



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4282

Introduced 1/30/2004, by Thomas Holbrook

SYNOPSIS AS INTRODUCED:

735 ILCS 5/7-103.70

Amends the Code of Civil Procedure. Provides policies for quick-take proceedings by the Southwestern Illinois Development Authority.

LRB093 16106 LCB 41735 b

1 AN ACT concerning quick takes.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 7-103.70 as follows:

6 (735 ILCS 5/7-103.70)

7 Sec. 7-103.70. Quick-take; Southwestern Illinois
8 Development Authority (SWIDA).

9 (a) Quick-take proceedings under Section 7-103 may be used
10 for a period from August 30, 2003 to August 30, 2005, subject
11 to the written approval of the Secretary of the Illinois
12 Department of Transportation based upon the overall economic
13 development and fiscal plans and needs of the State of
14 Illinois, by the Southwestern Illinois Development Authority
15 pursuant to the Southwestern Illinois Development Authority
16 Act for a project as defined in Section 3 of that Act.

17 (b) Any proposed project invoking the quick-take process
18 must comply with Section 7-103 of the Code of Civil Procedure
19 and the mission statement of SWIDA as adopted by the Board on
20 August 17, 1989. The project must meet stated and specific
21 economic development goals resulting in identifiable business
22 location, business retention, substantial job creation or
23 retention, or substantial capital development within the
24 jurisdictional boundaries of SWIDA.

25 (c) Quick-take shall be undertaken by SWIDA only as a last
26 resort and only after efforts to purchase property in
27 accordance with the Illinois Constitution and the Code of Civil
28 Procedure have been satisfied in a manner that conforms with
29 the referenced laws. At a minimum, any motion for taking of
30 property approved by the SWIDA Board shall include:

31 (1) an accurate description of the property to which
32 the motion relates and the estate or interest sought to be

1 acquired therein;

2 (2) a formally adopted schedule or plan of operation
3 for the execution of the project;

4 (3) the situation of the property to which the motion
5 relates, with respect to the schedule or plan;

6 (4) the necessity for taking the property in the manner
7 requested in the motion; and

8 (5) if the property to be taken is owned, leased,
9 controlled or operated and used by, or necessary for the
10 actual operation of, any interstate common carrier or other
11 public utility subject to the jurisdiction of the Illinois
12 Commerce Commission, a statement to the effect that the
13 approval of the proposed taking has been secured from the
14 Commission, and shall attach a certified copy of the order
15 of the Commission granting the approval to the motion. If
16 the schedule or plan of operation is not set forth fully in
17 the motion, a copy of the schedule or plan shall be
18 attached to the motion.

19 (d) SWIDA may invoke quick-take directly or on behalf of
20 another unit of government or a private party. In all cases,
21 the legislative requirements and procedures referenced in
22 subsection (b) of this Section must be satisfied. If title may
23 be subsequently transferred to a private party by a unit of
24 government, the unit of government must submit to SWIDA a copy
25 of its agreement with the private party and must certify that
26 the agreement was entered into pursuant to all applicable
27 local, State, and federal laws. Additional requirements and
28 conditions that are deemed appropriate by the SWIDA Board of
29 Directors may be incorporated in an Intergovernmental
30 Agreement that must be executed between SWIDA and the unit of
31 government as a prerequisite to SWIDA's use of quick-take
32 powers to assist a unit of government.

33 (e) SWIDA shall:

34 (1) only utilize its quick-take powers to promote
35 development in Clinton, Madison, and St. Clair counties and
36 to assist in the development, construction, and

1 acquisition of industrial, commercial, housing,
2 residential, or local government "projects" as that term is
3 used in subsection (n) of Section 3 of the Southwestern
4 Illinois Development Authority Act;

5 (2) require verification that the project depends upon
6 the successful land acquisition proposed and that the
7 exercise of quick-take authority is necessary for the
8 successful completion of the project;

9 (3) require that a Board-approved intergovernmental
10 agreement be entered into between the unit or units of
11 government and SWIDA prior to the exercise of any
12 quick-take powers by SWIDA to assist any other unit of
13 government. The intergovernmental agreement shall provide,
14 among other things, (i) the obligation by the unit of
15 government to pay all the costs and expenses incurred by
16 SWIDA in acquiring title to the property through the use of
17 its eminent domain and quick-take authority and (ii) the
18 indemnification of SWIDA by the unit of government in
19 connection with the acquisition. The intergovernmental
20 agreement must also provide for the payment by the unit of
21 government of an administrative fee in accordance with the
22 established fee schedule;

