



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB2863

Introduced 2/6/2025, by Rep. Amy Elik

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/9-210.5

Amends the Public Utilities Act. Provides that a water or sewer utility owned by the State or any political subdivision thereof and being acquired by a large public utility must inform the public of the terms of its acquisition by the large public utility by holding a public meeting prior to the acquisition and mailing a notice to the public residing in the area that the water or sewer utility operates (rather than publishing a notice in a newspaper of general circulation in the area that the water or sewer utility operates). Provides that the notice shall include (i) information about the public meeting being held prior to the acquisition, (ii) information on what public body will be making the decision regarding the sale of the water or sewer utility, and (iii) an estimate of the potential rate increases that may be incurred in the next 5 years due to the acquisition, including the maximum rate increase that the large public utility estimates rate payers would incur each year for the next 5 years. Provides that, for a period of 5 years after the acquisition of the water or sewer utility, the Illinois Commerce Commission shall deny any proposed rate increase that exceeds the maximum estimated rate increase provided in the notice.

LRB104 08243 AAS 18293 b

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by changing  
5 Section 9-210.5 as follows:

6 (220 ILCS 5/9-210.5)

7 (Section scheduled to be repealed on June 1, 2028)

8 Sec. 9-210.5. Valuation of water and sewer utilities.

9 (a) In this Section:

10 "Disinterested" means that the person directly  
11 involved (1) is not a director, officer, or an employee of  
12 the large public utility or the water or sewer utility or  
13 its direct affiliates or subsidiaries for at least 12  
14 months before becoming engaged under this Section; (2)  
15 shall not derive a material financial benefit from the  
16 sale of the water or sewer utility other than fees for  
17 services rendered, and (3) shall not have a member of the  
18 person's immediate family, including a spouse, parents or  
19 spouse's parents, children or spouses of children, or  
20 siblings and their spouses or children, be a director,  
21 officer, or employee of either the large public utility or  
22 water or sewer utility or the water or sewer utility or its  
23 direct affiliates or subsidiaries for at least 12 months

1 before becoming engaged under this Section or receive a  
2 material financial benefit from the sale of the water or  
3 sewer utility other than fees for services rendered.

4 "District" means a service area of a large public  
5 utility whose customers are subject to the same rate  
6 tariff.

7 "Large public utility" means an investor-owned public  
8 utility that:

9 (1) is subject to regulation by the Illinois  
10 Commerce Commission under this Act;

11 (2) regularly provides water or sewer service to  
12 more than 15,000 customer connections;

13 (3) provides safe and adequate service; and

14 (4) is not a water or sewer utility as defined in  
15 this subsection (a).

16 "Next rate case" means a large public utility's first  
17 general rate case after the date the large public utility  
18 acquires the water or sewer utility where the acquired  
19 water or sewer utility's cost of service is considered as  
20 part of determining the large public utility's resulting  
21 rates.

22 "Prior rate case" means a large public utility's  
23 general rate case resulting in the rates in effect for the  
24 large public utility at the time it acquires the water or  
25 sewer utility.

26 "Utility service source" means the water or sewer

1 utility or large public utility from which the customer  
2 receives its utility service type.

3 "Utility service type" means water utility service or  
4 sewer utility service or water and sewer utility service.

5 "Water or sewer utility" means any of the following:

6 (1) a public utility that regularly provides water  
7 or sewer service to 6,000 or fewer customer  
8 connections;

9 (2) a water district, including, but not limited  
10 to, a public water district, water service district,  
11 or surface water protection district, or a sewer  
12 district of any kind established as a special district  
13 under the laws of this State that regularly provides  
14 water or sewer service;

15 (3) a waterworks system or sewerage system  
16 established under the Township Code that regularly  
17 provides water or sewer service; or

18 (4) a water system or sewer system owned by a  
19 municipality that regularly provides water or sewer  
20 service; and

21 (5) any other entity that is not a public utility  
22 that regularly provides water or sewer service.

