



Rep. Randy Ramey, Jr.

Filed: 3/12/2010

09600HB5552ham001

LRB096 18695 RLJ 38469 a

1 AMENDMENT TO HOUSE BILL 5552

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5552 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Water Commission Act of 1985 is amended by  
5 adding Sections 0.001, 0.001a, 0.001b, 0.001c, 0.001d, 0.001e,  
6 0.001f, 0.001g, 0.001h, 0.001i, 0.001j, 0.001k, 0.001l, and  
7 0.001m as follows:

8 (70 ILCS 3720/0.001 new)

9 Sec. 0.001. Purpose and findings. It is the purpose of this  
10 amendatory Act of the 96th General Assembly to abolish the  
11 water commissions created by this Act and to transfer to the  
12 respective home counties that are served by the water  
13 commissions all assets, property, liabilities, rights, powers,  
14 duties, and functions of the commissions.

15 The General Assembly finds and declares that it is  
16 necessary and in the best interest of the people of the State

1 and the persons served by these commissions to change the  
2 governance of the water systems created and functioning under  
3 this Act. The changes made by this amendatory Act of the 96th  
4 General Assembly are intended to save costs by eliminating an  
5 unnecessary additional level of government, make the  
6 governance of the water systems more responsive to the electors  
7 and water users, serve more equitably the municipalities  
8 receiving water, ensure the financial viability of the water  
9 systems, spread the costs of the water systems more equitably  
10 among the users, ensure proper financial and operational  
11 oversight, and to ensure that government services are delivered  
12 in a transparent and responsible manner.

13 It is not the intent of this amendatory Act of the 96th  
14 General Assembly to change or permit the changing of any  
15 financial covenants or obligations of a water commission  
16 established under this Act to supply water.

17 (70 ILCS 3720/0.001a new)

18 Sec. 0.001a. Districts abolished; assets, property,  
19 liabilities, rights, powers, duties, and functions assumed.  
20 Notwithstanding any provision of law to the contrary, any water  
21 commission established under this Act is abolished on December  
22 1, 2011. On December 1, 2011, the home county serviced by a  
23 water commission that is abolished by this amendatory Act of  
24 the 96th General Assembly shall assume all assets, property,  
25 liabilities, rights, powers, duties, and functions of the

1 abolished commission.

2 (70 ILCS 3720/0.001b new)

3 Sec. 0.001b. Transfer of personnel. On December 1, 2011,  
4 personnel employed by a water commission that is abolished by  
5 this amendatory Act of the 96th General Assembly are  
6 transferred to the home county serviced by the commission. The  
7 rights of these employees under collective bargaining  
8 agreements are not affected by this amendatory Act of the 96th  
9 General Assembly.

10 (70 ILCS 3720/0.001c new)

11 Sec. 0.001c. Transfer of property. Effective December 1,  
12 2011, all books, records, documents, real and personal  
13 property, unexpended appropriations, and pending business of a  
14 water commission abolished under this amendatory Act of the  
15 96th General Assembly are transferred and delivered to the home  
16 county serviced by the water commission.

17 (70 ILCS 3720/0.001d new)

18 Sec. 0.001d. Taxes. Beginning on December 1, 2011, the  
19 county board of a home county serviced by a water commission  
20 abolished under this amendatory Act of the 96th General  
21 Assembly shall have the power to levy and collect the tax set  
22 forth in subsection (f) of Section 2 of this Act. The revenues  
23 collected from this tax may be used only to repay the debts,

1 obligations, and operating expenses incurred by an abolished  
2 water commission.

3 (70 ILCS 3720/0.001e new)

4 Sec. 0.001e. Water enterprise fund. On December 1, 2011,  
5 the home county shall establish a water enterprise fund. All  
6 moneys transferred to the home county under this amendatory Act  
7 of the 96th General Assembly shall, for accounting purposes, be  
8 stated separately in the water enterprise fund. If the home  
9 county has an existing water fund, the moneys from the  
10 abolished commission shall be kept as a separate fund in the  
11 county treasury.

12 The home county must have an independent accredited auditor  
13 conduct an annual audit of the fund. This audit shall be sent  
14 to the Illinois Auditor General for review and comment. All  
15 audits and findings by the auditors must be made available to  
16 the public.