23 (4) hold a public hearing prior to Board action on any
24 quick-take application;

25 (5) identify any and all sources for the statutory
26 authority for the taking;

27 (6) identify the specific benefits of the proposed
28 project to the public, such as elimination of blight or
29 deterioration, revitalization of the economy, creation of
30 jobs, or increase in tax base, and be certain to back up
31 these goals with studies, data, and the dissemination to
32 the public of the supporting information;

33 (7) verify that the developer has engaged in good faith
34 negotiations with the property owner for the purchase of
35 the land;

36 (8) be prepared to show and make relevant findings to

1 the effect that the development project could not proceed
2 without the governmental body's intervention and
3 assistance in property acquisition or assembly;

4 (9) consider conducting a public hearing on the project
5 even if one is not required by law, but be certain that the
6 project's proponents are well-equipped with demonstrable
7 specifics about the need for the project, the need for a
8 public incentive, and the public benefit to be derived;

9 (10) verify that the developer is creditworthy but
10 still in need of some public incentive;

11 (11) be prepared to respond to an objector's claim that
12 the developer has the independent means both financially
13 and strategically to achieve its goal through
14 implementation of a feasible and economic alternative
15 plan;

16 (12) if the project is an expansion of an existing use
17 or addition to an existing facility, be able to support the
18 contentions of the detractors of the plan that the
19 expansion or addition is solely for the benefit of the
20 developer and that the original project cured the problems
21 it was intended to solve;

22 (13) consider whether it can be shown, or if it is
23 necessary or advisable, that the existing uses of the
24 property proposed for taking are not consistent with the
25 development plans for the area and that the property is not
26 contributing any benefit or any significant benefit to the
27 community; and

28 (14) notify each State Senator and State
29 Representative whose district is impacted by the intention
30 to acquire property by quick-take process. The
31 notification shall include:

32 (A) a map of the area in which the property to be
33 acquired is located, showing the location of the
34 property;

35 (B) photographs of the property;

36 (C) an appraisal of the property by a real estate

1 appraiser who is certified or licensed under the Real
2 Estate Appraiser Licensing Act of 2002;

3 (D) a copy of the resolution adopted by the unit of
4 local government;

5 (E) documentation of the public purpose for which
6 quick-take is sought to acquire the property; and

7 (F) a copy of each notice sent to an owner of an
8 interest in the property.

9 (f) SWIDA shall not enter into an agreement with either a
10 private party or a unit of government unless and until the
11 governmental authority of the municipality within which SWIDA
12 would exercise its quick-take powers has authorized SWIDA to
13 use this power or unless and until the county board of the
14 county within which SWIDA would exercise the powers has so
15 authorized SWIDA.

16 (g) The Board of SWIDA shall require a project developer,
17 if a private party, to enter into an agreement with SWIDA in
18 writing in advance of SWIDA's commencement of quick-take
19 proceedings. This agreement shall set forth the respective
20 obligations of SWIDA and the private party with respect to the
21 use by SWIDA of its quick-take powers and shall provide, among
22 other things, for (i) the obligation by the project developer
23 to pay all the costs and expenses incurred by SWIDA in
24 acquiring title to the property through the use of its eminent
25 domain and quick-take authority and (ii) the indemnification of
26 SWIDA by the project developer in connection with the
27 acquisition. The agreement must also provide for the payment by
28 the project developer of an administrative fee in accordance
29 with the established fee schedule.

30 (h) SWIDA may exercise its quick-take authority through an
31 agent who shall be selected based upon knowledge and expertise
32 in land acquisition procedures or relocation procedures. The
33 agent may be a firm, a person, or another governmental agency.
34 It shall be the responsibility of the project developer or unit
35 of government to pay the cost for the agent who will be charged
36 with fulfilling the requirements of all applicable laws as they

1 apply to the project. The cost of the agent and any additional
2 costs incurred by SWIDA, its Board, its employees, or its
3 attorney shall be the responsibility of the project developer
4 or unit of government to which SWIDA is lending its assistance.

5 (Source: P.A. 93-602, eff. 11-18-03.)