



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB4951

by Rep. Martha Deuter

#### SYNOPSIS AS INTRODUCED:

70 ILCS 3720/2	from Ch. 111 2/3, par. 252
70 ILCS 3720/6 new	
70 ILCS 3720/7 new	
70 ILCS 3720/8 new	
70 ILCS 3720/9 new	
70 ILCS 3720/10 new	
70 ILCS 3720/11 new	
70 ILCS 3720/12 new	
70 ILCS 3720/13 new	
70 ILCS 3720/14 new	
70 ILCS 3720/15 new	
65 ILCS 5/11-135-8	from Ch. 24, par. 11-135-8

Amends the Water Commission Act of 1985. Deletes a provision which specifies that no commissioner who is a member of the governing board or an officer or employee of the county or any unit of local government within the county may receive any compensation for serving as a commissioner on the county water commission. Allows a county water commission to use alternate project delivery methods, establish goals or requirements for the procurement of goods and services and for construction contracts, and accept assignment of municipal waterworks system contracts or other public improvement contracts. Gives commissions the authority to enter into design-build contracts and use a design-build delivery system. Includes requirements pertaining to the design-build delivery system. Amends the Illinois Municipal Code. Provides that a county water commission may construct water transmission and distribution lines within a radius of 50 miles (rather than 25 miles) outside the corporate limits of member municipalities for the purpose of furnishing water to any additional entities that contract with the commission for a supply of water.

LRB104 18852 TRT 32297 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Water Commission Act of 1985 is amended by  
5 changing Section 2 and by adding Sections 6, 7, 8, 9, 10, 11,  
6 12, 13, 14, and 15 as follows:

7 (70 ILCS 3720/2) (from Ch. 111 2/3, par. 252)

8 Sec. 2. The General Assembly hereby finds and declares  
9 that it is necessary and in the public interest to help assure  
10 a sufficient and economic supply of a source of water within  
11 those county wide areas of this State where, because of a  
12 growth in population and proximity to large urban centers, the  
13 health, safety and welfare of the residents is threatened by  
14 an ever increasing shortage of a continuing, available and  
15 adequate source and supply of water on an economically  
16 reasonable basis; however, it is not the intent of the General  
17 Assembly to interfere with the power of municipalities to  
18 provide for the retail distribution of water to their  
19 residents or the customers of their water systems. Therefore,  
20 in order to provide for a sufficient and economic supply of  
21 water to such areas, it is hereby declared to be the law of  
22 this State that:

23 (a) With respect to any water commission constituted

1 pursuant to Division 135 of the Illinois Municipal Code or  
2 established by operation of law under Public Act 83-1123, as  
3 amended, which water commission includes municipalities which  
4 in the aggregate have within their corporate limits more than  
5 50% of the population of a county (hereinafter referred to as a  
6 "home county"), and such county is contiguous to a county  
7 which has a population in excess of 1,000,000 inhabitants, the  
8 provisions of this Act shall apply. With respect to any such  
9 water commission (hereinafter referred to as a "county water  
10 commission"):

11 (i) the terms of all commissioners of such commission  
12 holding office at the time a water commission becomes a  
13 county water commission shall terminate 30 days after such  
14 time and new commissioners shall be appointed as the  
15 governing board of the county water commission as  
16 hereinafter provided in subsection (c); and

17 (ii) the county water commission shall continue to be  
18 a body corporate and politic, and shall bear the name of  
19 the home county but shall be independent from and not a  
20 part of the county government and shall itself be a  
21 political subdivision and a unit of local government, and  
22 upon appointment of the new commissioners as the governing  
23 board of such water commission as provided in subsection  
24 (c), such water commission shall remain responsible for  
25 the full payment of, and shall by operation of law be  
26 deemed to have assumed and shall pay when due all debts and

1 obligations of the commission as the same is constituted  
2 and as such debts and obligations existed on the date such  
3 water commission becomes a county water commission and  
4 such additional debts and obligations as are incurred by  
5 such commission after such date and prior to the  
6 appointment of the new commissioners as the governing  
7 board of such commission, and further shall continue to  
8 have and exercise all powers and functions and duties of a  
9 water commission created pursuant to Division 135 of the  
10 Illinois Municipal Code, as now or hereafter amended, and  
11 the county water commission may rely on that Division, as  
12 modified and supplemented by the provisions of this Act,  
13 as lawful authority under which it may act.

