



Local Government Committee

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LRB095 09367 HLH 33518 a

1 AMENDMENT TO HOUSE BILL 840

2 AMENDMENT NO. _____. Amend House Bill 840 by replacing
3 everything after the enacting clause with the following:

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

1 provide for the retail distribution of water to their residents
2 or the customers of their water systems. Therefore, in order to
3 provide for a sufficient and economic supply of water to such
4 areas, it is hereby declared to be the law of this State that:

5 (a) With respect to any water commission constituted
6 pursuant to Division 135 of the Illinois Municipal Code or
7 established by operation of law under Public Act 83-1123, as
8 amended, which water commission includes municipalities which
9 in the aggregate have within their corporate limits more than
10 50% of the population of a county (hereinafter referred to as a
11 "home county"), and such county is contiguous to a county which
12 has a population in excess of 1,000,000 inhabitants, the
13 provisions of this Act shall apply. With respect to any such
14 water commission (hereinafter referred to as a "county water
15 commission"):

16 (i) the terms of all commissioners of such commission
17 holding office at the time a water commission becomes a
18 county water commission shall terminate 30 days after such
19 time and new commissioners shall be appointed as the
20 governing board of the county water commission as
21 hereinafter provided in subsection (c); and

22 (ii) the county water commission shall continue to be a
23 body corporate and politic, and shall bear the name of the
24 home county but shall be independent from and not a part of
25 the county government and shall itself be a political
26 subdivision and a unit of local government, and upon

1 appointment of the new commissioners as the governing board
2 of such water commission as provided in subsection (c),
3 such water commission shall remain responsible for the full
4 payment of, and shall by operation of law be deemed to have
5 assumed and shall pay when due all debts and obligations of
6 the commission as the same is constituted and as such debts
7 and obligations existed on the date such water commission
8 becomes a county water commission and such additional debts
9 and obligations as are incurred by such commission after
10 such date and prior to the appointment of the new
11 commissioners as the governing board of such commission,
12 and further shall continue to have and exercise all powers
13 and functions and duties of a water commission created
14 pursuant to Division 135 of the Illinois Municipal Code, as
15 now or hereafter amended, and the county water commission
16 may rely on that Division, as modified and supplemented by
17 the provisions of this Act, as lawful authority under which
18 it may act.

19 (b) Any county water commission shall have as its territory
20 within its corporate limits, subject to taxation for its
21 purposes, and subject to the powers and limitations as
22 conferred by this Act, (i) all of the territory of the home
23 county except that territory located within the corporate
24 limits of excluded units as hereinafter defined and (ii) also
25 all of the territory located outside the home county and
26 included within the corporate limits of an included unit as

1 hereinafter defined. As used in this Act, "excluded unit" means
2 a unit of local government having a waterworks system and
3 having within its corporate limits territory within the home
4 county and which either, at the time any commission becomes a
5 county water commission, receives, or has contracted at such
6 time for the receipt of, more than 25% of the water distributed
7 by such unit's water system from a source outside of the home
8 county, or a unit of local government that seeks a change in
9 status as provided in this Section. As used in this Section,
10 "included unit" means any unit of local government having a
11 waterworks system and having within its corporate limits
12 territory within the home county, which unit of local
13 government is not an excluded unit. No other water commission
14 shall be constituted under Division 135 of the Illinois
15 Municipal Code in any home county after the effective date of
16 this Act to provide water from any source located outside the
17 home county. A unit of local government may switch its status
18 from being an included unit to an excluded unit provided that
19 (i) it has constructed a water treatment plant prior to
20 December 31, 2006 to comply with United States Environmental
21 Protection Agency regulations regarding radium; (ii) it
22 notifies the commission in writing of its desire to become an
23 excluded unit; and (iii) it no longer demands future service
24 from the commission and shall not be reinstated as an included
25 unit. In the event a unit of local government switches status,
26 the water commission shall, from any legally available sources,

1 transfer the sums collected from that unit of local government
2 for the period of time beginning January 1, 2006 to the date
3 that this tax is no longer assessed within the affected
4 excluded unit. The transfer of funds authorized herein shall be
5 made within 90 days of the effective date of this amendatory
6 Act of the 95th General Assembly. Except as authorized by a
7 county water commission, no home county or included unit shall
8 enter into any new or renew or extend any existing contract,
9 agreement or other arrangement for the acquisition or sale of
10 water from any source located outside a home county; provided,
11 however, that any included unit may contract for a supply of
12 water in case of a temporary emergency from any other unit of
13 local government or any entity. In the event that any included
14 unit elects to serve retail customers outside its corporate
15 boundaries and to establish rates and charges for such water in
16 excess of those charged within its corporate boundaries, such
17 rates and charges shall have a reasonable relationship to the
18 actual cost of providing and delivering the water; this
19 provision is declarative of existing law. It is declared to be
20 the law of this State pursuant to paragraphs (g) and (h) of
21 Section 6 of Article VII of the Illinois Constitution that in
22 any home county, the provisions of this Act and Division 135 of
23 the Illinois Municipal Code, as modified and supplemented by
24 this Act and this amendatory Act of the 93rd General Assembly,
25 constitute a limitation upon the power of any such county and
26 upon all units of local government (except excluded units)

