



Sen. Rachel Ventura

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10400SB1513sam001

LRB104 10303 RTM 23765 a

1 AMENDMENT TO SENATE BILL 1513

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1513 by replacing  
3 everything after the enacting clause with the following:

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 or sewer systems by  
8 eminent 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 or sewer system, the  
15 municipality has the right to exercise eminent domain to  
16 acquire all or part of the water or sewer system, in accordance

1 with this Section. Unless it complies with the provisions set  
2 forth in this Section, a municipality is not permitted to  
3 acquire by eminent domain that portion of a system located in  
4 another incorporated municipality without agreement of that  
5 municipality, but this provision shall not prevent the  
6 acquisition of that portion of the water system existing  
7 within the acquiring municipality. A referendum to initiate a  
8 process by which a municipality may acquire a system by  
9 eminent domain may be called by a resolution by the relevant  
10 corporate authorities under subsection (a-5) or by the filing  
11 of a petition under subsection (a-10). Any municipality may  
12 initiate a process to acquire a system by eminent domain under  
13 subsection (a-5) or (a-10).

14 (a-5) If the corporate authorities of a municipality adopt  
15 a resolution calling for a referendum on a proposal to acquire  
16 a system by eminent domain, within the time provided in the  
17 general election law, then the corporate authorities shall  
18 provide for the submission of the proposal to the electors of  
19 the municipality in accordance with this Section at the next  
20 general election held in an even-numbered year. The  
21 proposition shall be in substantially the following form:

22 Shall the municipality of (name of municipality)  
23 initiate a process to determine the feasibility of  
24 acquiring (name of the public utility) and, upon  
25 determining that such an acquisition is possible,  
26 undertake to acquire (name of the water or sewer system)

1       by eminent domain?

2               The votes shall be recorded as "Yes" or "No".

3       If a majority of the electors voting on the referendum  
4 within the service area of the water or sewer utility vote in  
5 favor of the referendum, then the municipality shall undertake  
6 a process to determine the feasibility of acquiring the system  
7 in accordance with subsection (f) and it shall, upon a finding  
8 that such an undertaking is feasible, initiate an acquisition  
9 via eminent domain in accordance with this Section. If less  
10 than a majority of the electors voting on the referendum  
11 within the service area of the water or sewer utility vote in  
12 favor of the referendum, then the municipality shall not  
13 initiate a procedure to determine the feasibility of  
14 acquisition and shall not subsequently attempt to acquire the  
15 system for a period of not less than 2 years after the  
16 referendum.

17       (a-10) Upon the filing of a petition signed by the number  
18 of registered voters required by this subsection (a-10) with  
19 the clerk of a circuit court having jurisdiction over the  
20 municipality, within the time provided in the general election  
21 law, that requests the initiation of a process by which a  
22 municipality may acquire a water or sewer system by eminent  
23 domain, the clerk of the circuit court shall transmit the  
24 petition to the chief judge of the circuit court who shall  
25 determine the sufficiency of the petition or assign the  
26 determination of the sufficiency of the petition to a circuit

1 judge who shall make the determination. For a municipality  
2 with a population greater than or equal to 500,000, the  
3 petition under this subsection (a-10) shall be signed by 5% of  
4 the registered voters in the municipality or 10,000  
5 individuals, whichever is less. For a county with a population  
6 less than 500,000, the petition under this subsection (a-10)  
7 shall be signed by 5% of the registered voters in the  
8 municipality or 1,000 individuals, whichever is less. If the  
9 judge determines that the petition is sufficient, then the  
10 judge shall certify the sufficiency of the petition and issue  
11 an order directing the county clerk and the county board to  
12 provide for the submission of the proposition to the electors  
13 of the municipality at the next general election held in an  
14 even-numbered year. The referendum shall be conducted in such  
15 a manner as is prescribed in the general election law. The  
16 proposition shall be in substantially the following form:

17 Shall the municipality of (name of municipality)  
18 initiate a process to determine the feasibility of  
19 acquiring (name of the public utility) and, upon  
20 determining that such an acquisition is possible,  
21 undertake to acquire (name of the water or sewer system)  
22 by eminent domain?

