



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0434

Introduced 2/8/2007, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

70 ILCS 2605/8
70 ILCS 2605/8c

from Ch. 42, par. 327
from Ch. 42, par. 327c

Amends the Metropolitan Water Reclamation District Act. Provides that the District may lease certain property to others for an initial annual rental of less than 6% of the parcel's fair market value if the parcel contains a special development impediment. Provides that the initial annual rental amount shall be for the first 10 years of the lease. Provides that every lease must be awarded to the highest bidder upon free and open competitive bids. Provides that, if property is leased for an annual rental of less than 6% of the parcel's fair market value because of a special development impediment, the first redetermination of the fair market value shall not occur until the twentieth year of the lease (instead of the tenth year). Provides that the District may lease property to certain parties upon mutually agreeable terms, regardless of whether those terms comply with the provisions of the Act. Makes other changes. Effective immediately.

LRB095 08927 HLH 29116 b

FISCAL 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 Metropolitan Water Reclamation District Act
5 is amended by changing Sections 8 and 8c as follows:

6 (70 ILCS 2605/8) (from Ch. 42, par. 327)

7 Sec. 8. Except as otherwise in this Act provided, the
8 sanitary district may acquire by lease, purchase or otherwise
9 within or without its corporate limits, or by condemnation
10 within its corporate limits, any and all real and personal
11 property, right of way and privilege that may be required for
12 its corporate purposes. All moneys for the purchase and
13 condemnation of any property must be paid before possession is
14 taken, or any work done on the premises. In case of an appeal
15 from the Court in which the condemnation proceedings are
16 pending, taken by either party, whereby the amount of damages
17 is not finally determined, the amount of the judgment in the
18 court shall be deposited with the county treasurer of the
19 county in which the judgment is rendered, subject to the
20 payment of damages on orders signed by the judge whenever the
21 amount of damages is finally determined.

22 Upon recommendation of the general superintendent and upon
23 the approval of the board of trustees when any real or personal

1 property, right of way or privilege or any interest therein, or
2 any part thereof of such sanitary district is no longer
3 required for the corporate purposes of the sanitary district it
4 may be sold, vacated or released. Such sales, vacations, or
5 releases may be made subject to such conditions and the
6 retention of such interest therein as may be deemed for the
7 best interest of such sanitary district as recommended by the
8 general superintendent and approved by the board of trustees.

9 However, the sanitary district may enter into a lease of a
10 building or a part thereof, or acquire title to a building
11 already constructed or to be constructed, for the purpose of
12 securing office space for its administrative corporate
13 functions, the period of such lease not to exceed 15 years
14 except as authorized by the provisions of Section 8b of this
15 Act. In the event of the purchase of such property for
16 administrative corporate functions, the sanitary district may
17 execute a mortgage or other documents of indebtedness as may be
18 required for the unpaid balance, to be paid in not more than 15
19 annual installments. Annual installments on the mortgage or
20 annual payment on the lease shall be considered a current
21 corporate expense of the year in which they are to be paid, and
22 the amount of such annual installment or payment shall be
23 included in the Annual Appropriation and Corporate Tax Levy
24 Ordinances. Such expense may be incurred, notwithstanding the
25 provisions, if any applicable, contained in any other Sections
26 of this Act.

1 The sanitary district may dedicate to the public for
2 highway purposes any of its real property and the dedications
3 may be made subject to such conditions and the retention of
4 such interests therein as considered in the best interests of
5 the sanitary district by the board of trustees upon
6 recommendation of the general superintendent.

7 The sanitary district may lease to others for any period of
8 time, not to exceed 99 years, upon the terms as its board of
9 trustees upon recommendation of the general superintendent may
10 determine, any such real property, right-of-way or privilege,
11 or any interest therein or any part thereof, which is in the
12 opinion of the board of trustees and general superintendent of
13 the sanitary district no longer required for its corporate
14 purposes or which may not be immediately needed for such
15 purposes. The leases may contain such terms and conditions,
16 including restrictions as to permissible use of the real
17 property, and retain such interests therein as considered in
18 the best interests of the sanitary district by the board of
19 trustees upon recommendation of the general superintendent.
20 Negotiations and execution of such leases and preparatory
21 activities in connection therewith must comply with Section 8c
22 of this Act. The sanitary district may grant easements and
23 permits for the use of any such real property, right-of-way, or
24 privilege, which will not in the opinion of the board of
25 trustees and general superintendent of the sanitary district
26 interfere with the use thereof by the sanitary district for its

1 corporate purposes. Such easements and permits may contain such
2 conditions and retain such interests therein as considered in
3 the best interests of the sanitary district by the board of
4 trustees upon recommendation of the general superintendent.

