

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 Water Commission Act of 1985 is amended by  
5 changing Section 2 as follows:

6 (70 ILCS 3720/2) (from Ch. 111 2/3, par. 252)

7 Sec. 2. The General Assembly hereby finds and declares that  
8 it is necessary and in the public interest to help assure a  
9 sufficient and economic supply of a source of water within  
10 those county wide areas of this State where, because of a  
11 growth in population and proximity to large urban centers, the  
12 health, safety and welfare of the residents is threatened by an  
13 ever increasing shortage of a continuing, available and  
14 adequate source and supply of water on an economically  
15 reasonable basis; however, it is not the intent of the General  
16 Assembly to interfere with the power of municipalities to  
17 provide for the retail distribution of water to their residents  
18 or the customers of their water systems. Therefore, in order to  
19 provide for a sufficient and economic supply of water to such  
20 areas, it is hereby declared to be the law of this State that:

21 (a) With respect to any water commission constituted  
22 pursuant to Division 135 of the Illinois Municipal Code or  
23 established by operation of law under Public Act 83-1123, as

1 amended, which water commission includes municipalities which  
2 in the aggregate have within their corporate limits more than  
3 50% of the population of a county (hereinafter referred to as a  
4 "home county"), and such county is contiguous to a county which  
5 has a population in excess of 1,000,000 inhabitants, the  
6 provisions of this Act shall apply. With respect to any such  
7 water commission (hereinafter referred to as a "county water  
8 commission"):

9 (i) the terms of all commissioners of such commission  
10 holding office at the time a water commission becomes a  
11 county water commission shall terminate 30 days after such  
12 time and new commissioners shall be appointed as the  
13 governing board of the county water commission as  
14 hereinafter provided in subsection (c); and

15 (ii) the county water commission shall continue to be a  
16 body corporate and politic, and shall bear the name of the  
17 home county but shall be independent from and not a part of  
18 the county government and shall itself be a political  
19 subdivision and a unit of local government, and upon  
20 appointment of the new commissioners as the governing board  
21 of such water commission as provided in subsection (c),  
22 such water commission shall remain responsible for the full  
23 payment of, and shall by operation of law be deemed to have  
24 assumed and shall pay when due all debts and obligations of  
25 the commission as the same is constituted and as such debts  
26 and obligations existed on the date such water commission

1 becomes a county water commission and such additional debts  
2 and obligations as are incurred by such commission after  
3 such date and prior to the appointment of the new  
4 commissioners as the governing board of such commission,  
5 and further shall continue to have and exercise all powers  
6 and functions and duties of a water commission created  
7 pursuant to Division 135 of the Illinois Municipal Code, as  
8 now or hereafter amended, and the county water commission  
9 may rely on that Division, as modified and supplemented by  
10 the provisions of this Act, as lawful authority under which  
11 it may act.

12 (b) Any county water commission shall have as its territory  
13 within its corporate limits, subject to taxation for its  
14 purposes, and subject to the powers and limitations as  
15 conferred by this Act, (i) all of the territory of the home  
16 county except that territory located within the corporate  
17 limits of excluded units as hereinafter defined and (ii) also  
18 all of the territory located outside the home county and  
19 included within the corporate limits of an included unit as  
20 hereinafter defined. As used in this Act, "excluded unit" means  
21 a unit of local government having a waterworks system and  
22 having within its corporate limits territory within the home  
23 county and which either, at the time any commission becomes a  
24 county water commission, receives, or has contracted at such  
25 time for the receipt of, more than 25% of the water distributed  
26 by such unit's water system from a source outside of the home

1 county, or a unit of local government that seeks a change in  
2 status as provided in this Section. As used in this Section,  
3 "included unit" means any unit of local government having a  
4 waterworks system and having within its corporate limits  
5 territory within the home county, which unit of local  
6 government is not an excluded unit. No other water commission  
7 shall be constituted under Division 135 of the Illinois  
8 Municipal Code in any home county after the effective date of  
9 this Act to provide water from any source located outside the  
10 home county. A unit of local government may switch its status  
11 from being an included unit to an excluded unit provided that  
12 (i) it has constructed a water treatment plant prior to  
13 December 31, 2006 to comply with United States Environmental  
14 Protection Agency regulations regarding radium; (ii) it  
15 notifies the commission in writing of its desire to become an  
16 excluded unit; and (iii) it no longer demands future service  
17 from the commission and shall not be reinstated as an included  
18 unit. In the event a unit of local government switches status,  
19 the water commission shall, from any legally available sources,  
20 transfer the sums collected from that unit of local government  
21 for the period of time beginning January 1, 2006 to the date  
22 that this tax is no longer assessed within the affected  
23 excluded unit. The transfer of funds authorized herein shall be  
24 made within 90 days of the effective date of this amendatory  
25 Act of the 95th General Assembly. Except as authorized by a  
26 county water commission, no home county or included unit shall