14 (b) Any county water commission shall have as its  
15 territory within its corporate limits, subject to taxation for  
16 its purposes, and subject to the powers and limitations as  
17 conferred by this Act, (i) all of the territory of the home  
18 county except that territory located within the corporate  
19 limits of excluded units as hereinafter defined and (ii) also  
20 all of the territory located outside the home county and  
21 included within the corporate limits of an included unit as  
22 hereinafter defined. As used in this Act, "excluded unit"  
23 means a unit of local government having a waterworks system  
24 and having within its corporate limits territory within the  
25 home county and which either, at the time any commission  
26 becomes a county water commission, receives, or has contracted

1 at such time for the receipt of, more than 25% of the water  
2 distributed by such unit's water system from a source outside  
3 of the home county, or a unit of local government that seeks a  
4 change in status as provided in this Section. As used in this  
5 Section, "included unit" means any unit of local government  
6 having a waterworks system and having within its corporate  
7 limits territory within the home county, which unit of local  
8 government is not an excluded unit. No other water commission  
9 shall be constituted under Division 135 of the Illinois  
10 Municipal Code in any home county after the effective date of  
11 this Act to provide water from any source located outside the  
12 home county. A unit of local government may switch its status  
13 from being an included unit to an excluded unit provided that  
14 (i) it has constructed a water treatment plant prior to  
15 December 31, 2006 to comply with United States Environmental  
16 Protection Agency regulations regarding radium; (ii) it  
17 notifies the commission in writing of its desire to become an  
18 excluded unit; and (iii) it no longer demands future service  
19 from the commission and shall not be reinstated as an included  
20 unit. In the event a unit of local government switches status,  
21 the water commission shall, from any legally available  
22 sources, transfer the sums collected from that unit of local  
23 government for the period of time beginning January 1, 2006 to  
24 the date that this tax is no longer assessed within the  
25 affected excluded unit. The transfer of funds authorized  
26 herein shall be made within 90 days of the effective date of

1 this amendatory Act of the 95th General Assembly. Except as  
2 authorized by a county water commission, no home county or  
3 included unit shall enter into any new or renew or extend any  
4 existing contract, agreement or other arrangement for the  
5 acquisition or sale of water from any source located outside a  
6 home county; provided, however, that any included unit may  
7 contract for a supply of water in case of a temporary emergency  
8 from any other unit of local government or any entity. In the  
9 event that any included unit elects to serve retail customers  
10 outside its corporate boundaries and to establish rates and  
11 charges for such water in excess of those charged within its  
12 corporate boundaries, such rates and charges shall have a  
13 reasonable relationship to the actual cost of providing and  
14 delivering the water; this provision is declarative of  
15 existing law. It is declared to be the law of this State  
16 pursuant to paragraphs (g) and (h) of Section 6 of Article VII  
17 of the Illinois Constitution that in any home county, the  
18 provisions of this Act and Division 135 of the Illinois  
19 Municipal Code, as modified and supplemented by this Act and  
20 this amendatory Act of the 93rd General Assembly, constitute a  
21 limitation upon the power of any such county and upon all units  
22 of local government (except excluded units) within such  
23 county, including home rule units, limiting to such county,  
24 units of local government and home rule units the power to  
25 acquire, supply or distribute water or to establish any water  
26 commission for such purposes involving water from any source

1 located outside the home county in a manner other than as  
2 provided or permitted by this Act and Division 135, as  
3 modified and supplemented by this Act, and further constitute  
4 an exercise of exclusive State power with respect to the  
5 acquisition, supply and distribution of water from any source  
6 located outside the home county by any such county and by units  
7 of local government (except excluded units), including home  
8 rule units, within such county and with respect to the  
9 establishment for such purposes of any water commission  
10 therein, which power may not be exercised concurrently by any  
11 unit of local government or home rule unit. Upon the request of  
12 any included unit, a county water commission shall provide  
13 such included unit Lake Michigan water in an amount up to the  
14 then current Department of Transportation allocation of Lake  
15 Michigan water for such included unit.

16 With respect to a water commission to which the provisions  
17 of subsection (a) apply, all uninhabited territory that is  
18 owned and solely occupied by such a commission and is located  
19 not within its home county but within a non-home rule  
20 municipality adjacent to its home county shall,  
21 notwithstanding any other provision of law, be disconnected  
22 from that municipality by operation of this Act on the  
23 effective date of this amendatory Act of 1991, and shall  
24 thereafter no longer be within the territory of the  
25 municipality for any purpose; except that for the purposes of  
26 any statute that requires contiguity of territory, the

1 territory of the water commission shall be disregarded and the  
2 municipality shall not be deemed to be noncontiguous by virtue  
3 of the disconnection of the water commission territory.

4 (c) The governing body of any water commission to which  
5 the provisions of subsection (a) apply shall be a board of  
6 commissioners, each to be appointed within 30 days after the  
7 water commission becomes a county water commission to a term  
8 commencing on such date, as follows:

9 (i) one commissioner, who shall serve as chairman, who  
10 shall be a resident of the home county, to be appointed by  
11 the chairman of the county board of such county with the  
12 advice and consent of the county board, provided that  
13 following the expiration of the term or vacancy of the  
14 current chairman serving on the effective date of this  
15 amendatory Act of the 93rd General Assembly, any  
16 subsequent appointment as chairman shall also be subject  
17 to the advice and consent of the county water commission;

18 (ii) one commissioner from each county board district  
19 within the home county, to be appointed by the chairman of  
20 the county board of the home county with the advice and  
21 consent of the county board; and

22 (iii) one commissioner from each county board district  
23 within the home county, to be appointed by the majority  
24 vote of the mayors of those included units which are  
25 municipalities and which have the greatest percentage of  
26 their respective populations residing within such county

1 board district of the home county.

