



Rep. Joe Sosnowski

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LRB098 08168 CEL 44279 a

1 AMENDMENT TO HOUSE BILL 3104

2 AMENDMENT NO. _____. Amend House Bill 3104 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Sections 11-117-12.3 and 11-117-12.5 and by changing
6 Section 11-141-7 as follows:

7 (65 ILCS 5/11-117-12.3 new)

8 Sec. 11-117-12.3. Discontinued water or sewer service. Any
9 investor-owned public utility, municipal-owned public utility,
10 public or municipal corporation, or political subdivision
11 furnishing water or sewer service may discontinue service only
12 on a day followed by a business day and after the water or
13 sewer utility has mailed or delivered by other means a written
14 notice of discontinuance.

15 (65 ILCS 5/11-117-12.5 new)

1 Sec. 11-117-12.5. Calculating past due bills. Any
2 investor-owned public utility, municipal-owned public utility,
3 public or municipal corporation, or political subdivision
4 furnishing water or sewer service shall not consider a
5 customer's bill, when paid in person, past due unless the
6 payment is made after the due date printed on the bill. When a
7 customer mails any payment in the net amount of a bill for
8 service, the payment shall be considered past due if the
9 payment is postmarked after the due date printed on the bill.
10 The due date printed on the bill may not be less than 21 days
11 after the date upon which (i) the bill is mailed to the
12 customer, (ii) the bill is delivered in person to the customer,
13 (iii) the bill is sent electronically to the customer, or (iv)
14 the customer is notified that the bill is available
15 electronically. The bill shall include a bill date that shall
16 not be less than 21 days prior to the due date on the bill.

17 (65 ILCS 5/11-141-7) (from Ch. 24, par. 11-141-7)

18 Sec. 11-141-7. Powers. The corporate authorities of any
19 municipality that owns and operates or that may hereafter own
20 and operate a sewerage system constructed or acquired under the
21 provisions of any law of this state may make, enact, and
22 enforce all needful rules, regulations, and ordinances for the
23 improvement, care, and protection of its sewerage system and
24 any other sewer or sewerage system, located outside the
25 corporate boundary of the municipality and not owned by it,

1 that directly or indirectly connects with the municipality's
2 sewerage system, which may be conducive to the preservation of
3 the public health, comfort, and convenience, and may render the
4 sewage carried in the sewerage system of the municipality
5 harmless in so far as it is reasonably possible to do so.

6 The corporate authorities of such a municipality may, by
7 ordinance, charge the inhabitants thereof for the use and
8 service of its sewerage system whether by direct or indirect
9 connection therewith within or without the corporate boundary,
10 and to establish charges or rates for that purpose. The
11 corporate authorities of such a municipality may by ordinance
12 charge the users thereof, whether they be inside of or outside
13 of the municipality, for the use and service of its sewerage
14 system whether by direct or indirect connection therewith,
15 within or without the corporate boundary, and may establish
16 charges or rates for that purpose, provided however that where
17 such users are residents of another municipality with whom
18 there is a contract for use and service of the sewerage system,
19 then such charges or rates shall be made in accordance with the
20 terms of the contract, either directly to the users or to the
21 contracting municipality as may be provided by the provisions
22 of the contract. In making such rates and charges the
23 municipality may provide for a rate to the outside users in
24 excess of the rate fixed for the inhabitants of said
25 municipality as may be reasonable. Where bonds are issued as
26 provided in Sections 11-141-2 and 11-141-3, the corporate

1 authorities shall establish rates or charges as provided in
2 this section, and these charges or rates shall be sufficient at
3 all times to pay the cost of operation and maintenance, to
4 provide an adequate depreciation fund, and to pay the principal
5 of and interest upon all revenue bonds issued under Sections
6 11-141-2 and 11-141-3.

7 A depreciation fund is a fund for such replacements as may
8 be necessary from time to time for the continued effective and
9 efficient operation of the system. The depreciation fund shall
10 not be allowed to accumulate beyond a reasonable amount
11 necessary for that purpose, and shall not be used for
12 extensions to the system.

