

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 2 and by adding Sections 1.5, 4.6, 4.7, 4.8,  
6 4.9, 4.10, 4.11, 4.12, and 4.13 as follows:

7 (70 ILCS 3720/1.5 new)

8 Sec. 1.5. Definitions. As used in this Act:

9 "Construction-manager-at-risk delivery method" means a  
10 delivery method in which the party proposing to be the  
11 construction manager commits to be responsible for performance  
12 of certain preconstruction services and, if the parties reach  
13 agreement on key terms, becomes responsible for construction  
14 of the project.

15 "Design-build delivery method" means a delivery system  
16 that provides responsibility within a single contract for the  
17 furnishing of architecture, engineering, land surveying, and  
18 related services as required and the labor, materials,  
19 equipment, and other construction services for the project.

20 "Design-build contract" means a contract for a public  
21 project under this Act between a commission and a design-build  
22 entity to furnish architecture, infrastructure, engineering,  
23 land surveying, public art or interpretive exhibits, and

1 related services, as required, and the labor, materials,  
2 equipment, and other construction services for the project.

3 "Design-build entity" means any individual, sole  
4 proprietorship, firm, partnership, joint venture, corporation,  
5 professional corporation, or other entity that proposes to  
6 design and construct any public project under this Act.

7 "Design professional" means any individual, sole  
8 proprietorship, firm, partnership, joint venture, corporation,  
9 professional corporation, or other entity that offers services  
10 under the Illinois Architecture Practice Act of 1989, the  
11 Professional Engineering Practice Act of 1989, the Structural  
12 Engineering Practice Act of 1989, or the Illinois Professional  
13 Land Surveyor Act of 1989.

14 "Evaluation criteria" means the requirements for the  
15 separate phases of the selection process as defined in this  
16 Act and may include the specialized experience, technical  
17 qualifications and competence, capacity to perform, past  
18 performance, experience with similar projects, assignment of  
19 personnel to the project, and other appropriate factors.

20 "Proposal" means the offer to enter into a design-build  
21 contract as submitted by a design-build entity in accordance  
22 with this Act.

23 "Request for proposal" means the document used by a  
24 commission to solicit proposals for a design-build contract.

25 "Scope and performance criteria" means the requirements  
26 for the commission project, including, but not limited to, the

1 intended usage, capacity, size, scope, quality and performance  
2 standards, life-cycle costs, and other programmatic criteria  
3 that are expressed in performance-oriented and quantifiable  
4 specifications and drawings that can be reasonably inferred  
5 and are suited to allow a design-build entity to develop a  
6 proposal.

7 (70 ILCS 3720/2) (from Ch. 111 2/3, par. 252)

8 Sec. 2. The General Assembly hereby finds and declares  
9 that it is necessary and in the public interest to help assure  
10 a sufficient and economic supply of a source of water within  
11 those county wide areas of this State where, because of a  
12 growth in population and proximity to large urban centers, the  
13 health, safety and welfare of the residents is threatened by  
14 an ever increasing shortage of a continuing, available and  
15 adequate source and supply of water on an economically  
16 reasonable basis; however, it is not the intent of the General  
17 Assembly to interfere with the power of municipalities to  
18 provide for the retail distribution of water to their  
19 residents or the customers of their water systems. Therefore,  
20 in order to provide for a sufficient and economic supply of  
21 water to such areas, it is hereby declared to be the law of  
22 this State that:

23 (a) With respect to any water commission constituted  
24 pursuant to Division 135 of the Illinois Municipal Code or  
25 established by operation of law under Public Act 83-1123, as

1 amended, which water commission includes municipalities which  
2 in the aggregate have within their corporate limits more than  
3 50% of the population of a county (hereinafter referred to as a  
4 "home county"), and such county is contiguous to a county  
5 which has a population in excess of 1,000,000 inhabitants, the  
6 provisions of this Act shall apply. With respect to any such  
7 water commission (hereinafter referred to as a "county water  
8 commission"):

9 (i) the terms of all commissioners of such commission  
10 holding office at the time a water commission becomes a  
11 county water commission shall terminate 30 days after such  
12 time and new commissioners shall be appointed as the  
13 governing board of the county water commission as  
14 hereinafter provided in subsection (c); and

