

1 AN ACT concerning regulation.

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

4 Section 5. The Intergovernmental Cooperation Act is
5 amended by changing Section 3.1 as follows:

6 (5 ILCS 220/3.1) (from Ch. 127, par. 743.1)

7 Sec. 3.1. Municipal Joint Action Water Agency.

8 (a) Any municipality or municipalities of this State, any
9 county or counties of this State, any township in a county with
10 a population under 700,000 of this State, any public water
11 district or districts of this State, any body corporate and
12 politic, or any combination thereof may, by intergovernmental
13 agreement, establish a Municipal Joint Action Water Agency to
14 provide adequate supplies of water on an economical and
15 efficient basis for member municipalities, public water
16 districts and other incorporated and unincorporated areas
17 within such counties. ~~For purposes of this Act, the water~~
18 ~~supply may only be derived from Lake Michigan, the Mississippi~~
19 ~~River, the Missouri River, or the Sangamon River Valley~~
20 ~~Alluvium.~~ Any such Agency shall itself be a municipal
21 corporation, public body politic and corporate. A Municipal
22 Joint Action Water Agency so created shall not itself have
23 taxing power except as hereinafter provided.

24 A Municipal Joint Action Water Agency shall be established
25 by an intergovernmental agreement among the various member
26 municipalities, public water districts, townships, and
27 counties, upon approval by an ordinance adopted by the
28 corporate authorities of each member municipality, public
29 water district, township, or county. This agreement may be
30 amended at any time upon the adoption of concurring ordinances
31 by the corporate authorities of all member municipalities,
32 public water districts, townships, and counties. The agreement

1 may provide for additional municipalities, public water
2 districts, townships in counties with a population under
3 700,000, or counties to join the Agency upon adoption of an
4 ordinance by the corporate authorities of the joining
5 municipality, public water district, township, or county, and
6 upon such consents, conditions and approvals of the governing
7 body of the Municipal Joint Action Water Agency and of existing
8 member municipalities, public water districts, townships, and
9 counties as shall be provided in the agreement. The agreement
10 shall provide the manner and terms on which any municipality,
11 public water district, township, or county may withdraw from
12 membership in the Municipal Joint Action Water Agency and on
13 which the Agency may terminate and dissolve in whole or in
14 part. The agreement shall set forth the corporate name of the
15 Municipal Joint Action Water Agency and its duration. Promptly
16 upon any agreement establishing a Municipal Joint Action Water
17 Agency being entered into, or upon the amending of any such
18 agreement, a copy of such agreement or amendment shall be filed
19 in the office of the Secretary of State of Illinois. Promptly
20 upon the addition or withdrawal of any municipality, public
21 water district, township in a county with a population under
22 700,000, or county, or upon the dissolution of a Municipal
23 Joint Action Water Agency, that fact shall be certified by an
24 officer of the Agency to the Secretary of State of Illinois.

25 (b) The governing body of any Municipal Joint Action Water
26 Agency established pursuant to this Section 3.1 shall be a
27 Board of Directors. There shall be one Director from each
28 member municipality, public water district, township, and
29 county of the Municipal Joint Action Water Agency appointed by
30 ordinance of the corporate authorities of the municipality,
31 public water district, township, or county. Each Director shall
32 have one vote. Each Director shall be the Mayor or President of
33 the member municipality, or the chairman of the board of
34 trustees of the member public water district, the supervisor of
35 the member township, or the chairman of the county board or
36 chief executive officer of the member county or a county board

1 member appointed by the chairman of the county board of the
2 member county, appointing the Director; an elected member of
3 the corporate authorities of that municipality, public water
4 district, township, or county; or other elected official of the
5 appointing municipality, public water district, township, or
6 county. Any agreement establishing a Municipal Joint Action
7 Water Agency shall specify the period during which a Director
8 shall hold office and may provide for the appointment of
9 Alternate Directors from member municipalities, public water
10 districts, townships, or counties. The Board of Directors shall
11 elect one Director to serve as Chairman, and shall elect
12 persons, who need not be Directors, to such other offices as
13 shall be designated in the agreement.