13 Charges or rates shall be established, revised, and
14 maintained by ordinance and become payable as the corporate
15 authorities may determine by ordinance.

16 Such charges or rates are liens upon the real estate upon
17 or for which sewerage service is supplied whenever the charges
18 or rates become delinquent as provided by the ordinance of the
19 municipality fixing a delinquency date. A lien is created under
20 the preceding sentence only if the municipality sends to the
21 owner or owners of record, as referenced by the taxpayer's
22 identification number, of the real estate (i) a copy of each
23 delinquency notice sent to the person who is delinquent in
24 paying the charges or rates or other notice sufficient to
25 inform the owner or owners of record, as referenced by the
26 taxpayer's identification number, that the charges or rates

1 have become delinquent and (ii) a notice that unpaid charges or
2 rates may create a lien on the real estate under this Section.
3 However, the municipality has no preference over the rights of
4 any purchaser, mortgagee, judgment creditor, or other lien
5 holder arising prior to the filing of the notice of such a lien
6 in the office of the recorder of the county in which such real
7 estate is located, or in the office of the registrar of titles
8 of such county if the property affected is registered under "An
9 Act concerning land titles", approved May 1, 1897, as amended.
10 This notice shall consist of a sworn statement setting out (1)
11 a description of such real estate sufficient for the
12 identification thereof, (2) the amount of money due for such
13 sewerage service, and (3) the date when such amount became
14 delinquent. The municipality shall send a copy of the notice of
15 the lien to the owner or owners of record of the real estate,
16 as referenced by the taxpayer's identification number. The
17 municipality has the power to foreclose this lien in the same
18 manner and with the same effect as in the foreclosure of
19 mortgages on real estate.

20 Except in counties with a population of more than 250,000
21 where the majority of the municipal sewerage system users are
22 located outside of the municipality's corporate limits, the
23 payment of delinquent charges for sewerage service to any
24 premises may be enforced by discontinuing either the water
25 service or the sewerage service to that premises, or both. A
26 rate or charge is delinquent if it is more than 30 days

1 overdue. The due date printed on the bill may not be less than
2 21 days after the date upon which (i) the bill is mailed to the
3 customer, (ii) the bill is delivered in person to the customer,
4 (iii) the bill is sent electronically to the customer, or (iv)
5 the customer is notified that the bill is available
6 electronically. The bill shall include a bill date that shall
7 not be less than 21 days prior to the due date on the bill. Any
8 public or municipal corporation or political subdivision of the
9 State furnishing water service to a premises (i) shall
10 discontinue that service upon receiving written notice from the
11 municipality providing sewerage service that payment of the
12 rate or charge for sewerage service to the premises has become
13 delinquent and (ii) shall not resume water service until
14 receiving a similar notice that the delinquency has been
15 removed. The provider of sewerage service shall not request
16 discontinuation of water service before sending a notice of the
17 delinquency to the sewer user and affording the user an
18 opportunity to be heard. An investor-owned public utility
19 providing water service within a municipality that provides
20 sewerage service may contract with the municipality to
21 discontinue water service to a premises with respect to which
22 the payment of a rate or charge for sewerage service has become
23 delinquent. The municipality shall reimburse the privately
24 owned public utility, public or municipal corporation, or
25 political subdivision of the State for the reasonable cost of
26 the discontinuance and the resumption of water service, any

1 lost water service revenues, and the costs of discontinuing
2 water service. The municipality shall indemnify the privately
3 owned public utility, public or municipal corporation, or
4 political subdivision of the State for any judgment and related
5 attorney's fees resulting from an action based on any provision
6 of this paragraph.