5 No sales, vacations, dedications for highway purposes, or
6 leases for periods in excess of 5 years, of the following
7 described real estate, may be made or granted by the sanitary
8 district without the approval in writing of the Director of
9 Natural Resources of the State of Illinois:

10 All the right-of-way of the Calumet-Sag Channel of the
11 sanitary district extending from the Little Calumet River near
12 Blue Island, Illinois, to the right-of-way of the main channel
13 of the sanitary district near Sag, Illinois.

14 Lots 1, 3, 5, 21, 30, 31, 32, 33, 46, 48, 50, 52, 88, 89,
15 89a, 90, 91, 130, 132, 133, those parts of Lots 134 and 139
16 lying northeasterly of a tract of land leased to the Corn
17 Products Manufacturing Company from January 1, 1908, to
18 December 31, 2006; 1000 feet of Lot 141 lying southwesterly of
19 and adjoining the above mentioned leased tract measured
20 parallel with the main channel of the sanitary district; Lots
21 166, 168, 207, 208, and part of Lot 211 lying northeasterly of
22 a line 1500 feet southwesterly of the center line of Stephen
23 Street, Lemont, Illinois, and parallel with said street
24 measured parallel with said main channel; and Lot 212 of the
25 Sanitary District Trustees Subdivision of right-of-way from
26 the north and south center line of Section 30, Township 39

1 North, Range 14 East of the Third Principal Meridian, to Will
2 County line.

3 That part of the right-of-way of the main channel of the
4 sanitary district in Section 14, Township 37 North, Range 11
5 East of the Third Principal Meridian, lying southerly of said
6 main channel, northerly of the Northerly Reserve Line of the
7 Illinois and Michigan Canal, and westerly of the Center line of
8 the old channel of the Des Plaines River.

9 That part of said main channel right-of-way in Section 35,
10 Township 37 North, Range 10 East of the Third Principal
11 Meridian, lying east of said main channel and south of a line
12 1,319.1 feet north of and parallel with the south line of said
13 Section 35.

14 That part of said main channel right-of-way in the
15 northeast quarter of the northwest quarter of Section 2,
16 Township 36 North, Range 10 East of the Third Principal
17 Meridian, lying east of said main channel.

18 That part of said main channel right-of-way lying south of
19 Ninth Street in Lockport, Illinois.

20 Notwithstanding any other law, if any surplus real estate
21 is located in an unincorporated territory and if that real
22 estate is contiguous to only one municipality, 60 days before
23 the sale of that real estate, the sanitary district shall
24 notify in writing the contiguous municipality of the proposed
25 sale. Prior to the sale of the real estate, the municipality
26 shall notify in writing the sanitary district that the

1 municipality will or will not annex the surplus real estate. If
2 the contiguous municipality will annex such surplus real
3 estate, then coincident with the completion of the sale of that
4 real estate by the sanitary district, that real estate shall be
5 automatically annexed to the contiguous municipality.

6 All sales of real estate by the sanitary district must be
7 for cash, to the highest bidder upon open competitive bids, and
8 the proceeds of the sales may be used only for the construction
9 and equipment of sewage disposal plants, pumping stations and
10 intercepting sewers and appurtenances thereto, the acquisition
11 of sites and easements therefor, and the financing of the Local
12 Government Assistance Program established under Section 9.6c.