14 The Board of Directors shall determine the general policy
15 of the Municipal Joint Action Water Agency, shall approve the
16 annual budget, shall make all appropriations (which may include
17 appropriations made at any time in addition to those made in
18 any annual appropriation document), shall approve all
19 contracts for the purchase or sale of water, shall adopt any
20 resolutions providing for the issuance of bonds or notes by the
21 Agency, shall adopt its by-laws, rules and regulations, and
22 shall have such other powers and duties as may be prescribed in
23 the agreement. Such agreement may further specify those powers
24 and actions of the Municipal Joint Action Water Agency which
25 shall be authorized only upon votes of greater than a majority
26 of all Directors or only upon consents of the corporate
27 authorities of a certain number of member municipalities,
28 public water districts, townships, or counties.

29 The agreement may provide for the establishment of an
30 Executive Committee to consist of the municipal manager or
31 other elected or appointed official of each member
32 municipality, public water district, township, or county, as
33 designated by ordinance from time to time by the corporate
34 authorities of the member municipality, public water district,
35 township, or county, and may prescribe powers and duties of the
36 Executive Committee for the efficient administration of the

1 Agency.

2 (c) A Municipal Joint Action Water Agency established
3 pursuant to this Section 3.1 may plan, construct, improve,
4 extend, acquire, finance (including the issuance of revenue
5 bonds or notes as provided in this Section 3.1), operate,
6 maintain, and contract for a joint waterworks or water supply
7 system which may include, or may consist of, without
8 limitation, facilities for receiving, storing, and
9 transmitting water from any source for supplying water to
10 member municipalities, public water districts, townships, or
11 counties (including county special service areas created under
12 the Special Service Area Tax Act and county service areas
13 authorized under the Counties Code), or other public agencies,
14 persons, or corporations. Facilities of the Municipal Joint
15 Action Water Agency may be located within or without the
16 corporate limits of any member municipality.

17 A Municipal Joint Action Water Agency shall have such
18 powers as shall be provided in the agreement establishing it,
19 which may include, but need not be limited to, the following
20 powers:

21 (i) to sue or be sued;

22 (ii) to apply for and accept gifts or grants or loans
23 of funds or property or financial or other aid from any
24 public agency or private entity;

25 (iii) to acquire, hold, sell, lease as lessor or
26 lessee, transfer or dispose of such real or personal
27 property, or interests therein, as it deems appropriate in
28 the exercise of its powers, and to provide for the use
29 thereof by any member municipality, public water district,
30 township, or county;

31 (iv) to make and execute all contracts and other
32 instruments necessary or convenient to the exercise of its
33 powers (including contracts with member municipalities,
34 with public water districts, with townships, and with
35 counties on behalf of county service areas); and

36 (v) to employ agents and employees and to delegate by

1 resolution to one or more of its Directors or officers such
2 powers as it may deem proper.

3 Member municipalities, public water districts, townships,
4 or counties may, for the purposes of, and upon request by, the
5 Municipal Joint Action Water Agency, exercise the power of
6 eminent domain available to them, convey property so acquired
7 to the Agency for the cost of acquisition, and be reimbursed
8 for all expenses related to this exercise of eminent domain
9 power on behalf of the Agency.

10 All property, income and receipts of or transactions by a
11 Municipal Joint Action Water Agency shall be exempt from all
12 taxation, the same as if it were the property, income or
13 receipts of or transaction by the member municipalities, public
14 water districts, townships, or counties.