1 within such county, including home rule units, limiting to such
2 county, units of local government and home rule units the power
3 to acquire, supply or distribute water or to establish any
4 water commission for such purposes involving water from any
5 source located outside the home county in a manner other than
6 as provided or permitted by this Act and Division 135, as
7 modified and supplemented by this Act, and further constitute
8 an exercise of exclusive State power with respect to the
9 acquisition, supply and distribution of water from any source
10 located outside the home county by any such county and by units
11 of local government (except excluded units), including home
12 rule units, within such county and with respect to the
13 establishment for such purposes of any water commission
14 therein, which power may not be exercised concurrently by any
15 unit of local government or home rule unit. Upon the request of
16 any included unit, a county water commission shall provide such
17 included unit Lake Michigan water in an amount up to the then
18 current Department of Transportation allocation of Lake
19 Michigan water for such included unit.

20 With respect to a water commission to which the provisions
21 of subsection (a) apply, all uninhabited territory that is
22 owned and solely occupied by such a commission and is located
23 not within its home county but within a non-home rule
24 municipality adjacent to its home county shall,
25 notwithstanding any other provision of law, be disconnected
26 from that municipality by operation of this Act on the

1 effective date of this amendatory Act of 1991, and shall
2 thereafter no longer be within the territory of the
3 municipality for any purpose; except that for the purposes of
4 any statute that requires contiguity of territory, the
5 territory of the water commission shall be disregarded and the
6 municipality shall not be deemed to be noncontiguous by virtue
7 of the disconnection of the water commission territory.

8 (c) The governing body of any water commission to which the
9 provisions of subsection (a) apply shall be a board of
10 commissioners, each to be appointed within 30 days after the
11 water commission becomes a county water commission to a term
12 commencing on such date, as follows:

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

22 (ii) one commissioner from each county board district
23 within the home county, to be appointed by the chairman of
24 the county board of the home county with the advice and
25 consent of the county board; and

26 (iii) one commissioner from each county board district

1 within the home county, to be appointed by the majority
2 vote of the mayors of those included units which are
3 municipalities and which have the greatest percentage of
4 their respective populations residing within such county
5 board district of the home county.

6 The mayors of the respective county board districts shall
7 meet for the purpose of making said respective appointments at
8 a time and place designated by that mayor in each county board
9 district of the included unit with the largest population
10 voting for a commissioner upon not less than 10 days' written
11 notice to each other mayor entitled to vote.

12 The commissioners so appointed shall serve for a term of 6
13 years, or until their successors have been appointed and have
14 qualified in the same manner as the original appointments,
15 except that at the first meeting of such commissioners, (A) the
16 commissioners first appointed pursuant to paragraph (ii) of
17 this subsection shall determine publicly by lot 1/3 of their
18 number to serve for terms of 2 years, 1/3 of their number to
19 serve for terms of 4 years and 1/3 of their number to serve for
20 terms of 6 years, any odd number of commissioners so determined
21 by dividing into thirds to serve 6 year terms, and (B) the
22 commissioners first appointed pursuant to paragraph (iii) of
23 this subsection shall determine publicly by lot 1/3 of their
24 number to serve for terms of 2 years, 1/3 of their number to
25 serve for terms of 4 years and 1/3 of their number to serve for
26 terms of 6 years, any odd number of commissioners so determined

1 by dividing into thirds to serve 6 year terms. The commissioner
2 first appointed pursuant to paragraph (i) of this subsection,
3 who shall serve as chairman, shall serve for a term of 6 years.
4 Any commissioner may be a member of the governing board or an
5 officer or employee of such county or any unit of local
6 government within such county. A commissioner is eligible for
7 reappointment upon the expiration of his term. A vacancy in the
8 office of a commissioner shall be filled for the balance of the
9 unexpired term by appointment and qualification as to residency
10 in the same manner as the original appointment was made. Each
11 commissioner shall receive the same compensation which shall
12 not be more than \$600 per year, except that no such
13 commissioner who is a member of the governing board or an
14 officer or employee of such county or any unit of local
15 government within such county may receive any compensation for
16 serving as a commissioner. Each commissioner may be removed by
17 the appointing authority for any cause for which any other
18 county or municipal officer may be removed. The county water
19 commission shall determine its own rules of proceeding. A
20 quorum shall be a majority of the commissioners then in office.
21 All ordinances or resolutions shall be passed by not less than
22 a majority of a quorum. No commissioner or employee of the
23 commission, no member of the county board or other official
24 elected within such county, no mayor or president or other
25 member of the corporate authorities of any unit of local
26 government within such county, and no employee of such county

1 or any such unit of local government, shall be interested
2 directly or indirectly in any contract or job of work or
3 materials, or the profits thereof, or services to be performed
4 for or by the commission. A violation of any of the foregoing
5 provisions of this subsection is a Class C misdemeanor. A
6 conviction is cause for the removal of a person from his office
7 or employment.

