



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2874

Introduced 2/14/2018, by Sen. Napoleon Harris, III

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Municipal Code. Provides that beginning January 1, 2019, a supplying municipality in Cook County shall not charge another municipality in Cook County more than the actual cost of providing water to the municipality. Provides that a supplying municipality in Cook County shall post on its website and provide to the municipality to which it supplies water the actual cost of providing water. Provides that the Environmental Protection Agency shall monitor all supplying municipalities in Cook County to make sure the municipalities are not charging more than the actual cost of providing water. Defines "supplying municipality in Cook County" as a municipality in Cook County that either receives water directly from Lake Michigan or buys its water from another municipality that receives its water either directly or indirectly from Lake Michigan and "actual cost of providing water" as the cost of providing water along with reasonable fees to deliver the drinking water. Limits home rule powers. Amends the Environmental Protection Act. Creates the Cook County Water Infrastructure Fund. Provides that moneys in the Fund shall be used by the Agency to make grants to municipalities to fund infrastructure improvements to facilitate water supplies from Lake Michigan for residents of Cook County. Provides that the Fund is not subject to sweeps, administrative charges or chargebacks, or any other fiscal or budgetary maneuver that would in any way transfer any funds from the Cook County Water Infrastructure Fund into any other fund of the State. Provides that the Agency may adopt rules to implement the provisions. Amends the State Finance Act making conforming changes. Effective immediately.

LRB100 18685 AWJ 33915 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

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 11-124-1 as follows:

6 (65 ILCS 5/11-124-1) (from Ch. 24, par. 11-124-1)

7 Sec. 11-124-1. Contracts for supply of water.

8 (a) The corporate authorities of each municipality may  
9 contract with any person, corporation, municipal corporation,  
10 political subdivision, public water district or any other  
11 agency for a supply of water. Any such contract entered into by  
12 a municipality shall provide that payments to be made  
13 thereunder shall be solely from the revenues to be derived from  
14 the operation of the waterworks system of the municipality, and  
15 the contract shall be a continuing valid and binding obligation  
16 of the municipality payable from the revenues derived from the  
17 operation of the waterworks system of the municipality for the  
18 period of years, not to exceed 40, as may be provided in such  
19 contract. Any such contract shall not be a debt within the  
20 meaning of any constitutional or statutory limitation. No prior  
21 appropriation shall be required before entering into such a  
22 contract and no appropriation shall be required to authorize  
23 payments to be made under the terms of any such contract

1 notwithstanding any provision in this Code to the contrary.

2 (b) Payments to be made under any such contract shall be an  
3 operation and maintenance expense of the waterworks system of  
4 the municipality. Any such contract made by a municipality for  
5 a supply of water may contain provisions whereby the  
6 municipality is obligated to pay for such supply of water  
7 without setoff or counterclaim and irrespective of whether such  
8 supply of water is ever furnished, made available or delivered  
9 to the municipality or whether any project for the supply of  
10 water contemplated by any such contract is completed, operable  
11 or operating and notwithstanding any suspension, interruption,  
12 interference, reduction or curtailment of the supply of water  
13 from such project. Any such contract may provide that if one or  
14 more of the other purchasers of water defaults in the payment  
15 of its obligations under such contract or a similar contract  
16 made with the supplier of the water, one or more of the  
17 remaining purchasers party to such contract or such similar  
18 contract shall be required to pay for all or a portion of the  
19 obligations of the defaulting purchasers.

20 (c) Payments to be made under any such contract with a  
21 municipal joint action water agency under the  
22 Intergovernmental Cooperation Act shall be an operation and  
23 maintenance expense of the waterworks system of the  
24 municipality. Any such contract made by a municipality for a  
25 supply of water with a municipal joint action water agency  
26 under the provisions of the Intergovernmental Cooperation Act

1 may contain provisions whereby the municipality is obligated to  
2 pay for such supply of water without setoff or counterclaim and  
3 irrespective of whether such supply of water is ever furnished,  
4 made available or delivered to the municipality or whether any  
5 project for the supply of water contemplated by any such  
6 contract is completed, operable or operating and  
7 notwithstanding any suspension, interruption, interference,  
8 reduction or curtailment of the supply of water from such  
9 project. Any such contract with a municipal joint action water  
10 agency may provide that if one or more of the other purchasers  
11 of water defaults in the payment of its obligations under such  
12 contract or a similar contract made with the supplier of the  
13 water, one or more of the remaining purchasers party to such  
14 contract or such similar contract shall be required to pay for  
15 all or a portion of the obligations of the defaulting  
16 purchasers.