2 The mayors of the respective county board districts shall  
3 meet for the purpose of making said respective appointments at  
4 a time and place designated by that mayor in each county board  
5 district of the included unit with the largest population  
6 voting for a commissioner upon not less than 10 days' written  
7 notice to each other mayor entitled to vote.

8 The commissioners so appointed shall serve for a term of 6  
9 years, or until their successors have been appointed and have  
10 qualified in the same manner as the original appointments,  
11 except that at the first meeting of such commissioners, (A)  
12 the commissioners first appointed pursuant to paragraph (ii)  
13 of this subsection shall determine publicly by lot 1/3 of  
14 their number to serve for terms of 2 years, 1/3 of their number  
15 to serve for terms of 4 years and 1/3 of their number to serve  
16 for terms of 6 years, any odd number of commissioners so  
17 determined by dividing into thirds to serve 6-year ~~6-year~~  
18 terms, and (B) the commissioners first appointed pursuant to  
19 paragraph (iii) of this subsection shall determine publicly by  
20 lot 1/3 of their number to serve for terms of 2 years, 1/3 of  
21 their number to serve for terms of 4 years and 1/3 of their  
22 number to serve for terms of 6 years, any odd number of  
23 commissioners so determined by dividing into thirds to serve  
24 6-year ~~6-year~~ terms. The commissioner first appointed pursuant  
25 to paragraph (i) of this subsection, who shall serve as  
26 chairman, shall serve for a term of 6 years. Any commissioner

1 may be a member of the governing board or an officer or  
2 employee of such county or any unit of local government within  
3 such county. A commissioner is eligible for reappointment upon  
4 the expiration of his term. A vacancy in the office of a  
5 commissioner shall be filled for the balance of the unexpired  
6 term by appointment and qualification as to residency in the  
7 same manner as the original appointment was made. Each  
8 commissioner shall receive the same compensation which shall  
9 not be more than \$600 per year, ~~except that no such~~  
10 ~~commissioner who is a member of the governing board or an~~  
11 ~~officer or employee of such county or any unit of local~~  
12 ~~government within such county may receive any compensation for~~  
13 ~~servng as a commissioner.~~ Each commissioner may be removed by  
14 the appointing authority for any cause for which any other  
15 county or municipal officer may be removed. The county water  
16 commission shall determine its own rules of proceeding. A  
17 quorum shall be a majority of the commissioners then in  
18 office. All ordinances or resolutions shall be passed by not  
19 less than a majority of a quorum. No commissioner or employee  
20 of the commission, no member of the county board or other  
21 official elected within such county, no mayor or president or  
22 other member of the corporate authorities of any unit of local  
23 government within such county, and no employee of such county  
24 or any such unit of local government, shall be interested  
25 directly or indirectly in any contract or job of work or  
26 materials, or the profits thereof, or services to be performed

1 for or by the commission. A violation of any of the foregoing  
2 provisions of this subsection is a Class C misdemeanor. A  
3 conviction is cause for the removal of a person from his office  
4 or employment.

5 (d) Except as provided in subsection (g), subject to the  
6 referendum provided for in subsection (e), a county water  
7 commission may borrow money for corporate purposes on the  
8 credit of the commission, and issue general obligation bonds  
9 therefor, in such amounts and form and on such conditions as it  
10 shall prescribe, but shall not become indebted in any manner  
11 or for any purpose in an amount including existing  
12 indebtedness in the aggregate to exceed 5.75% of the aggregate  
13 value of the taxable property within the territorial  
14 boundaries of the county water commission, as equalized and  
15 assessed by the Department of Revenue and as most recently  
16 available at the time of the issue of said bonds. Before or at  
17 the time of incurring any indebtedness, except as provided in  
18 subsection (g), the commission shall provide for the  
19 collection of a direct annual tax, which shall be unlimited as  
20 to rate or amount, sufficient to pay the interest on such debt  
21 as it falls due and also to pay and discharge the principal  
22 thereof at maturity, which shall be within 40 years after the  
23 date of issue thereof. Such tax shall be levied upon and  
24 collected from all of the taxable property within the  
25 territory of the county water commission. Dissolution of the  
26 county water commission for any reason shall not relieve the