15 (d) A Municipal Joint Action Water Agency established
16 pursuant to this Section 3.1 shall have the power to buy water
17 and to enter into contracts with any person, corporation or
18 public agency (including any member municipality, public water
19 district, township, or county) for that purpose. Any such
20 contract made by an Agency for a supply of water may contain
21 provisions whereby the Agency is obligated to pay for the
22 supply of water without setoff or counterclaim and irrespective
23 of whether the supply of water is ever furnished, made
24 available or delivered to the Agency or whether any project for
25 the supply of water contemplated by any such contract is
26 completed, operable or operating and notwithstanding any
27 suspension, interruption, interference, reduction or
28 curtailment of the supply of water from such project. Any such
29 contract may provide that if one or more of the other
30 purchasers defaults in the payment of its obligations under
31 such contract or a similar contract made with the supplier of
32 the water one or more of the remaining purchasers party to such
33 contract or such similar contract shall be required to pay for
34 all or a portion of the obligations of the defaulting
35 purchasers. No such contract may have a term in excess of 50
36 years.

1 A Municipal Joint Action Water Agency shall have the power
2 to sell water and to enter into contracts with any person,
3 corporation or public agency (including any member
4 municipality, any public water district, any township, or any
5 county on behalf of a county service area as set forth in this
6 Section) for that purpose. No such contract may have a term in
7 excess of 50 years. Any such contract entered into to sell
8 water to a public agency may provide that the payments to be
9 made thereunder by such public agency shall be made solely from
10 revenues to be derived by such public agency from the operation
11 of its waterworks system or its combined waterworks and
12 sewerage system. Any public agency so contracting to purchase
13 water shall establish from time to time such fees and charges
14 for its water service or combined water and sewer service as
15 will produce revenues sufficient at all times to pay its
16 obligations to the Agency under the purchase contract. Any such
17 contract so providing shall not constitute indebtedness of such
18 public agency so contracting to buy water within the meaning of
19 any statutory or constitutional limitation. Any such contract
20 of a public agency to buy water shall be a continuing, valid
21 and binding obligation of such public agency payable from such
22 revenues.

23 A Municipal Joint Action Water Agency shall establish fees
24 and charges for the purchase of water from it or for the use of
25 its facilities. No prior appropriation shall be required by
26 either the Municipal Joint Action Water Agency or any public
27 agency before entering into any contract authorized by this
28 paragraph (d).

29 The changes in this Section made by this amendatory Act of
30 1984 are intended to be declarative of existing law.

31 (e) 1. A Municipal Joint Action Water Agency established
32 pursuant to this Section 3.1 may, from time to time, borrow
33 money and, in evidence of its obligation to repay the
34 borrowing, issue its negotiable water revenue bonds or notes
35 pursuant to this paragraph (e) for any of the following
36 purposes: for paying costs of constructing, acquiring,

1 improving or extending a joint waterworks or water supply
2 system; for paying other expenses incident to or incurred in
3 connection with such construction, acquisition, improvement or
4 extension; for repaying advances made to or by the Agency for
5 such purposes; for paying interest on the bonds or notes until
6 the estimated date of completion of any such construction,
7 acquisition, improvement or extension and for such period after
8 the estimated completion date as the Board of Directors of the
9 Agency shall determine; for paying financial, legal,
10 administrative and other expenses of the authorization,
11 issuance, sale or delivery of bonds or notes; for paying costs
12 of insuring payment of the bonds or notes; for providing or
13 increasing a debt service reserve fund with respect to any or
14 all of the Agency's bonds or notes; and for paying, refunding
15 or redeeming any of the Agency's bonds or notes before, after
16 or at their maturity, including paying redemption premiums or
17 interest accruing or to accrue on such bonds or notes being
18 paid or redeemed or for paying any other costs in connection
19 with any such payment or redemption.