7 The municipality also has the power, from time to time, to
8 sue the occupant or user of that real estate in a civil action
9 to recover money due for sewerage services, plus a reasonable
10 attorney's fee, to be fixed by the court. However, whenever a
11 judgment is entered in such a civil action, the foregoing
12 provisions in this section with respect to filing sworn
13 statements of such delinquencies in the office of the recorder
14 and creating a lien against the real estate shall not be
15 effective as to the charges sued upon and no lien shall exist
16 thereafter against the real estate for the delinquency.
17 Judgment in such a civil action operates as a release and
18 waiver of the lien upon the real estate for the amount of the
19 judgment.

20 (Source: P.A. 93-500, eff. 6-1-04.)

21 Section 10. The Public Utilities Act is amended by changing
22 Section 8-306 as follows:

23 (220 ILCS 5/8-306)

24 Sec. 8-306. Special provisions relating to water and sewer

1 utilities.

2 (a) No later than 120 days after the effective date of this
3 amendatory Act of the 94th General Assembly, the Commission
4 shall prepare, make available to customers upon request, and
5 post on its Internet web site information concerning the
6 service obligations of water and sewer utilities and remedies
7 that a customer may pursue for a violation of the customer's
8 rights. The information shall specifically address the rights
9 of a customer of a water or sewer utility in the following
10 situations:

11 (1) The customer's water meter is replaced.

12 (2) The customer's bill increases by more than 50%
13 within one billing period.

14 (3) The customer's water service is terminated.

15 (4) The customer wishes to complain after receiving a
16 termination of service notice.

17 (5) The customer is unable to make payment on a billing
18 statement.

19 (6) A rate is filed, including without limitation a
20 surcharge or annual reconciliation filing, that will
21 increase the amount billed to the customer.

22 (7) The customer is billed for services provided prior
23 to the date covered by the billing statement.

24 (8) The customer is due to receive a credit.

25 Each billing statement issued by a water or sewer utility
26 shall include an Internet web site address where the customer

1 can view the information required under this subsection (a) and
2 a telephone number that the customer may call to request a copy
3 of the information.

4 (b) A water or sewer utility may discontinue service only
5 on a day followed by a business day and after it has mailed or
6 delivered by other means a written notice of discontinuance
7 substantially in the form of Appendix A of 83 Ill. Adm. Code
8 280. The notice must include the Internet web site address
9 where the customer can view the information required under
10 subsection (a) and a telephone number that the customer may
11 call to request a copy of the information. Any notice required
12 to be delivered or mailed to a customer prior to discontinuance
13 of service shall be delivered or mailed separately from any
14 bill. Service shall not be discontinued until at least 5 days
15 after delivery or 8 days after the mailing of this notice.
16 Service shall not be discontinued and shall be restored if
17 discontinued for the reason which is the subject of a dispute
18 or complaint during the pendency of informal or formal
19 complaint procedures of the Illinois Commerce Commission under
20 83 Ill. Adm. Code 280.160 or 280.170, where the customer has
21 complied with those rules. Service shall not be discontinued
22 and shall be restored if discontinued where a customer has
23 established a deferred payment agreement pursuant to 83 Ill.
24 Adm. Code 280.110 and has not defaulted on such agreement.
25 Residential customers who are indebted to a utility for past
26 due utility service shall have the opportunity to make

1 arrangements with the utility to retire the debt by periodic
2 payments, referred to as a deferred payment agreement, unless
3 this customer has failed to make payment under such a plan
4 during the past 12 months. The terms and conditions of a
5 reasonable deferred payment agreement shall be determined by
6 the utility after consideration of the following factors, based
7 upon information available from current utility records or
8 provided by the customer or applicant:

- 9 (1) size of the past due account;
- 10 (2) customer or applicant's ability to pay;
- 11 (3) customer or applicant's payment history;
- 12 (4) reason for the outstanding indebtedness; and
- 13 (5) any other relevant factors relating to the
14 circumstances of the customer or applicant's service.

15 A residential customer shall pay a maximum of one-fourth of the
16 amount past due and owing at the time of entering into the
17 deferred payment agreement, and the water or sewer utility
18 shall allow a minimum of 2 months from the date of the
19 agreement and a maximum of 12 months for payment to be made
20 under a deferred payment agreement. Late payment charges may be
21 assessed against the amount owing that is the subject of a
22 deferred payment agreement.