1 taxable property within such territory of the county water  
2 commission from liability for such tax. The clerk of the  
3 commission shall file a certified copy of the resolution or  
4 ordinance by which such bonds are authorized to be issued and  
5 such tax is levied with the County Clerk of each county in  
6 which any of the territory of the county water commission is  
7 located and such filing shall constitute, without the doing of  
8 any other act, full and complete authority for each such  
9 County Clerk to extend such tax for collection upon all the  
10 taxable property within the territory of the county water  
11 commission subject to such tax in each and every year required  
12 sufficient to pay the principal of and interest on such bonds,  
13 as aforesaid, without limit as to rate or amount, and shall be  
14 in addition to and in excess of all other taxes authorized to  
15 be levied by the commission or any included unit. The general  
16 obligation bonds shall be issued pursuant to an ordinance or  
17 resolution and may be issued in one or more series, and shall  
18 bear such date or dates, mature at such time or times and in  
19 any event not more than 40 years from the date thereof, be sold  
20 at such price at private or public sale as determined by a  
21 county water commission, bear interest at such rate or rates  
22 such that the net effective interest rate received upon the  
23 sale of such bonds does not exceed the maximum rate determined  
24 under Section 2 of the Bond Authorization Act, which rates may  
25 be fixed or variable, be in such denominations, be in such  
26 form, either coupon or registered, carry such conversion,

1 registration, and exchange privileges, be executed in such  
 2 manner, be payable in such medium of payment at such place or  
 3 places within or without the State of Illinois, be subject to  
 4 such terms of redemption, and contain or be subject to such  
 5 other terms as the ordinance or resolution may provide, and  
 6 shall not be restricted by the provisions of any other terms of  
 7 obligations of public agencies or private persons.

8 (e) No issue of general obligation bonds by a county water  
 9 commission (except bonds to refund an existing bonded  
 10 indebtedness) shall be authorized unless the commission  
 11 certifies the proposition of issuing such bonds to the proper  
 12 election officials, who shall submit the proposition to the  
 13 voters at an election in accordance with the general election  
 14 law, and the proposition has been approved by a majority of  
 15 those voting on the proposition.

16 The proposition shall be in the form provided in Section 5  
 17 or shall be substantially in the following form:

18 -----  
 19 Shall general obligation  
 20 bonds for the purpose of  
 21 (state purpose), in the YES  
 22 sum of \$....(insert amount), -----  
 23 be issued by the ..... NO  
 24 (insert corporate name of  
 25 the county water commission)?  
 26 -----

1           (f) In order to carry out and perform its powers and  
2 functions and duties under the provisions of this Act and  
3 Division 135 of the Illinois Municipal Code, as modified and  
4 supplemented by this Act, the governing body of any county  
5 water commission may by ordinance levy annually upon all  
6 taxable property within its territory a tax at a rate not to  
7 exceed .005% of the value of such property, as equalized or  
8 assessed by the Department of Revenue for the year in which the  
9 levy is made. In addition, any county water commission may by  
10 ordinance levy upon all taxable property within its territory,  
11 for one year only, an additional tax for such purposes at a  
12 rate not to exceed .20% of the value of such property, as  
13 equalized or assessed by the Department of Revenue for that  
14 year; provided, however, that such tax may not be levied more  
15 than once in any county water commission.

16           (g) Any county water commission shall have the power to  
17 borrow money, subject to the indebtedness limitation provided  
18 in subsection (d), from the home county or included units, in  
19 such amounts and in such terms as agreed by the governing  
20 bodies of the commission and the home county or included  
21 units.

22           (h) No county water commission constituted pursuant to the  
23 Act shall engage in the retail sale or distribution of water to  
24 residents or customers of any municipality.

25           (i) Nothing in the Section requires any municipality to  
26 contract with a county water commission for a supply of water.

1 (j) The State of Illinois recognizes that any such  
2 contract for the supply of water executed by a unit of local  
3 government and a county water commission may contain terms and  
4 conditions intended by the parties thereto to be absolute  
5 conditions thereof. The State of Illinois also recognizes that  
6 persons may loan funds to a county water commission  
7 (including, without limitation, the purchase of revenue or  
8 general obligation bonds of such commission) in reliance upon  
9 the terms and conditions of any such contract for the supply of  
10 water. Therefore, the State of Illinois pledges and agrees to  
11 those parties and persons which make loans of funds to a county  
12 water commission that it will not impair or limit the power or  
13 ability of a county water commission or a unit of local  
14 government fully to carry out the financial obligations and  
15 obligation to furnish water pursuant to the terms of any  
16 contract for the supply of water entered into by such county  
17 water commission or unit of local government for the term of  
18 such contracts or loans. All other terms and conditions of  
19 such contracts and intergovernmental agreements shall be  
20 binding to the extent that they are not inconsistent with this  
21 amendatory Act of the 93rd General Assembly.

22 (Source: P.A. 95-114, eff. 1-1-08.)

23 (70 ILCS 3720/6 new)

24 Sec. 6. As used in this Act:

25 "Construction-manager-at-risk delivery method" means a

1 delivery method in which the party proposing to be the  
2 construction manager commits to be responsible for performance  
3 of certain preconstruction services and, if the parties reach  
4 agreement on key terms, becomes responsible for construction  
5 of the project.

6 "Design-build delivery method" means a delivery system  
7 that provides responsibility within a single contract for the  
8 furnishing of architecture, engineering, land surveying, and  
9 related services as required and the labor, materials,  
10 equipment, and other construction services for the project.