20 2. Any bonds or notes issued pursuant to this paragraph (e)
21 by a Municipal Joint Action Water Agency shall be authorized by
22 a resolution of the Board of Directors of the Agency adopted by
23 the affirmative vote of Directors from a majority of the member
24 municipalities, public water districts, townships, and
25 counties, and any additional requirements as may be set forth
26 in the agreement establishing the Agency. The authorizing
27 resolution may be effective immediately upon its adoption. The
28 authorizing resolution shall describe in a general way any
29 project contemplated to be financed by the bonds or notes,
30 shall set forth the estimated cost of the project and shall
31 determine its period of usefulness. The authorizing resolution
32 shall determine the maturity or maturities of the bonds or
33 notes, the rate or rates at which the bonds or notes are to
34 bear interest and all the other terms and details of the bonds
35 or notes. All such bonds or notes shall mature within the
36 period of estimated usefulness of the project with respect to

1 which such bonds or notes are issued, as determined by the
2 Board of Directors, but in any event not more than 50 years
3 from their date of issue. The bonds and notes may bear
4 interest, payable at such times, at a rate or rates not
5 exceeding the maximum rate established in the Bond
6 Authorization Act, as from time to time in effect. Bonds or
7 notes of a Municipal Joint Action Water Agency shall be sold in
8 such manner as the Board of Directors of the Agency shall
9 determine, either at par or at a premium or discount, but such
10 that the effective interest cost (excluding any redemption
11 premium) to the Agency of the bonds or notes shall not exceed a
12 rate equal to the rate of interest specified in the Act
13 referred to in the preceding sentence.

14 The resolution authorizing the issuance of any bonds or
15 notes pursuant to this paragraph (e) shall constitute a
16 contract with the holders of the bonds and notes. The
17 resolution may contain such covenants and restrictions with
18 respect to the purchase or sale of water by the Agency and the
19 contracts for such purchases or sales, the operation of the
20 joint waterworks system or water supply system, the issuance of
21 additional bonds or notes by the Agency, the security for the
22 bonds and notes, and any other matters, as may be deemed
23 necessary or advisable by the Board of Directors to assure the
24 payment of the bonds or notes of the Agency.

25 3. The resolution authorizing the issuance of bonds or
26 notes by a Municipal Joint Action Water Agency shall pledge and
27 provide for the application of revenues derived from the
28 operation of the Agency's joint waterworks or water supply
29 system (including from contracts for the sale of water by the
30 Agency) and investment earnings thereon to the payment of the
31 cost of operation and maintenance of the system (including
32 costs of purchasing water), to provision of adequate
33 depreciation, reserve or replacement funds with respect to the
34 system or the bonds or notes, and to the payment of principal,
35 premium, if any, and interest on the bonds or notes of the
36 Agency (including amounts for the purchase of such bonds or

1 notes). The resolution shall provide that revenues of the
2 Municipal Joint Action Water Agency so derived from the
3 operation of the system, sufficient (together with other
4 receipts of the Agency which may be applied to such purposes)
5 to provide for such purposes, shall be set aside as collected
6 in a separate fund or funds and used for such purposes. The
7 resolution may provide that revenues not required for such
8 purposes may be used for any proper purpose of the Agency or
9 may be returned to member municipalities.

10 Any notes of a Municipal Joint Action Water Agency issued
11 in anticipation of the issuance of bonds by it may, in
12 addition, be secured by a pledge of proceeds of bonds to be
13 issued by the Agency, as specified in the resolution
14 authorizing the issuance of such notes.

15 4. (i) Except as provided in clauses (ii) and (iii) of this
16 subparagraph 4 of this paragraph (e), all bonds and notes of
17 the Municipal Joint Action Water Agency issued pursuant to this
18 paragraph (e) shall be revenue bonds or notes. Such revenue
19 bonds or notes shall have no claim for payment other than from
20 revenues of the Agency derived from the operation of its joint
21 waterworks or water supply system (including from contracts for
22 the sale of water by the Agency) and investment earnings
23 thereon, from bond or note proceeds and investment earnings
24 thereon, or from such other receipts of the Agency as the
25 agreement establishing the Agency may authorize to be pledged
26 to the payment of revenue bonds or notes, all as and to the
27 extent as provided in the resolution of the Board of Directors
28 authorizing the issuance of the revenue bonds or notes. Revenue
29 bonds or notes issued by a Municipal Joint Action Water Agency
30 pursuant to this paragraph (e) shall not constitute an
31 indebtedness of the Agency or of any member municipality,
32 public water district, township, or county within the meaning
33 of any constitutional or statutory limitation. It shall be
34 plainly stated on each revenue bond and note that it does not
35 constitute an indebtedness of the Municipal Joint Action Water
36 Agency or of any member municipality, public water district,

1 township, or county within the meaning of any constitutional or
2 statutory limitation.

