

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Municipal Code is amended by changing Section 11-147-1 as follows:

(65 ILCS 5/11-147-1) (from Ch. 24, par. 11-147-1)

Sec. 11-147-1. Whenever a municipality, drainage district, sanitary district, or other municipal corporation is adjacent to any other municipality, drainage district, sanitary district, or other municipal corporation the adjacent municipal corporations have the power to contract with each other, upon such terms as may be agreed upon between them, for the perpetual or temporary use and benefit by one of them of any sewer or drain, or of any system of sewerage or drainage or part thereof, or of any sewage disposal or sewage treatment plants and works, heretofore or hereafter constructed by the other. Any such sewer or drain, or system of sewerage or drainage or part thereof, or sewage disposal or sewage treatment plants and work, heretofore or hereafter constructed by one such municipal corporation may be extended or furnished to the inhabitants of the other. Such municipal corporations may by contract with each other provide for the joint construction of any sewer or drain or sewage disposal or sewage treatment plants and works by the municipal corporations so contracting, and for the common use thereof by the inhabitants of the contracting municipal corporations. In addition, whenever a sanitary district has acquired an easement granting the sanitary district the right to construct or operate a sanitary sewer system or part of a sanitary sewer system over property that connects the sanitary district to a municipality, the municipality and the sanitary district may enter into a contract for the use of the sanitary sewer system regardless of

whether the sanitary district is adjacent to the municipality.

(Source: Laws 1961, p. 576.)

Section 10. The Sanitary District Act of 1917 is amended by changing Sections 8, 23.5, and 23.7 as follows:

(70 ILCS 2405/8) (from Ch. 42, par. 307)

Sec. 8.

(a) The sanitary district may acquire by purchase, condemnation, or otherwise all real and personal property, right of way and privilege, either within or without its corporate limits that may be required for its corporate purposes. If real property is acquired by condemnation, the sanitary district may not sell or lease any portion of the property for a period of 10 years after acquisition by condemnation is completed. If, after such 10-year period, the sanitary district decides to sell or lease the property, it must first offer the property for sale or lease to the previous owner of the land from whom the sanitary district acquired the property. If the sanitary district and such previous owner do not execute a contract for purchase or lease of the property within 60 days from the initial offer, the sanitary district then may offer the property for sale or lease to any other person. If any district formed under this Act is unable to agree with any other sanitary district upon the terms whereby it shall be permitted to use the drains, channels or ditches of such other sanitary district, the right to such use may be acquired by condemnation in any circuit court by proceedings as provided in Section 4-17 of the Illinois Drainage Code. The compensation to be paid for such use may be a gross sum, or it may be in the form of an annual rental, to be paid in yearly installments as provided by the judgment of the court wherein such proceedings may be had. However, when such compensation is fixed at a gross sum all moneys for the purchase and condemnation of any property shall be paid before possession is taken or any work done on the premises damaged by the

construction of such channel or outlet, and in case of an appeal from the circuit court taken by either party whereby the amount of damages is not finally determined, then possession may be taken, if the amount of judgment in such court is deposited at some bank or savings and loan association to be designated by the court, subject to the payment of such damages on orders signed by the circuit court, whenever the amount of damages is finally determined. The sanitary district may sell, convey, vacate and release the real or personal property, right of way and privileges acquired by it when no longer required for the purposes of the district.

(b) A sanitary district may exercise its powers of eminent domain to acquire a public utility only if the Illinois Commerce Commission, following petition by the sanitary district, has granted approval for the sanitary district to proceed in accordance with Article VII of the Code of Civil Procedure. The following procedures must be followed when a sanitary district exercises its power of eminent domain to acquire a public utility.

(1) The sanitary district shall petition the Commission for approval of the acquisition of a public utility by the exercise of eminent domain powers. The petition filed by the sanitary district shall state the following:

(A) the caption of the case;

(B) the date of the filing of the application;

(C) the name and address of the condemnee;

(D) the name and address of the condemnor;

(E) a specific reference to the statute under which the condemnation action is authorized;

(F) a specific reference to the action, whether by ordinance, resolution, or otherwise, by which the declaration of taking was authorized, including the date when such action was taken, and the place where the record may be examined;

(G) a description of the purpose of the

condemnation;

(H) a reasonable description of the property to be condemned;

(I) a statement of how just compensation will be made;

(J) a statement that, if the condemnee wishes to challenge the proceeding, the condemnee shall file objections within 45 days after its receipt of the notice.