15 (ii) the county water commission shall continue to be  
16 a body corporate and politic, and shall bear the name of  
17 the home county but shall be independent from and not a  
18 part of the county government and shall itself be a  
19 political subdivision and a unit of local government, and  
20 upon appointment of the new commissioners as the governing  
21 board of such water commission as provided in subsection  
22 (c), such water commission shall remain responsible for  
23 the full payment of, and shall by operation of law be  
24 deemed to have assumed and shall pay when due all debts and  
25 obligations of the commission as the same is constituted  
26 and as such debts and obligations existed on the date such

1 water commission becomes a county water commission and  
2 such additional debts and obligations as are incurred by  
3 such commission after such date and prior to the  
4 appointment of the new commissioners as the governing  
5 board of such commission, and further shall continue to  
6 have and exercise all powers and functions and duties of a  
7 water commission created pursuant to Division 135 of the  
8 Illinois Municipal Code, as now or hereafter amended, and  
9 the county water commission may rely on that Division, as  
10 modified and supplemented by the provisions of this Act,  
11 as lawful authority under which it may act.

12 (b) Any county water commission shall have as its  
13 territory within its corporate limits, subject to taxation for  
14 its purposes, and subject to the powers and limitations as  
15 conferred by this Act, (i) all of the territory of the home  
16 county except that territory located within the corporate  
17 limits of excluded units as hereinafter defined and (ii) also  
18 all of the territory located outside the home county and  
19 included within the corporate limits of an included unit as  
20 hereinafter defined. As used in this Act, "excluded unit"  
21 means a unit of local government having a waterworks system  
22 and having within its corporate limits territory within the  
23 home county and which either, at the time any commission  
24 becomes a county water commission, receives, or has contracted  
25 at such time for the receipt of, more than 25% of the water  
26 distributed by such unit's water system from a source outside

1 of the home county, or a unit of local government that seeks a  
2 change in status as provided in this Section. As used in this  
3 Section, "included unit" means any unit of local government  
4 having a waterworks system and having within its corporate  
5 limits territory within the home county, which unit of local  
6 government is not an excluded unit. No other water commission  
7 shall be constituted under Division 135 of the Illinois  
8 Municipal Code in any home county after the effective date of  
9 this Act to provide water from any source located outside the  
10 home county. A unit of local government may switch its status  
11 from being an included unit to an excluded unit provided that  
12 (i) it has constructed a water treatment plant prior to  
13 December 31, 2006 to comply with United States Environmental  
14 Protection Agency regulations regarding radium; (ii) it  
15 notifies the commission in writing of its desire to become an  
16 excluded unit; and (iii) it no longer demands future service  
17 from the commission and shall not be reinstated as an included  
18 unit. In the event a unit of local government switches status,  
19 the water commission shall, from any legally available  
20 sources, transfer the sums collected from that unit of local  
21 government for the period of time beginning January 1, 2006 to  
22 the date that this tax is no longer assessed within the  
23 affected excluded unit. The transfer of funds authorized  
24 herein shall be made within 90 days of the effective date of  
25 this amendatory Act of the 95th General Assembly. Except as  
26 authorized by a county water commission, no home county or

1 included unit shall enter into any new or renew or extend any  
2 existing contract, agreement or other arrangement for the  
3 acquisition or sale of water from any source located outside a  
4 home county; provided, however, that any included unit may  
5 contract for a supply of water in case of a temporary emergency  
6 from any other unit of local government or any entity. In the  
7 event that any included unit elects to serve retail customers  
8 outside its corporate boundaries and to establish rates and  
9 charges for such water in excess of those charged within its  
10 corporate boundaries, such rates and charges shall have a  
11 reasonable relationship to the actual cost of providing and  
12 delivering the water; this provision is declarative of  
13 existing law. It is declared to be the law of this State  
14 pursuant to paragraphs (g) and (h) of Section 6 of Article VII  
15 of the Illinois Constitution that in any home county, the  
16 provisions of this Act and Division 135 of the Illinois  
17 Municipal Code, as modified and supplemented by this Act and  
18 this amendatory Act of the 93rd General Assembly, constitute a  
19 limitation upon the power of any such county and upon all units  
20 of local government (except excluded units) within such  
21 county, including home rule units, limiting to such county,  
22 units of local government and home rule units the power to  
23 acquire, supply or distribute water or to establish any water  
24 commission for such purposes involving water from any source  
25 located outside the home county in a manner other than as  
26 provided or permitted by this Act and Division 135, as