3 (ii) If the Agreement so provides and subject to the
4 referendum provided for in clause (iii) of this subparagraph 4
5 of this paragraph (e), the Municipal Joint Action Water Agency
6 may borrow money for corporate purposes on the credit of the
7 Municipal Joint Action Water Agency, and issue general
8 obligation bonds therefor, in such amounts and form and on such
9 conditions as it shall prescribe, but shall not become indebted
10 in any manner or for any purpose in an amount including
11 existing indebtedness in the aggregate which exceeds 5.75% of
12 the aggregate value of the taxable property within the
13 boundaries of the participating municipalities, public water
14 districts, townships, and county service areas within a member
15 county determined by the governing body of the county by
16 resolution to be served by the Municipal Joint Action Water
17 Agency (including any territory added to the Agency after the
18 issuance of such general obligation bonds), collectively
19 defined as the "Service Area", as equalized and assessed by the
20 Department of Revenue and as most recently available at the
21 time of the issue of said bonds. Before or at the time of
22 incurring any such general obligation indebtedness, the
23 Municipal Joint Action Water Agency shall provide for the
24 collection of a direct annual tax, which shall be unlimited as
25 to rate or amount, sufficient to pay the interest on such debt
26 as it falls due and also to pay and discharge the principal
27 thereof at maturity, which shall be within 40 years after the
28 date of issue thereof. Such tax shall be levied upon and
29 collected from all of the taxable property within the
30 territorial boundaries of such Service Area at the time of the
31 referendum provided for in clause (iii) and shall be levied
32 upon and collected from all taxable property within the
33 boundaries of any territory subsequently added to the Service
34 Area. Dissolution of the Municipal Joint Action Water Agency
35 for any reason shall not relieve the taxable property within
36 such Service Area from liability for such tax. Liability for

1 such tax for property transferred to or released from such
 2 Service Area shall be determined in the same manner as for
 3 general obligation bonds of such county, if in an
 4 unincorporated area, and of such municipality, if within the
 5 boundaries thereof. The clerk or other officer of the Municipal
 6 Joint Action Water Agency shall file a certified copy of the
 7 resolution or ordinance by which such bonds are authorized to
 8 be issued and such tax is levied with the County Clerk or
 9 Clerks of the county or counties containing the Service Area,
 10 and such filing shall constitute, without the doing of any
 11 other act, full and complete authority for such County Clerk or
 12 Clerks to extend such tax for collection upon all the taxable
 13 property within the Service Area subject to such tax in each
 14 and every year, as required, in amounts sufficient to pay the
 15 principal of and interest on such bonds, as aforesaid, without
 16 limit as to rate or amount. Such tax shall be in addition to
 17 and in excess of all other taxes authorized to be levied by the
 18 Municipal Joint Action Water Agency or by such county,
 19 municipality, township, or public water district. The issuance
 20 of such general obligation bonds shall be subject to the other
 21 provisions of this paragraph (e), except for the provisions of
 22 clause (i) of this subparagraph 4.

23 (iii) No issue of general obligation bonds of the Municipal
 24 Joint Action Water Agency (except bonds to refund an existing
 25 bonded indebtedness) shall be authorized unless the Municipal
 26 Joint Action Water Agency certifies the proposition of issuing
 27 such bonds to the proper election authorities, who shall submit
 28 the proposition to the voters in the Service Area at an
 29 election in accordance with the general election law, and the
 30 proposition has been approved by a majority of those voting on
 31 the proposition.