(2) Within 30 days after the filing of a petition by the sanitary district of its intent to acquire by eminent domain all real and personal property, rights of way, and privileges of a public utility, the sanitary district shall serve a copy of the petition on the public utility and shall publish a notice of the filing of the petition in a newspaper of general circulation in the area served by the sanitary district. The sanitary district shall file a certificate of publication with the Commission as proof of publication.

(3) Within 45 days after being served with the notice required by this Section, the condemnee may file objections to the petition with the Commission. All objections shall state specifically the grounds relied upon. All objections shall be raised at one time and in one document. The condemnee shall serve a copy of the objections upon the condemnor within 72 hours after the objections are filed with the Commission.

(4) The Commission shall make a determination regarding the petition and any objections to the petition and shall make such orders and decrees as justice and law shall require. The Commission may take evidence by deposition or otherwise and shall entertain oral argument on all objections. The Commission shall make its determination within 105 days after its receipt of the objections of the condemnee, unless the Commission, in its discretion, extends the determination period for a further

period not exceeding 6 months.

(c) The Illinois Commerce Commission shall approve the taking of any property by a sanitary district under subsection (b), within or outside its boundaries, if it is in the public interest. The taking shall be considered to be in the public interest if the sanitary district establishes by a preponderance of the evidence:

(1) that the sanitary district has been in existence as the operator of a wastewater system for at least 20 years;

(2) that it will provide wastewater treatment service within the proposed area subject to condemnation at the same level of wastewater treatment service provided throughout the district;

(3) that it will provide the wastewater collection, treatment, and disposal at the same or less operational and maintenance volumetric or bulk rate as the public utility whose property is subject to condemnation; and

(4) that it is not financially impractical for the public utility to serve its remaining customers who are not in the area subject to condemnation.

(Source: P.A. 90-558, eff. 12-12-97.)

(70 ILCS 2405/23.5) (from Ch. 42, par. 317e.5)

Sec. 23.5. Any sanitary district may annex any territory which is not within the corporate limits of the sanitary district but which is contiguous to it and is served by the sanitary district or by a municipality with sanitary sewers that are connected and served by the sanitary district by the passage of an ordinance to that effect by the board of trustees, describing the territory to be annexed. A copy of the ordinance with an accurate map of the annexed territory, certified as correct by the clerk of the district shall be filed with the county clerk of the county in which the annexed territory is located. For purposes of this Act, a property is served by a sanitary district if a sewer that is part of the sanitary district's sewer system, part of the sewer system of a

municipality that is connected to the sanitary district, or part of any other sewer system that connects to and is served by the sanitary district has been extended to, across, or along the property, whether or not the buildings on the property are physically connected to the sewer.

~~Territory that is not contiguous to a sanitary district but is separated from the sanitary district by only a forest preserve district may be annexed to the sanitary district under this Section. The territory included within the forest preserve district shall not be annexed to the sanitary district and shall not be subject to rights-of-way for access or services between the parts of the sanitary district separated by the forest preserve district without the approval of the governing body of the forest preserve district.~~

(Source: P.A. 90-697, eff. 8-7-98.)

(70 ILCS 2405/23.7) (from Ch. 42, par. 317e.7)

Sec. 23.7. For purposes of this Act, territory to be organized as a sanitary district shall be considered to be contiguous territory, and territory to be annexed to a sanitary district shall be considered to be contiguous to the sanitary district notwithstanding that the territory to be so organized is divided by one or more railroad rights-of-ways, public easements, or property owned by a public utility or that the territory to be so annexed is separated from the sanitary district by one or more railroad rights-of-ways, public easements, or property owned by a public utility, or property owned by a forest preserve district or any public agency or not-for-profit corporation, provided that the property does not require sanitary sewer service. However, upon such organization or annexation, the area included within any such right-of-way, public easement, ~~or~~ property owned by a public utility, or property owned by a forest preserve district or any public agency or not-for-profit corporation shall not be considered a part of or annexed to the sanitary district and shall not be subject to rights-of-way for access or services

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SB2664 Enrolled

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without the approval of the legal owner of the property.

(Source: P.A. 89-558, eff. 7-26-96.)

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