11 "Design-build contract" means a contract for a public  
12 project under this Division between a commission and a  
13 design-build entity to furnish architecture, infrastructure,  
14 engineering, land surveying, public art or interpretive  
15 exhibits, and related services, as required, and the labor,  
16 materials, equipment, and other construction services for the  
17 project.

18 "Design-build entity" means any individual, sole  
19 proprietorship, firm, partnership, joint venture, corporation,  
20 professional corporation, or other entity that proposes to  
21 design and construct any public project under this Division.

22 "Design professional" means any individual, sole  
23 proprietorship, firm, partnership, joint venture, corporation,  
24 professional corporation, or other entity that offers services  
25 under the Illinois Architecture Practice Act of 1989, the  
26 Professional Engineering Practice Act of 1989, the Structural

1 Engineering Practice Act of 1989, or the Illinois Professional  
2 Land Surveyor Act of 1989.

3 "Evaluation criteria" means the requirements for the  
4 separate phases of the selection process as defined in this  
5 Division and may include the specialized experience, technical  
6 qualifications and competence, capacity to perform, past  
7 performance, experience with similar projects, assignment of  
8 personnel to the project, and other appropriate factors.

9 "Proposal" means the offer to enter into a design-build  
10 contract as submitted by a design-build entity in accordance  
11 with this Division.

12 "Request for proposal" means the document used by the  
13 commission to solicit proposals for a design-build contract.

14 "Scope and performance criteria" means the requirements  
15 for the commission project, including, but not limited to, the  
16 intended usage, capacity, size, scope, quality and performance  
17 standards, life-cycle costs, and other programmatic criteria  
18 that are expressed in performance-oriented and quantifiable  
19 specifications and drawings that can be reasonably inferred  
20 and are suited to allow a design-build entity to develop a  
21 proposal.

22 (70 ILCS 3720/7 new)

23 Sec. 7. Commission facilities. A waterworks system or a  
24 common source of supply of water, or both, purchased or  
25 constructed by the commission: (1) may be located within or

1 without the corporate limits of any customer municipality; (2)  
2 may include, or may consist of, without limitation, facilities  
3 for receiving, storing, and transmitting water from any source  
4 for supplying water to customer municipalities and other  
5 purchasers of water from the commission; and (3) may include,  
6 without limitation, facilities that are developed, acquired,  
7 constructed, extended, or improved by the commission that may,  
8 at any time, be owned by another unit of local government if  
9 the facilities will serve the waterworks system or provide a  
10 common source of supply of water for the commission.

11 (70 ILCS 3720/8 new)

12 Sec. 8. Construction contracts.

13 (a) All or any portion of a waterworks system or other  
14 public improvement of a commission, when the expense thereof  
15 will exceed the greater of (i) \$25,000 or (ii) the amount of  
16 expense above which a work or public improvement by a  
17 municipality must be let to the lowest responsible bidder  
18 after advertising for bids under Section 8-9-1 of the Illinois  
19 Municipal Code, shall be constructed, maintained, or repaired  
20 either: (1) by a contract let to the lowest responsible bidder  
21 after advertising for bids, in the manner prescribed by the  
22 commission's bylaws, rules, and regulations and by the vote  
23 required as established in the water purchase and sale  
24 contract; or (2) without advertising for bids, if authorized  
25 by a vote of greater than a majority of all the commissioners

1 as established in an intergovernmental agreement. The  
2 commission's bylaws, rules, and regulations shall provide for  
3 an alternative procedure for emergency procurement if an  
4 emergency makes it impracticable to follow the procedures in  
5 this subsection.

6 (b) A commission may use alternative project delivery  
7 methods if the commission determines it to be in the  
8 commission's best interest for a particular project. An  
9 alternative project delivery method may include, without  
10 limitation, any design-build delivery methods or  
11 construction-manager-at-risk delivery methods. All notices for  
12 the procurement of goods, services, or work to be provided  
13 pursuant to an alternate delivery method shall include all  
14 requirements for the goods, services, or work to be procured.  
15 All awards of contracts or agreements for the procurement of  
16 goods, services, or work to be provided pursuant to an  
17 alternate delivery method shall be made on the basis of  
18 demonstrated competence and qualifications and with due regard  
19 for the principles of competitive selection. As part of an  
20 alternate project delivery procurement process, prior to  
21 submission of proposals, the commission may conduct meetings  
22 and exchange confidential information with proposers to  
23 promote understanding of the request for proposals, review  
24 alternative design concepts, or discuss other issues related  
25 to the procurement.

26 (c) A commission may establish goals or requirements for

1 the procurement of goods and services and for construction  
2 contracts to promote and encourage the continuing economic  
3 development of (i) businesses that are owned and operated by  
4 minorities, women, persons with disabilities, or veterans;  
5 (ii) businesses that are located within the territory of one  
6 or more of the municipalities that are members of the  
7 commission; (iii) businesses that employ persons who reside in  
8 the territory of one or more of the municipalities that are  
9 members of the commission. A commission may also establish  
10 other goals or requirements that result in the award to a  
11 responsible bidder other than the lowest responsible bidder if  
12 the commission determines that the award is in the  
13 commission's best interests, notwithstanding the requirements  
14 of subsection (a). Goals or requirements that are set by a  
15 commission that result in a preference being applied to a  
16 bidder or proposer, who has met those goals or requirements,  
17 in a commission's process for awarding construction contracts  
18 and for the procurement of goods and services must comply with  
19 the constitutional standards applicable to the preferences.

