

AN ACT concerning local government.

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

Section 5. The Water Commission Act of 1985 is amended by changing Section 4 and by adding Sections 0.001, 0.001a, and 0.001b as follows:

(70 ILCS 3720/0.001 new)

Sec. 0.001. Commissioners; terms; vacancies. Effective January 1, 2011, the terms of office of the chairperson and all commissioners of water commissions appointed pursuant to this Act shall terminate and the commission shall be reconstituted.

(a) The commissioners shall be appointed as follows:

(1) A chairperson, who shall also serve in the capacity of a commissioner, shall be appointed by the chairperson of the county board of the home county with the advice and consent of the county board.

(2) One commissioner from each county board district within the home county shall be appointed by the chairperson of the county board of the home county with the advice and consent of the county board.

(3) One commissioner from each county board district within the home county shall be appointed by the majority vote of the mayors of those included municipalities that

have the greatest percentage of their respective populations residing within such county board district of the home county. A vice-chairperson of the commission shall be appointed from the commissioners appointed pursuant to this paragraph by a majority vote of these commissioners.

(b) All commissioners shall be residents of the home county or a resident of an included municipality.

(c) The initial commissioners appointed pursuant to subsection (a) shall serve the following terms:

(1) The chairperson shall serve for a term of 6 years.

(2) At the first meeting of the commission held after January 1, 2011, the commissioners appointed pursuant to paragraph (2) of subsection (a) shall determine publicly by lot one-third of their members to serve for a term of 2 years, one-third of their members to serve for a term of 4 years, and one-third of their members to serve for a term of 6 years, any odd number of commissioners so determined by dividing into thirds to serve 6-year terms.

(3) At the first meeting of the commission held after January 1, 2011, the commissioners and the vice-chairperson appointed pursuant to paragraph (3) of subsection (a) shall determine publicly by lot one-third of their members to serve for a term of 2 years, one-third of their members to serve for a term of 4 years, and one-third of their members to serve for a term of 6 years, any odd number of commissioners so determined by dividing into

thirds to serve 6-year terms.

The successor commissioners shall serve for a term of 6 years or until their successors have been appointed and qualified in the same manner as the original appointments.

(d) A commissioner shall be eligible for reappointment upon the expiration of his or her term. A vacancy in the office of a commissioner shall be filled for the balance of the unexpired term by appointment and with the qualifications as to residency in the same manner as the original appointment was made.

(e) A commissioner may be a member of the governing board, an officer, or an employee of the county or any unit of local government located within the county.

(70 ILCS 3720/0.001a new)

Sec. 0.001a. Officers. A water commission established pursuant to this Act shall, by majority vote of the water commissioners, appoint a general manager, a finance director, and a treasurer. The appointment of the general manager, finance director, and treasurer is subject to the advice and consent of the county board of the home county in which the county water commission is located. The positions of finance director and treasurer shall be filled by persons with the necessary financial background and experience to monitor and report on water commission financial matters and budgeting.

(70 ILCS 3720/0.001b new)

Sec. 0.001b. Powers and duties. A water commission has the power and duty to:

(1) establish and define the responsibilities of the commission and its committees;

(2) establish and define the responsibilities of the commission's management and staff;

(3) establish a finance committee to conduct monthly meetings to supervise staff's handling of financial matters and budgeting;

(4) require the finance director and treasurer to report to the finance committee the status of all commission funds and obligations;

(5) require the treasurer to report to the commission any improper or unnecessary expenditures, budgetary errors, or accounting irregularities;

(6) require commission staff to document and comply with standard accounting policies, procedures, and controls to ensure accurate reporting to the finance committee and commission and to identify improper or unnecessary expenditures, budgetary errors, or accounting irregularities;

(7) require the commission's finance director to provide monthly reports regarding the commission's cash and investment position including whether the commission has sufficient cash and investments to pay its debt service, operating expenses, and capital expenditures and

maintain required reserve levels. The information shall include the required funding levels for restricted funds and unrestricted cash and investment balances with comparisons to unrestricted reserves. The information shall also include the type and performance of the commission's investments and description as to whether those investments are in compliance with the commission's investment policies;

