Any such contract shall be subject to the
19 following conditions and limitations:

20 (1)(A) Except as provided in subparagraph (B) of this paragraph, no such contract shall
21 be for a term in excess of ten years.

22 (B) No such contract for:

23 (i) Solar solar utility services; or for wind

24 (ii) Wind utility services; or

25 (iii) The sale of electric power which is validated by the Fulton County Superior
26 Court as to its reasonableness and enforceability, including specific contract terms
27 requiring the costs of any new power generation plant required to service a specific
28 customer to be paid by such customer during the term of the customer's initial power
29 purchase agreement; provided, further, that any construction costs for a new power
30 generation facility, where the output is shared between the specific large load
31 customer and political subdivisions of this state, be allocated in a manner that ensures
32 that such political subdivisions are not responsible for any construction costs in excess
33 of their pro rata share of the facility output

34 shall be for a term in excess of 20 years;

35 (2) Any such contract which is for a term in excess of two years shall include
36 commercially reasonable provisions under which the rates, fees, or other charges shall be
37 adjusted with respect to inflationary or deflationary factors affecting the provision of the
38 utility service in question; and

39 (3) Any such contract shall include commercially reasonable provisions relieving the
40 county from its obligations under the contract in the event that the county's ability to
41 comply with the contract is impaired by war, natural disaster, catastrophe, or any other
42 emergency ~~creating conditions under which the county's compliance with the contract~~

43 ~~would become impossible or create a substantial financial burden upon the county or its~~
 44 ~~taxpayers."~~

45 **SECTION 2.**

46 Chapter 30 of Title 36 of the Official Code of Georgia Annotated, relating to general
 47 provisions applicable to municipal corporations only, is amended in Code Section 36-30-3,
 48 relating to ordinances of a council not to bind succeeding councils and exceptions, by
 49 revising subsection (d) as follows:

50 "(d) The governing authority of any ~~municipal corporation~~ political subdivision in this
 51 state may authorize the execution of one or more contracts which specify the rates, fees,
 52 or other charges which will be charged and collected by the ~~municipal corporation~~ political
 53 subdivision for electric, natural gas, or water utility services to be provided by the
 54 ~~municipal corporation~~ political subdivision to one or more of its utility customers. Nothing
 55 in this subsection, however, shall be construed to grant to any ~~municipal~~ political
 56 subdivision's governing authority the right or power to specify the rates, fees, or charges
 57 to be collected for electric, natural gas, or water utility services provided by a local
 58 authority, as defined in subsection (a) of Code Section 36-80-17, where the right or power
 59 to specify such rates, fees, or charges is otherwise vested by local constitutional
 60 amendment, general statute, or local law in the governing body of such local authority.
 61 Any such contract shall be subject to the following conditions and limitations:

62 (1)(A) Except as provided in subparagraph (B) of this paragraph, no such contract shall
 63 be for a term in excess of ten years.

64 (B) No such contract for:

65 (i) Solar solar utility services; or for wind

66 (ii) Wind utility services; or

67 (iii) The sale of electric power which is validated by the Fulton County Superior
 68 Court as to its reasonableness and enforceability, including specific contract terms

69 requiring the costs of any new power generation plant required to serve a specific
 70 customer to be paid by such customer during the term of the customer's initial power
 71 purchase agreement; provided, further, that any construction costs for a new power
 72 generation facility, where the output is shared between the specific large load
 73 customer and political subdivisions of this state, be allocated in a manner that ensures
 74 that such political subdivisions are not responsible for any construction costs in excess
 75 of their pro rata share of the facility output

76 shall be for a term in excess of 20 years;

77 (2) Any such contract which is for a term in excess of two years shall include
 78 commercially reasonable provisions under which the rates, fees, or other charges shall be
 79 adjusted with respect to inflationary or deflationary factors affecting the provision of the
 80 utility service in question; and

81 (3) Any such contract shall include commercially reasonable provisions relieving the
 82 ~~municipal corporation~~ political subdivision from its obligations under the contract in the
 83 event that the ~~municipal corporation's~~ political subdivision's ability to comply with the
 84 contract is impaired by war, natural disaster, catastrophe, or any other emergency ~~creating~~
 85 ~~conditions under which the municipal corporation's compliance with the contract would~~
 86 ~~become impossible or create a substantial financial burden upon the municipal~~
 87 ~~corporation or its taxpayers."~~

88

SECTION 3.

89 Article 3 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to the
 90 Municipal Electric Authority of Georgia, is amended in Code Section 46-3-126, relating to
 91 powers of the authority generally, by adding a new paragraph to read as follows:

92 "(7.1)(A) As used in this paragraph, the term 'large load customer' means customers
 93 with an expected total peak demand of 100 megawatts or greater at one or more
 94 premises located on one tract or contiguous tracts of land.

95 (B) Each contract between the authority or those political subdivisions which have
96 contracted with the authority for the purchase of electric power or energy and a large
97 load customer for the provision of electric service, entered into on or after the effective
98 date of this Act, shall include terms and conditions designed to protect residential and
99 retail electricity customers from costs associated with serving new large load
100 customers, including, but not limited to, the following:

101 (i) Minimum billing requirements designed to recover incremental costs associated
102 with serving or preparing to serve a large load customer;

103 (ii) A contract term that may exceed the length of the applicable service tariff;

104 (iii) Performance and credit provisions designed to protect retail customers in the
105 event of contract default; and

106 (iv) Termination provisions designed to protect retail customers in the event of
107 termination of the contract for electric service.

108 (C) The authority and those political subdivisions which have contracted with the
109 authority for the purchase of electric power or energy shall be authorized to enter into
110 contracts with a large load customer whereby such large load customer agrees to pay,
111 during the initial term of such contract, all costs associated with creating or establishing
112 more electric generating capacity for such customer."

113 **SECTION 4.**

114 All laws and parts of laws in conflict with this Act are repealed.