20 (d) A customer municipality may enter into a contract for  
21 any portion of a waterworks system or other public improvement  
22 of a commission pursuant to a contracting method that is  
23 consistent with the requirements applicable to the  
24 municipality and generally consistent with the principles in  
25 subsection (a) or (b). The commission may accept assignment of  
26 such a contract and of payment obligations under that

1 contract.

2 (e) In connection with a contract by a commission for the  
3 construction of all or any portion of a waterworks system or  
4 other public improvement of the commission for which the  
5 commission issues bonds, the commission must enter into a  
6 project labor agreement with the applicable local building  
7 trades council prior to the commencement of any and all  
8 construction, building, renovation, demolition, or any  
9 material change to the structure or land.

10 (70 ILCS 3720/9 new)

11 Sec. 9. Solicitation of proposals.

12 (a) A commission may enter into design-build contracts. In  
13 addition to the requirements set forth in its local  
14 ordinances, when the commission elects to use the design-build  
15 delivery method, it must issue a notice of intent to receive  
16 proposals for the project at least 14 days before issuing the  
17 request for the proposal. The commission must publish the  
18 advance notice online on its website. The commission may  
19 publish the notice in construction industry publications or  
20 post the notice on construction industry websites. A brief  
21 description of the proposed procurement must be included in  
22 the notice. The commission must provide a copy of the request  
23 for proposal to any party requesting a copy.

24 (b) The request for proposal shall be prepared for each  
25 project and must contain, without limitation, the following

1 information:

2 (1) The name of the commission.

3 (2) A preliminary schedule for the completion of the  
4 contract.

5 (3) The proposed budget for the project, the source of  
6 funds, and the currently available funds at the time the  
7 request for proposal is submitted.

8 (4) Prequalification criteria for design-build  
9 entities wishing to submit proposals. The Commission shall  
10 include, at a minimum, its normal prequalification,  
11 licensing, registration, and other requirements; however,  
12 nothing precludes the use of additional prequalification  
13 criteria by the commission.

14 (5) Material requirements of the contract, including,  
15 but not limited to, the proposed terms and conditions,  
16 required performance and payment bonds, and insurance.

17 (6) The performance criteria.

18 (7) The evaluation criteria for each phase of the  
19 solicitation. Price may not be used as a factor in the  
20 evaluation of Phase I proposals.

21 (8) The number of entities that will be considered for  
22 the technical and cost evaluation phase.

23 (c) The commission may include any other relevant  
24 information that it chooses to supply. The design-build entity  
25 shall be entitled to rely upon the accuracy of this  
26 documentation in the development of its proposal.

1       (d) The date that proposals are due must be at least 21  
2 calendar days after the date of the issuance of the request for  
3 proposal. If the cost of the project is estimated to exceed  
4 \$12,000,000, then the proposal due date must be at least 28  
5 calendar days after the date of the issuance of the request for  
6 proposal. The commission shall include in the request for  
7 proposal a minimum of 30 days to develop the Phase II  
8 submissions after the selection of entities from the Phase I  
9 evaluation is completed.

10       (70 ILCS 3720/10 new)

11       Sec. 10. Development of scope and performance criteria.

12       (a) The commission shall develop, with the assistance of a  
13 licensed design professional or licensed professional  
14 engineer, a request for proposal, which shall include scope  
15 and performance criteria. The scope and performance criteria  
16 must be in sufficient detail and contain adequate information  
17 to reasonably apprise the qualified design-build entities of  
18 the commission's overall programmatic needs and goals,  
19 including criteria and preliminary design plans, general  
20 budget parameters, schedule, and delivery requirements.

21       (b) Each request for proposal shall also include a  
22 description of the level of design to be provided in the  
23 proposals. This description must include the scope and type of  
24 renderings, drawings, and specifications that, at a minimum,  
25 will be required by the commission to be produced by the

1 design-build entities.

2 (c) The scope and performance criteria shall be prepared  
3 by a licensed professional engineer who is an employee of the  
4 commission, or the commission may contract with an independent  
5 licensed professional engineer or engineering firm selected  
6 under the Local Government Professional Services Selection Act  
7 to provide these services.

8 (d) The design professional that prepares the scope and  
9 performance criteria is prohibited from participating in any  
10 design-build entity proposal for the project.

11 (e) The design-build contract may be conditioned upon  
12 subsequent refinements in scope and price and may allow the  
13 commission to make modifications in the project scope without  
14 invalidating the design-build contract.

