



Rep. Joe Sosnowski

Filed: 4/2/2013

09800HB3104ham002

LRB098 08168 CEL 43864 a

1 AMENDMENT TO HOUSE BILL 3104

2 AMENDMENT NO. _____. Amend House Bill 3104 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Sections 11-117-12.3 and 11-117-12.5 and by changing
6 Section 11-141-7 as follows:

7 (65 ILCS 5/11-117-12.3 new)

8 Sec. 11-117-12.3. Discontinued water or sewer service. Any
9 investor-owned public utility, municipal-owned public utility,
10 public or municipal corporation, or political subdivision
11 furnishing water or sewer service may discontinue service only
12 on a day followed by a business day and after the water or
13 sewer utility has mailed or delivered by other means a written
14 notice of discontinuance.

15 (65 ILCS 5/11-117-12.5 new)

1 Sec. 11-117-12.5. Calculating past due bills. Any
2 investor-owned public utility, municipal-owned public utility,
3 public or municipal corporation, or political subdivision
4 furnishing water or sewer service shall not consider a
5 customer's bill, when paid in person, past due unless the
6 payment is made after the due date printed on the bill. When a
7 customer mails any payment in the net amount of a bill for
8 service, the payment shall be considered past due if the
9 payment is postmarked after the due date printed on the bill.
10 The due date printed on the bill may not be less than 21 days
11 after the date of the postmark on the bill the customer
12 receives, if mailed, or the date of delivery as shown on the
13 bill, if delivered by other means.

14 (65 ILCS 5/11-141-7) (from Ch. 24, par. 11-141-7)

15 Sec. 11-141-7. Powers. The corporate authorities of any
16 municipality that owns and operates or that may hereafter own
17 and operate a sewerage system constructed or acquired under the
18 provisions of any law of this state may make, enact, and
19 enforce all needful rules, regulations, and ordinances for the
20 improvement, care, and protection of its sewerage system and
21 any other sewer or sewerage system, located outside the
22 corporate boundary of the municipality and not owned by it,
23 that directly or indirectly connects with the municipality's
24 sewerage system, which may be conducive to the preservation of
25 the public health, comfort, and convenience, and may render the

1 sewage carried in the sewerage system of the municipality
2 harmless in so far as it is reasonably possible to do so.

3 The corporate authorities of such a municipality may, by
4 ordinance, charge the inhabitants thereof for the use and
5 service of its sewerage system whether by direct or indirect
6 connection therewith within or without the corporate boundary,
7 and to establish charges or rates for that purpose. The
8 corporate authorities of such a municipality may by ordinance
9 charge the users thereof, whether they be inside of or outside
10 of the municipality, for the use and service of its sewerage
11 system whether by direct or indirect connection therewith,
12 within or without the corporate boundary, and may establish
13 charges or rates for that purpose, provided however that where
14 such users are residents of another municipality with whom
15 there is a contract for use and service of the sewerage system,
16 then such charges or rates shall be made in accordance with the
17 terms of the contract, either directly to the users or to the
18 contracting municipality as may be provided by the provisions
19 of the contract. In making such rates and charges the
20 municipality may provide for a rate to the outside users in
21 excess of the rate fixed for the inhabitants of said
22 municipality as may be reasonable. Where bonds are issued as
23 provided in Sections 11-141-2 and 11-141-3, the corporate
24 authorities shall establish rates or charges as provided in
25 this section, and these charges or rates shall be sufficient at
26 all times to pay the cost of operation and maintenance, to

1 provide an adequate depreciation fund, and to pay the principal
2 of and interest upon all revenue bonds issued under Sections
3 11-141-2 and 11-141-3.

4 A depreciation fund is a fund for such replacements as may
5 be necessary from time to time for the continued effective and
6 efficient operation of the system. The depreciation fund shall
7 not be allowed to accumulate beyond a reasonable amount
8 necessary for that purpose, and shall not be used for
9 extensions to the system.

10 Charges or rates shall be established, revised, and
11 maintained by ordinance and become payable as the corporate
12 authorities may determine by ordinance.

13 Such charges or rates are liens upon the real estate upon
14 or for which sewerage service is supplied whenever the charges
15 or rates become delinquent as provided by the ordinance of the
16 municipality fixing a delinquency date. A lien is created under
17 the preceding sentence only if the municipality sends to the
18 owner or owners of record, as referenced by the taxpayer's
19 identification number, of the real estate (i) a copy of each
20 delinquency notice sent to the person who is delinquent in
21 paying the charges or rates or other notice sufficient to
22 inform the owner or owners of record, as referenced by the
23 taxpayer's identification number, that the charges or rates
24 have become delinquent and (ii) a notice that unpaid charges or
25 rates may create a lien on the real estate under this Section.
26 However, the municipality has no preference over the rights of