23 The votes shall be recorded as "Yes" or "No".

24 If a majority of the electors voting on the referendum  
25 within the service area of the water or sewer utility vote in  
26 favor of the referendum, then the municipality may undergo a

1 process to determine the feasibility of acquiring the system  
2 in accordance with subsection (f) and, upon a finding that  
3 such an undertaking is feasible, initiate an acquisition via  
4 eminent domain in accordance with this Section. If less than a  
5 majority of the electors voting on the referendum within the  
6 service area of the water or sewer utility vote in favor of the  
7 referendum, then the municipality shall not initiate a  
8 procedure to determine the feasibility of acquisition and  
9 shall not subsequently attempt to acquire the system for a  
10 period of not less than 2 years after the referendum.

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

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

1 under subsection (a) or an entity created by agreement between  
2 municipalities where at least 70% of the customers reside. For  
3 the purposes of determining "customers of the system", only  
4 retail customers directly billed by the company shall be  
5 included in the computation. The number of customers of the  
6 system most recently reported to the Illinois Commerce  
7 Commission for any calendar year preceding the year a  
8 resolution is passed by a municipality or municipalities  
9 expressing preliminary intent to purchase the ~~water~~ system or  
10 portion thereof shall be presumed to be the total number of  
11 customers within the system. The public utility shall provide  
12 information relative to the number of customers within each  
13 municipality and within the system within 60 days after any  
14 such request by a municipality.

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

1 any other existing agreement.

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

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

1 persons who have access to all relevant facts and information  
2 regarding the subject system or works available to answer  
3 inquiries related to the study and determination.

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

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

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

23 In addition, the municipality must, upon request,  
24 reimburse the utility for the actual, reasonable costs and  
25 expenses, excluding attorneys' fees, incurred by the utility  
26 as a result of the municipality's inspection and requests for



1 information. Upon written request, the utility shall issue a  
2 statement itemizing, with reasonable detail, the costs and  
3 expenses for which reimbursement is sought by the utility.  
4 Where such written request for a statement has been made, no  
5 payment shall be required until 30 days after receipt of the  
6 statement. Such reimbursement by the municipality shall be  
7 considered income for purposes of any rate proceeding or other  
8 financial request before the Illinois Commerce Commission by  
9 the utility.

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

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

1       The passage of time between an inspection of the utilities  
2       and physical assets and the making of a good faith offer or  
3       initiation of an eminent domain action because of the limit  
4       placed on inspections by this subsection shall not be used as a  
5       basis for challenging the good faith of any offer or be used as  
6       the basis for attacking any appraisal, expert, argument, or  
7       position before a court related to an acquisition by purchase  
8       or eminent domain.

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

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

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

1 providing water or sewer service and includes any of its  
2 corporate parents, subsidiaries, or affiliates possessing a  
3 franchised water or sewer service in the State.

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

10 (k) The municipality or municipalities acquiring the ~~water~~  
11 system shall offer available employee positions to the  
12 qualified employees of the acquired ~~water~~ system.

13 (l) The acquisition of systems by eminent domain through  
14 the procedures described in this Section is declared to be a  
15 special use under Section 10-5-60 of the Eminent Domain Act.  
16 Accordingly, the acquisition price shall be the price for  
17 which the system was purchased from the municipality by a  
18 private entity, plus the cost of actual improvement to the  
19 system by the private entity, minus the cost of depreciation  
20 of the assets and any public moneys or assets given to the  
21 public utility for the purpose of improving the water or sewer  
22 service, accounting for the rate of inflation between the time  
23 of purchase by the private entity and the time of acquisition  
24 by the municipality.