1 modified and supplemented by this Act, and further constitute  
2 an exercise of exclusive State power with respect to the  
3 acquisition, supply and distribution of water from any source  
4 located outside the home county by any such county and by units  
5 of local government (except excluded units), including home  
6 rule units, within such county and with respect to the  
7 establishment for such purposes of any water commission  
8 therein, which power may not be exercised concurrently by any  
9 unit of local government or home rule unit. Upon the request of  
10 any included unit, a county water commission shall provide  
11 such included unit Lake Michigan water in an amount up to the  
12 then current Department of Transportation allocation of Lake  
13 Michigan water for such included unit.

14 With respect to a water commission to which the provisions  
15 of subsection (a) apply, all uninhabited territory that is  
16 owned and solely occupied by such a commission and is located  
17 not within its home county but within a non-home rule  
18 municipality adjacent to its home county shall,  
19 notwithstanding any other provision of law, be disconnected  
20 from that municipality by operation of this Act on the  
21 effective date of this amendatory Act of 1991, and shall  
22 thereafter no longer be within the territory of the  
23 municipality for any purpose; except that for the purposes of  
24 any statute that requires contiguity of territory, the  
25 territory of the water commission shall be disregarded and the  
26 municipality shall not be deemed to be noncontiguous by virtue

1 of the disconnection of the water commission territory.

2 (c) The governing body of any water commission to which  
3 the provisions of subsection (a) apply shall be a board of  
4 commissioners, each to be appointed within 30 days after the  
5 water commission becomes a county water commission to a term  
6 commencing on such date, as follows:

7 (i) one commissioner, who shall serve as chairman, who  
8 shall be a resident of the home county, to be appointed by  
9 the chairman of the county board of such county with the  
10 advice and consent of the county board, provided that  
11 following the expiration of the term or vacancy of the  
12 current chairman serving on the effective date of this  
13 amendatory Act of the 93rd General Assembly, any  
14 subsequent appointment as chairman shall also be subject  
15 to the advice and consent of the county water commission;

16 (ii) one commissioner from each county board district  
17 within the home county, to be appointed by the chairman of  
18 the county board of the home county with the advice and  
19 consent of the county board; and

20 (iii) one commissioner from each county board district  
21 within the home county, to be appointed by the majority  
22 vote of the mayors of those included units which are  
23 municipalities and which have the greatest percentage of  
24 their respective populations residing within such county  
25 board district of the home county.

26 The mayors of the respective county board districts shall

1 meet for the purpose of making said respective appointments at  
2 a time and place designated by that mayor in each county board  
3 district of the included unit with the largest population  
4 voting for a commissioner upon not less than 10 days' written  
5 notice to each other mayor entitled to vote.

6 The commissioners so appointed shall serve for a term of 6  
7 years, or until their successors have been appointed and have  
8 qualified in the same manner as the original appointments,  
9 except that at the first meeting of such commissioners, (A)  
10 the commissioners first appointed pursuant to paragraph (ii)  
11 of this subsection shall determine publicly by lot 1/3 of  
12 their number to serve for terms of 2 years, 1/3 of their number  
13 to serve for terms of 4 years and 1/3 of their number to serve  
14 for terms of 6 years, any odd number of commissioners so  
15 determined by dividing into thirds to serve 6-year ~~6-year~~  
16 terms, and (B) the commissioners first appointed pursuant to  
17 paragraph (iii) of this subsection shall determine publicly by  
18 lot 1/3 of their number to serve for terms of 2 years, 1/3 of  
19 their number to serve for terms of 4 years and 1/3 of their  
20 number to serve for terms of 6 years, any odd number of  
21 commissioners so determined by dividing into thirds to serve  
22 6-year ~~6-year~~ terms. The commissioner first appointed pursuant  
23 to paragraph (i) of this subsection, who shall serve as  
24 chairman, shall serve for a term of 6 years. Any commissioner  
25 may be a member of the governing board or an officer or  
26 employee of such county or any unit of local government within

