

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 4 and by adding Sections 0.001, 0.001a, and  
6 0.001b as follows:

7 (70 ILCS 3720/0.001 new)

8 Sec. 0.001. Commissioners; terms; vacancies. Effective  
9 January 1, 2011, the terms of office of the chairperson and all  
10 commissioners of water commissions appointed pursuant to this  
11 Act shall terminate and the commission shall be reconstituted.

12 (a) The commissioners shall be appointed as follows:

13 (1) A chairperson, who shall also serve in the capacity  
14 of a commissioner, shall be appointed by the chairperson of  
15 the county board of the home county with the advice and  
16 consent of the county board.

17 (2) One commissioner from each county board district  
18 within the home county shall be appointed by the  
19 chairperson of the county board of the home county with the  
20 advice and consent of the county board.

21 (3) One commissioner from each county board district  
22 within the home county shall be appointed by the majority  
23 vote of the mayors of those included municipalities that

1 have the greatest percentage of their respective  
2 populations residing within such county board district of  
3 the home county. A vice-chairperson of the commission shall  
4 be appointed from the commissioners appointed pursuant to  
5 this paragraph by a majority vote of these commissioners.

6 (b) All commissioners shall be residents of the home county  
7 or a resident of an included municipality.

8 (c) The initial commissioners appointed pursuant to  
9 subsection (a) shall serve the following terms:

10 (1) The chairperson shall serve for a term of 6 years.

11 (2) At the first meeting of the commission held after  
12 January 1, 2011, the commissioners appointed pursuant to  
13 paragraph (2) of subsection (a) shall determine publicly by  
14 lot one-third of their members to serve for a term of 2  
15 years, one-third of their members to serve for a term of 4  
16 years, and one-third of their members to serve for a term  
17 of 6 years, any odd number of commissioners so determined  
18 by dividing into thirds to serve 6-year terms.

19 (3) At the first meeting of the commission held after  
20 January 1, 2011, the commissioners and the  
21 vice-chairperson appointed pursuant to paragraph (3) of  
22 subsection (a) shall determine publicly by lot one-third of  
23 their members to serve for a term of 2 years, one-third of  
24 their members to serve for a term of 4 years, and one-third  
25 of their members to serve for a term of 6 years, any odd  
26 number of commissioners so determined by dividing into

1       thirds to serve 6-year terms.

2       The successor commissioners shall serve for a term of 6  
3 years or until their successors have been appointed and  
4 qualified in the same manner as the original appointments.

5       (d) A commissioner shall be eligible for reappointment upon  
6 the expiration of his or her term. A vacancy in the office of a  
7 commissioner shall be filled for the balance of the unexpired  
8 term by appointment and with the qualifications as to residency  
9 in the same manner as the original appointment was made.

10       (e) A commissioner may be a member of the governing board,  
11 an officer, or an employee of the county or any unit of local  
12 government located within the county.

13       (70 ILCS 3720/0.001a new)

14       Sec. 0.001a. Officers. A water commission established  
15 pursuant to this Act shall, by majority vote of the water  
16 commissioners, appoint a general manager, a finance director,  
17 and a treasurer. The appointment of the general manager,  
18 finance director, and treasurer is subject to the advice and  
19 consent of the county board of the home county in which the  
20 county water commission is located. The positions of finance  
21 director and treasurer shall be filled by persons with the  
22 necessary financial background and experience to monitor and  
23 report on water commission financial matters and budgeting.

24       (70 ILCS 3720/0.001b new)

1       Sec. 0.001b. Powers and duties. A water commission has the  
2 power and duty to:

3           (1) establish and define the responsibilities of the  
4 commission and its committees;

5           (2) establish and define the responsibilities of the  
6 commission's management and staff;

7           (3) establish a finance committee to conduct monthly  
8 meetings to supervise staff's handling of financial  
9 matters and budgeting;

10          (4) require the finance director and treasurer to  
11 report to the finance committee the status of all  
12 commission funds and obligations;

13          (5) require the treasurer to report to the commission  
14 any improper or unnecessary expenditures, budgetary  
15 errors, or accounting irregularities;