13 However, the sanitary district may:

14 (a) Remise, release, quit claim and convey, without the
15 approval of the Department of Natural Resources of the State of
16 Illinois acting by and through its Director, to the United
17 States of America without any consideration to be paid
18 therefor, in aid of the widening of the Calumet-Sag Channel of
19 the sanitary district by the United States of America, all
20 those certain lands, tenements and hereditaments of every kind
21 and nature of that portion of the established right-of-way of
22 the Calumet-Sag Channel lying east of the east line of Ashland
23 Avenue, in Blue Island, Illinois, and south of the center line
24 of the channel except such portion thereof as is needed for the
25 operation and maintenance of and access to the controlling
26 works lock of the sanitary district;

1 (b) Without the approval of the Department of Natural
2 Resources of the State of Illinois acting by and through its
3 Director, give and grant to the United States of America
4 without any consideration to be paid therefor the right,
5 privilege and authority to widen the Calumet-Sag Channel and
6 for that purpose to enter upon and use in the work of such
7 widening and for the disposal of spoil therefrom all that part
8 of the right-of-way of the Calumet-Sag Channel owned by the
9 sanitary district lying south of the center line of the
10 Calumet-Sag Channel from its connection with the main channel
11 of the sanitary district to the east line of Ashland Avenue in
12 Blue Island, Illinois;

13 (c) Make alterations to any structure made necessary by
14 such widening and to construct, reconstruct or otherwise alter
15 the existing highway bridges of the sanitary district across
16 the Calumet-Sag Channel;

17 (d) Give and grant to the United States of America without
18 any consideration to be paid therefor the right to maintain the
19 widened Calumet-Sag Channel without the occupation or use of or
20 jurisdiction over any property of the sanitary district
21 adjoining and adjacent to such widened channel;

22 (e) Acquire by lease, purchase, condemnation or otherwise,
23 whatever land, easements or rights of way, not presently owned
24 by it, that may be required by the United States of America in
25 constructing the Calumet-Sag Navigation Project, as approved
26 in Public Law 525, 79th Congress, Second Session as described

1 in House Document No. 677 for widening and dredging the
2 Calumet-Sag Channel, in improving the Little Calumet River
3 between the eastern end of the Sag Channel and Turning Basin
4 No. 5, and in improving the Calumet River between Calumet
5 Harbor and Lake Calumet;

6 (f) Furnish free of cost to the United States all lands,
7 easements, rights-of-way and soil disposal areas necessary for
8 the new work and for subsequent maintenance by the United
9 States;

10 (g) Provide for the necessary relocations of all utilities.

11 Whatever land acquired by the sanitary district may
12 thereafter be determined by the Board of Trustees upon
13 recommendation of the general superintendent as not being
14 needed by the United States for the purposes of constructing
15 and maintaining the Calumet-Sag Navigation Project as above
16 described, shall be retained by the sanitary district for its
17 corporate purposes, or be sold, with all convenient speed,
18 vacated or released (but not leased) as its Board of Trustees
19 upon recommendation of the general superintendent may
20 determine: All sales of such real estate must be for cash, to
21 the highest bidder upon open, competitive bids, and the
22 proceeds of the sales may be used only for the purpose of
23 paying principal and interest upon the bonds authorized by this
24 Act, and if no bonds are then outstanding, for the purpose of
25 paying principal and interest upon any general obligation bonds
26 of the sanitary district, and for corporate purposes of the

1 sanitary district. When the proceeds are used to pay bonds and
2 interest, proper abatement shall be made in the taxes next
3 extended for such bonds and interest.

4 (Source: P.A. 89-445, eff. 2-7-96; 89-502, eff. 6-28-96;
5 90-568, eff. 1-1-99; 90-690, eff. 7-31-98.)

6 (70 ILCS 2605/8c) (from Ch. 42, par. 327c)

7 Sec. 8c. Every lease of property no longer or not
8 immediately required for corporate purposes of a sanitary
9 district, from such district to others for a term not to exceed
10 99 years, in accordance with Section 8 of this Act, shall be
11 negotiated, created and executed in the following manner:

12 (1) Notice of such proposed leasing shall be published for
13 3 consecutive weeks in a newspaper of general circulation
14 published in such sanitary district, if any, and otherwise in
15 the county containing such district.

16 (2) Prior to receipt of bids for the lease under this
17 Section, the fair market value of every parcel of real property
18 to be leased must be determined by 2 professional appraisers
19 who are members of the American Institute of Real Estate
20 Appraisers or a similar, equivalently recognized professional
21 organization. The sanitary district acting through the general
22 superintendent may select and engage an additional appraiser
23 for such determination of fair market value. Every appraisal
24 report must contain an affidavit certifying the absence of any
25 collusion involving the appraiser and relating to the lease of

1 such property.

