



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1513

Introduced 2/4/2025, by Sen. Rachel Ventura

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-124-5

Amends the Municipal Code. In provisions concerning acquisition of water systems by eminent domain, provides that eminent domain actions undertaken by a municipality under the provisions may be submitted as a referendum to be voted upon by the electors residing within the area in which the affected water system is located. Provides that the petition process for the elections shall be governed by specified procedures of the Election Code. Provides that the acquisition of water systems by eminent domain is declared to be a special use under specified provisions of the Eminent Domain Act.

LRB104 10303 RTM 20377 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 Illinois Municipal Code is amended by
5 changing Section 11-124-5 as follows:

6 (65 ILCS 5/11-124-5)

7 Sec. 11-124-5. Acquisition of water systems by eminent
8 domain.

9 (a) In addition to other provisions providing for the
10 acquisition of water systems or water works, whenever a public
11 utility subject to the Public Utilities Act utilizes public
12 property (including, but not limited to, right-of-way) of a
13 municipality for the installation or maintenance of all or
14 part of its water distribution system, the municipality has
15 the right to exercise eminent domain to acquire all or part of
16 the water system, in accordance with this Section. Unless it
17 complies with the provisions set forth in this Section, a
18 municipality is not permitted to acquire by eminent domain
19 that portion of a system located in another incorporated
20 municipality without agreement of that municipality, but this
21 provision shall not prevent the acquisition of that portion of
22 the water system existing within the acquiring municipality.
23 Eminent domain actions undertaken by a municipality under this

1 Section may be submitted as a referendum to be voted upon by
2 the electors residing within the area in which the affected
3 water system is located. The petition process for water
4 systems wholly located within an individual municipality shall
5 be governed by the procedure described in Section 28-6 of the
6 Election Code. The petition process for water systems located
7 across multiple municipalities shall be governed by Section
8 28-7 of the Election Code.

9 (b) Where a water system that is owned by a public utility
10 (as defined in the Public Utilities Act) provides water to
11 customers located in 2 or more municipalities, the system may
12 be acquired by a majority of the municipalities by eminent
13 domain. If the system is to be acquired by more than one
14 municipality, then there must be an intergovernmental
15 agreement in existence between the acquiring municipalities
16 providing for the acquisition.

17 (c) If a water system that is owned by a public utility
18 provides water to customers located in one or more
19 municipalities and also to customers in an unincorporated area
20 and if at least 70% of the customers of the system or portion
21 thereof are located within the municipality or municipalities,
22 then the system, or portion thereof as determined by the
23 corporate authorities, may be acquired, using eminent domain
24 or otherwise, by either a municipality under subsection (a) or
25 an entity created by agreement between municipalities where at
26 least 70% of the customers reside. For the purposes of

1 determining "customers of the system", only retail customers
2 directly billed by the company shall be included in the
3 computation. The number of customers of the system most
4 recently reported to the Illinois Commerce Commission for any
5 calendar year preceding the year a resolution is passed by a
6 municipality or municipalities expressing preliminary intent
7 to purchase the water system or portion thereof shall be
8 presumed to be the total number of customers within the
9 system. The public utility shall provide information relative
10 to the number of customers within each municipality and within
11 the system within 60 days after any such request by a
12 municipality.

13 (d) In the case of acquisition by a municipality or
14 municipalities or a public entity created by law to own or
15 operate a water system under this Section, service and water
16 supply must be provided to persons who are customers of the
17 system on the effective date of this amendatory Act of the 94th
18 General Assembly without discrimination based on whether the
19 customer is located within or outside of the boundaries of the
20 acquiring municipality or municipalities or entity, and a
21 supply contract existing on the effective date of this
22 amendatory Act of the 94th General Assembly must be honored by
23 an acquiring municipality, municipalities, or entity according
24 to the terms so long as the agreement does not conflict with
25 any other existing agreement.

26 (e) For the purposes of this Section, "system" includes

1 all assets reasonably necessary to provide water service to a
2 contiguous or compact geographical service area or to an area
3 served by a common pipeline and include, but are not limited
4 to, interests in real estate, all wells, pipes, treatment
5 plants, pumps and other physical apparatus, data and records
6 of facilities and customers, fire hydrants, equipment, or
7 vehicles and also includes service agreements and obligations
8 derived from use of the assets, whether or not the assets are
9 contiguous to the municipality, municipalities, or entity
10 created for the purpose of owning or operating a water system.

11 (f) Before making a good faith offer, a municipality may
12 pass a resolution of intent to study the feasibility of
13 purchasing or exercising its power of eminent domain to
14 acquire any water system or water works, sewer system or sewer
15 works, or combined water and sewer system or works, or part
16 thereof. Upon the passage of such a resolution, the
17 municipality shall have the right to review and inspect all
18 financial and other records, and both corporeal and
19 incorporeal assets of such utility related to the condition
20 and the operation of the system or works, or part thereof, as
21 part of the study and determination of feasibility of the
22 proposed acquisition by purchase or exercise of the power of
23 eminent domain, and the utility shall make knowledgeable
24 persons who have access to all relevant facts and information
25 regarding the subject system or works available to answer
26 inquiries related to the study and determination.