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

1       Section 10. The Public Utilities Act is amended by  
2       changing Section 9-210.5 as follows:

3       (220 ILCS 5/9-210.5)

4       (Section scheduled to be repealed on June 1, 2028)

5       Sec. 9-210.5. Valuation of water and sewer utilities.

6       (a) In this Section:

7               "Disinterested" means that the person directly  
8       involved (1) is not a director, officer, or an employee of  
9       the large public utility or the water or sewer utility or  
10      its direct affiliates or subsidiaries for at least 12  
11      months before becoming engaged under this Section; (2)  
12      shall not derive a material financial benefit from the  
13      sale of the water or sewer utility other than fees for  
14      services rendered, and (3) shall not have a member of the  
15      person's immediate family, including a spouse, parents or  
16      spouse's parents, children or spouses of children, or  
17      siblings and their spouses or children, be a director,  
18      officer, or employee of either the large public utility or  
19      water or sewer utility or the water or sewer utility or its  
20      direct affiliates or subsidiaries for at least 12 months  
21      before becoming engaged under this Section or receive a  
22      material financial benefit from the sale of the water or  
23      sewer utility other than fees for services rendered.

24              "District" means a service area of a large public  
25      utility whose customers are subject to the same rate

1 tariff.

2 "Large public utility" means an investor-owned public  
3 utility that:

4 (1) is subject to regulation by the Illinois  
5 Commerce Commission under this Act;

6 (2) regularly provides water or sewer service to  
7 more than 15,000 customer connections;

8 (3) provides safe and adequate service; and

9 (4) is not a water or sewer utility as defined in  
10 this subsection (a).

11 "Next rate case" means a large public utility's first  
12 general rate case after the date the large public utility  
13 acquires the water or sewer utility where the acquired  
14 water or sewer utility's cost of service is considered as  
15 part of determining the large public utility's resulting  
16 rates.

17 "Prior rate case" means a large public utility's  
18 general rate case resulting in the rates in effect for the  
19 large public utility at the time it acquires the water or  
20 sewer utility.

21 "Utility service source" means the water or sewer  
22 utility or large public utility from which the customer  
23 receives its utility service type.

24 "Utility service type" means water utility service or  
25 sewer utility service or water and sewer utility service.

26 "Water or sewer utility" means any of the following:

1           (1) a public utility that regularly provides water  
2           or sewer service to 6,000 or fewer customer  
3           connections;

4           (2) a water district, including, but not limited  
5           to, a public water district, water service district,  
6           or surface water protection district, or a sewer  
7           district of any kind established as a special district  
8           under the laws of this State that regularly provides  
9           water or sewer service;

10          (3) a waterworks system or sewerage system  
11          established under the Township Code that regularly  
12          provides water or sewer service; or

13          (4) a water system or sewer system owned by a  
14          municipality that regularly provides water or sewer  
15          service; and

16          (5) any other entity that is not a public utility  
17          that regularly provides water or sewer service.

18          (b) Notwithstanding any other provision of this Act, a  
19          large public utility that acquires a water or sewer utility  
20          may request that the Commission use, and, if so requested, the  
21          Commission shall use, the procedures set forth under this  
22          Section to establish the ratemaking rate base of that water or  
23          sewer utility at the time when it is acquired by the large  
24          public utility.

25          (c) If a large public utility elects the procedures under  
26          this Section to establish the rate base of a water or sewer

1 utility that it is acquiring, then 3 appraisals shall be  
2 performed. The average of these 3 appraisals shall represent  
3 the fair market value of the water or sewer utility that is  
4 being acquired. The appraisals shall be performed by 3  
5 appraisers approved by the Commission's Executive Director or  
6 designee and engaged by either the water or sewer utility  
7 being acquired or by the large public utility. Each appraiser  
8 shall be engaged on reasonable terms approved by the  
9 Commission. Each appraiser shall be a disinterested person  
10 licensed as a State certified general real estate appraiser  
11 under the Real Estate Appraiser Licensing Act of 2002.