16          (6) require commission staff to document and comply  
17 with standard accounting policies, procedures, and  
18 controls to ensure accurate reporting to the finance  
19 committee and commission and to identify improper or  
20 unnecessary expenditures, budgetary errors, or accounting  
21 irregularities;

22          (7) require the commission's finance director to  
23 provide monthly reports regarding the commission's cash  
24 and investment position including whether the commission  
25 has sufficient cash and investments to pay its debt  
26 service, operating expenses, and capital expenditures and

1 maintain required reserve levels. The information shall  
2 include the required funding levels for restricted funds  
3 and unrestricted cash and investment balances with  
4 comparisons to unrestricted reserves. The information  
5 shall also include the type and performance of the  
6 commission's investments and description as to whether  
7 those investments are in compliance with the commission's  
8 investment policies;

9 (8) require the commission's finance director to  
10 provide the commission with detailed information  
11 concerning the commission's operating performance  
12 including the budgeted and actual monthly amounts for water  
13 sales, water costs, and other operating expenses;

14 (9) require commission staff to provide the commission  
15 with detailed information regarding the progress of  
16 capital projects including whether the percentage of  
17 completion and costs incurred are timely;

18 (10) require the commission's staff accountant to  
19 perform bank reconciliations and general ledger account  
20 reconciliations on a monthly basis; the finance director  
21 shall review these reconciliations and provide them to the  
22 treasurer and the finance committee on a monthly basis;

23 (11) establish policies to ensure the proper  
24 segregation of the financial duties performed by  
25 employees;

26 (12) restrict access to the established accounting

1 systems and general ledger systems and provide for adequate  
2 segregation of duties so that no single person has sole  
3 access and control over the accounting system or the  
4 general ledger system;

5 (13) require that the finance director review and  
6 approve all manual journal entries and supporting  
7 documentation; the treasurer shall review and approve the  
8 finance director's review and approval of manual journal  
9 entries and supporting documentation;

10 (14) require that the finance director closely monitor  
11 the progress of construction projects;

12 (15) require that the finance director carefully  
13 document any GAAP analysis or communications with GASB and  
14 provide full and timely reports for the same to the finance  
15 committee; and

16 (16) retain an outside independent auditor to perform a  
17 comprehensive audit of the water commission's financial  
18 activities for each fiscal year in conformance with the  
19 standard practices of the Association of Governmental  
20 Auditors; within 30 days after the independent audit is  
21 completed, the results of the audit must be sent to the  
22 county auditor.

23 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

24 Sec. 4. Taxes.

25 (a) The board of commissioners of any county water

1 commission may, by ordinance, impose throughout the territory  
 2 of the commission any or all of the taxes provided in this  
 3 Section for its corporate purposes. However, no county water  
 4 commission may impose any such tax unless the commission  
 5 certifies the proposition of imposing the tax to the proper  
 6 election officials, who shall submit the proposition to the  
 7 voters residing in the territory at an election in accordance  
 8 with the general election law, and the proposition has been  
 9 approved by a majority of those voting on the proposition.

10 The proposition shall be in the form provided in Section 5  
 11 or shall be substantially in the following form:

12 -----  
 13 Shall the (insert corporate  
 14 name of county water commission) YES  
 15 impose (state type of tax or -----  
 16 taxes to be imposed) at the NO  
 17 rate of 1/4%?  
 18 -----

19 Taxes imposed under this Section and civil penalties  
 20 imposed incident thereto shall be collected and enforced by the  
 21 State Department of Revenue. The Department shall have the  
 22 power to administer and enforce the taxes and to determine all  
 23 rights for refunds for erroneous payments of the taxes.