2 (3) No ~~Such lease must be awarded to the highest~~
3 ~~responsible bidder (including established commercial or~~
4 ~~industrial concerns and financially responsible individuals)~~
5 ~~upon free and open competitive bids, except that no~~ lease may
6 be awarded unless the bid of such highest responsible bidder
7 provides for an annual rental payment to the sanitary district
8 of at least 6% of the parcel's fair market value determined
9 under this Section, provided however, if the sanitary district
10 determines that a parcel contains a special development
11 impediment, defined as any condition that constitutes a
12 material impediment to the development or lease of a parcel,
13 and includes, but is not limited to: environmental
14 contamination, obsolescence, or advanced disrepair of
15 improvements or structures, or accumulation of large
16 quantities of non-indigenous materials, the sanitary district
17 may establish a minimum acceptable initial annual rental of
18 less than 6% of the parcel's fair market value for the initial
19 10 years of the lease. In no event will the annual rental
20 payment for each 10-year period after the initial 10 years of
21 the lease be less than the 6% of the parcel's fair market value
22 determined under this Section. Every lease must be awarded to
23 the highest responsible bidder (including established
24 commercial or industrial concerns and financially responsible
25 individuals) upon free and open competitive bids. In
26 determining the responsibility of any bidder, the Sanitary

1 District may consider, in addition to financial
2 responsibility, any past records of transactions with the
3 bidder and any other pertinent factors, including but not
4 limited to, the bidder's performance or past record with
5 respect to any lease, use, occupancy, or trespass of Sanitary
6 District or other lands`.

7 (4) Prior to acceptance of the bid of the highest
8 responsible bidder and before execution of the lease the bidder
9 shall submit to the board of commissioners and general
10 superintendent, for incorporation in the lease, a detailed plan
11 and description of improvements to be constructed upon the
12 leased property, the time within which the improvements will be
13 completed, and the intended uses of the leased property. If
14 there is more than one responsible bid, the board of
15 commissioners may authorize and direct the general
16 superintendent to solicit from the 2 highest responsible
17 bidders written amendments to their prior bids, increasing
18 their rental bid proposal by at least 5% in excess of their
19 prior written bid, or otherwise amending the financial terms of
20 their bid so as to maximize the financial return to the
21 sanitary district during the term of the proposed lease. Upon
22 the general superintendent's tentative agreement with one or
23 more amended bids, the bids may be submitted to the board of
24 commissioners with the recommendation of the general
25 superintendent for acceptance of one or rejection of all. The
26 amendments may not result in a diminution of the terms of the

1 transaction and must result in an agreement that is equal to or
2 greater in value than the highest responsible bid initially
3 received.

4 (5) The execution of such lease must be contemporaneous to
5 the execution by the lessee, each member of the board of
6 commissioners and the general superintendent of an affidavit
7 certifying the absence of any collusion involving the lessee,
8 the members and the general superintendent and relating to such
9 lease.

10 (6) No later than 30 days after the effective date of the
11 lease, the lessee must deliver to the sanitary district a
12 certified statement of the County Assessor, Township Assessor
13 or the county clerk of the county wherein the property is
14 situated that such property is presently contained in the
15 official list of lands and lots to be assessed for taxes for
16 the several towns or taxing districts in his county.

17 (7) Such lease ~~shall provide for a fixed annual rental~~
18 ~~payment for the first year not less than 6% of the fair market~~
19 ~~value as determined under this Section and~~ may be subject to
20 annual adjustments based on changes in the Consumer Price Index
21 published by the United States Department of Labor, Bureau of
22 Labor Statistics, or some other well known economic
23 governmental activity index. Any lease, the term of which will
24 extend for 15 years or more, shall provide for a
25 redetermination of the fair market value (independent of
26 improvements to the property subsequent to the effective date