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

1 all of the taxable property within the territory of the county
2 water commission. Dissolution of the county water commission
3 for any reason shall not relieve the taxable property within
4 such territory of the county water commission from liability
5 for such tax. The clerk of the commission shall file a
6 certified copy of the resolution or ordinance by which such
7 bonds are authorized to be issued and such tax is levied with
8 the County Clerk of each county in which any of the territory
9 of the county water commission is located and such filing shall
10 constitute, without the doing of any other act, full and
11 complete authority for each such County Clerk to extend such
12 tax for collection upon all the taxable property within the
13 territory of the county water commission subject to such tax in
14 each and every year required sufficient to pay the principal of
15 and interest on such bonds, as aforesaid, without limit as to
16 rate or amount, and shall be in addition to and in excess of
17 all other taxes authorized to be levied by the commission or
18 any included unit. The general obligation bonds shall be issued
19 pursuant to an ordinance or resolution and may be issued in one
20 or more series, and shall bear such date or dates, mature at
21 such time or times and in any event not more than 40 years from
22 the date thereof, be sold at such price at private or public
23 sale as determined by a county water commission, bear interest
24 at such rate or rates such that the net effective interest rate
25 received upon the sale of such bonds does not exceed the
26 maximum rate determined under Section 2 of the Bond

1 Authorization Act, which rates may be fixed or variable, be in
 2 such denominations, be in such form, either coupon or
 3 registered, carry such conversion, registration, and exchange
 4 privileges, be executed in such manner, be payable in such
 5 medium of payment at such place or places within or without the
 6 State of Illinois, be subject to such terms of redemption, and
 7 contain or be subject to such other terms as the ordinance or
 8 resolution may provide, and shall not be restricted by the
 9 provisions of any other terms of obligations of public agencies
 10 or private persons.

11 (e) No issue of general obligation bonds by a county water
 12 commission (except bonds to refund an existing bonded
 13 indebtedness) shall be authorized unless the commission
 14 certifies the proposition of issuing such bonds to the proper
 15 election officials, who shall submit the proposition to the
 16 voters at an election in accordance with the general election
 17 law, and the proposition has been approved by a majority of
 18 those voting on the proposition.

19 The proposition shall be in the form provided in Section 5
 20 or shall be substantially in the following form:

21 -----
 22 Shall general obligation
 23 bonds for the purpose of
 24 (state purpose), in the YES
 25 sum of \$....(insert amount), -----
 26 be issued by the NO

1 (insert corporate name of
2 the county water commission)?

3 -----
4 (f) In order to carry out and perform its powers and
5 functions and duties under the provisions of this Act and
6 Division 135 of the Illinois Municipal Code, as modified and
7 supplemented by this Act, the governing body of any county
8 water commission may by ordinance levy annually upon all
9 taxable property within its territory a tax at a rate not to
10 exceed .005% of the value of such property, as equalized or
11 assessed by the Department of Revenue for the year in which the
12 levy is made. In addition, any county water commission may by
13 ordinance levy upon all taxable property within its territory,
14 for one year only, an additional tax for such purposes at a
15 rate not to exceed .20% of the value of such property, as
16 equalized or assessed by the Department of Revenue for that
17 year; provided, however, that such tax may not be levied more
18 than once in any county water commission.

19 (g) Any county water commission shall have the power to
20 borrow money, subject to the indebtedness limitation provided
21 in subsection (d), from the home county or included units, in
22 such amounts and in such terms as agreed by the governing
23 bodies of the commission and the home county or included units.

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

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

3 (j) The State of Illinois recognizes that any such contract
4 for the supply of water executed by a unit of local government
5 and a county water commission may contain terms and conditions
6 intended by the parties thereto to be absolute conditions
7 thereof. The State of Illinois also recognizes that persons may
8 loan funds to a county water commission (including, without
9 limitation, the purchase of revenue or general obligation bonds
10 of such commission) in reliance upon the terms and conditions
11 of any such contract for the supply of water. Therefore, the
12 State of Illinois pledges and agrees to those parties and
13 persons which make loans of funds to a county water commission
14 that it will not impair or limit the power or ability of a
15 county water commission or a unit of local government fully to
16 carry out the financial obligations and obligation to furnish
17 water pursuant to the terms of any contract for the supply of
18 water entered into by such county water commission or unit of
19 local government for the term of such contracts or loans. All
20 other terms and conditions of such contracts and
21 intergovernmental agreements shall be binding to the extent
22 that they are not inconsistent with this amendatory Act of the
23 93rd General Assembly.

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