1 enter into any new or renew or extend any existing contract,  
2 agreement or other arrangement for the acquisition or sale of  
3 water from any source located outside a home county; provided,  
4 however, that any included unit may contract for a supply of  
5 water in case of a temporary emergency from any other unit of  
6 local government or any entity. In the event that any included  
7 unit elects to serve retail customers outside its corporate  
8 boundaries and to establish rates and charges for such water in  
9 excess of those charged within its corporate boundaries, such  
10 rates and charges shall have a reasonable relationship to the  
11 actual cost of providing and delivering the water; this  
12 provision is declarative of existing law. It is declared to be  
13 the law of this State pursuant to paragraphs (g) and (h) of  
14 Section 6 of Article VII of the Illinois Constitution that in  
15 any home county, the provisions of this Act and Division 135 of  
16 the Illinois Municipal Code, as modified and supplemented by  
17 this Act and this amendatory Act of the 93rd General Assembly,  
18 constitute a limitation upon the power of any such county and  
19 upon all units of local government (except excluded units)  
20 within such county, including home rule units, limiting to such  
21 county, units of local government and home rule units the power  
22 to acquire, supply or distribute water or to establish any  
23 water commission for such purposes involving water from any  
24 source located outside the home county in a manner other than  
25 as provided or permitted by this Act and Division 135, as  
26 modified and supplemented by this Act, and further constitute

1 an exercise of exclusive State power with respect to the  
2 acquisition, supply and distribution of water from any source  
3 located outside the home county by any such county and by units  
4 of local government (except excluded units), including home  
5 rule units, within such county and with respect to the  
6 establishment for such purposes of any water commission  
7 therein, which power may not be exercised concurrently by any  
8 unit of local government or home rule unit. Upon the request of  
9 any included unit, a county water commission shall provide such  
10 included unit Lake Michigan water in an amount up to the then  
11 current Department of Transportation allocation of Lake  
12 Michigan water for such included unit.

13 With respect to a water commission to which the provisions  
14 of subsection (a) apply, all uninhabited territory that is  
15 owned and solely occupied by such a commission and is located  
16 not within its home county but within a non-home rule  
17 municipality adjacent to its home county shall,  
18 notwithstanding any other provision of law, be disconnected  
19 from that municipality by operation of this Act on the  
20 effective date of this amendatory Act of 1991, and shall  
21 thereafter no longer be within the territory of the  
22 municipality for any purpose; except that for the purposes of  
23 any statute that requires contiguity of territory, the  
24 territory of the water commission shall be disregarded and the  
25 municipality shall not be deemed to be noncontiguous by virtue  
26 of the disconnection of the water commission territory.

1           (c) The governing body of any water commission to which the  
2 provisions of subsection (a) apply shall be a board of  
3 commissioners, each to be appointed within 30 days after the  
4 water commission becomes a county water commission to a term  
5 commencing on such date, as follows:

6           (i) one commissioner, who shall serve as chairman, who  
7 shall be a resident of the home county, to be appointed by  
8 the chairman of the county board of such county with the  
9 advice and consent of the county board, provided that  
10 following the expiration of the term or vacancy of the  
11 current chairman serving on the effective date of this  
12 amendatory Act of the 93rd General Assembly, any subsequent  
13 appointment as chairman shall also be subject to the advice  
14 and consent of the county water commission;

15           (ii) one commissioner from each county board district  
16 within the home county, to be appointed by the chairman of  
17 the county board of the home county with the advice and  
18 consent of the county board; and

19           (iii) one commissioner from each county board district  
20 within the home county, to be appointed by the majority  
21 vote of the mayors of those included units which are  
22 municipalities and which have the greatest percentage of  
23 their respective populations residing within such county  
24 board district of the home county.

25           The mayors of the respective county board districts shall  
26 meet for the purpose of making said respective appointments at

1 a time and place designated by that mayor in each county board  
2 district of the included unit with the largest population  
3 voting for a commissioner upon not less than 10 days' written  
4 notice to each other mayor entitled to vote.