24 (b) The board of commissioners may impose a County Water  
 25 Commission Retailers' Occupation Tax upon all persons engaged  
 26 in the business of selling tangible personal property at retail

1 in the territory of the commission at a rate of 1/4% of the  
2 gross receipts from the sales made in the course of such  
3 business within the territory. The tax imposed under this  
4 paragraph and all civil penalties that may be assessed as an  
5 incident thereof shall be collected and enforced by the State  
6 Department of Revenue. The Department shall have full power to  
7 administer and enforce this paragraph; to collect all taxes and  
8 penalties due hereunder; to dispose of taxes and penalties so  
9 collected in the manner hereinafter provided; and to determine  
10 all rights to credit memoranda arising on account of the  
11 erroneous payment of tax or penalty hereunder. In the  
12 administration of, and compliance with, this paragraph, the  
13 Department and persons who are subject to this paragraph shall  
14 have the same rights, remedies, privileges, immunities, powers  
15 and duties, and be subject to the same conditions,  
16 restrictions, limitations, penalties, exclusions, exemptions  
17 and definitions of terms, and employ the same modes of  
18 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
19 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
20 therein other than the State rate of tax except that food for  
21 human consumption that is to be consumed off the premises where  
22 it is sold (other than alcoholic beverages, soft drinks, and  
23 food that has been prepared for immediate consumption) and  
24 prescription and nonprescription medicine, drugs, medical  
25 appliances and insulin, urine testing materials, syringes, and  
26 needles used by diabetics, for human use, shall not be subject



1 to tax hereunder), 2c, 3 (except as to the disposition of taxes  
2 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,  
3 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the  
4 Retailers' Occupation Tax Act and Section 3-7 of the Uniform  
5 Penalty and Interest Act, as fully as if those provisions were  
6 set forth herein.

7 Persons subject to any tax imposed under the authority  
8 granted in this paragraph may reimburse themselves for their  
9 seller's tax liability hereunder by separately stating the tax  
10 as an additional charge, which charge may be stated in  
11 combination, in a single amount, with State taxes that sellers  
12 are required to collect under the Use Tax Act and under  
13 subsection (e) of Section 4.03 of the Regional Transportation  
14 Authority Act, in accordance with such bracket schedules as the  
15 Department may prescribe.

16 Whenever the Department determines that a refund should be  
17 made under this paragraph to a claimant instead of issuing a  
18 credit memorandum, the Department shall notify the State  
19 Comptroller, who shall cause the warrant to be drawn for the  
20 amount specified, and to the person named, in the notification  
21 from the Department. The refund shall be paid by the State  
22 Treasurer out of a county water commission tax fund established  
23 under paragraph (g) of this Section.

24 For the purpose of determining whether a tax authorized  
25 under this paragraph is applicable, a retail sale by a producer  
26 of coal or other mineral mined in Illinois is a sale at retail

1 at the place where the coal or other mineral mined in Illinois  
2 is extracted from the earth. This paragraph does not apply to  
3 coal or other mineral when it is delivered or shipped by the  
4 seller to the purchaser at a point outside Illinois so that the  
5 sale is exempt under the Federal Constitution as a sale in  
6 interstate or foreign commerce.

7 If a tax is imposed under this subsection (b) a tax shall  
8 also be imposed under subsections (c) and (d) of this Section.

9 No tax shall be imposed or collected under this subsection  
10 on the sale of a motor vehicle in this State to a resident of  
11 another state if that motor vehicle will not be titled in this  
12 State.

13 Nothing in this paragraph shall be construed to authorize a  
14 county water commission to impose a tax upon the privilege of  
15 engaging in any business which under the Constitution of the  
16 United States may not be made the subject of taxation by this  
17 State.

18 (c) If a tax has been imposed under subsection (b), a  
19 County Water Commission Service Occupation Tax shall also be  
20 imposed upon all persons engaged, in the territory of the  
21 commission, in the business of making sales of service, who, as  
22 an incident to making the sales of service, transfer tangible  
23 personal property within the territory. The tax rate shall be  
24 1/4% of the selling price of tangible personal property so  
25 transferred within the territory. The tax imposed under this  
26 paragraph and all civil penalties that may be assessed as an