17 The changes in this Section made by these amendatory Acts  
18 of 1984 are intended to be declarative of existing law.

19 (d) A municipality with a water supply contract with a  
20 county water commission organized pursuant to the Water  
21 Commission Act of 1985 shall provide water to unincorporated  
22 areas of that home county in accordance with the terms of this  
23 subsection. The provision of water by the municipality shall be  
24 in accordance with a mandate of the home county as provided in  
25 Section 0.01 of the Water Commission Act of 1985. A home rule  
26 unit may not provide water in a manner that is inconsistent

1 with the provisions of this amendatory Act of the 93rd General  
2 Assembly. This subsection is a limitation under subsection (i)  
3 of Section 6 of Article VII of the Illinois Constitution on the  
4 concurrent exercise by home rule units of powers and functions  
5 exercised by the State.

6 (e) Beginning January 1, 2019, a supplying municipality in  
7 Cook County shall not charge another municipality in Cook  
8 County more than the actual cost of providing water to the  
9 municipality. A supplying municipality in Cook County shall  
10 post on its website and provide to the municipality to which it  
11 supplies water the actual cost of providing water. The  
12 Environmental Protection Agency shall monitor all supplying  
13 municipalities in Cook County to make sure the municipalities  
14 are not charging more than the actual cost of providing water.

15 As used in this subsection:

16 "Actual cost of providing water" means the cost of  
17 providing water along with reasonable fees to deliver the  
18 drinking water.

19 "Supplying municipality in Cook County" means a  
20 municipality in Cook County that either receives water directly  
21 from Lake Michigan or buys its water from another municipality  
22 that receives its water either directly or indirectly from Lake  
23 Michigan.

24 A home rule municipality in Cook County may not supply  
25 water to another Cook County municipality in a manner  
26 inconsistent with this subsection. This subsection is a

1 limitation under subsection (i) of Section 6 of Article VII of  
2 the Illinois Constitution on the concurrent exercise by home  
3 rule units of powers and functions exercised by the State.

4 (Source: P.A. 95-331, eff. 8-21-07.)

5 Section 10. The Environmental Protection Act is amended by  
6 adding Section 14.8 as follows:

7 (415 ILCS 5/14.8 new)

8 Sec. 14.8. Monitoring water supplies from Lake Michigan.

9 (a) The Agency shall monitor all supplying municipalities  
10 in Cook County, as defined in subsection (e) of Section  
11 11-124-1 of the Illinois Municipal Code, to make sure that the  
12 municipalities are not charging more than the actual cost of  
13 providing water as provided under subsection (e) of Section  
14 11-124-1 of the Illinois Municipal Code.

15 (b) The Cook County Water Infrastructure Fund is created as  
16 a new fund in the State treasury. Moneys in the Fund shall be  
17 used by the Agency to make grants to municipalities to fund  
18 infrastructure improvements to facilitate water supplies from  
19 Lake Michigan for residents of Cook County.

20 Notwithstanding any other provision of law, the Cook County  
21 Water Infrastructure Fund is not subject to sweeps,  
22 administrative charges or chargebacks, or any other fiscal or  
23 budgetary maneuver that would in any way transfer any funds  
24 from the Cook County Water Infrastructure Fund into any other

1 fund of the State.

2 (c) The Agency may adopt rules under the Illinois  
3 Administrative Procedure Act to implement this Section.

4 Section 15. The State Finance Act is amended by adding  
5 Section 5.886 as follows:

6 (30 ILCS 105/5.886 new)

7 Sec. 5.886. The Cook County Water Infrastructure Fund.

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 65 ILCS 5/11-124-1 from Ch. 24, par. 11-124-1

4 415 ILCS 5/14.8 new

5 30 ILCS 105/5.886 new