17 (70 ILCS 3720/0.001f new)

18 Sec. 0.001f. Water service for unincorporated areas. A  
19 municipality with a water supply contract with a home county  
20 serviced by a water commission abolished under Section 0.001a  
21 shall provide water to unincorporated areas of that home county  
22 that adjoin that municipality in accordance with the terms of  
23 this Section. The provision of water by the municipality shall  
24 be in accordance with an ordinance adopted by the home county.

1 The home county must find that the area to be served received  
2 well water that is tainted, contaminated, or otherwise  
3 substandard or the general safety of the area is compromised.  
4 The ordinance of the home county shall designate the system  
5 within the unincorporated area to receive and distribute  
6 municipal water.

7 (70 ILCS 3720/0.001g new)

8 Sec. 0.001g. Water rate guarantee. Except to satisfy the  
9 obligations of the abolished water commission, the water rates  
10 charged to municipalities in effect on December 1, 2011 may be  
11 increased only by an amount equal to the rate increases charged  
12 to the home county for the purchase of the bulk water for a  
13 period of 5 years. The home county must increase the rates  
14 charged to municipalities by an amount equal to the rate  
15 increases charged to the home county for the purchase of bulk  
16 water in perpetuity no later than one month after the increases  
17 take effect. Under no circumstances may the home county charge  
18 a rate less than the rate of the bulk water purchased by the  
19 home county. After the initial 5-year period, the home county  
20 may not increase this rate above the bulk water rate without  
21 the affirmative vote of three-fifths of the county board. All  
22 other charges and fees levied by the abolished water commission  
23 before December 1, 2011 may not be increased for a period of 5  
24 years. After the initial 5-year period, the home county may not  
25 increase the charges and fees levied by the abolished water

1 commission without the affirmative vote of three-fifths of the  
2 county board.

3 (70 ILCS 3720/0.001h new)

4 Sec. 0.001h. Governance and oversight. The county board  
5 shall, by resolution, create a Water Operations and Planning  
6 Committee. The Water Operations and Planning Committee shall  
7 consist of equal numbers of county board and municipal  
8 representatives from each county board district and any other  
9 members as determined by the county and municipal members.

10 The county board members shall be appointed by the  
11 chairperson of the county board. Municipal members from each  
12 county board district or other represented area shall be  
13 appointed by a majority vote of the mayors of those  
14 municipalities that have the greatest percentage of their  
15 respective populations residing in the county board district or  
16 other represented area, as applicable. All municipal and county  
17 board representatives shall be entitled to a vote. The Water  
18 Operations and Planning Committee shall adopt by-laws, by a  
19 majority vote, to govern the functions of the committee and its  
20 subcommittees. Officers of the committee shall include a chair  
21 to be selected by the chairperson of the county board and a  
22 vice-chair to be selected by the municipal representatives to  
23 the committee.

24 The principal duties of the Water Operations and Planning  
25 Committee shall be to provide direct oversight and guidance for

1 the functions of a dissolved commission and to provide  
2 recommendations for consideration by the county board.

3 The Committee shall have no oversight over the DuPage  
4 County Public Works water system.

5 (70 ILCS 3720/0.001i new)

6 Sec. 0.001i. Ordinances, orders, and resolutions.

7 (a) On December 1, 2011, the ordinances, orders, and  
8 resolutions of a water commission abolished by this amendatory  
9 Act of the 96th General Assembly that were in effect on  
10 November 30, 2011 and that pertain to the assets, property,  
11 liabilities, rights, powers, duties, and functions transferred  
12 to the home county serviced by the abolished commission shall  
13 become, with respect to that territory, the ordinances, orders,  
14 and resolutions of the home county and shall continue in effect  
15 until amended or repealed.

16 (b) Any ordinances, orders, or resolutions pertaining to  
17 the assets, property, liabilities, rights, powers, duties, and  
18 functions transferred to the home county under this amendatory  
19 Act of the 96th General Assembly that have been proposed by a  
20 water commission abolished by this amendatory Act of the 96th  
21 General Assembly but have not taken effect or been finally  
22 adopted by November 30, 2011 shall become, with respect to that  
23 territory, the proposed ordinances, orders, and resolutions of  
24 the home county, and any procedures that have already been  
25 completed by the abolished water commission for those proposed

1 ordinances, orders, or resolutions need not be repeated.

2 (c) As soon as practical after December 1, 2011, the home  
3 county shall revise and clarify the ordinances, orders, and  
4 resolutions transferred to it under this amendatory Act of the  
5 96th General Assembly. The home county may propose and adopt  
6 other ordinances, orders, or resolutions as may be necessary to  
7 consolidate and clarify the ordinances, orders, and  
8 resolutions assumed under this amendatory Act of the 96th  
9 General Assembly.

