

SB3046



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB3046

Introduced 1/20/2006, by Sen. Richard J. Winkel, Jr.

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-124-5.1 new

Amends the Illinois Municipal Code. Sets forth procedures by which municipalities may acquire water systems by eminent domain. Provides that the Illinois Commerce Commission has no approval authority of any eminent domain action brought by any governmental entity or combination of such entities to acquire water systems or water works.

LRB094 19197 BDD 54740 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Illinois Municipal Code is amended by adding
5 Section 11-124-5.1 as follows:

6 (65 ILCS 5/11-124-5.1 new)

7 Sec. 11-124-5.1. Acquisition of water systems by eminent
8 domain.

9 (a) In addition to other provisions providing for the
10 acquisition of water systems or water works, whenever a public
11 utility subject to the Public Utilities Act utilizes public
12 property (including, but not limited to, right-of-way) of a
13 municipality for the installation or maintenance of all or part
14 of its water distribution system, the municipality has the
15 right to exercise eminent domain to acquire the entirety of the
16 water system, in accordance with this Section.

17 (b) Where a water system that is owned by a public utility
18 (as defined in the Public Utilities Act) provides water to
19 customers located entirely in 2 or more municipalities, the
20 system may only be acquired by eminent domain if there is in
21 existence an intergovernmental agreement between the
22 municipalities served providing for acquisition.

23 (c) If a water system that is owned by a public utility
24 provides water to customers located in one or more
25 municipalities and an unincorporated area contiguous to the
26 municipality or municipalities and if at least 80% of the
27 customers of the system are located within the a municipality
28 or municipalities, then system may be acquired by either a
29 municipality under subsection (a) or an entity created by
30 agreement between municipalities where at least 80% of the
31 customers reside.

32 (d) In the case of acquisition by a municipality or

1 municipalities or entity created by law to operate a water
2 system under this Section, service must be provided to all
3 customers of the system at the time of acquisition without
4 discrimination in rates based on whether the customer is
5 located within or outside the boundaries of the acquiring
6 municipality or municipalities or entity.

7 (e) For the purposes of this Section, "system" includes all
8 physical assets reasonably necessary to provide water service
9 to a contiguous geographical area and include, but not be
10 limited to, all wells, pipes, treatment plants, pumps and other
11 physical apparatus, fire hydrants, equipment, or vehicles and
12 also includes service agreements and obligations derived from
13 use of the assets, whether or not the assets are contiguous to
14 the municipality, municipalities, or entity created for the
15 purpose of operating a water system.

16 (f) The valuation of all systems acquired under this
17 Section shall be pursuant to the formulas set forth in Division
18 139 of this Article 11.

19 (g) Notwithstanding any other provision of law, the
20 Illinois Commerce Commission has no approval authority of any
21 eminent domain action brought by any governmental entity or
22 combination of such entities to acquire water systems or water
23 works.