



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/04/04, by Dan Brady

SYNOPSIS AS INTRODUCED:

415 ILCS 5/16.5 new

Amends the Environmental Protection Act. Provides that if a water supplier that acquires ownership of an existing public water supply enters into a written agreement with the Environmental Protection Agency to bring the public water supply into compliance with drinking water standards and then does so, the water supplier has certain civil immunities concerning the public water supply's previous failure to meet those drinking water standards. Confers other civil immunities from tort liability upon a water supplier. Provides that the immunities conferred under this amendatory Act (i) do not create a new cause of action or substantive legal right against a water supplier, (ii) do not affect existing civil immunities, and (iii) do not create immunity for violations of the Environmental Protection Act.

LRB093 19549 BDD 45289 b

1 AN ACT concerning environmental protection.

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

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 16.5 as follows:

6 (415 ILCS 5/16.5 new)

7 Sec. 16.5. Civil immunity for water suppliers.

8 (a) As used in this Section:

9 "Water supplier" means an entity that is subject to this
10 Title and any rules adopted under it and that supplies drinking
11 water through pipes, tubing, or any similar manner to consumers
12 within the State.

13 "Acquiring water supplier" means a water supplier that
14 satisfies both of the following:

15 (1) the water supplier acquires ownership of an
16 existing public water supply; and

17 (2) the water supplier and the acquired existing water
18 supplier do not have any mutual directors, officers,
19 controlling shareholders, or other persons with an
20 ownership interest prior to the acquisition.

21 "Drinking water standards" means safe drinking water
22 standards established by the Agency under this Act or
23 established by the U.S. Environmental Protection Agency under
24 the federal Safe Drinking Water Act.

25 (b) An acquiring water supplier that acquires ownership of
26 an existing public water supply is not liable in damages in a
27 civil action for injury, death, or loss to any person or
28 property that occurred prior to the acquisition and that was
29 allegedly caused by the previous water water supplier's failure
30 to comply with drinking water standards. The provisions of this
31 subsection apply only if the acquiring water supplier does both
32 of the following:

1 (1) enters into a written agreement with the Agency to
2 bring the public water supply into compliance with drinking
3 water standards within a specified period of time; and

4 (2) brings the public water supply into compliance with
5 drinking water standards within the time agreed to under
6 the written agreement with the Agency.

7 (c) A water supplier that operates a public water supply is
8 not liable in damages in a civil action to any person for
9 injury, death, or loss to person or property that arises from
10 the person's consumption of water supplied by the water
11 supplier if all of the following apply:

12 (1) during the period of time that the water supplier
13 supplies water to the person, the water supplied by the
14 water supplier meets all applicable drinking water
15 standards;

16 (2) the water supplier has not been found to be in
17 significant noncompliance with drinking water standards;
18 and

19 (3) the injury, death, or loss of property is caused by
20 a substance for which no drinking water standards have been
21 established.

22 (d) This Section does not create a new cause of action or
23 substantive legal right against a water supplier.

24 This Section does not affect any immunities from civil
25 liability or defenses established by any other statute or
26 available at common law to which a water supplier may be
27 entitled under circumstances not covered by this Section.

28 This Section does not create immunity from civil liability
29 for any violations of this Act.