



Rep. Robert F. Flider

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1 AMENDMENT TO SENATE BILL 2664

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2664, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

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

7 (65 ILCS 5/11-147-1) (from Ch. 24, par. 11-147-1)

8 Sec. 11-147-1. Whenever a municipality, drainage district,  
9 sanitary district, or other municipal corporation is adjacent  
10 to any other municipality, drainage district, sanitary  
11 district, or other municipal corporation the adjacent  
12 municipal corporations have the power to contract with each  
13 other, upon such terms as may be agreed upon between them, for  
14 the perpetual or temporary use and benefit by one of them of  
15 any sewer or drain, or of any system of sewerage or drainage or  
16 part thereof, or of any sewage disposal or sewage treatment  
17 plants and works, heretofore or hereafter constructed by the  
18 other. Any such sewer or drain, or system of sewerage or  
19 drainage or part thereof, or sewage disposal or sewage  
20 treatment plants and work, heretofore or hereafter constructed  
21 by one such municipal corporation may be extended or furnished  
22 to the inhabitants of the other. Such municipal corporations  
23 may by contract with each other provide for the joint  
24 construction of any sewer or drain or sewage disposal or sewage

1 treatment plants and works by the municipal corporations so  
2 contracting, and for the common use thereof by the inhabitants  
3 of the contracting municipal corporations. In addition,  
4 whenever a sanitary district has acquired an easement granting  
5 the sanitary district the right to construct or operate a  
6 sanitary sewer system or part of a sanitary sewer system over  
7 property that connects the sanitary district to a municipality,  
8 the municipality and the sanitary district may enter into a  
9 contract for the use of the sanitary sewer system regardless of  
10 whether the sanitary district is adjacent to the municipality.

11 (Source: Laws 1961, p. 576.)

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

14 (70 ILCS 2405/8) (from Ch. 42, par. 307)

15 Sec. 8.

16 (a) The sanitary district may acquire by purchase,  
17 condemnation, or otherwise all real and personal property,  
18 right of way and privilege, either within or without its  
19 corporate limits that may be required for its corporate  
20 purposes. If real property is acquired by condemnation, the  
21 sanitary district may not sell or lease any portion of the  
22 property for a period of 10 years after acquisition by  
23 condemnation is completed. If, after such 10-year period, the  
24 sanitary district decides to sell or lease the property, it  
25 must first offer the property for sale or lease to the previous  
26 owner of the land from whom the sanitary district acquired the  
27 property. If the sanitary district and such previous owner do  
28 not execute a contract for purchase or lease of the property  
29 within 60 days from the initial offer, the sanitary district  
30 then may offer the property for sale or lease to any other  
31 person. If any district formed under this Act is unable to  
32 agree with any other sanitary district upon the terms whereby

1 it shall be permitted to use the drains, channels or ditches of  
2 such other sanitary district, the right to such use may be  
3 acquired by condemnation in any circuit court by proceedings as  
4 provided in Section 4-17 of the Illinois Drainage Code. The  
5 compensation to be paid for such use may be a gross sum, or it  
6 may be in the form of an annual rental, to be paid in yearly  
7 installments as provided by the judgment of the court wherein  
8 such proceedings may be had. However, when such compensation is  
9 fixed at a gross sum all moneys for the purchase and  
10 condemnation of any property shall be paid before possession is  
11 taken or any work done on the premises damaged by the  
12 construction of such channel or outlet, and in case of an  
13 appeal from the circuit court taken by either party whereby the  
14 amount of damages is not finally determined, then possession  
15 may be taken, if the amount of judgment in such court is  
16 deposited at some bank or savings and loan association to be  
17 designated by the court, subject to the payment of such damages  
18 on orders signed by the circuit court, whenever the amount of  
19 damages is finally determined. The sanitary district may sell,  
20 convey, vacate and release the real or personal property, right  
21 of way and privileges acquired by it when no longer required  
22 for the purposes of the district.

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

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

1       following:

2               (A) the caption of the case;

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

4               (C) the name and address of the condemnee;

5               (D) the name and address of the condemnor;

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

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

13               (G) a description of the purpose of the  
14       condemnation;

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

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

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

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

33       (3) Within 45 days after being served with the notice  
34       required by this Section, the condemnee may file objections

1 to the petition with the Commission. All objections shall  
2 state specifically the grounds relied upon. All objections  
3 shall be raised at one time and in one document. The  
4 condemnee shall serve a copy of the objections upon the  
5 condemnor within 72 hours after the objections are filed  
6 with the Commission.

7 (4) The Commission shall make a determination  
8 regarding the petition and any objections to the petition  
9 and shall make such orders and decrees as justice and law  
10 shall require. The Commission may take evidence by  
11 deposition or otherwise and shall entertain oral argument  
12 on all objections. The Commission shall make its  
13 determination within 105 days after its receipt of the  
14 objections of the condemnee, unless the Commission, in its  
15 discretion, extends the determination period for a further  
16 period not exceeding 6 months.

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

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

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

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

33 (4) that it is not financially impractical for the  
34 public utility to serve its remaining customers who are not

1           in the area subject to condemnation.

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

3           (70 ILCS 2405/23.5) (from Ch. 42, par. 317e.5)

4           Sec. 23.5. Any sanitary district may annex any territory  
5 which is not within the corporate limits of the sanitary  
6 district but which is contiguous to it and is served by the  
7 sanitary district or by a municipality with sanitary sewers  
8 that are connected and served by the sanitary district by the  
9 passage of an ordinance to that effect by the board of  
10 trustees, describing the territory to be annexed. A copy of the  
11 ordinance with an accurate map of the annexed territory,  
12 certified as correct by the clerk of the district shall be  
13 filed with the county clerk of the county in which the annexed  
14 territory is located. For purposes of this Act, a property is  
15 served by a sanitary district if a sewer that is part of the  
16 sanitary district's sewer system, part of the sewer system of a  
17 municipality that is connected to the sanitary district, or  
18 part of any other sewer system that connects to and is served  
19 by the sanitary district has been extended to, across, or along  
20 the property, whether or not the buildings on the property are  
21 physically connected to the sewer.

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

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

32           (70 ILCS 2405/23.7) (from Ch. 42, par. 317e.7)

1       Sec. 23.7. For purposes of this Act, territory to be  
2 organized as a sanitary district shall be considered to be  
3 contiguous territory, and territory to be annexed to a sanitary  
4 district shall be considered to be contiguous to the sanitary  
5 district notwithstanding that the territory to be so organized  
6 is divided by ~~by~~ ~~one or more railroad rights of ways, public~~  
7 ~~easements, or property owned by a public utility~~ or that the  
8 territory to be so annexed is separated from the sanitary  
9 district by ~~by~~ ~~one or more railroad rights-of-ways, public~~  
10 ~~easements, or property owned by a public utility,~~ or property  
11 owned by a forest preserve district or any public agency or  
12 not-for-profit corporation, provided that the property does  
13 not require sanitary sewer service. However, upon such  
14 organization or annexation, the area included within any such  
15 right-of-way, public easement, ~~or~~ property owned by a public  
16 utility, or property owned by a forest preserve district or any  
17 public agency or not-for-profit corporation shall not be  
18 considered a part of or annexed to the sanitary district and  
19 shall not be subject to rights-of-way for access or services  
20 without the approval of the legal owner of the property.

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

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