23 (b) Notwithstanding any other provision of this Act, a  
24 large public utility that acquires a water or sewer utility  
25 may request that the Commission use, and, if so requested, the  
26 Commission shall use, the procedures set forth under this

1 Section to establish the ratemaking rate base of that water or  
2 sewer utility at the time when it is acquired by the large  
3 public utility.

4 (c) If a large public utility elects the procedures under  
5 this Section to establish the rate base of a water or sewer  
6 utility that it is acquiring, then 3 appraisals shall be  
7 performed. The average of these 3 appraisals shall represent  
8 the fair market value of the water or sewer utility that is  
9 being acquired. The appraisals shall be performed by 3  
10 appraisers approved by the Commission's Executive Director or  
11 designee and engaged by either the water or sewer utility  
12 being acquired or by the large public utility. Each appraiser  
13 shall be engaged on reasonable terms approved by the  
14 Commission. Each appraiser shall be a disinterested person  
15 licensed as a State certified general real estate appraiser  
16 under the Real Estate Appraiser Licensing Act of 2002.

17 Each appraiser shall:

18 (1) be sworn to determine the fair market value of the  
19 water or sewer utility by establishing the amount for  
20 which the water or sewer utility would be sold in a  
21 voluntary transaction between a willing buyer and willing  
22 seller under no obligation to buy or sell;

23 (2) determine fair market value in compliance with the  
24 Uniform Standards of Professional Appraisal Practice;

25 (3) engage one disinterested engineer who is licensed  
26 in this State, and who may be the same engineer that is

1 engaged by the other appraisers, to prepare an assessment  
2 of the tangible assets of the water or sewer utility,  
3 which is to be incorporated into the appraisal under the  
4 cost approach;

5 (4) request from the manager of the Accounting  
6 Department, if the water or sewer utility is a public  
7 utility that is regulated by the Commission, a list of  
8 investments made by the water or sewer utility that had  
9 been disallowed previously and that shall be excluded from  
10 the calculation of the large public utility's rate base in  
11 its next rate case; and

12 (5) return their appraisal, in writing, to the water  
13 or sewer utility and large public utility in a reasonable  
14 and timely manner.

15 If the appraiser cannot engage an engineer, as described  
16 in paragraph (3) of this subsection (c), within 30 days after  
17 the appraiser is engaged, then the Commission's Executive  
18 Director or designee shall recommend the engineer the  
19 appraiser should engage. The Commission's Executive Director  
20 or designee shall provide his or her recommendation within 30  
21 days after he or she is officially notified of the appraiser's  
22 failure to engage an engineer and the appraiser shall promptly  
23 work to engage the recommended engineer. If the appraiser is  
24 unable to negotiate reasonable engagement terms with the  
25 recommended engineer within 15 days after the recommendation  
26 by the Commission's Executive Director or designee, then the

1 appraiser shall notify the Commission's Executive Director or  
2 designee and the process shall be repeated until an engineer  
3 is successfully engaged.

4 (d) The lesser of (i) the purchase price or (ii) the fair  
5 market value determined under subsection (c) of this Section  
6 shall constitute the rate base associated with the water or  
7 sewer utility as acquired by and incorporated into the rate  
8 base of the district designated by the acquiring large public  
9 utility under this Section, subject to any adjustments that  
10 the Commission deems necessary to ensure such rate base  
11 reflects prudent and useful investments in the provision of  
12 public utility service. The reasonable transaction and closing  
13 costs incurred by the large public utility shall be treated  
14 consistent with the applicable accounting standards under this  
15 Act. The total amount of all of the appraisers' fees to be  
16 included in the transaction and closing costs shall not exceed  
17 the greater of \$15,000 or 5% of the appraised value of the  
18 water or sewer utility being acquired. This rate base  
19 treatment shall not be deemed to violate this Act, including,  
20 but not limited to, any Sections in Articles VIII and IX of  
21 this Act that might be affected by this Section. Any  
22 acquisition of a water or sewer utility that affects the  
23 cumulative base rates of the large public utility's existing  
24 ratepayers in the tariff group into which the water or sewer  
25 utility is to be combined by less than (1) 2.5% at the time of  
26 the acquisition for any single acquisition completed under

1 this Section or (2) 5% for all acquisitions completed under  
2 this Section before the Commission's final order in the next  
3 rate case shall not be deemed to violate Section 7-204 or any  
4 other provision of this Act.

