



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5291

Introduced 1/25/2006, by Rep. Michael P. McAuliffe

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-141-7

from Ch. 24, par. 11-141-7

Amends the Illinois Municipal Code. Provides that the rates charged to outside users by the corporate authorities of any municipality that owns and operates a sewerage system must be reasonable in relation to the actual cost of providing service to those outside users. Provides that the rates fixed for outside users may not exceed the rates fixed for inhabitants of the municipality (now, provides that municipalities may charge an outside user a rate in excess of the rate fixed for the inhabitants of the municipality), and that cost documentation shall be provided to outside users. Effective immediately.

LRB094 16673 HLH 51941 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 11-141-7 as follows:

6 (65 ILCS 5/11-141-7) (from Ch. 24, par. 11-141-7)

7 Sec. 11-141-7. Powers. The corporate authorities of any
8 municipality that owns and operates or that may hereafter own
9 and operate a sewerage system constructed or acquired under the
10 provisions of any law of this state may make, enact, and
11 enforce all needful rules, regulations, and ordinances for the
12 improvement, care, and protection of its sewerage system and
13 any other sewer or sewerage system, located outside the
14 corporate boundary of the municipality and not owned by it,
15 that directly or indirectly connects with the municipality's
16 sewerage system, which may be conducive to the preservation of
17 the public health, comfort, and convenience, and may render the
18 sewage carried in the sewerage system of the municipality
19 harmless in so far as it is reasonably possible to do so.

20 The corporate authorities of such a municipality may, by
21 ordinance, charge the inhabitants thereof for the use and
22 service of its sewerage system whether by direct or indirect
23 connection therewith within or without the corporate boundary,
24 and to establish charges or rates for that purpose. The
25 corporate authorities of such a municipality may by ordinance
26 charge the users thereof, whether they be inside of or outside
27 of the municipality, for the use and service of its sewerage
28 system whether by direct or indirect connection therewith,
29 within or without the corporate boundary, and may establish
30 charges or rates for that purpose, provided however that where
31 such users are residents of another municipality with whom
32 there is a contract for use and service of the sewerage system,

1 then such charges or rates shall be made in accordance with the
2 terms of the contract, either directly to the users or to the
3 contracting municipality as may be provided by the provisions
4 of the contract. In making such rates and charges the
5 municipality may charge a rate to outside users that is
6 reasonable based on the actual costs of providing service to
7 the outside users but that does not exceed the rate fixed for
8 the inhabitants of the municipality; cost documentation shall
9 be provided to outside users in conjunction with contract
10 documents ~~the municipality may provide for a rate to the~~
11 ~~outside users in excess of the rate fixed for the inhabitants~~
12 ~~of said municipality as may be reasonable.~~ Where bonds are
13 issued as provided in Sections 11-141-2 and 11-141-3, the
14 corporate authorities shall establish rates or charges as
15 provided in this section, and these charges or rates shall be
16 sufficient at all times to pay the cost of operation and
17 maintenance, to provide an adequate depreciation fund, and to
18 pay the principal of and interest upon all revenue bonds issued
19 under Sections 11-141-2 and 11-141-3.

20 A depreciation fund is a fund for such replacements as may
21 be necessary from time to time for the continued effective and
22 efficient operation of the system. The depreciation fund shall
23 not be allowed to accumulate beyond a reasonable amount
24 necessary for that purpose, and shall not be used for
25 extensions to the system.

26 Charges or rates shall be established, revised, and
27 maintained by ordinance and become payable as the corporate
28 authorities may determine by ordinance.

29 Such charges or rates are liens upon the real estate upon
30 or for which sewerage service is supplied whenever the charges
31 or rates become delinquent as provided by the ordinance of the
32 municipality fixing a delinquency date. A lien is created under
33 the preceding sentence only if the municipality sends to the
34 owner or owners of record, as referenced by the taxpayer's
35 identification number, of the real estate (i) a copy of each
36 delinquency notice sent to the person who is delinquent in

1 paying the charges or rates or other notice sufficient to
2 inform the owner or owners of record, as referenced by the
3 taxpayer's identification number, that the charges or rates
4 have become delinquent and (ii) a notice that unpaid charges or
5 rates may create a lien on the real estate under this Section.
6 However, the municipality has no preference over the rights of
7 any purchaser, mortgagee, judgment creditor, or other lien
8 holder arising prior to the filing of the notice of such a lien
9 in the office of the recorder of the county in which such real
10 estate is located, or in the office of the registrar of titles
11 of such county if the property affected is registered under "An
12 Act concerning land titles", approved May 1, 1897, as amended.
13 This notice shall consist of a sworn statement setting out (1)
14 a description of such real estate sufficient for the
15 identification thereof, (2) the amount of money due for such
16 sewerage service, and (3) the date when such amount became
17 delinquent. The municipality shall send a copy of the notice of
18 the lien to the owner or owners of record of the real estate,
19 as referenced by the taxpayer's identification number. The
20 municipality has the power to foreclose this lien in the same
21 manner and with the same effect as in the foreclosure of
22 mortgages on real estate.

23 Except in counties with a population of more than 250,000
24 where the majority of the municipal sewerage system users are
25 located outside of the municipality's corporate limits, the
26 payment of delinquent charges for sewerage service to any
27 premises may be enforced by discontinuing either the water
28 service or the sewerage service to that premises, or both. A
29 rate or charge is delinquent if it is more than 30 days
30 overdue. Any public or municipal corporation or political
31 subdivision of the State furnishing water service to a premises
32 (i) shall discontinue that service upon receiving written
33 notice from the municipality providing sewerage service that
34 payment of the rate or charge for sewerage service to the
35 premises has become delinquent and (ii) shall not resume water
36 service until receiving a similar notice that the delinquency

1 has been removed. The provider of sewerage service shall not
2 request discontinuation of water service before sending a
3 notice of the delinquency to the sewer user and affording the
4 user an opportunity to be heard. An investor-owned public
5 utility providing water service within a municipality that
6 provides sewerage service may contract with the municipality to
7 discontinue water service to a premises with respect to which
8 the payment of a rate or charge for sewerage service has become
9 delinquent. The municipality shall reimburse the privately
10 owned public utility, public or municipal corporation, or
11 political subdivision of the State for the reasonable cost of
12 the discontinuance and the resumption of water service, any
13 lost water service revenues, and the costs of discontinuing
14 water service. The municipality shall indemnify the privately
15 owned public utility, public or municipal corporation, or
16 political subdivision of the State for any judgment and related
17 attorney's fees resulting from an action based on any provision
18 of this paragraph.

19 The municipality also has the power, from time to time, to
20 sue the occupant or user of that real estate in a civil action
21 to recover money due for sewerage services, plus a reasonable
22 attorney's fee, to be fixed by the court. However, whenever a
23 judgment is entered in such a civil action, the foregoing
24 provisions in this section with respect to filing sworn
25 statements of such delinquencies in the office of the recorder
26 and creating a lien against the real estate shall not be
27 effective as to the charges sued upon and no lien shall exist
28 thereafter against the real estate for the delinquency.
29 Judgment in such a civil action operates as a release and
30 waiver of the lien upon the real estate for the amount of the
31 judgment.

32 (Source: P.A. 93-500, eff. 6-1-04.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.