32 The proposition shall be substantially in the following
 33 form:

34 -----

35 Shall general obligation
 36 bonds for the purpose of (state

1 purpose), in the sum not to
 2 exceed \$....(insert amount), Yes
 3 be issued by the -----
 4 (insert corporate name of the No
 5 Municipal Joint Action Water
 6 Agency)?
 7 -----

8 5. As long as any bonds or notes of a Municipal Joint
 9 Action Water Agency created pursuant to this Section 3.1 are
 10 outstanding and unpaid, the Agency shall not terminate or
 11 dissolve and, except as permitted by the resolution or
 12 resolutions authorizing outstanding bonds or notes, no member
 13 municipality, public water district, township, or county may
 14 withdraw from the Agency. While any such bonds or notes are
 15 outstanding, all contracts for the sale of water by the Agency
 16 to member municipalities, public water districts, townships,
 17 or counties shall be irrevocable except as permitted by the
 18 resolution or resolutions authorizing such bonds or notes. The
 19 Agency shall establish fees and charges for its operations
 20 sufficient to provide adequate revenues to meet all of the
 21 requirements under its various resolutions authorizing bonds
 22 or notes.

23 6. A holder of any bond or note issued pursuant to this
 24 paragraph (e) may, in any civil action, mandamus or other
 25 proceeding, enforce and compel performance of all duties
 26 required to be performed by the Agency or such counties, as
 27 provided in the authorizing resolution, or by any of the public
 28 agencies contracting with the Agency to purchase water,
 29 including the imposition of fees and charges, the collection of
 30 sufficient revenues and the proper application of revenues as
 31 provided in this paragraph (e) and the levying, extension and
 32 collection of such taxes.

33 7. In addition, the resolution authorizing any bonds or
 34 notes issued pursuant to this paragraph (e) may provide for a
 35 pledge, assignment, lien or security interest, for the benefit
 36 of the holders of any or all bonds or notes of the Agency, (i)

1 on any or all revenues derived from the operation of the joint
2 waterworks or water supply system (including from contracts for
3 the sale of water) and investment earnings thereon or (ii) on
4 funds or accounts securing the payment of the bonds or notes as
5 provided in the authorizing resolution. In addition, such a
6 pledge, assignment, lien or security interest may be made with
7 respect to any receipts of the Agency which the agreement
8 establishing the Agency authorizes it to apply to payment of
9 bonds or notes. Any such pledge, assignment, lien or security
10 interest for the benefit of holders of bonds or notes shall be
11 valid and binding from the time the bonds or notes are issued,
12 without any physical delivery or further act, and shall be
13 valid and binding as against or prior to any claims of any
14 other party having any claims of any kind against the Agency
15 irrespective of whether such other parties have notice of such
16 pledge, assignment, lien or security interest.

17 A resolution of a Municipal Joint Water Agency authorizing
18 the issuance of bonds or notes pursuant to this paragraph (e)
19 may provide for the appointment of a corporate trustee with
20 respect to any or all of such bonds or notes (which trustee may
21 be any trust company or state or national bank having the power
22 of a trust company within Illinois). In that event, the
23 resolution shall prescribe the rights, duties and powers of the
24 trustee to be exercised for the benefit of the Agency and the
25 protection of the holders of such bonds or notes. The
26 resolution may provide for the trustee to hold in trust, invest
27 and use amounts in funds and accounts created as provided in
28 the resolution. The resolution authorizing the bonds or notes
29 may provide for the assignment and direct payment to the
30 trustee of amounts owed by public agencies to the Municipal
31 Joint Action Water Agency under water sales contracts for
32 application by the trustee to the purposes for which such
33 revenues are to be used as provided in this paragraph (e) and
34 as provided in the authorizing resolution. Upon receipt of
35 notice of such assignment, the public agency shall thereafter
36 make the assigned payments directly to such trustee.