1 incident thereof shall be collected and enforced by the State  
2 Department of Revenue. The Department shall have full power to  
3 administer and enforce this paragraph; to collect all taxes and  
4 penalties due hereunder; to dispose of taxes and penalties so  
5 collected in the manner hereinafter provided; and to determine  
6 all rights to credit memoranda arising on account of the  
7 erroneous payment of tax or penalty hereunder. In the  
8 administration of, and compliance with, this paragraph, the  
9 Department and persons who are subject to this paragraph shall  
10 have the same rights, remedies, privileges, immunities, powers  
11 and duties, and be subject to the same conditions,  
12 restrictions, limitations, penalties, exclusions, exemptions  
13 and definitions of terms, and employ the same modes of  
14 procedure, as are prescribed in Sections 1a-1, 2 (except that  
15 the reference to State in the definition of supplier  
16 maintaining a place of business in this State shall mean the  
17 territory of the commission), 2a, 3 through 3-50 (in respect to  
18 all provisions therein other than the State rate of tax except  
19 that food for human consumption that is to be consumed off the  
20 premises where it is sold (other than alcoholic beverages, soft  
21 drinks, and food that has been prepared for immediate  
22 consumption) and prescription and nonprescription medicines,  
23 drugs, medical appliances and insulin, urine testing  
24 materials, syringes, and needles used by diabetics, for human  
25 use, shall not be subject to tax hereunder), 4 (except that the  
26 reference to the State shall be to the territory of the

1 commission), 5, 7, 8 (except that the jurisdiction to which the  
2 tax shall be a debt to the extent indicated in that Section 8  
3 shall be the commission), 9 (except as to the disposition of  
4 taxes and penalties collected and except that the returned  
5 merchandise credit for this tax may not be taken against any  
6 State tax), 10, 11, 12 (except the reference therein to Section  
7 2b of the Retailers' Occupation Tax Act), 13 (except that any  
8 reference to the State shall mean the territory of the  
9 commission), the first paragraph of Section 15, 15.5, 16, 17,  
10 18, 19 and 20 of the Service Occupation Tax Act as fully as if  
11 those provisions were set forth herein.

12 Persons subject to any tax imposed under the authority  
13 granted in this paragraph may reimburse themselves for their  
14 serviceman's tax liability hereunder by separately stating the  
15 tax as an additional charge, which charge may be stated in  
16 combination, in a single amount, with State tax that servicemen  
17 are authorized to collect under the Service Use Tax Act, and  
18 any tax for which servicemen may be liable under subsection (f)  
19 of Sec. 4.03 of the Regional Transportation Authority Act, in  
20 accordance with such bracket schedules as the Department may  
21 prescribe.

22 Whenever the Department determines that a refund should be  
23 made under this paragraph to a claimant instead of issuing a  
24 credit memorandum, the Department shall notify the State  
25 Comptroller, who shall cause the warrant to be drawn for the  
26 amount specified, and to the person named, in the notification

1 from the Department. The refund shall be paid by the State  
2 Treasurer out of a county water commission tax fund established  
3 under paragraph (g) of this Section.

4 Nothing in this paragraph shall be construed to authorize a  
5 county water commission to impose a tax upon the privilege of  
6 engaging in any business which under the Constitution of the  
7 United States may not be made the subject of taxation by the  
8 State.

9 (d) If a tax has been imposed under subsection (b), a tax  
10 shall also imposed upon the privilege of using, in the  
11 territory of the commission, any item of tangible personal  
12 property that is purchased outside the territory at retail from  
13 a retailer, and that is titled or registered with an agency of  
14 this State's government, at a rate of 1/4% of the selling price  
15 of the tangible personal property within the territory, as  
16 "selling price" is defined in the Use Tax Act. The tax shall be  
17 collected from persons whose Illinois address for titling or  
18 registration purposes is given as being in the territory. The  
19 tax shall be collected by the Department of Revenue for a  
20 county water commission. The tax must be paid to the State, or  
21 an exemption determination must be obtained from the Department  
22 of Revenue, before the title or certificate of registration for  
23 the property may be issued. The tax or proof of exemption may  
24 be transmitted to the Department by way of the State agency  
25 with which, or the State officer with whom, the tangible  
26 personal property must be titled or registered if the

1 Department and the State agency or State officer determine that  
2 this procedure will expedite the processing of applications for  
3 title or registration.