1 such county. A commissioner is eligible for reappointment upon  
2 the expiration of his term. A vacancy in the office of a  
3 commissioner shall be filled for the balance of the unexpired  
4 term by appointment and qualification as to residency in the  
5 same manner as the original appointment was made. Each  
6 commissioner shall receive the same compensation which shall  
7 not be more than \$600 per year, ~~except that no such~~  
8 ~~commissioner who is a member of the governing board or an~~  
9 ~~officer or employee of such county or any unit of local~~  
10 ~~government within such county may receive any compensation for~~  
11 ~~serving as a commissioner.~~ Each commissioner may be removed by  
12 the appointing authority for any cause for which any other  
13 county or municipal officer may be removed. The county water  
14 commission shall determine its own rules of proceeding. A  
15 quorum shall be a majority of the commissioners then in  
16 office. All ordinances or resolutions shall be passed by not  
17 less than a majority of a quorum. No commissioner or employee  
18 of the commission, no member of the county board or other  
19 official elected within such county, no mayor or president or  
20 other member of the corporate authorities of any unit of local  
21 government within such county, and no employee of such county  
22 or any such unit of local government, shall be interested  
23 directly or indirectly in any contract or job of work or  
24 materials, or the profits thereof, or services to be performed  
25 for or by the commission. A violation of any of the foregoing  
26 provisions of this subsection is a Class C misdemeanor. A

1 conviction is cause for the removal of a person from his office  
2 or employment.

3 (d) Except as provided in subsection (g), subject to the  
4 referendum provided for in subsection (e), a county water  
5 commission may borrow money for corporate purposes on the  
6 credit of the commission, and issue general obligation bonds  
7 therefor, in such amounts and form and on such conditions as it  
8 shall prescribe, but shall not become indebted in any manner  
9 or for any purpose in an amount including existing  
10 indebtedness in the aggregate to exceed 5.75% of the aggregate  
11 value of the taxable property within the territorial  
12 boundaries of the county water commission, as equalized and  
13 assessed by the Department of Revenue and as most recently  
14 available at the time of the issue of said bonds. Before or at  
15 the time of incurring any indebtedness, except as provided in  
16 subsection (g), the commission shall provide for the  
17 collection of a direct annual tax, which shall be unlimited as  
18 to rate or amount, sufficient to pay the interest on such debt  
19 as it falls due and also to pay and discharge the principal  
20 thereof at maturity, which shall be within 40 years after the  
21 date of issue thereof. Such tax shall be levied upon and  
22 collected from all of the taxable property within the  
23 territory of the county water commission. Dissolution of the  
24 county water commission for any reason shall not relieve the  
25 taxable property within such territory of the county water  
26 commission from liability for such tax. The clerk of the

1 commission shall file a certified copy of the resolution or  
2 ordinance by which such bonds are authorized to be issued and  
3 such tax is levied with the County Clerk of each county in  
4 which any of the territory of the county water commission is  
5 located and such filing shall constitute, without the doing of  
6 any other act, full and complete authority for each such  
7 County Clerk to extend such tax for collection upon all the  
8 taxable property within the territory of the county water  
9 commission subject to such tax in each and every year required  
10 sufficient to pay the principal of and interest on such bonds,  
11 as aforesaid, without limit as to rate or amount, and shall be  
12 in addition to and in excess of all other taxes authorized to  
13 be levied by the commission or any included unit. The general  
14 obligation bonds shall be issued pursuant to an ordinance or  
15 resolution and may be issued in one or more series, and shall  
16 bear such date or dates, mature at such time or times and in  
17 any event not more than 40 years from the date thereof, be sold  
18 at such price at private or public sale as determined by a  
19 county water commission, bear interest at such rate or rates  
20 such that the net effective interest rate received upon the  
21 sale of such bonds does not exceed the maximum rate determined  
22 under Section 2 of the Bond Authorization Act, which rates may  
23 be fixed or variable, be in such denominations, be in such  
24 form, either coupon or registered, carry such conversion,  
25 registration, and exchange privileges, be executed in such  
26 manner, be payable in such medium of payment at such place or

1 places within or without the State of Illinois, be subject to  
 2 such terms of redemption, and contain or be subject to such  
 3 other terms as the ordinance or resolution may provide, and  
 4 shall not be restricted by the provisions of any other terms of  
 5 obligations of public agencies or private persons.