1 The right to review and inspect shall be upon reasonable
2 notice to the utility, with reasonable inspection and review
3 time limitations and reasonable response times for production,
4 copying, and answer. In addition, the utility may utilize a
5 reasonable security protocol for personnel on the
6 municipality's physical inspection team.

7 In the absence of other agreement, the utility must
8 respond to any notice by the municipality concerning its
9 review and inspection within 21 days after receiving the
10 notice. The review and inspection of the assets of the company
11 shall be over such period of time and carried out in such
12 manner as is reasonable under the circumstances.

13 Information requested that is not privileged or protected
14 from discovery under the Illinois Code of Civil Procedure but
15 is reasonably claimed to be proprietary, including, without
16 limitation, information that constitutes trade secrets or
17 information that involves system security concerns, shall be
18 provided, but shall not be considered a public record and
19 shall be kept confidential by the municipality.

20 In addition, the municipality must, upon request,
21 reimburse the utility for the actual, reasonable costs and
22 expenses, excluding attorneys' fees, incurred by the utility
23 as a result of the municipality's inspection and requests for
24 information. Upon written request, the utility shall issue a
25 statement itemizing, with reasonable detail, the costs and
26 expenses for which reimbursement is sought by the utility.

1 Where such written request for a statement has been made, no
2 payment shall be required until 30 days after receipt of the
3 statement. Such reimbursement by the municipality shall be
4 considered income for purposes of any rate proceeding or other
5 financial request before the Illinois Commerce Commission by
6 the utility.

7 The municipality and the utility shall cooperate to
8 resolve any dispute arising under this subsection. In the
9 event the dispute under this subsection cannot be resolved,
10 either party may request relief from the circuit court in any
11 county in which the water system is located, with the
12 prevailing party to be awarded such relief as the court deems
13 appropriate under the discovery abuse sanctions currently set
14 forth in the Illinois Code of Civil Procedure.

15 The municipality's right to inspect physical assets and
16 records in connection with the purpose of this Section shall
17 not be exercised with respect to any system more than one time
18 during a 5-year period, unless a substantial change in the
19 size of the system or condition of the operating assets of the
20 system has occurred since the previous inspection. Rights
21 under franchise agreements and other agreements or statutory
22 or regulatory provisions are not limited by this Section and
23 are preserved.

24 The passage of time between an inspection of the utilities
25 and physical assets and the making of a good faith offer or
26 initiation of an eminent domain action because of the limit

1 placed on inspections by this subsection shall not be used as a
2 basis for challenging the good faith of any offer or be used as
3 the basis for attacking any appraisal, expert, argument, or
4 position before a court related to an acquisition by purchase
5 or eminent domain.

6 (g) Notwithstanding any other provision of law, the
7 Illinois Commerce Commission has no approval authority of any
8 eminent domain action brought by any governmental entity or
9 combination of such entities to acquire water systems or water
10 works, except as is provided in subsection (h) of Section
11 10-5-10 of the Eminent Domain Act.

12 (h) The provisions of this Section are severable under
13 Section 1.31 of the Statute on Statutes.

14 (i) This Section does not apply to any public utility
15 company that, on January 1, 2006, supplied a total of 70,000 or
16 fewer meter connections in the State unless and until (i) that
17 public utility company receives approval from the Illinois
18 Commerce Commission under Section 7-204 of the Public
19 Utilities Act for the reorganization of the public utility
20 company or (ii) the majority control of the company changes
21 through a stock sale, a sale of assets, a merger (other than an
22 internal reorganization) or otherwise. For the purpose of this
23 Section, "public utility company" means the public utility
24 providing water service and includes any of its corporate
25 parents, subsidiaries, or affiliates possessing a franchised
26 water service in the State.

1 (j) Any contractor or subcontractor that performs work on
2 a water system acquired by a municipality or municipalities
3 under this Section shall comply with the requirements of
4 Section 30-22 of the Illinois Procurement Code. The contractor
5 or subcontractor shall submit evidence of compliance with
6 Section 30-22 to the municipality or municipalities.

7 (k) The municipality or municipalities acquiring the water
8 system shall offer available employee positions to the
9 qualified employees of the acquired water system.

10 (l) The acquisition of water systems by eminent domain
11 through the procedures described in this Section is declared
12 to be a special use under Section 10-5-60 of the Eminent Domain
13 Act. Accordingly, the acquisition price shall be the price for
14 which the system was purchased from the municipality by a
15 private entity, plus the cost of actual improvement to the
16 water system by the private entity, accounting for the rate of
17 inflation between the time of purchase by the private entity
18 and the time of acquisition by the municipality.

19 (Source: P.A. 103-13, eff. 6-9-23.)