15 (70 ILCS 3720/11 new)

16 Sec. 11. Procedures for selection.

17 (a) The commission must use a 2-phase procedure for the  
18 selection of the successful design-build entity. Phase I of  
19 the procedure will evaluate and shortlist the design-build  
20 entities based on qualifications, and Phase II will evaluate  
21 the technical and cost proposals.

22 (b) The commission shall include in the request for  
23 proposal the evaluating factors to be used in Phase I. These  
24 factors are in addition to any prequalification requirements  
25 of design-build entities that the commission has set forth.

1 Each request for proposal shall establish the relative  
2 importance assigned to each evaluation factor and subfactor,  
3 including any weighting of criteria to be employed by the  
4 commission. The commission must maintain a record of the  
5 evaluation scoring to be disclosed in event of a protest  
6 regarding the solicitation.

7 The commission shall include the following criteria in  
8 every Phase I evaluation of design-build entities: (i)  
9 experience of personnel; (ii) successful experience with  
10 similar project types; (iii) financial capability; (iv)  
11 timeliness of past performance; (v) experience with similarly  
12 sized projects; (vi) successful reference checks of the firm;  
13 and (vii) commitment to assign personnel for the duration of  
14 the project and qualifications of the entity's consultants.

15 The commission may include any additional relevant  
16 criteria in Phase I that it deems necessary for a proper  
17 qualification review. The commission may not consider any  
18 design-build entity for evaluation or award if the entity has  
19 any pecuniary interest in the project or has other  
20 relationships or circumstances, including, but not limited to,  
21 long-term leasehold, mutual performance, or development  
22 contracts with the commission, that may give the design-build  
23 entity a financial or tangible advantage over other  
24 design-build entities in the preparation, evaluation, or  
25 performance of the design-build contract or that create the  
26 appearance of impropriety.

1 Upon completion of the qualifications evaluation, the  
2 commission shall create a shortlist of the most highly  
3 qualified design-build entities. The commission, in its  
4 discretion, is not required to shortlist the maximum number of  
5 entities as identified for Phase II evaluation, provided that  
6 no less than 2 design-build entities nor more than 6 are  
7 selected to submit Phase II proposals. The commission shall  
8 notify the entities selected for the shortlist in writing.  
9 This notification shall commence the period for the  
10 preparation of the Phase II technical and cost evaluations.  
11 The commission must allow sufficient time for the shortlist  
12 entities to prepare their Phase II submittals considering the  
13 scope and detail requested by the commission.

14 (c) The commission shall include in the request for  
15 proposal the evaluating factors to be used in the technical  
16 and cost submission components of Phase II. Each request for  
17 proposal shall establish, for both the technical and cost  
18 submission components of Phase II, the relative importance  
19 assigned to each evaluation factor and subfactor, including  
20 any weighting of criteria to be employed by the commission.  
21 The commission must maintain a record of the evaluation  
22 scoring to be disclosed in the event of a protest regarding the  
23 solicitation.

24 The commission shall include the following criteria in  
25 every Phase II technical evaluation of design-build entities:  
26 (i) compliance with objectives of the project; (ii) compliance

1 of proposed services to the request for proposal requirements;  
2 (iii) quality of products or materials proposed; (iv) quality  
3 of design parameters; (v) design concepts; (vi) innovation in  
4 meeting the scope and performance criteria; and (vii)  
5 constructability of the proposed project. The commission may  
6 include any additional relevant technical evaluation factors  
7 it deems necessary for proper selection.

8 The commission may include the following criteria in every  
9 Phase II cost evaluation: the total project cost; the  
10 construction costs; and the time of completion. The commission  
11 may include any additional relevant technical evaluation  
12 factors it deems necessary for proper selection. The total  
13 project cost criteria weighting factor shall not exceed 30%.

14 The commission shall directly employ or retain a licensed  
15 professional engineer to evaluate the technical and cost  
16 submissions to determine if the technical submissions are in  
17 accordance with generally accepted industry standards.

18 Upon completion of the technical submissions and cost  
19 submissions evaluation, the commission may award the  
20 design-build contract to the highest overall ranked entity.

21 (70 ILCS 3720/12 new)

22 Sec. 12. Small projects. In any case where the total  
23 overall cost of the project is estimated to be less than  
24 \$12,000,000, the commission may combine the 2-phase procedure  
25 for selection described in Section 10 into one combined

1 procedure, provided that all the requirements of evaluation  
2 are performed in accordance with Section 11.

3 (70 ILCS 3720/13 new)

4 Sec. 13. Submission of proposals.

5 (a) Proposals must be properly identified and sealed.  
6 Proposals may not be reviewed until after the deadline for  
7 submission has passed as set forth in the request for  
8 proposals. All design-build entities submitting proposals  
9 shall be disclosed after the deadline for submission, and all  
10 design-build entities who are selected for Phase II evaluation  
11 shall also be disclosed at the time of that determination.