1 any purchaser, mortgagee, judgment creditor, or other lien
2 holder arising prior to the filing of the notice of such a lien
3 in the office of the recorder of the county in which such real
4 estate is located, or in the office of the registrar of titles
5 of such county if the property affected is registered under "An
6 Act concerning land titles", approved May 1, 1897, as amended.
7 This notice shall consist of a sworn statement setting out (1)
8 a description of such real estate sufficient for the
9 identification thereof, (2) the amount of money due for such
10 sewerage service, and (3) the date when such amount became
11 delinquent. The municipality shall send a copy of the notice of
12 the lien to the owner or owners of record of the real estate,
13 as referenced by the taxpayer's identification number. The
14 municipality has the power to foreclose this lien in the same
15 manner and with the same effect as in the foreclosure of
16 mortgages on real estate.

17 Except in counties with a population of more than 250,000
18 where the majority of the municipal sewerage system users are
19 located outside of the municipality's corporate limits, the
20 payment of delinquent charges for sewerage service to any
21 premises may be enforced by discontinuing either the water
22 service or the sewerage service to that premises, or both. A
23 rate or charge is delinquent if it is more than 30 days
24 overdue. The due date printed on the bill may not be less than
25 21 days after the date of the postmark on the bill the customer
26 receives, if mailed, or the date of delivery as shown on the

1 bill, if delivered by other means. Any public or municipal
2 corporation or political subdivision of the State furnishing
3 water service to a premises (i) shall discontinue that service
4 upon receiving written notice from the municipality providing
5 sewerage service that payment of the rate or charge for
6 sewerage service to the premises has become delinquent and (ii)
7 shall not resume water service until receiving a similar notice
8 that the delinquency has been removed. The provider of sewerage
9 service shall not request discontinuation of water service
10 before sending a notice of the delinquency to the sewer user
11 and affording the user an opportunity to be heard. An
12 investor-owned public utility providing water service within a
13 municipality that provides sewerage service may contract with
14 the municipality to discontinue water service to a premises
15 with respect to which the payment of a rate or charge for
16 sewerage service has become delinquent. The municipality shall
17 reimburse the privately owned public utility, public or
18 municipal corporation, or political subdivision of the State
19 for the reasonable cost of the discontinuance and the
20 resumption of water service, any lost water service revenues,
21 and the costs of discontinuing water service. The municipality
22 shall indemnify the privately owned public utility, public or
23 municipal corporation, or political subdivision of the State
24 for any judgment and related attorney's fees resulting from an
25 action based on any provision of this paragraph.

26 The municipality also has the power, from time to time, to

1 sue the occupant or user of that real estate in a civil action
2 to recover money due for sewerage services, plus a reasonable
3 attorney's fee, to be fixed by the court. However, whenever a
4 judgment is entered in such a civil action, the foregoing
5 provisions in this section with respect to filing sworn
6 statements of such delinquencies in the office of the recorder
7 and creating a lien against the real estate shall not be
8 effective as to the charges sued upon and no lien shall exist
9 thereafter against the real estate for the delinquency.
10 Judgment in such a civil action operates as a release and
11 waiver of the lien upon the real estate for the amount of the
12 judgment.

13 (Source: P.A. 93-500, eff. 6-1-04.)

14 Section 10. The Public Utilities Act is amended by changing
15 Section 8-306 as follows:

16 (220 ILCS 5/8-306)

17 Sec. 8-306. Special provisions relating to water and sewer
18 utilities.

19 (a) No later than 120 days after the effective date of this
20 amendatory Act of the 94th General Assembly, the Commission
21 shall prepare, make available to customers upon request, and
22 post on its Internet web site information concerning the
23 service obligations of water and sewer utilities and remedies
24 that a customer may pursue for a violation of the customer's

1 rights. The information shall specifically address the rights
2 of a customer of a water or sewer utility in the following
3 situations:

4 (1) The customer's water meter is replaced.

5 (2) The customer's bill increases by more than 50%
6 within one billing period.

7 (3) The customer's water service is terminated.

8 (4) The customer wishes to complain after receiving a
9 termination of service notice.

10 (5) The customer is unable to make payment on a billing
11 statement.

12 (6) A rate is filed, including without limitation a
13 surcharge or annual reconciliation filing, that will
14 increase the amount billed to the customer.

15 (7) The customer is billed for services provided prior
16 to the date covered by the billing statement.

17 (8) The customer is due to receive a credit.

18 Each billing statement issued by a water or sewer utility
19 shall include an Internet web site address where the customer
20 can view the information required under this subsection (a) and
21 a telephone number that the customer may call to request a copy
22 of the information.