23 (b-5) In determining to discontinue a customer's service in
24 response to a past due account, a water or sewer utility shall
25 not consider a customer's bill, when paid in person, past due
26 unless the payment is made after the due date printed on the

1 bill. When a customer mails any payment in the net amount of a
2 bill for service, the payment shall be considered past due if
3 the payment is postmarked after the due date printed on the
4 bill. The due date printed on the bill may not be less than 21
5 days after the date upon which (i) the bill is mailed to the
6 customer, (ii) the bill is delivered in person to the customer,
7 (iii) the bill is sent electronically to the customer, or (iv)
8 the customer is notified that the bill is available
9 electronically. The bill shall include a bill date that shall
10 not be less than 21 days prior to the due date on the bill.

11 (c) A water or sewer utility shall provide notice as
12 required by subsection (a) of Section 9-201 after the filing of
13 each information sheet under a purchased water surcharge,
14 purchased sewage treatment surcharge, or qualifying
15 infrastructure plant surcharge. The utility also shall post
16 notice of the filing in accordance with the requirements of 83
17 Ill. Adm. Code 255. Unless filed as part of a general rate
18 increase, notice of the filing of a purchased water surcharge
19 rider, purchased sewage treatment surcharge rider, or
20 qualifying infrastructure plant surcharge rider also shall be
21 given in the manner required by this subsection (c) for the
22 filing of information sheets.

23 (d) Commission rules pertaining to formal and informal
24 complaints against public utilities shall apply with full and
25 equal force to water and sewer utilities and their customers,
26 including provisions of 83 Ill. Adm. Code 280.170, and the

1 Commission shall respond to each complaint by providing the
2 consumer with a copy of the utility's response to the complaint
3 and a copy of the Commission's review of the complaint and its
4 findings. The Commission shall also provide the consumer with
5 all available options for recourse.

6 (e) Any refund shown on the billing statement of a customer
7 of a water or sewer utility must be itemized and must state if
8 the refund is an adjustment or credit.

9 (f) Water service for building construction purposes. At
10 the request of any municipality or township within the service
11 area of a public utility that provides water service to
12 customers within the municipality or township, a public utility
13 must (1) require all water service used for building
14 construction purposes to be measured by meter and subject to
15 approved rates and charges for metered water service and (2)
16 prohibit the unauthorized use of water taken from hydrants or
17 service lines installed at construction sites.

18 (g) Water meters.

19 (1) Periodic testing. Unless otherwise approved by the
20 Commission, each service water meter shall be periodically
21 inspected and tested in accordance with the schedule
22 specified in 83 Ill. Adm. Code 600.340, or more frequently
23 as the results may warrant, to insure that the meter
24 accuracy is maintained within the limits set out in 83 Ill.
25 Adm. Code 600.310.

26 (2) Meter tests requested by customer.

1 (A) Each utility furnishing metered water service
2 shall, without charge, test the accuracy of any meter
3 upon request by the customer served by such meter,
4 provided that the meter in question has not been tested
5 by the utility or by the Commission within 2 years
6 previous to such request. The customer or his or her
7 representatives shall have the privilege of witnessing
8 the test at the option of the customer. A written
9 report, giving the results of the test, shall be made
10 to the customer.

11 (B) When a meter that has been in service less than
12 2 years since its last test is found to be accurate
13 within the limits specified in 83 Ill. Adm. Code
14 600.310, the customer shall pay a fee to the utility
15 not to exceed the amounts specified in 83 Ill. Adm.
16 Code 600.350(b). Fees for testing meters not included
17 in this Section or so located that the cost will be out
18 of proportion to the fee specified will be determined
19 by the Commission upon receipt of a complete
20 description of the case.