1 Nothing in this Section authorizes a Joint Action Water
2 Agency to provide water service directly to residents within a
3 municipality or in territory within one mile or less of the
4 corporate limits of a municipality that operates a public water
5 supply unless the municipality has consented in writing to such
6 service being provided.

7 (Source: P.A. 90-210, eff. 7-25-97; 90-595, eff. 1-1-99;
8 91-134, eff. 1-1-00.)

9 Section 10. The Illinois Municipal Code is amended by
10 adding Section 11-124-5.1 as follows:

11 (65 ILCS 5/11-124-5.1 new)

12 Sec. 11-124-5.1. Acquisition of water systems by eminent
13 domain.

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

28 (b) Where a water system that is owned by a public utility
29 (as defined in the Public Utilities Act) provides water to
30 customers located entirely in 2 or more municipalities, the
31 system may be acquired by either or both of the municipalities
32 by eminent domain if there is in existence an intergovernmental
33 agreement between the municipalities served providing for
34 acquisition.

1 (c) If a water system that is owned by a public utility
2 provides water to customers located in one or more adjacent
3 municipalities and also to customers in an unincorporated area
4 and if at least 70% of the customers of the system or portion
5 thereof are located within the municipality or municipalities,
6 then the system, or portion thereof as determined by the
7 corporate authorities, may be acquired, using eminent domain or
8 otherwise, by either a municipality under subsection (a) or an
9 entity created by agreement between municipalities where at
10 least 70% of the customers reside. For the purposes of
11 determining "customers of the system", only retail customers
12 directly billed by the company shall be included in the
13 computation. The number of customers of the system most
14 recently reported to the Illinois Commerce Commission for any
15 calendar year preceding the year a resolution is passed by a
16 municipality or municipalities expressing preliminary intent
17 to purchase the water system or portion thereof shall be
18 presumed to be the total number of customers within the system.
19 The public utility shall provide information relative to the
20 number of customers within each municipality and within the
21 system within 60 days of any such request by a municipality.

22 (d) In the case of acquisition by a municipality or
23 municipalities or entity created by law to own or operate a
24 water system under this Section, service must be provided to
25 all retail customers of the system at the time of acquisition
26 without discrimination in rates based on whether the customer
27 is located within or outside the boundaries of the acquiring
28 municipality or municipalities or entity.

29 (e) For the purposes of this Section, "system" includes all
30 assets reasonably necessary to provide water service to a
31 contiguous or compact geographical service area and include,
32 but are not limited to, interests in real estate, all wells,
33 pipes, treatment plants, pumps and other physical apparatus,
34 data and records of facilities and customers, fire hydrants,
35 equipment, or vehicles and also includes service agreements and
36 obligations derived from use of the assets, whether or not the

1 assets are contiguous to the municipality, municipalities, or
2 entity created for the purpose of owning or operating a water
3 system.

4 (f) The valuation of all systems or waterworks acquired
5 under this Section and any other Division of this Article 11
6 may be pursuant to the formulas set forth in Section 11-139-12.

7 (g) Notwithstanding any other provision of law, the
8 Illinois Commerce Commission has no approval authority of any
9 eminent domain action brought by any governmental entity or
10 combination of such entities to acquire water systems or water
11 works.

12 (h) This Section does not apply to the water system of any
13 public utility with, as of January 1, 2006, 70,000 or fewer
14 meters unless that public utility changes ownership.