12 Each appraiser shall:

13 (1) be sworn to determine the fair market value of the  
14 water or sewer utility by establishing the amount for  
15 which the water or sewer utility would be sold in a  
16 voluntary transaction between a willing buyer and willing  
17 seller under no obligation to buy or sell;

18 (2) determine fair market value in compliance with the  
19 Uniform Standards of Professional Appraisal Practice;

20 (3) engage one disinterested engineer who is licensed  
21 in this State, and who may be the same engineer that is  
22 engaged by the other appraisers, to prepare an assessment  
23 of the tangible assets of the water or sewer utility,  
24 which is to be incorporated into the appraisal under the  
25 cost approach;

26 (4) request from the manager of the Accounting

1 Department, if the water or sewer utility is a public  
2 utility that is regulated by the Commission, a list of  
3 investments made by the water or sewer utility that had  
4 been disallowed previously and that shall be excluded from  
5 the calculation of the large public utility's rate base in  
6 its next rate case; and

7 (5) return their appraisal, in writing, to the water  
8 or sewer utility and large public utility in a reasonable  
9 and timely manner.

10 If the appraiser cannot engage an engineer, as described  
11 in paragraph (3) of this subsection (c), within 30 days after  
12 the appraiser is engaged, then the Commission's Executive  
13 Director or designee shall recommend the engineer the  
14 appraiser should engage. The Commission's Executive Director  
15 or designee shall provide his or her recommendation within 30  
16 days after he or she is officially notified of the appraiser's  
17 failure to engage an engineer and the appraiser shall promptly  
18 work to engage the recommended engineer. If the appraiser is  
19 unable to negotiate reasonable engagement terms with the  
20 recommended engineer within 15 days after the recommendation  
21 by the Commission's Executive Director or designee, then the  
22 appraiser shall notify the Commission's Executive Director or  
23 designee and the process shall be repeated until an engineer  
24 is successfully engaged.

25 (d) The lesser of (i) the purchase price or (ii) the fair  
26 market value determined under subsection (c) of this Section



1 shall constitute the rate base associated with the water or  
2 sewer utility as acquired by and incorporated into the rate  
3 base of the district designated by the acquiring large public  
4 utility under this Section, subject to any adjustments that  
5 the Commission deems necessary to ensure such rate base  
6 reflects prudent and useful investments in the provision of  
7 public utility service. The reasonable transaction and closing  
8 costs incurred by the large public utility shall be treated  
9 consistent with the applicable accounting standards under this  
10 Act. The total amount of all of the appraisers' fees to be  
11 included in the transaction and closing costs shall not exceed  
12 the greater of \$15,000 or 5% of the appraised value of the  
13 water or sewer utility being acquired. This rate base  
14 treatment shall not be deemed to violate this Act, including,  
15 but not limited to, any Sections in Articles VIII and IX of  
16 this Act that might be affected by this Section. Any  
17 acquisition of a water or sewer utility that affects the  
18 cumulative base rates of the large public utility's existing  
19 ratepayers in the tariff group into which the water or sewer  
20 utility is to be combined by less than (1) 2.5% at the time of  
21 the acquisition for any single acquisition completed under  
22 this Section or (2) 5% for all acquisitions completed under  
23 this Section before the Commission's final order in the next  
24 rate case shall not be deemed to violate Section 7-204 or any  
25 other provision of this Act.

26 In the Commission's order that approves the large public

1 utility's acquisition of the water or sewer utility, the  
2 Commission shall issue its decision establishing (1) the  
3 ratemaking rate base of the water or sewer utility; (2) the  
4 district or tariff group with which the water or sewer utility  
5 shall be combined for ratemaking purposes, if such combination  
6 has been proposed by the large public utility; and (3) the  
7 rates to be charged to customers in the water or sewer utility.

8 (e) If the water or sewer utility being acquired is owned  
9 by the State or any political subdivision thereof, then the  
10 water or sewer utility must inform the public of the terms of  
11 its acquisition by the large public utility by (1) holding a  
12 public meeting prior to the acquisition and (2) causing to be  
13 published, in a newspaper of general circulation in the area  
14 that the water or sewer utility operates, a notice setting  
15 forth the terms of its acquisition by the large public utility  
16 and options that shall be available to assist customers to pay  
17 their bills after the acquisition. At the election next  
18 following the public meeting and notice required under this  
19 subsection (e), a referendum, subject to the requirements of  
20 Section 16-7 of the Election Code, shall be placed on the  
21 ballot for all electors within the area where the water or  
22 sewer utility operates in substantially the following form:

23 May the (name of large public utility) acquire the  
24 (name of water or sewer utility) under the terms of  
25 acquisition as published in (name of newspaper) on (date)?