6 (e) No issue of general obligation bonds by a county water  
 7 commission (except bonds to refund an existing bonded  
 8 indebtedness) shall be authorized unless the commission  
 9 certifies the proposition of issuing such bonds to the proper  
 10 election officials, who shall submit the proposition to the  
 11 voters at an election in accordance with the general election  
 12 law, and the proposition has been approved by a majority of  
 13 those voting on the proposition.

14 The proposition shall be in the form provided in Section 5  
 15 or shall be substantially in the following form:

16 -----  
 17 Shall general obligation  
 18 bonds for the purpose of  
 19 (state purpose), in the YES  
 20 sum of \$....(insert amount), -----  
 21 be issued by the ..... NO  
 22 (insert corporate name of  
 23 the county water commission)?  
 24 -----

25 (f) In order to carry out and perform its powers and  
 26 functions and duties under the provisions of this Act and

1 Division 135 of the Illinois Municipal Code, as modified and  
2 supplemented by this Act, the governing body of any county  
3 water commission may by ordinance levy annually upon all  
4 taxable property within its territory a tax at a rate not to  
5 exceed .005% of the value of such property, as equalized or  
6 assessed by the Department of Revenue for the year in which the  
7 levy is made. In addition, any county water commission may by  
8 ordinance levy upon all taxable property within its territory,  
9 for one year only, an additional tax for such purposes at a  
10 rate not to exceed .20% of the value of such property, as  
11 equalized or assessed by the Department of Revenue for that  
12 year; provided, however, that such tax may not be levied more  
13 than once in any county water commission.

14 (g) Any county water commission shall have the power to  
15 borrow money, subject to the indebtedness limitation provided  
16 in subsection (d), from the home county or included units, in  
17 such amounts and in such terms as agreed by the governing  
18 bodies of the commission and the home county or included  
19 units.

20 (h) No county water commission constituted pursuant to the  
21 Act shall engage in the retail sale or distribution of water to  
22 residents or customers of any municipality.

23 (i) Nothing in the Section requires any municipality to  
24 contract with a county water commission for a supply of water.

25 (j) The State of Illinois recognizes that any such  
26 contract for the supply of water executed by a unit of local

1 government and a county water commission may contain terms and  
2 conditions intended by the parties thereto to be absolute  
3 conditions thereof. The State of Illinois also recognizes that  
4 persons may loan funds to a county water commission  
5 (including, without limitation, the purchase of revenue or  
6 general obligation bonds of such commission) in reliance upon  
7 the terms and conditions of any such contract for the supply of  
8 water. Therefore, the State of Illinois pledges and agrees to  
9 those parties and persons which make loans of funds to a county  
10 water commission that it will not impair or limit the power or  
11 ability of a county water commission or a unit of local  
12 government fully to carry out the financial obligations and  
13 obligation to furnish water pursuant to the terms of any  
14 contract for the supply of water entered into by such county  
15 water commission or unit of local government for the term of  
16 such contracts or loans. All other terms and conditions of  
17 such contracts and intergovernmental agreements shall be  
18 binding to the extent that they are not inconsistent with this  
19 amendatory Act of the 93rd General Assembly.

20 (Source: P.A. 95-114, eff. 1-1-08.)

21 (70 ILCS 3720/4.6 new)

22 Sec. 4.6. Construction contracts.

23 (a) All or any portion of a waterworks system or other  
24 public improvement of a commission, when the expense thereof  
25 will exceed the greater of (i) \$25,000 or (ii) the amount of

1 expense above which a work or public improvement by a  
2 municipality must be let to the lowest responsible bidder  
3 after advertising for bids under Section 8-9-1 of the Illinois  
4 Municipal Code, shall be constructed, maintained, or repaired  
5 either: (1) by a contract let to the lowest responsible bidder  
6 after advertising for bids, in the manner prescribed by the  
7 commission's bylaws, rules, and regulations and by the vote  
8 required as established in the water purchase and sale  
9 contract; or (2) without advertising for bids, if authorized  
10 by a vote of greater than a majority of all the commissioners  
11 as established in an intergovernmental agreement. The  
12 commission's bylaws, rules, and regulations shall provide for  
13 an alternative procedure for emergency procurement if an  
14 emergency makes it impracticable to follow the procedures in  
15 this subsection.