23 (b) A water or sewer utility may discontinue service only
24 on a day followed by a business day and after it has mailed or
25 delivered by other means a written notice of discontinuance
26 substantially in the form of Appendix A of 83 Ill. Adm. Code

1 280. The notice must include the Internet web site address
2 where the customer can view the information required under
3 subsection (a) and a telephone number that the customer may
4 call to request a copy of the information. Any notice required
5 to be delivered or mailed to a customer prior to discontinuance
6 of service shall be delivered or mailed separately from any
7 bill. Service shall not be discontinued until at least 5 days
8 after delivery or 8 days after the mailing of this notice.
9 Service shall not be discontinued and shall be restored if
10 discontinued for the reason which is the subject of a dispute
11 or complaint during the pendency of informal or formal
12 complaint procedures of the Illinois Commerce Commission under
13 83 Ill. Adm. Code 280.160 or 280.170, where the customer has
14 complied with those rules. Service shall not be discontinued
15 and shall be restored if discontinued where a customer has
16 established a deferred payment agreement pursuant to 83 Ill.
17 Adm. Code 280.110 and has not defaulted on such agreement.
18 Residential customers who are indebted to a utility for past
19 due utility service shall have the opportunity to make
20 arrangements with the utility to retire the debt by periodic
21 payments, referred to as a deferred payment agreement, unless
22 this customer has failed to make payment under such a plan
23 during the past 12 months. The terms and conditions of a
24 reasonable deferred payment agreement shall be determined by
25 the utility after consideration of the following factors, based
26 upon information available from current utility records or

1 provided by the customer or applicant:

- 2 (1) size of the past due account;
- 3 (2) customer or applicant's ability to pay;
- 4 (3) customer or applicant's payment history;
- 5 (4) reason for the outstanding indebtedness; and
- 6 (5) any other relevant factors relating to the
- 7 circumstances of the customer or applicant's service.

8 A residential customer shall pay a maximum of one-fourth of the

9 amount past due and owing at the time of entering into the

10 deferred payment agreement, and the water or sewer utility

11 shall allow a minimum of 2 months from the date of the

12 agreement and a maximum of 12 months for payment to be made

13 under a deferred payment agreement. Late payment charges may be

14 assessed against the amount owing that is the subject of a

15 deferred payment agreement.

16 (b-5) In determining to discontinue a customer's service in

17 response to a past due account, a water or sewer utility shall

18 not consider a customer's bill, when paid in person, past due

19 unless the payment is made after the due date printed on the

20 bill. When a customer mails any payment in the net amount of a

21 bill for service, the payment shall be considered past due if

22 the payment is postmarked after the due date printed on the

23 bill. The due date printed on the bill may not be less than 21

24 days after the date of the postmark on the bill the customer

25 receives, if mailed, or the date of delivery as shown on the

26 bill, if delivered by other means.

1 (c) A water or sewer utility shall provide notice as
2 required by subsection (a) of Section 9-201 after the filing of
3 each information sheet under a purchased water surcharge,
4 purchased sewage treatment surcharge, or qualifying
5 infrastructure plant surcharge. The utility also shall post
6 notice of the filing in accordance with the requirements of 83
7 Ill. Adm. Code 255. Unless filed as part of a general rate
8 increase, notice of the filing of a purchased water surcharge
9 rider, purchased sewage treatment surcharge rider, or
10 qualifying infrastructure plant surcharge rider also shall be
11 given in the manner required by this subsection (c) for the
12 filing of information sheets.

13 (d) Commission rules pertaining to formal and informal
14 complaints against public utilities shall apply with full and
15 equal force to water and sewer utilities and their customers,
16 including provisions of 83 Ill. Adm. Code 280.170, and the
17 Commission shall respond to each complaint by providing the
18 consumer with a copy of the utility's response to the complaint
19 and a copy of the Commission's review of the complaint and its
20 findings. The Commission shall also provide the consumer with
21 all available options for recourse.

22 (e) Any refund shown on the billing statement of a customer
23 of a water or sewer utility must be itemized and must state if
24 the refund is an adjustment or credit.

25 (f) Water service for building construction purposes. At
26 the request of any municipality or township within the service

1 area of a public utility that provides water service to
2 customers within the municipality or township, a public utility
3 must (1) require all water service used for building
4 construction purposes to be measured by meter and subject to
5 approved rates and charges for metered water service and (2)
6 prohibit the unauthorized use of water taken from hydrants or
7 service lines installed at construction sites.

8 (g) Water meters.

9 (1) Periodic testing. Unless otherwise approved by the
10 Commission, each service water meter shall be periodically
11 inspected and tested in accordance with the schedule
12 specified in 83 Ill. Adm. Code 600.340, or more frequently
13 as the results may warrant, to insure that the meter
14 accuracy is maintained within the limits set out in 83 Ill.
15 Adm. Code 600.310.

16 (2) Meter tests requested by customer.