21 (3) Commission referee tests. Upon written application
22 to the Commission by any customer, a test will be made of
23 the customer's meter by a representative of the Commission.
24 For such a test, a fee as provided for in subsection (g) (2)
25 shall accompany the application. If the meter is found to
26 be registering more than 1.5% fast on the average when

1 tested as prescribed in 83 Ill. Adm. Code 600.310, the
2 utility shall refund to the customer the amount of the fee.
3 The utility shall in no way disturb the meter after a
4 customer has made an application for a referee test until
5 authority to do so is given by the Commission or the
6 customer in writing.

7 (h) Water and sewer utilities; low usage. Each public
8 utility that provides water and sewer service must establish a
9 unit sewer rate, subject to review by the Commission, that
10 applies only to those customers who use less than 1,000 gallons
11 of water in any billing period.

12 (i) Water and sewer utilities; separate meters. Each public
13 utility that provides water and sewer service must offer
14 separate rates for water and sewer service to any commercial or
15 residential customer who uses separate meters to measure each
16 of those services. In order for the separate rate to apply, a
17 combination of meters must be used to measure the amount of
18 water that reaches the sewer system and the amount of water
19 that does not reach the sewer system.

20 (j) Each water or sewer public utility must disclose on
21 each billing statement any amount billed that is for service
22 provided prior to the date covered by the billing statement.
23 The disclosure must include the dates for which the prior
24 service is being billed. Each billing statement that includes
25 an amount billed for service provided prior to the date covered
26 by the billing statement must disclose the dates for which that

1 amount is billed and must include a copy of the document
2 created under subsection (a) and a statement of current
3 Commission rules concerning unbilled or misbilled service.

4 (k) When the customer is due a refund resulting from
5 payment of an overcharge, the utility shall credit the customer
6 in the amount of overpayment with interest from the date of
7 overpayment by the customer. The rate for interest shall be at
8 the appropriate rate determined by the Commission under 83 Ill.
9 Adm. Code 280.70.

10 (l) Water and sewer public utilities; subcontractors. The
11 Commission shall adopt rules for water and sewer public
12 utilities to provide notice to the customers of the proper kind
13 of identification that a subcontractor must present to the
14 customer, to prohibit a subcontractor from soliciting or
15 receiving payment of any kind for any service provided by the
16 water or sewer public utility or the subcontractor, and to
17 establish sanctions for violations.

18 (m) Water and sewer public utilities; unaccounted-for
19 water. By December 31, 2006, each water public utility shall
20 file tariffs with the Commission to establish the maximum
21 percentage of unaccounted-for water that would be considered in
22 the determination of any rates or surcharges. The rates or
23 surcharges approved for a water public utility shall not
24 include charges for unaccounted-for water in excess of this
25 maximum percentage without well-documented support and
26 justification for the Commission to consider in any request to

1 recover charges in excess of the tariffed maximum percentage.

2 (n) Rate increases; public forums. When any public utility
3 providing water or sewer service proposes a general rate
4 increase, in addition to other notice requirements, the water
5 or sewer public utility must notify its customers of their
6 right to request a public forum. A customer or group of
7 customers must make written request to the Commission for a
8 public forum and must also provide written notification of the
9 request to the customer's municipal or, for unincorporated
10 areas, township government. The Commission, at its discretion,
11 may schedule the public forum. If it is determined that public
12 forums are required for multiple municipalities or townships,
13 the Commission shall schedule these public forums, in locations
14 within approximately 45 minutes drive time of the
15 municipalities or townships for which the public forums have
16 been scheduled. The public utility must provide advance notice
17 of 30 days for each public forum to the governing bodies of
18 those units of local government affected by the increase. The
19 day of each public forum shall be selected so as to encourage
20 the greatest public participation. Each public forum will begin
21 at 7:00 p.m. Reports and comments made during or as a result of
22 each public forum must be made available to the hearing
23 officials and reviewed when drafting a recommended or tentative
24 decision, finding or order pursuant to Section 10-111 of this
25 Act.

26 (Source: P.A. 94-950, eff. 6-27-06.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".