

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 11-147-1 as follows:

6 (65 ILCS 5/11-147-1) (from Ch. 24, par. 11-147-1)

7 Sec. 11-147-1. Whenever a municipality, drainage district,
8 sanitary district, or other municipal corporation is adjacent
9 to any other municipality, drainage district, sanitary
10 district, or other municipal corporation the adjacent
11 municipal corporations have the power to contract with each
12 other, upon such terms as may be agreed upon between them, for
13 the perpetual or temporary use and benefit by one of them of
14 any sewer or drain, or of any system of sewerage or drainage or
15 part thereof, or of any sewage disposal or sewage treatment
16 plants and works, heretofore or hereafter constructed by the
17 other. Any such sewer or drain, or system of sewerage or
18 drainage or part thereof, or sewage disposal or sewage
19 treatment plants and work, heretofore or hereafter constructed
20 by one such municipal corporation may be extended or furnished
21 to the inhabitants of the other. Such municipal corporations
22 may by contract with each other provide for the joint
23 construction of any sewer or drain or sewage disposal or sewage
24 treatment plants and works by the municipal corporations so
25 contracting, and for the common use thereof by the inhabitants
26 of the contracting municipal corporations. In addition,
27 whenever a sanitary district has acquired an easement granting
28 the sanitary district the right to construct or operate a
29 sanitary sewer system or part of a sanitary sewer system over
30 property that connects the sanitary district to a municipality,
31 the municipality and the sanitary district may enter into a
32 contract for the use of the sanitary sewer system regardless of

1 whether the sanitary district is adjacent to the municipality.

2 (Source: Laws 1961, p. 576.)

3 Section 10. The Sanitary District Act of 1917 is amended by
4 changing Sections 8, 23.5, and 23.7 as follows:

5 (70 ILCS 2405/8) (from Ch. 42, par. 307)

6 Sec. 8.

7 (a) The sanitary district may acquire by purchase,
8 condemnation, or otherwise all real and personal property,
9 right of way and privilege, either within or without its
10 corporate limits that may be required for its corporate
11 purposes. If real property is acquired by condemnation, the
12 sanitary district may not sell or lease any portion of the
13 property for a period of 10 years after acquisition by
14 condemnation is completed. If, after such 10-year period, the
15 sanitary district decides to sell or lease the property, it
16 must first offer the property for sale or lease to the previous
17 owner of the land from whom the sanitary district acquired the
18 property. If the sanitary district and such previous owner do
19 not execute a contract for purchase or lease of the property
20 within 60 days from the initial offer, the sanitary district
21 then may offer the property for sale or lease to any other
22 person. If any district formed under this Act is unable to
23 agree with any other sanitary district upon the terms whereby
24 it shall be permitted to use the drains, channels or ditches of
25 such other sanitary district, the right to such use may be
26 acquired by condemnation in any circuit court by proceedings as
27 provided in Section 4-17 of the Illinois Drainage Code. The
28 compensation to be paid for such use may be a gross sum, or it
29 may be in the form of an annual rental, to be paid in yearly
30 installments as provided by the judgment of the court wherein
31 such proceedings may be had. However, when such compensation is
32 fixed at a gross sum all moneys for the purchase and
33 condemnation of any property shall be paid before possession is
34 taken or any work done on the premises damaged by the

1 construction of such channel or outlet, and in case of an
2 appeal from the circuit court taken by either party whereby the
3 amount of damages is not finally determined, then possession
4 may be taken, if the amount of judgment in such court is
5 deposited at some bank or savings and loan association to be
6 designated by the court, subject to the payment of such damages
7 on orders signed by the circuit court, whenever the amount of
8 damages is finally determined. The sanitary district may sell,
9 convey, vacate and release the real or personal property, right
10 of way and privileges acquired by it when no longer required
11 for the purposes of the district.

12 (b) A sanitary district may exercise its powers of eminent
13 domain to acquire a public utility only if the Illinois
14 Commerce Commission, following petition by the sanitary
15 district, has granted approval for the sanitary district to
16 proceed in accordance with Article VII of the Code of Civil
17 Procedure. The following procedures must be followed when a
18 sanitary district exercises its power of eminent domain to
19 acquire a public utility.

20 (1) The sanitary district shall petition the
21 Commission for approval of the acquisition of a public
22 utility by the exercise of eminent domain powers. The
23 petition filed by the sanitary district shall state the
24 following:

25 (A) the caption of the case;

26 (B) the date of the filing of the application;

27 (C) the name and address of the condemnee;

28 (D) the name and address of the condemnor;

29 (E) a specific reference to the statute under which
30 the condemnation action is authorized;

31 (F) a specific reference to the action, whether by
32 ordinance, resolution, or otherwise, by which the
33 declaration of taking was authorized, including the
34 date when such action was taken, and the place where
35 the record may be examined;

36 (G) a description of the purpose of the

1 condemnation;

2 (H) a reasonable description of the property to be
3 condemned;

4 (I) a statement of how just compensation will be
5 made;

6 (J) a statement that, if the condemnee wishes to
7 challenge the proceeding, the condemnee shall file
8 objections within 45 days after its receipt of the
9 notice.