5 In the Commission's order that approves the large public  
6 utility's acquisition of the water or sewer utility, the  
7 Commission shall issue its decision establishing (1) the  
8 ratemaking rate base of the water or sewer utility; (2) the  
9 district or tariff group with which the water or sewer utility  
10 shall be combined for ratemaking purposes, if such combination  
11 has been proposed by the large public utility; and (3) the  
12 rates to be charged to customers in the water or sewer utility.

13 (e) If the water or sewer utility being acquired is owned  
14 by the State or any political subdivision thereof, then the  
15 water or sewer utility must inform the public of the terms of  
16 its acquisition by the large public utility by (1) holding a  
17 public meeting prior to the acquisition and (2) mailing a  
18 notice to the public residing in the area that the water or  
19 sewer utility operates. Such notice shall include (i)  
20 information about the public meeting being held prior to the  
21 acquisition, (ii) information on what public body will be  
22 making the decision regarding the sale of the water or sewer  
23 utility, and (iii) an estimate of the potential rate increases  
24 that may be incurred in the next 5 years due to the  
25 acquisition, including the maximum rate increase that the  
26 large public utility estimates rate payers would incur each

1 year for the next 5 years. For a period of 5 years after the  
2 acquisition of the water or sewer utility, the Commission  
3 shall deny any proposed rate increase that exceeds the maximum  
4 estimated rate increase provided in the notice. ~~causing to be~~  
5 ~~published, in a newspaper of general circulation in the area~~  
6 ~~that the water or sewer utility operates, a notice setting~~  
7 ~~forth the terms of its acquisition by the large public utility~~  
8 ~~and options that shall be available to assist customers to pay~~  
9 ~~their bills after the acquisition.~~

10 (f) The large public utility may recommend the district or  
11 tariff group of which the water or sewer utility shall, for  
12 ratemaking purposes, become a part after the acquisition, or  
13 may recommend a lesser rate for the water or sewer utility. If  
14 the large public utility recommends a lesser rate, it shall  
15 submit to the Commission its proposed rate schedule and the  
16 proposed final tariff group for the acquired water or sewer  
17 utility. The Commission's approved district or tariff group or  
18 rates shall be consistent with the large public utility's  
19 recommendation, unless such recommendation can be shown to be  
20 contrary to the public interest.

21 (g) From the date of acquisition until the date that new  
22 rates are effective in the acquiring large public utility's  
23 next rate case, the customers of the acquired water or sewer  
24 utility shall pay the approved then-existing rates of the  
25 district or tariff group as ordered by the Commission, or some  
26 lesser rates as recommended by the large public utility and

1 approved by the Commission under subsection (f); provided,  
2 that, if the application of such rates of the large public  
3 utility to customers of the acquired water or sewer utility  
4 using 54,000 gallons annually results in an increase to the  
5 total annual bill of customers of the acquired water or sewer  
6 utility, exclusive of fire service or related charges, then  
7 the large public utility's rates charged to the customers of  
8 the acquired water or sewer utility shall be uniformly  
9 reduced, if any reduction is required, by the percent that  
10 results in the total annual bill, exclusive of fire services  
11 or related charges, for the customers of the acquired water or  
12 sewer utility using 54,000 gallons being equal to 1.5% of the  
13 latest median household income as reported by the United  
14 States Census Bureau for the most applicable community or  
15 county. For each customer of the water or sewer utility with  
16 potable water usage values that cannot be reasonably obtained,  
17 a value of 4,500 gallons per month shall be assigned. These  
18 rates shall not be deemed to violate this Act including, but  
19 not limited to, Section 9-101 and any other applicable  
20 Sections in Articles VIII and IX of this Act. The Commission  
21 shall issue its decision establishing the rates effective for  
22 the water or sewer utility immediately following an  
23 acquisition in its order approving the acquisition.