12 (b) Proposals may include a bid bond in the form and  
13 security as designated in the request for proposals. Proposals  
14 shall also contain a separate sealed envelope with the cost  
15 information within the overall proposal submission. Proposals  
16 shall include a list of all design professionals and other  
17 entities to which any work may be subcontracted during the  
18 performance of the contract.

19 (c) Proposals must meet all material requirements of the  
20 request for proposal or they may be rejected as  
21 non-responsive. The commission has the right to reject any and  
22 all proposals.

23 (d) The drawings and specifications of the proposal may  
24 remain the property of the design-build entity.

25 (e) The commission shall review the proposals for

1 compliance with the performance criteria and evaluation  
2 factors.

3 (f) Proposals may be withdrawn prior to evaluation for any  
4 cause. After evaluation begins by the commission, clear and  
5 convincing evidence of error is required for withdrawal.

6 (70 ILCS 3720/14 new)

7 Sec. 14. Award; performance. The commission may award the  
8 contract to the highest overall ranked entity. Notice of award  
9 shall be made in writing. Unsuccessful entities shall also be  
10 notified in writing. The commission may not request a best and  
11 final offer after the receipt of proposals. The commission may  
12 negotiate with the selected design-build entity after award  
13 for the purpose of securing better terms than originally  
14 proposed, provided that the salient features of the request  
15 for proposal are not diminished.

16 A design-build entity and associated design professionals  
17 shall conduct themselves in accordance with the relevant laws  
18 of this State and the related provisions of the Illinois  
19 Administrative Code.

20 (70 ILCS 3720/15 new)

21 Sec. 15. Applicability. Sections 8 through 14 of this Act  
22 shall apply notwithstanding anything to the contrary in  
23 Division 135 of Article 11 of the Municipal Code.

1 Section 10. The Illinois Municipal Code is amended by  
2 changing Section 11-135-8 as follows:

3 (65 ILCS 5/11-135-8) (from Ch. 24, par. 11-135-8)

4 Sec. 11-135-8. Such commission shall have the right to  
5 supply water to any municipality, political subdivision,  
6 private person or corporation, in addition to the  
7 municipalities which have formed the commission, and to  
8 construct water transmission and distribution lines within a  
9 radius of 50 ~~25~~ miles outside the corporate limits of member  
10 municipalities for the purpose of furnishing water to any  
11 additional entities which contract with the commission for a  
12 supply of water, upon such payment, terms and conditions as  
13 may be mutually agreed upon. In addition to the foregoing  
14 powers, if there is any municipality within a radius of 50 ~~25~~  
15 miles of the corporate limits of the commission which desires  
16 not to own or operate a waterworks system, and such  
17 municipality adopts an ordinance requesting the Commission to  
18 supply water for public and domestic use within such  
19 municipality, then any such commission may, when determined by  
20 the Commissioners to be in the public interest and necessary  
21 for the protection of the public health or in the best interest  
22 of the Commission or its environs, enter into and perform  
23 contracts, whether long term or short term, with any such  
24 municipality, to acquire, construct and operate and maintain  
25 its waterworks properties within the corporate limits of such

1 municipality for the purpose of supplying water for public and  
2 domestic use to the inhabitants thereof.

3       Such commission shall have the power to contract with any  
4 person, corporation or political subdivision or any municipal  
5 corporation or other agency for a supply of water, or to supply  
6 water to such person, corporation, municipal corporation or  
7 political subdivision. Any such contract made by a commission  
8 for a supply of water may contain provisions whereby the  
9 commission is obligated to pay for such supply of water  
10 without setoff or counterclaim and irrespective of whether  
11 such supply of water is ever furnished, made available or  
12 delivered to the commission or whether any project for the  
13 supply of water contemplated by any such contract is  
14 completed, operable or operating and notwithstanding any  
15 suspension, interruption, interference, reduction or  
16 curtailment of the supply of water from such project. Any such  
17 contract may provide that if one or more of the other  
18 purchasers defaults in the payment of its obligations under  
19 such contract or similar contract made with the supplier of  
20 the water, one or more of the remaining purchasers party to  
21 such contract or such similar contract shall be required to  
22 pay for all or a portion of the obligations of the defaulting  
23 purchasers. Any such contract entered into to supply water to  
24 a municipal corporation or political subdivision shall provide  
25 that the payments to be made thereunder shall be solely from  
26 the revenues to be derived by such municipality or political

1 subdivision from the operation of the waterworks system of  
2 such municipality or political subdivision, and said contract  
3 shall be a continuing, valid and binding obligation of the  
4 municipality or political subdivision, payable from such  
5 revenues for such period of years, not to exceed 40, as may be  
6 provided in such contract. Any such contract shall not be a  
7 debt within the meaning of any statutory or constitutional  
8 limitations.

9 No prior appropriation shall be required before entering  
10 into such contract, and no appropriation shall be required to  
11 authorize payments to be made under the terms of any such  
12 contract, notwithstanding any provision of this Code to the  
13 contrary.

14 The changes in this Section made by this amendatory Act of  
15 1984 are intended to be declarative of existing law.

16 (Source: P.A. 83-1123.)