17 (A) Each utility furnishing metered water service
18 shall, without charge, test the accuracy of any meter
19 upon request by the customer served by such meter,
20 provided that the meter in question has not been tested
21 by the utility or by the Commission within 2 years
22 previous to such request. The customer or his or her
23 representatives shall have the privilege of witnessing
24 the test at the option of the customer. A written
25 report, giving the results of the test, shall be made
26 to the customer.

1 (B) When a meter that has been in service less than
2 2 years since its last test is found to be accurate
3 within the limits specified in 83 Ill. Adm. Code
4 600.310, the customer shall pay a fee to the utility
5 not to exceed the amounts specified in 83 Ill. Adm.
6 Code 600.350(b). Fees for testing meters not included
7 in this Section or so located that the cost will be out
8 of proportion to the fee specified will be determined
9 by the Commission upon receipt of a complete
10 description of the case.

11 (3) Commission referee tests. Upon written application
12 to the Commission by any customer, a test will be made of
13 the customer's meter by a representative of the Commission.
14 For such a test, a fee as provided for in subsection (g)(2)
15 shall accompany the application. If the meter is found to
16 be registering more than 1.5% fast on the average when
17 tested as prescribed in 83 Ill. Adm. Code 600.310, the
18 utility shall refund to the customer the amount of the fee.
19 The utility shall in no way disturb the meter after a
20 customer has made an application for a referee test until
21 authority to do so is given by the Commission or the
22 customer in writing.

23 (h) Water and sewer utilities; low usage. Each public
24 utility that provides water and sewer service must establish a
25 unit sewer rate, subject to review by the Commission, that
26 applies only to those customers who use less than 1,000 gallons

1 of water in any billing period.

2 (i) Water and sewer utilities; separate meters. Each public
3 utility that provides water and sewer service must offer
4 separate rates for water and sewer service to any commercial or
5 residential customer who uses separate meters to measure each
6 of those services. In order for the separate rate to apply, a
7 combination of meters must be used to measure the amount of
8 water that reaches the sewer system and the amount of water
9 that does not reach the sewer system.

10 (j) Each water or sewer public utility must disclose on
11 each billing statement any amount billed that is for service
12 provided prior to the date covered by the billing statement.
13 The disclosure must include the dates for which the prior
14 service is being billed. Each billing statement that includes
15 an amount billed for service provided prior to the date covered
16 by the billing statement must disclose the dates for which that
17 amount is billed and must include a copy of the document
18 created under subsection (a) and a statement of current
19 Commission rules concerning unbilled or misbilled service.

20 (k) When the customer is due a refund resulting from
21 payment of an overcharge, the utility shall credit the customer
22 in the amount of overpayment with interest from the date of
23 overpayment by the customer. The rate for interest shall be at
24 the appropriate rate determined by the Commission under 83 Ill.
25 Adm. Code 280.70.

26 (l) Water and sewer public utilities; subcontractors. The

1 Commission shall adopt rules for water and sewer public
2 utilities to provide notice to the customers of the proper kind
3 of identification that a subcontractor must present to the
4 customer, to prohibit a subcontractor from soliciting or
5 receiving payment of any kind for any service provided by the
6 water or sewer public utility or the subcontractor, and to
7 establish sanctions for violations.

8 (m) Water and sewer public utilities; unaccounted-for
9 water. By December 31, 2006, each water public utility shall
10 file tariffs with the Commission to establish the maximum
11 percentage of unaccounted-for water that would be considered in
12 the determination of any rates or surcharges. The rates or
13 surcharges approved for a water public utility shall not
14 include charges for unaccounted-for water in excess of this
15 maximum percentage without well-documented support and
16 justification for the Commission to consider in any request to
17 recover charges in excess of the tariffed maximum percentage.

18 (n) Rate increases; public forums. When any public utility
19 providing water or sewer service proposes a general rate
20 increase, in addition to other notice requirements, the water
21 or sewer public utility must notify its customers of their
22 right to request a public forum. A customer or group of
23 customers must make written request to the Commission for a
24 public forum and must also provide written notification of the
25 request to the customer's municipal or, for unincorporated
26 areas, township government. The Commission, at its discretion,

1 may schedule the public forum. If it is determined that public
2 forums are required for multiple municipalities or townships,
3 the Commission shall schedule these public forums, in locations
4 within approximately 45 minutes drive time of the
5 municipalities or townships for which the public forums have
6 been scheduled. The public utility must provide advance notice
7 of 30 days for each public forum to the governing bodies of
8 those units of local government affected by the increase. The
9 day of each public forum shall be selected so as to encourage
10 the greatest public participation. Each public forum will begin
11 at 7:00 p.m. Reports and comments made during or as a result of
12 each public forum must be made available to the hearing
13 officials and reviewed when drafting a recommended or tentative
14 decision, finding or order pursuant to Section 10-111 of this
15 Act.

16 (Source: P.A. 94-950, eff. 6-27-06.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."