24 (h) In the acquiring large public utility's next rate  
25 case, the water or sewer utility and the district or tariff  
26 group ordered by the Commission and their costs of service may

1 be combined under the same rate tariff. This rate tariff shall  
2 be based on allocation of costs of service of the acquired  
3 water or sewer utility and the large public utility's district  
4 or tariff group ordered by the Commission and utilizing a rate  
5 design that does not distinguish among customers on the basis  
6 of utility service source or type. This rate tariff shall not  
7 be deemed to violate this Act including, but not limited to,  
8 Section 9-101 of this Act. In the acquiring large public  
9 utility's 2 rate cases after an acquisition, but in no  
10 subsequent rate case, the large public utility may file a rate  
11 tariff for a water or sewer utility acquired under this  
12 Section that establishes lesser rates than the district or  
13 tariff group into which the water or sewer utility is to be  
14 combined. Those lesser rates shall not be deemed to violate  
15 Section 7-204 or any other provision of this Act if they affect  
16 the cumulative base rates of the large public utility's  
17 existing rate payers in the district or tariff by less than  
18 2.5%.

19 (i) Any post-acquisition improvements made by the large  
20 public utility in the water or sewer utility shall accrue a  
21 cost for financing set at the large public utility's  
22 determined rate for allowance for funds used during  
23 construction, inclusive of the debt, equity, and income tax  
24 gross up components, after the date on which the expenditure  
25 was incurred by the large public utility until the investment  
26 has been in service for a 4-year period or, if sooner, until

1 the time the rates are implemented in the large public  
2 utility's next rate case.

3 Any post-acquisition improvements made by the large public  
4 utility in the water or sewer utility shall not be depreciated  
5 for ratemaking purposes from the date on which the expenditure  
6 was incurred by the large public utility until the investment  
7 has been in service for a 4-year period or, if sooner, until  
8 the time the rates are implemented in the large public  
9 utility's next rate case.

10 (j) This Section shall be exclusively applied to large  
11 public utilities in the voluntary and mutually agreeable  
12 acquisition of water or sewer utilities. Any petitions filed  
13 with the Commission related to the acquisitions described in  
14 this Section, including petitions seeking approvals or  
15 certificates required by this Act, shall be deemed approved  
16 unless the Commission issues its final order within 11 months  
17 after the date the large public utility filed its initial  
18 petition. This Section shall only apply to utilities providing  
19 water or sewer service and shall not be construed in any manner  
20 to apply to electric corporations, natural gas corporations,  
21 or any other utility subject to this Act.

22 (k) Nothing in this Section shall prohibit a party from  
23 declining to proceed with an acquisition or be deemed as  
24 establishing the final purchase price of an acquisition.

25 (l) In the Commission's order that approves the large  
26 utility's acquisition of the water or sewer utility, the

1 Commission shall address each aspect of the acquisition  
2 transaction for which approval is required under the Act.

3 (m) Any contractor or subcontractor that performs work on  
4 a water or sewer utility acquired by a large public utility  
5 under this Section shall be a responsible bidder as described  
6 in Section 30-22 of the Illinois Procurement Code. The  
7 contractor or subcontractor shall submit evidence of meeting  
8 the requirements to be a responsible bidder as described in  
9 Section 30-22 to the water or sewer utility. Any new water or  
10 sewer facility built as a result of the acquisition shall  
11 require the contractor to enter into a project labor  
12 agreement. The large public utility acquiring the water or  
13 sewer utility shall offer employee positions to qualified  
14 employees of the acquired water or sewer utility.

15 (n) This Section is repealed on June 1, 2028.

16 (Source: P.A. 102-149, eff. 1-1-22.)