15 Section 15. The Code of Civil Procedure is amended by
16 changing Section 7-102 as follows:

17 (735 ILCS 5/7-102) (from Ch. 110, par. 7-102)

18 Sec. 7-102. Parties. Where the right to take private
19 property for public use, without the owner's consent or the
20 right to construct or maintain any public road, railroad,
21 plankroad, turnpike road, canal or other public work or
22 improvement, or which may damage property not actually taken
23 has been heretofore or shall hereafter be conferred by general
24 law or special charter upon any corporate or municipal
25 authority, public body, officer or agent, person, commissioner
26 or corporation and the compensation to be paid for or in
27 respect of the property sought to be appropriated or damaged
28 for the purposes mentioned cannot be agreed upon by the parties
29 interested, or in case the owner of the property is incapable
30 of consenting, or the owner's name or residence is unknown, or
31 the owner is a nonresident of the state, the party authorized
32 to take or damage the property so required, or to construct,
33 operate and maintain any public road, railroad, plankroad,
34 turnpike road, canal or other public work or improvement, may

1 apply to the circuit court of the county where the property or
2 any part thereof is situated, by filing with the clerk a
3 complaint, setting forth, by reference, his, her or their
4 authority in the premises, the purpose for which the property
5 is sought to be taken or damaged, a description of the
6 property, the names of all persons interested therein as owners
7 or otherwise as appearing of record, if known, or if not known
8 stating that fact and praying such court to cause the
9 compensation to be paid to the owner to be assessed. If it
10 appears that any person not in being, upon coming into being,
11 is, or may become or may claim to be, entitled to any interest
12 in the property sought to be appropriated or damaged the court
13 shall appoint some competent and disinterested person as
14 guardian ad litem, to appear for and represent such interest in
15 the proceeding and to defend the proceeding on behalf of the
16 person not in being, and any judgment entered in the proceeding
17 shall be as effectual for all purposes as though the person was
18 in being and was a party to the proceeding. If the proceeding
19 seeks to affect the property of persons under guardianship, the
20 guardians shall be made parties defendant. Persons interested,
21 whose names are unknown, may be made parties defendant by the
22 same descriptions and in the same manner as provided in other
23 civil cases. Where the property to be taken or damaged is a
24 common element of property subject to a declaration of
25 condominium ownership pursuant to the Condominium Property Act
26 or of a common interest community, the complaint shall name the
27 unit owners' association in lieu of naming the individual unit
28 owners and lienholders on individual units. Unit owners,
29 mortgagees and other lienholders may intervene as parties
30 defendant. For the purposes of this Section "common interest
31 community" shall have the same meaning as set forth in
32 subsection (c) of Section 9-102 of the Code of Civil Procedure.
33 "Unit owners' association" or "association" shall refer to both
34 the definition contained in Section 2 of the Condominium
35 Property Act and subsection (c) of Section 9-102 of the Code of
36 Civil Procedure. Where the property is sought to be taken or

1 damaged by the state for the purposes of establishing,
2 operating or maintaining any state house or state charitable or
3 other institutions or improvements, the complaint shall be
4 signed by the governor or such other person as he or she shall
5 direct, or as is provided by law. No property, except property
6 described in ~~either~~ Section 3 of the Sports Stadium Act,
7 property to be acquired in furtherance of actions under ~~or~~
8 Article 11, Divisions 124, 126, 128, 130, 135, 136, and
9 ~~Division~~ 139, of the Illinois Municipal Code, property to be
10 acquired in furtherance of actions under Section 3.1 of the
11 Intergovernmental Cooperation Act, property that is a water
12 system or waterworks pursuant to the home rule powers of a unit
13 of local government, and property described as Site B in
14 Section 2 of the Metropolitan Pier and Exposition Authority
15 Act, belonging to a railroad or other public utility subject to
16 the jurisdiction of the Illinois Commerce Commission may be
17 taken or damaged, pursuant to the provisions of Article VII of
18 this Act, without the prior approval of the Illinois Commerce
19 Commission. This amendatory Act of 1991 (Public Act 87-760) is
20 declaratory of existing law and is intended to remove possible
21 ambiguities, thereby confirming the existing meaning of the
22 Code of Civil Procedure and of the Illinois Municipal Code in
23 effect before January 1, 1992 (the effective date of Public Act
24 87-760).

25 (Source: P.A. 89-683, eff. 6-1-97; 90-6, eff. 6-3-97.)