16 (b) A commission may use alternative project delivery  
17 methods if the commission determines it to be in the  
18 commission's best interest for a particular project. An  
19 alternative project delivery method may include, without  
20 limitation, any design-build delivery methods or  
21 construction-manager-at-risk delivery methods. All notices for  
22 the procurement of goods, services, or work to be provided  
23 pursuant to an alternate delivery method shall include all  
24 requirements for the goods, services, or work to be procured.  
25 All awards of contracts or agreements for the procurement of  
26 goods, services, or work to be provided pursuant to an

1 alternate delivery method shall be made on the basis of  
2 demonstrated competence and qualifications and with due regard  
3 for the principles of competitive selection. As part of an  
4 alternate project delivery procurement process, prior to  
5 submission of proposals, the commission may conduct meetings  
6 and exchange confidential information with proposers to  
7 promote understanding of the request for proposals, review  
8 alternative design concepts, or discuss other issues related  
9 to the procurement.

10 (c) A commission may establish goals or requirements for  
11 the procurement of goods and services and for construction  
12 contracts to promote and encourage the continuing economic  
13 development of (i) businesses that are owned and operated by  
14 minorities, women, persons with disabilities, or veterans;  
15 (ii) businesses that are located within the territory of one  
16 or more of the municipalities that are members of the  
17 commission; (iii) businesses that employ persons who reside in  
18 the territory of one or more of the municipalities that are  
19 members of the commission. A commission may also establish  
20 other goals or requirements that result in the award to a  
21 responsible bidder other than the lowest responsible bidder if  
22 the commission determines that the award is in the  
23 commission's best interests, notwithstanding the requirements  
24 of subsection (a). Goals or requirements that are set by a  
25 commission that result in a preference being applied to a  
26 bidder or proposer, who has met those goals or requirements,

1 in a commission's process for awarding construction contracts  
2 and for the procurement of goods and services must comply with  
3 the constitutional standards applicable to the preferences.

4 (d) A customer municipality may enter into a contract for  
5 any portion of a waterworks system or other public improvement  
6 of a commission pursuant to a contracting method that is  
7 consistent with the requirements applicable to the  
8 municipality and generally consistent with the principles in  
9 subsection (a) or (b). The commission may accept assignment of  
10 such a contract and of payment obligations under that  
11 contract.

12 (e) In connection with a contract by a commission for the  
13 construction of all or any portion of a waterworks system or  
14 other public improvement of the commission for which the  
15 commission issues bonds, the commission must enter into a  
16 project labor agreement with the applicable local building  
17 trades council prior to the commencement of any and all  
18 construction, building, renovation, demolition, or any  
19 material change to the structure or land.

20 (70 ILCS 3720/4.7 new)

21 Sec. 4.7. Solicitation of proposals.

22 (a) A commission may enter into design-build contracts. In  
23 addition to the requirements set forth in its local  
24 ordinances, when the commission elects to use the design-build  
25 delivery method, it must issue a notice of intent to receive

1 proposals for the project at least 14 days before issuing the  
2 request for the proposal. The commission must publish the  
3 advance notice online on its website. The commission may  
4 publish the notice in construction industry publications or  
5 post the notice on construction industry websites. A brief  
6 description of the proposed procurement must be included in  
7 the notice. The commission must provide a copy of the request  
8 for proposal to any party requesting a copy.

9 (b) The request for proposal shall be prepared for each  
10 project and must contain, without limitation, the following  
11 information:

12 (1) The name of the commission.

13 (2) A preliminary schedule for the completion of the  
14 contract.

15 (3) The proposed budget for the project, the source of  
16 funds, and the currently available funds at the time the  
17 request for proposal is submitted.

18 (4) Prequalification criteria for design-build  
19 entities wishing to submit proposals. The commission shall  
20 include, at a minimum, its normal prequalification,  
21 licensing, registration, and other requirements; however,  
22 nothing precludes the use of additional prequalification  
23 criteria by the commission.

24 (5) Material requirements of the contract, including,  
25 but not limited to, the proposed terms and conditions,  
26 required performance and payment bonds, and insurance.

1           (6) The performance criteria.

2           (7) The evaluation criteria for each phase of the  
3           solicitation. Price may not be used as a factor in the  
4           evaluation of Phase I proposals.

5           (8) The number of entities that will be considered for  
6           the technical and cost evaluation phase.

7           (c) The commission may include any other relevant  
8           information that it chooses to supply. The design-build entity  
9           shall be entitled to rely upon the accuracy of this  
10           documentation in the development of its proposal.