26 The votes shall be recorded as "Yes" or "No".

1       If a majority of the electors voting on the referendum  
2       within the service area of the water or sewer utility vote in  
3       favor of the referendum, then the acquisition may continue as  
4       provided in this Section. If less than a majority of the  
5       electors voting on the referendum within the service area of  
6       the water or sewer utility vote in favor of the referendum,  
7       then the Commission shall deny the large public utility's  
8       acquisition of the water or sewer utility.

9       (f) The large public utility may recommend the district or  
10      tariff group of which the water or sewer utility shall, for  
11      ratemaking purposes, become a part after the acquisition, or  
12      may recommend a lesser rate for the water or sewer utility. If  
13      the large public utility recommends a lesser rate, it shall  
14      submit to the Commission its proposed rate schedule and the  
15      proposed final tariff group for the acquired water or sewer  
16      utility. The Commission's approved district or tariff group or  
17      rates shall be consistent with the large public utility's  
18      recommendation, unless such recommendation can be shown to be  
19      contrary to the public interest.

20      (g) From the date of acquisition until the date that new  
21      rates are effective in the acquiring large public utility's  
22      next rate case, the customers of the acquired water or sewer  
23      utility shall pay the approved then-existing rates of the  
24      district or tariff group as ordered by the Commission, or some  
25      lesser rates as recommended by the large public utility and  
26      approved by the Commission under subsection (f); provided,

1 that, if the application of such rates of the large public  
2 utility to customers of the acquired water or sewer utility  
3 using 54,000 gallons annually results in an increase to the  
4 total annual bill of customers of the acquired water or sewer  
5 utility, exclusive of fire service or related charges, then  
6 the large public utility's rates charged to the customers of  
7 the acquired water or sewer utility shall be uniformly  
8 reduced, if any reduction is required, by the percent that  
9 results in the total annual bill, exclusive of fire services  
10 or related charges, for the customers of the acquired water or  
11 sewer utility using 54,000 gallons being equal to 1.5% of the  
12 latest median household income as reported by the United  
13 States Census Bureau for the most applicable community or  
14 county. For each customer of the water or sewer utility with  
15 potable water usage values that cannot be reasonably obtained,  
16 a value of 4,500 gallons per month shall be assigned. These  
17 rates shall not be deemed to violate this Act including, but  
18 not limited to, Section 9-101 and any other applicable  
19 Sections in Articles VIII and IX of this Act. The Commission  
20 shall issue its decision establishing the rates effective for  
21 the water or sewer utility immediately following an  
22 acquisition in its order approving the acquisition.

23 (h) In the acquiring large public utility's next rate  
24 case, the water or sewer utility and the district or tariff  
25 group ordered by the Commission and their costs of service may  
26 be combined under the same rate tariff. This rate tariff shall

1 be based on allocation of costs of service of the acquired  
2 water or sewer utility and the large public utility's district  
3 or tariff group ordered by the Commission and utilizing a rate  
4 design that does not distinguish among customers on the basis  
5 of utility service source or type. This rate tariff shall not  
6 be deemed to violate this Act including, but not limited to,  
7 Section 9-101 of this Act. In the acquiring large public  
8 utility's 2 rate cases after an acquisition, but in no  
9 subsequent rate case, the large public utility may file a rate  
10 tariff for a water or sewer utility acquired under this  
11 Section that establishes lesser rates than the district or  
12 tariff group into which the water or sewer utility is to be  
13 combined. Those lesser rates shall not be deemed to violate  
14 Section 7-204 or any other provision of this Act if they affect  
15 the cumulative base rates of the large public utility's  
16 existing rate payers in the district or tariff by less than  
17 2.5%.