4 The Department shall have full power to administer and  
5 enforce this paragraph; to collect all taxes, penalties and  
6 interest due hereunder; to dispose of taxes, penalties and  
7 interest so collected in the manner hereinafter provided; and  
8 to determine all rights to credit memoranda or refunds arising  
9 on account of the erroneous payment of tax, penalty or interest  
10 hereunder. In the administration of, and compliance with this  
11 paragraph, the Department and persons who are subject to this  
12 paragraph shall have the same rights, remedies, privileges,  
13 immunities, powers and duties, and be subject to the same  
14 conditions, restrictions, limitations, penalties, exclusions,  
15 exemptions and definitions of terms and employ the same modes  
16 of procedure, as are prescribed in Sections 2 (except the  
17 definition of "retailer maintaining a place of business in this  
18 State"), 3 through 3-80 (except provisions pertaining to the  
19 State rate of tax, and except provisions concerning collection  
20 or refunding of the tax by retailers, and except that food for  
21 human consumption that is to be consumed off the premises where  
22 it is sold (other than alcoholic beverages, soft drinks, and  
23 food that has been prepared for immediate consumption) and  
24 prescription and nonprescription medicines, drugs, medical  
25 appliances and insulin, urine testing materials, syringes, and  
26 needles used by diabetics, for human use, shall not be subject

1 to tax hereunder), 4, 11, 12, 12a, 14, 15, 19 (except the  
2 portions pertaining to claims by retailers and except the last  
3 paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act  
4 and Section 3-7 of the Uniform Penalty and Interest Act that  
5 are not inconsistent with this paragraph, as fully as if those  
6 provisions were set forth herein.

7 Whenever the Department determines that a refund should be  
8 made under this paragraph to a claimant instead of issuing a  
9 credit memorandum, the Department shall notify the State  
10 Comptroller, who shall cause the order to be drawn for the  
11 amount specified, and to the person named, in the notification  
12 from the Department. The refund shall be paid by the State  
13 Treasurer out of a county water commission tax fund established  
14 under paragraph (g) of this Section.

15 (e) A certificate of registration issued by the State  
16 Department of Revenue to a retailer under the Retailers'  
17 Occupation Tax Act or under the Service Occupation Tax Act  
18 shall permit the registrant to engage in a business that is  
19 taxed under the tax imposed under paragraphs (b), (c) or (d) of  
20 this Section and no additional registration shall be required  
21 under the tax. A certificate issued under the Use Tax Act or  
22 the Service Use Tax Act shall be applicable with regard to any  
23 tax imposed under paragraph (c) of this Section.

24 (f) Any ordinance imposing or discontinuing any tax under  
25 this Section shall be adopted and a certified copy thereof  
26 filed with the Department on or before June 1, whereupon the

1 Department of Revenue shall proceed to administer and enforce  
2 this Section on behalf of the county water commission as of  
3 September 1 next following the adoption and filing. Beginning  
4 January 1, 1992, an ordinance or resolution imposing or  
5 discontinuing the tax hereunder shall be adopted and a  
6 certified copy thereof filed with the Department on or before  
7 the first day of July, whereupon the Department shall proceed  
8 to administer and enforce this Section as of the first day of  
9 October next following such adoption and filing. Beginning  
10 January 1, 1993, an ordinance or resolution imposing or  
11 discontinuing the tax hereunder shall be adopted and a  
12 certified copy thereof filed with the Department on or before  
13 the first day of October, whereupon the Department shall  
14 proceed to administer and enforce this Section as of the first  
15 day of January next following such adoption and filing.

16 (g) The State Department of Revenue shall, upon collecting  
17 any taxes as provided in this Section, pay the taxes over to  
18 the State Treasurer as trustee for the commission. The taxes  
19 shall be held in a trust fund outside the State Treasury. On or  
20 before the 25th day of each calendar month, the State  
21 Department of Revenue shall prepare and certify to the  
22 Comptroller of the State of Illinois the amount to be paid to  
23 the commission, which shall be the then balance in the fund,  
24 less any amount determined by the Department to be necessary  
25 for the payment of refunds. Within 10 days after receipt by the  
26 Comptroller of the certification of the amount to be paid to



1 the commission, the Comptroller shall cause an order to be  
2 drawn for the payment for the amount in accordance with the  
3 direction in the certification.

4 (h) Beginning June 1, 2016, any tax imposed pursuant to  
5 this Section may no longer be imposed or collected, unless a  
6 continuation of the tax is approved by the voters at a  
7 referendum as set forth in this Section.

8 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.