11           (d) The date that proposals are due must be at least 21  
12           calendar days after the date of the issuance of the request for  
13           proposal. If the cost of the project is estimated to exceed  
14           \$12,000,000, then the proposal due date must be at least 28  
15           calendar days after the date of the issuance of the request for  
16           proposal. The commission shall include in the request for  
17           proposal a minimum of 30 days to develop the Phase II  
18           submissions after the selection of entities from the Phase I  
19           evaluation is completed.

20           (70 ILCS 3720/4.8 new)

21           Sec. 4.8. Development of scope and performance criteria.

22           (a) The commission shall develop, with the assistance of a  
23           licensed design professional or licensed professional  
24           engineer, a request for proposal, which shall include scope  
25           and performance criteria. The scope and performance criteria

1 must be in sufficient detail and contain adequate information  
2 to reasonably apprise the qualified design-build entities of  
3 the commission's overall programmatic needs and goals,  
4 including criteria and preliminary design plans, general  
5 budget parameters, schedule, and delivery requirements.

6 (b) Each request for proposal shall also include a  
7 description of the level of design to be provided in the  
8 proposals. This description must include the scope and type of  
9 renderings, drawings, and specifications that, at a minimum,  
10 will be required by the commission to be produced by the  
11 design-build entities.

12 (c) The scope and performance criteria shall be prepared  
13 by a licensed professional engineer who is an employee of the  
14 commission, or the commission may contract with an independent  
15 licensed professional engineer or engineering firm selected  
16 under the Local Government Professional Services Selection Act  
17 to provide these services.

18 (d) The design professional that prepares the scope and  
19 performance criteria is prohibited from participating in any  
20 design-build entity proposal for the project.

21 (e) The design-build contract may be conditioned upon  
22 subsequent refinements in scope and price and may allow the  
23 commission to make modifications in the project scope without  
24 invalidating the design-build contract.

1       Sec. 4.9. Procedures for selection.

2       (a) The commission must use a 2-phase procedure for the  
3 selection of the successful design-build entity. Phase I of  
4 the procedure will evaluate and shortlist the design-build  
5 entities based on qualifications, and Phase II will evaluate  
6 the technical and cost proposals.

7       (b) The commission shall include in the request for  
8 proposal the evaluating factors to be used in Phase I. These  
9 factors are in addition to any prequalification requirements  
10 of design-build entities that the commission has set forth.  
11 Each request for proposal shall establish the relative  
12 importance assigned to each evaluation factor and subfactor,  
13 including any weighting of criteria to be employed by the  
14 commission. The commission must maintain a record of the  
15 evaluation scoring to be disclosed in event of a protest  
16 regarding the solicitation.

17       The commission shall include the following criteria in  
18 every Phase I evaluation of design-build entities: (i)  
19 experience of personnel; (ii) successful experience with  
20 similar project types; (iii) financial capability; (iv)  
21 timeliness of past performance; (v) experience with similarly  
22 sized projects; (vi) successful reference checks of the firm;  
23 and (vii) commitment to assign personnel for the duration of  
24 the project and qualifications of the entity's consultants.

25       The commission may include any additional relevant  
26 criteria in Phase I that it deems necessary for a proper

1 qualification review. The commission may not consider any  
2 design-build entity for evaluation or award if the entity has  
3 any pecuniary interest in the project or has other  
4 relationships or circumstances, including, but not limited to,  
5 long-term leasehold, mutual performance, or development  
6 contracts with the commission, that may give the design-build  
7 entity a financial or tangible advantage over other  
8 design-build entities in the preparation, evaluation, or  
9 performance of the design-build contract or that create the  
10 appearance of impropriety.

11 Upon completion of the qualifications evaluation, the  
12 commission shall create a shortlist of the most highly  
13 qualified design-build entities. The commission, in its  
14 discretion, is not required to shortlist the maximum number of  
15 entities as identified for Phase II evaluation, provided that  
16 no less than 2 design-build entities nor more than 6 are  
17 selected to submit Phase II proposals. The commission shall  
18 notify the entities selected for the shortlist in writing.  
19 This notification shall commence the period for the  
20 preparation of the Phase II technical and cost evaluations.  
21 The commission must allow sufficient time for the shortlist  
22 entities to prepare their Phase II submittals considering the  
23 scope and detail requested by the commission.