18 (i) Any post-acquisition improvements made by the large  
19 public utility in the water or sewer utility shall accrue a  
20 cost for financing set at the large public utility's  
21 determined rate for allowance for funds used during  
22 construction, inclusive of the debt, equity, and income tax  
23 gross up components, after the date on which the expenditure  
24 was incurred by the large public utility until the investment  
25 has been in service for a 4-year period or, if sooner, until  
26 the time the rates are implemented in the large public

1 utility's next rate case.

2 Any post-acquisition improvements made by the large public  
3 utility in the water or sewer utility shall not be depreciated  
4 for ratemaking purposes from the date on which the expenditure  
5 was incurred by the large public utility until the investment  
6 has been in service for a 4-year period or, if sooner, until  
7 the time the rates are implemented in the large public  
8 utility's next rate case.

9 (j) This Section shall be exclusively applied to large  
10 public utilities in the voluntary and mutually agreeable  
11 acquisition of water or sewer utilities. Any petitions filed  
12 with the Commission related to the acquisitions described in  
13 this Section, including petitions seeking approvals or  
14 certificates required by this Act, shall be deemed approved  
15 unless the Commission issues its final order within 11 months  
16 after the date the large public utility filed its initial  
17 petition. This Section shall only apply to utilities providing  
18 water or sewer service and shall not be construed in any manner  
19 to apply to electric corporations, natural gas corporations,  
20 or any other utility subject to this Act.

21 (k) Nothing in this Section shall prohibit a party from  
22 declining to proceed with an acquisition or be deemed as  
23 establishing the final purchase price of an acquisition.

24 (l) In the Commission's order that approves the large  
25 utility's acquisition of the water or sewer utility, the  
26 Commission shall address each aspect of the acquisition

1 transaction for which approval is required under the Act.

2 (m) Any contractor or subcontractor that performs work on  
3 a water or sewer utility acquired by a large public utility  
4 under this Section shall be a responsible bidder as described  
5 in Section 30-22 of the Illinois Procurement Code. The  
6 contractor or subcontractor shall submit evidence of meeting  
7 the requirements to be a responsible bidder as described in  
8 Section 30-22 to the water or sewer utility. Any new water or  
9 sewer facility built as a result of the acquisition shall  
10 require the contractor to enter into a project labor  
11 agreement. The large public utility acquiring the water or  
12 sewer utility shall offer employee positions to qualified  
13 employees of the acquired water or sewer utility.

14 (n) This Section is repealed on June 1, 2028.

15 (Source: P.A. 102-149, eff. 1-1-22.)

16 Section 15. The Eminent Domain Act is amended by changing  
17 Section 10-5-10 as follows:

18 (735 ILCS 30/10-5-10) (was 735 ILCS 5/7-102)

19 Sec. 10-5-10. Parties.

20 (a) When the right (i) to take private property for public  
21 use, without the owner's consent, (ii) to construct or  
22 maintain any public road, railroad, plankroad, turnpike road,  
23 canal, or other public work or improvement, or (iii) to damage  
24 property not actually taken has been or is conferred by

1 general law or special charter upon any corporate or municipal  
2 authority, public body, officer or agent, person,  
3 commissioner, or corporation and when (i) the compensation to  
4 be paid for or in respect of the property sought to be  
5 appropriated or damaged for the purposes mentioned cannot be  
6 agreed upon by the parties interested, (ii) the owner of the  
7 property is incapable of consenting, (iii) the owner's name or  
8 residence is unknown, or (iv) the owner is a nonresident of the  
9 State, then the party authorized to take or damage the  
10 property so required, or to construct, operate, and maintain  
11 any public road, railroad, plankroad, turnpike road, canal, or  
12 other public work or improvement, may apply to the circuit  
13 court of the county where the property or any part of the  
14 property is situated, by filing with the clerk a complaint.  
15 The complaint shall set forth, by reference, (i) the  
16 complainant's authority in the premises, (ii) the purpose for  
17 which the property is sought to be taken or damaged, (iii) a  
18 description of the property, and (iv) the names of all persons  
19 interested in the property as owners or otherwise, as  
20 appearing of record, if known, or if not known stating that  
21 fact; and shall pray the court to cause the compensation to be  
22 paid to the owner to be assessed.