10 (70 ILCS 3720/0.001j new)

11 Sec. 0.001j. Cross references. Beginning on December 1,  
12 2011, all references in other statutes, however phrased, to a  
13 water commission abolished under this amendatory act of the  
14 96th General Assembly shall be references to the home county in  
15 its capacity as successor to the abolished water commission.

16 (70 ILCS 3720/0.001k new)

17 Sec. 0.001k. Savings provisions.

18 (a) The assets, property, liabilities, rights, powers,  
19 duties, and functions transferred to a home county by this  
20 amendatory Act of the 96th General assembly shall be vested in  
21 that county subject to the provisions of this amendatory Act of  
22 the 96th General Assembly. An act done by an abolished water  
23 commission or by an officer, employee, or agent of the  
24 abolished water commission with respect to the transferred



1 assets, property, liabilities, rights, powers, duties, or  
2 functions shall have the same legal effect as if done by the  
3 home county or by an officer, employee, or agent of the home  
4 county.

5 (b) The transfer of assets, liabilities, rights, powers,  
6 duties, and functions under this amendatory Act of the 96th  
7 General Assembly does not invalidate any previous action taken  
8 by or in respect to an abolished water commission or its  
9 officers, employees, or agents. References to an abolished  
10 water commission or to its officers, employees, or agents in  
11 any document, contract, agreement, or law shall, in appropriate  
12 contexts, be deemed to refer to the home county or to its  
13 officers, employees, or agents.

14 (c) The transfer of assets, property, liabilities, rights,  
15 powers, duties, and functions under this amendatory Act of the  
16 96th General Assembly does not affect any person's rights,  
17 obligations, or duties, including any applicable civil or  
18 criminal penalties, arising out of those transferred assets,  
19 property, liabilities, rights, powers, duties, and functions.

20 (d) With respect to matters pertaining to an asset,  
21 liability, right, power, duty, or function transferred to a  
22 home county under this amendatory Act of the 96th General  
23 Assembly:

24 (1) Beginning December 1, 2011, a report or notice that  
25 was previously required to be made or given by any person  
26 to an abolished water commission or to any of its officers,

1 employees, or agents must be made or given in the same  
2 manner to the home county or to its appropriate officer,  
3 employee, or agent.

4 (2) Beginning December 1, 2011, a document that was  
5 previously required to be furnished or served by any person  
6 to or upon an abolished water commission or to or upon any  
7 of its officers, employees, or agents must be furnished or  
8 served in the same manner to or upon the home county or to  
9 or upon its appropriate officer, employee, or agent.

10 (e) This amendatory Act of the 96th General Assembly does  
11 not affect any act done, ratified, or cancelled, any right  
12 occurring or established, or any action or proceeding had or  
13 commenced in an administrative, civil, or criminal cause before  
14 December 1, 2011. Any action or proceeding that pertains to an  
15 asset, property, liability, right, power, duty, or function  
16 transferred to a home county under this Act and that is pending  
17 on October 1, 2011 may be prosecuted, defended, or continued by  
18 the home county.

19 (70 ILCS 3720/0.0011 new)

20 Sec. 0.0011. Disputes. Any disputes that arise as a result  
21 of the abolishment of a water commission and the assumption by  
22 the home county of the assets, property, liabilities, rights,  
23 powers, duties, and functions of the abolished commission shall  
24 be resolved by an appropriate action commenced in the circuit  
25 court.

1 (70 ILCS 3720/0.001m new)

2 Sec. 0.001m. Home rule. A home rule unit may not regulate  
3 its water systems in a manner that is inconsistent with the  
4 provisions of this amendatory Act of the 96th General Assembly.  
5 This Section is a limitation under subsection (i) of Section 6  
6 of Article VII of the Illinois Constitution on the concurrent  
7 exercise by home rule units of powers and functions exercised  
8 by the State.

9 Section 10. The State Mandates Act is amended by adding  
10 Section 8.34 as follows:

11 (30 ILCS 805/8.34 new)

12 Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8  
13 of this Act, no reimbursement by the State is required for the  
14 implementation of any mandate created by this amendatory Act of  
15 the 96th General Assembly.

16 Section 97. Severability. The provisions of this Act are  
17 severable under Section 1.31 of the Statute on Statutes.

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law."