24 (c) The commission shall include in the request for  
25 proposal the evaluating factors to be used in the technical  
26 and cost submission components of Phase II. Each request for

1 proposal shall establish, for both the technical and cost  
2 submission components of Phase II, the relative importance  
3 assigned to each evaluation factor and subfactor, including  
4 any weighting of criteria to be employed by the commission.  
5 The commission must maintain a record of the evaluation  
6 scoring to be disclosed in the event of a protest regarding the  
7 solicitation.

8 The commission shall include the following criteria in  
9 every Phase II technical evaluation of design-build entities:  
10 (i) compliance with objectives of the project; (ii) compliance  
11 of proposed services to the request for proposal requirements;  
12 (iii) quality of products or materials proposed; (iv) quality  
13 of design parameters; (v) design concepts; (vi) innovation in  
14 meeting the scope and performance criteria; and (vii)  
15 constructability of the proposed project. The commission may  
16 include any additional relevant technical evaluation factors  
17 it deems necessary for proper selection.

18 The commission may include the following criteria in every  
19 Phase II cost evaluation: the total project cost; the  
20 construction costs; and the time of completion. The commission  
21 may include any additional relevant technical evaluation  
22 factors it deems necessary for proper selection. The total  
23 project cost criteria weighting factor shall not exceed 30%.

24 The commission shall directly employ or retain a licensed  
25 professional engineer to evaluate the technical and cost  
26 submissions to determine if the technical submissions are in

1 accordance with generally accepted industry standards.

2 Upon completion of the technical submissions and cost  
3 submissions evaluation, the commission may award the  
4 design-build contract to the highest overall ranked entity.

5 (70 ILCS 3720/4.10 new)

6 Sec. 4.10. Small projects. In any case where the total  
7 overall cost of the project is estimated to be less than  
8 \$12,000,000, the commission may combine the 2-phase procedure  
9 for selection described in Section 10 into one combined  
10 procedure, provided that all the requirements of evaluation  
11 are performed in accordance with Section 11.

12 (70 ILCS 3720/4.11 new)

13 Sec. 4.11. Submission of proposals.

14 (a) Proposals must be properly identified and sealed.  
15 Proposals may not be reviewed until after the deadline for  
16 submission has passed as set forth in the request for  
17 proposals. All design-build entities submitting proposals  
18 shall be disclosed after the deadline for submission, and all  
19 design-build entities who are selected for Phase II evaluation  
20 shall also be disclosed at the time of that determination.

21 (b) Proposals may include a bid bond in the form and  
22 security as designated in the request for proposals. Proposals  
23 shall also contain a separate sealed envelope with the cost  
24 information within the overall proposal submission. Proposals

1 shall include a list of all design professionals and other  
2 entities to which any work may be subcontracted during the  
3 performance of the contract.

4 (c) Proposals must meet all material requirements of the  
5 request for proposal or they may be rejected as  
6 non-responsive. The commission has the right to reject any and  
7 all proposals.

8 (d) The drawings and specifications of the proposal may  
9 remain the property of the design-build entity.

10 (e) The commission shall review the proposals for  
11 compliance with the performance criteria and evaluation  
12 factors.

13 (f) Proposals may be withdrawn prior to evaluation for any  
14 cause. After evaluation begins by the commission, clear and  
15 convincing evidence of error is required for withdrawal.

16 (70 ILCS 3720/4.12 new)

17 Sec. 4.12. Award; performance. The commission may award  
18 the contract to the highest overall ranked entity. Notice of  
19 award shall be made in writing. Unsuccessful entities shall  
20 also be notified in writing. The commission may not request a  
21 best and final offer after the receipt of proposals. The  
22 commission may negotiate with the selected design-build entity  
23 after award for the purpose of securing better terms than  
24 originally proposed, provided that the salient features of the  
25 request for proposal are not diminished.

1       A design-build entity and associated design professionals  
2       shall conduct themselves in accordance with the relevant laws  
3       of this State and the related provisions of the Illinois  
4       Administrative Code.

5               (70 ILCS 3720/4.13 new)

6       Sec. 4.13. Applicability. Sections 4.7 through 4.12 of  
7       this Act shall apply notwithstanding anything to the contrary  
8       in Division 135 of Article 11 of the Illinois Municipal Code.