23 (b) If it appears that any person not in being, upon coming  
24 into being, is, or may become or may claim to be, entitled to  
25 any interest in the property sought to be appropriated or  
26 damaged, the court shall appoint some competent and



1 disinterested person as guardian ad litem to appear for and  
2 represent that interest in the proceeding and to defend the  
3 proceeding on behalf of the person not in being. Any judgment  
4 entered in the proceeding shall be as effectual for all  
5 purposes as though the person was in being and was a party to  
6 the proceeding.

7 (c) If the proceeding seeks to affect the property of  
8 persons under guardianship, the guardians shall be made  
9 parties defendant.

10 (d) Any interested persons whose names are unknown may be  
11 made parties defendant by the same descriptions and in the  
12 same manner as provided in other civil cases.

13 (e) When the property to be taken or damaged is a common  
14 element of property subject to a declaration of condominium  
15 ownership, pursuant to the Condominium Property Act, or of a  
16 common interest community, the complaint shall name the unit  
17 owners' association in lieu of naming the individual unit  
18 owners and lienholders on individual units. Unit owners,  
19 mortgagees, and other lienholders may intervene as parties  
20 defendant. For the purposes of this Section, "common interest  
21 community" has the same meaning as set forth in subsection (c)  
22 of Section 9-102 of the Code of Civil Procedure. "Unit owners'  
23 association" or "association" shall refer to both the  
24 definition contained in Section 2 of the Condominium Property  
25 Act and subsection (c) of Section 9-102 of the Code of Civil  
26 Procedure.

1           (f) When the property is sought to be taken or damaged by  
2 the State for the purposes of establishing, operating, or  
3 maintaining any State house or State charitable or other  
4 institutions or improvements, the complaint shall be signed by  
5 the Governor, or the Governor's designee, or as otherwise  
6 provided by law.

7           (g) No property, except property described in Section 3 of  
8 the Sports Stadium Act, property to be acquired in furtherance  
9 of actions under Article 11, Divisions 124, 126, 128, 130,  
10 135, 136, and 139, of the Illinois Municipal Code, property to  
11 be acquired in furtherance of actions under Section 3.1 of the  
12 Intergovernmental Cooperation Act, property to be acquired  
13 that is a water system or waterworks pursuant to the home rule  
14 powers of a unit of local government, property described as  
15 Site B in Section 2 of the Metropolitan Pier and Exposition  
16 Authority Act, and property that may be taken as provided in  
17 the Public-Private Agreements for the South Suburban Airport  
18 Act belonging to a railroad or other public utility subject to  
19 the jurisdiction of the Illinois Commerce Commission, may be  
20 taken or damaged, pursuant to the provisions of this Act,  
21 without the prior approval of the Illinois Commerce  
22 Commission.

23           (h) Notwithstanding subsection (g), property belonging to  
24 a public utility that provides water or sewer service and that  
25 is subject to the jurisdiction of the Illinois Commerce  
26 Commission may not be taken or damaged by eminent domain

1 without prior approval of the Illinois Commerce Commission,  
2 except for: (1) property to be acquired under subsection (a-5)  
3 or (a-10) of Section 11-124-5 of the Illinois Municipal Code;  
4 and (2) property to be acquired by a municipality with 140,000  
5 or more inhabitants or a regional water commission formed  
6 under Article 11, Division 135.5 of the Illinois Municipal  
7 Code or a municipality that is a member of such a regional  
8 water commission, only in furtherance of purposes authorized  
9 under Article 11, Division 135.5 of the Illinois Municipal  
10 Code, and limited solely to interests in real property and not  
11 improvements to or assets on the real property belonging to a  
12 public utility that provides water or sewer service and that  
13 is subject to the jurisdiction of the Illinois Commerce  
14 Commission. This subsection does not apply to any action  
15 commenced prior to the effective date of this amendatory Act  
16 of the 103rd General Assembly under this Section or Section  
17 11-124-5 or 11-139-12 of the Illinois Municipal Code.  
18 (Source: P.A. 103-13, eff. 6-9-23.)".