5 The commissioners so appointed shall serve for a term of 6  
6 years, or until their successors have been appointed and have  
7 qualified in the same manner as the original appointments,  
8 except that at the first meeting of such commissioners, (A) the  
9 commissioners first appointed pursuant to paragraph (ii) of  
10 this subsection shall determine publicly by lot 1/3 of their  
11 number to serve for terms of 2 years, 1/3 of their number to  
12 serve for terms of 4 years and 1/3 of their number to serve for  
13 terms of 6 years, any odd number of commissioners so determined  
14 by dividing into thirds to serve 6 year terms, and (B) the  
15 commissioners first appointed pursuant to paragraph (iii) of  
16 this subsection shall determine publicly by lot 1/3 of their  
17 number to serve for terms of 2 years, 1/3 of their number to  
18 serve for terms of 4 years and 1/3 of their number to serve for  
19 terms of 6 years, any odd number of commissioners so determined  
20 by dividing into thirds to serve 6 year terms. The commissioner  
21 first appointed pursuant to paragraph (i) of this subsection,  
22 who shall serve as chairman, shall serve for a term of 6 years.  
23 Any commissioner may be a member of the governing board or an  
24 officer or employee of such county or any unit of local  
25 government within such county. A commissioner is eligible for  
26 reappointment upon the expiration of his term. A vacancy in the



1 office of a commissioner shall be filled for the balance of the  
2 unexpired term by appointment and qualification as to residency  
3 in the same manner as the original appointment was made. Each  
4 commissioner shall receive the same compensation which shall  
5 not be more than \$600 per year, except that no such  
6 commissioner who is a member of the governing board or an  
7 officer or employee of such county or any unit of local  
8 government within such county may receive any compensation for  
9 serving as a commissioner. Each commissioner may be removed by  
10 the appointing authority for any cause for which any other  
11 county or municipal officer may be removed. The county water  
12 commission shall determine its own rules of proceeding. A  
13 quorum shall be a majority of the commissioners then in office.  
14 All ordinances or resolutions shall be passed by not less than  
15 a majority of a quorum. No commissioner or employee of the  
16 commission, no member of the county board or other official  
17 elected within such county, no mayor or president or other  
18 member of the corporate authorities of any unit of local  
19 government within such county, and no employee of such county  
20 or any such unit of local government, shall be interested  
21 directly or indirectly in any contract or job of work or  
22 materials, or the profits thereof, or services to be performed  
23 for or by the commission. A violation of any of the foregoing  
24 provisions of this subsection is a Class C misdemeanor. A  
25 conviction is cause for the removal of a person from his office  
26 or employment.

1           (d) Except as provided in subsection (g), subject to the  
2 referendum provided for in subsection (e), a county water  
3 commission may borrow money for corporate purposes on the  
4 credit of the commission, and issue general obligation bonds  
5 therefor, in such amounts and form and on such conditions as it  
6 shall prescribe, but shall not become indebted in any manner or  
7 for any purpose in an amount including existing indebtedness in  
8 the aggregate to exceed 5.75% of the aggregate value of the  
9 taxable property within the territorial boundaries of the  
10 county water commission, as equalized and assessed by the  
11 Department of Revenue and as most recently available at the  
12 time of the issue of said bonds. Before or at the time of  
13 incurring any indebtedness, except as provided in subsection  
14 (g), the commission shall provide for the collection of a  
15 direct annual tax, which shall be unlimited as to rate or  
16 amount, sufficient to pay the interest on such debt as it falls  
17 due and also to pay and discharge the principal thereof at  
18 maturity, which shall be within 40 years after the date of  
19 issue thereof. Such tax shall be levied upon and collected from  
20 all of the taxable property within the territory of the county  
21 water commission. Dissolution of the county water commission  
22 for any reason shall not relieve the taxable property within  
23 such territory of the county water commission from liability  
24 for such tax. The clerk of the commission shall file a  
25 certified copy of the resolution or ordinance by which such  
26 bonds are authorized to be issued and such tax is levied with