1 of the lease) after the initial 10 years and every 10 years
2 thereafter, in the manner set forth in paragraph (2) of this
3 Section, which redetermination shall be referred to as the
4 decennial adjustment. Where the property rental is less than 6%
5 of fair market value due to the existence of a special
6 development impediment, the first decennial adjustment shall
7 not occur until the twentieth year of the lease. Such ~~said~~
8 redetermination shall ~~to~~ be as of the first day of each
9 succeeding 10 year period, and annual rental payments shall be
10 adjusted so that the ratio of annual rental to fair market
11 value shall be the same as that ratio for the first year of the
12 preceding 10 year period. The decennial adjustment shall not
13 exceed 100% of the rental in effect on the last day of the
14 preceding 10-year period, except when the property rental is
15 less than 6% of fair market value due to the existence of a
16 special development impediment, in which case, the decennial
17 adjustment shall not be so limited until the twentieth year of
18 the lease. The rental payment for the first year of the new 10
19 year period may be subject to Consumer Price Index or other
20 allowable index adjustments for each of the next 9 years, or
21 until the end of the lease term if there are less than 9 years
22 remaining.

23 (8) A sanitary district may require compensation to be paid
24 in addition to rent, based on a reasonable percentage of
25 revenues derived from a lessee's business operations on the
26 leasehold premises or subleases, or may require additional

1 compensation from the lessee or any sublessee in the form of
2 services, including but not limited to solid waste disposal;
3 provided, however, that such additional compensation shall not
4 be considered in determining the highest responsible bid, said
5 highest responsible bid to be determined only on the initial
6 annual rental payment as set forth in paragraph (3) of this
7 Section.

8 (9) No assignment of such lease or sublease of such
9 property is effective unless approved in writing by the general
10 superintendent and the board of commissioners of the sanitary
11 district. The District may consider, for any assignment or
12 sublease, all pertinent factors including the assignee's or
13 sublessee's responsibility in accordance with subparagraph (3)
14 of this Section. The sanitary district may also condition its
15 consent upon the redetermination of the annual rental required
16 to be paid under any lease initially executed on or before
17 January 1, 1983, for which the annual rent being paid
18 thereunder is less than 6% of the current appraised fair market
19 value of the leased property. The redetermination of any annual
20 rental under this Section shall be consistent with the
21 requirements of subparagraphs (2) and (3) of this Section. No
22 assignment or sublease is effective if the assignee or
23 sublessee is a trust constituted by real property of which the
24 trustee has title but no power of management or control, unless
25 the identity of the beneficiaries of the trust is revealed,
26 upon demand, to the general superintendent and the board of

1 commissioners of the sanitary district.

2 (10) Failure by the lessee to comply with a provision in
3 the lease relating to improvements upon the leased property or
4 any other provision constitutes grounds for forfeiture of the
5 lease, and upon such failure the sanitary district acting
6 through the general superintendent shall serve the lessee with
7 a notice to terminate the lease and deliver possession of the
8 property to the sanitary district within a particular period.

9 (11) If the general superintendent and the board of
10 commissioners conclude that it would be in the public interest,
11 said sanitary district may lease without complying with the
12 prior provisions of this Section, in accordance with an Act
13 concerning "Transfer of Real Estate between Municipal
14 Corporations", approved July 2, 1925, as amended, to the
15 following, upon such terms as may be mutually agreeable: (a)
16 the United States of America and the State of Illinois, County
17 of Cook, any municipal corporation, with provisions that the
18 property is to be applied exclusively for public recreational
19 purposes or other public purposes; (b) ~~or~~ any academic
20 institution of learning which has been in existence for 5 years
21 prior to said lease, provided that such lease limit the
22 institution's use of the leased land to only those purposes
23 relating to the operation of such institution's academic or
24 physical educational programs; or (c) any lease involving land
25 located in a county with a population of 100,000 or less and
26 which is leased solely for agricultural or commercial

1 recreational uses. Any lease issued in accordance with this
2 paragraph shall contain the provisions ~~without complying with~~
3 ~~the prior provisions of this section, upon such terms as may be~~
4 ~~mutually agreed upon, in accordance with an act concerning~~
5 ~~"Transfer of Real Estate between Municipal Corporations",~~
6 ~~approved July 2, 1925, as amended, with provisions that such~~
7 ~~property is to be applied exclusively to public recreational~~
8 ~~purposes or other public purposes and that such lease is~~
9 terminable in accordance with service of a one-year notice to
10 terminate after determination by the board of commissioners and
11 the general superintendent that such property (or part thereof)
12 has become essential to the corporate purposes of the sanitary
13 district.

14 (Source: P.A. 92-16, eff. 6-28-01; 93-988, eff. 8-23-04.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.