10 (2) Within 30 days after the filing of a petition by
11 the sanitary district of its intent to acquire by eminent
12 domain all real and personal property, rights of way, and
13 privileges of a public utility, the sanitary district shall
14 serve a copy of the petition on the public utility and
15 shall publish a notice of the filing of the petition in a
16 newspaper of general circulation in the area served by the
17 sanitary district. The sanitary district shall file a
18 certificate of publication with the Commission as proof of
19 publication.

20 (3) Within 45 days after being served with the notice
21 required by this Section, the condemnee may file objections
22 to the petition with the Commission. All objections shall
23 state specifically the grounds relied upon. All objections
24 shall be raised at one time and in one document. The
25 condemnee shall serve a copy of the objections upon the
26 condemnor within 72 hours after the objections are filed
27 with the Commission.

28 (4) The Commission shall make a determination
29 regarding the petition and any objections to the petition
30 and shall make such orders and decrees as justice and law
31 shall require. The Commission may take evidence by
32 deposition or otherwise and shall entertain oral argument
33 on all objections. The Commission shall make its
34 determination within 105 days after its receipt of the
35 objections of the condemnee, unless the Commission, in its
36 discretion, extends the determination period for a further

1 period not exceeding 6 months.

2 (c) The Illinois Commerce Commission shall approve the
3 taking of any property by a sanitary district under subsection
4 (b), within or outside its boundaries, if it is in the public
5 interest. The taking shall be considered to be in the public
6 interest if the sanitary district establishes by a
7 preponderance of the evidence:

8 (1) that the sanitary district has been in existence as
9 the operator of a wastewater system for at least 20 years;

10 (2) that it will provide wastewater treatment service
11 within the proposed area subject to condemnation at the
12 same level of wastewater treatment service provided
13 throughout the district;

14 (3) that it will provide the wastewater collection,
15 treatment, and disposal at the same or less operational and
16 maintenance volumetric or bulk rate as the public utility
17 whose property is subject to condemnation; and

18 (4) that it is not financially impractical for the
19 public utility to serve its remaining customers who are not
20 in the area subject to condemnation.

21 (Source: P.A. 90-558, eff. 12-12-97.)

22 (70 ILCS 2405/23.5) (from Ch. 42, par. 317e.5)

23 Sec. 23.5. Any sanitary district may annex any territory
24 which is not within the corporate limits of the sanitary
25 district but which is contiguous to it and is served by the
26 sanitary district or by a municipality with sanitary sewers
27 that are connected and served by the sanitary district by the
28 passage of an ordinance to that effect by the board of
29 trustees, describing the territory to be annexed. A copy of the
30 ordinance with an accurate map of the annexed territory,
31 certified as correct by the clerk of the district shall be
32 filed with the county clerk of the county in which the annexed
33 territory is located. For purposes of this Act, a property is
34 served by a sanitary district if a sewer that is part of the
35 sanitary district's sewer system, part of the sewer system of a

1 municipality that is connected to the sanitary district, or
2 part of any other sewer system that connects to and is served
3 by the sanitary district has been extended to, across, or along
4 the property, whether or not the buildings on the property are
5 physically connected to the sewer.

6 ~~Territory that is not contiguous to a sanitary district but~~
7 ~~is separated from the sanitary district by only a forest~~
8 ~~preserve district may be annexed to the sanitary district under~~
9 ~~this Section. The territory included within the forest preserve~~
10 ~~district shall not be annexed to the sanitary district and~~
11 ~~shall not be subject to rights-of-way for access or services~~
12 ~~between the parts of the sanitary district separated by the~~
13 ~~forest preserve district without the approval of the governing~~
14 ~~body of the forest preserve district.~~

15 (Source: P.A. 90-697, eff. 8-7-98.)

16 (70 ILCS 2405/23.7) (from Ch. 42, par. 317e.7)

17 Sec. 23.7. For purposes of this Act, territory to be
18 organized as a sanitary district shall be considered to be
19 contiguous territory, and territory to be annexed to a sanitary
20 district shall be considered to be contiguous to the sanitary
21 district notwithstanding that the territory to be so organized
22 is divided by one or more railroad rights-of-ways, public
23 easements, or property owned by a public utility or that the
24 territory to be so annexed is separated from the sanitary
25 district by one or more railroad rights-of-ways, public
26 easements, or property owned by a public utility, or property
27 owned by a forest preserve district or any public agency or
28 not-for-profit corporation, provided that the property does
29 not require sanitary sewer service. However, upon such
30 organization or annexation, the area included within any such
31 right-of-way, public easement, ~~or~~ property owned by a public
32 utility, or property owned by a forest preserve district or any
33 public agency or not-for-profit corporation shall not be
34 considered a part of or annexed to the sanitary district and
35 shall not be subject to rights-of-way for access or services

1 without the approval of the legal owner of the property.

2 (Source: P.A. 89-558, eff. 7-26-96.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.