1 the County Clerk of each county in which any of the territory  
2 of the county water commission is located and such filing shall  
3 constitute, without the doing of any other act, full and  
4 complete authority for each such County Clerk to extend such  
5 tax for collection upon all the taxable property within the  
6 territory of the county water commission subject to such tax in  
7 each and every year required sufficient to pay the principal of  
8 and interest on such bonds, as aforesaid, without limit as to  
9 rate or amount, and shall be in addition to and in excess of  
10 all other taxes authorized to be levied by the commission or  
11 any included unit. The general obligation bonds shall be issued  
12 pursuant to an ordinance or resolution and may be issued in one  
13 or more series, and shall bear such date or dates, mature at  
14 such time or times and in any event not more than 40 years from  
15 the date thereof, be sold at such price at private or public  
16 sale as determined by a county water commission, bear interest  
17 at such rate or rates such that the net effective interest rate  
18 received upon the sale of such bonds does not exceed the  
19 maximum rate determined under Section 2 of the Bond  
20 Authorization Act, which rates may be fixed or variable, be in  
21 such denominations, be in such form, either coupon or  
22 registered, carry such conversion, registration, and exchange  
23 privileges, be executed in such manner, be payable in such  
24 medium of payment at such place or places within or without the  
25 State of Illinois, be subject to such terms of redemption, and  
26 contain or be subject to such other terms as the ordinance or

1 resolution may provide, and shall not be restricted by the  
2 provisions of any other terms of obligations of public agencies  
3 or private persons.

4 (e) No issue of general obligation bonds by a county water  
5 commission (except bonds to refund an existing bonded  
6 indebtedness) shall be authorized unless the commission  
7 certifies the proposition of issuing such bonds to the proper  
8 election officials, who shall submit the proposition to the  
9 voters at an election in accordance with the general election  
10 law, and the proposition has been approved by a majority of  
11 those voting on the proposition.

12 The proposition shall be in the form provided in Section 5  
13 or shall be substantially in the following form:

14 -----

15 Shall general obligation

16 bonds for the purpose of

17 (state purpose), in the YES

18 sum of \$....(insert amount), -----

19 be issued by the ..... NO

20 (insert corporate name of

21 the county water commission)?

22 -----

23 (f) In order to carry out and perform its powers and  
24 functions and duties under the provisions of this Act and  
25 Division 135 of the Illinois Municipal Code, as modified and  
26 supplemented by this Act, the governing body of any county

1 water commission may by ordinance levy annually upon all  
2 taxable property within its territory a tax at a rate not to  
3 exceed .005% of the value of such property, as equalized or  
4 assessed by the Department of Revenue for the year in which the  
5 levy is made. In addition, any county water commission may by  
6 ordinance levy upon all taxable property within its territory,  
7 for one year only, an additional tax for such purposes at a  
8 rate not to exceed .20% of the value of such property, as  
9 equalized or assessed by the Department of Revenue for that  
10 year; provided, however, that such tax may not be levied more  
11 than once in any county water commission.

12 (g) Any county water commission shall have the power to  
13 borrow money, subject to the indebtedness limitation provided  
14 in subsection (d), from the home county or included units, in  
15 such amounts and in such terms as agreed by the governing  
16 bodies of the commission and the home county or included units.

17 (h) No county water commission constituted pursuant to the  
18 Act shall engage in the retail sale or distribution of water to  
19 residents or customers of any municipality.

20 (i) Nothing in the Section requires any municipality to  
21 contract with a county water commission for a supply of water.

22 (j) The State of Illinois recognizes that any such contract  
23 for the supply of water executed by a unit of local government  
24 and a county water commission may contain terms and conditions  
25 intended by the parties thereto to be absolute conditions  
26 thereof. The State of Illinois also recognizes that persons may

1 loan funds to a county water commission (including, without  
2 limitation, the purchase of revenue or general obligation bonds  
3 of such commission) in reliance upon the terms and conditions  
4 of any such contract for the supply of water. Therefore, the  
5 State of Illinois pledges and agrees to those parties and  
6 persons which make loans of funds to a county water commission  
7 that it will not impair or limit the power or ability of a  
8 county water commission or a unit of local government fully to  
9 carry out the financial obligations and obligation to furnish  
10 water pursuant to the terms of any contract for the supply of  
11 water entered into by such county water commission or unit of  
12 local government for the term of such contracts or loans. All  
13 other terms and conditions of such contracts and  
14 intergovernmental agreements shall be binding to the extent  
15 that they are not inconsistent with this amendatory Act of the  
16 93rd General Assembly.

17 (Source: P.A. 93-226, eff. 7-22-03.)