(8) require the commission's finance director to provide the commission with detailed information concerning the commission's operating performance including the budgeted and actual monthly amounts for water sales, water costs, and other operating expenses;

(9) require commission staff to provide the commission with detailed information regarding the progress of capital projects including whether the percentage of completion and costs incurred are timely;

(10) require the commission's staff accountant to perform bank reconciliations and general ledger account reconciliations on a monthly basis; the finance director shall review these reconciliations and provide them to the treasurer and the finance committee on a monthly basis;

(11) establish policies to ensure the proper segregation of the financial duties performed by employees;

(12) restrict access to the established accounting

systems and general ledger systems and provide for adequate segregation of duties so that no single person has sole access and control over the accounting system or the general ledger system;

(13) require that the finance director review and approve all manual journal entries and supporting documentation; the treasurer shall review and approve the finance director's review and approval of manual journal entries and supporting documentation;

(14) require that the finance director closely monitor the progress of construction projects;

(15) require that the finance director carefully document any GAAP analysis or communications with GASB and provide full and timely reports for the same to the finance committee; and

(16) retain an outside independent auditor to perform a comprehensive audit of the water commission's financial activities for each fiscal year in conformance with the standard practices of the Association of Governmental Auditors; within 30 days after the independent audit is completed, the results of the audit must be sent to the county auditor.

(70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

Sec. 4. Taxes.

(a) The board of commissioners of any county water

commission may, by ordinance, impose throughout the territory of the commission any or all of the taxes provided in this Section for its corporate purposes. However, no county water commission may impose any such tax unless the commission certifies the proposition of imposing the tax to the proper election officials, who shall submit the proposition to the voters residing in the territory at an election in accordance with the general election law, and the proposition has been approved by a majority of those voting on the proposition.

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

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Shall the (insert corporate	
name of county water commission)	YES
impose (state type of tax or	-----
taxes to be imposed) at the	NO
rate of 1/4%?	

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Taxes imposed under this Section and civil penalties imposed incident thereto shall be collected and enforced by the State Department of Revenue. The Department shall have the power to administer and enforce the taxes and to determine all rights for refunds for erroneous payments of the taxes.

(b) The board of commissioners may impose a County Water Commission Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property at retail

in the territory of the commission at a rate of 1/4% of the gross receipts from the sales made in the course of such business within the territory. The tax imposed under this paragraph and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax except that food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicine, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, shall not be subject



to tax hereunder), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this paragraph may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes that sellers are required to collect under the Use Tax Act and under subsection (e) of Section 4.03 of the Regional Transportation Authority Act, in accordance with such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of a county water commission tax fund established under paragraph (g) of this Section.

For the purpose of determining whether a tax authorized under this paragraph is applicable, a retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail

at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

If a tax is imposed under this subsection (b) a tax shall also be imposed under subsections (c) and (d) of this Section.

No tax shall be imposed or collected under this subsection on the sale of a motor vehicle in this State to a resident of another state if that motor vehicle will not be titled in this State.

Nothing in this paragraph shall be construed to authorize a county water commission to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

(c) If a tax has been imposed under subsection (b), a County Water Commission Service Occupation Tax shall also be imposed upon all persons engaged, in the territory of the commission, in the business of making sales of service, who, as an incident to making the sales of service, transfer tangible personal property within the territory. The tax rate shall be 1/4% of the selling price of tangible personal property so transferred within the territory. The tax imposed under this paragraph and all civil penalties that may be assessed as an

incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2 (except that the reference to State in the definition of supplier maintaining a place of business in this State shall mean the territory of the commission), 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax except that food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, shall not be subject to tax hereunder), 4 (except that the reference to the State shall be to the territory of the

commission), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the commission), 9 (except as to the disposition of taxes and penalties collected and except that the returned merchandise credit for this tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the territory of the commission), the first paragraph of Section 15, 15.5, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this paragraph may reimburse themselves for their serviceman's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, and any tax for which servicemen may be liable under subsection (f) of Sec. 4.03 of the Regional Transportation Authority Act, in accordance with such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification

from the Department. The refund shall be paid by the State Treasurer out of a county water commission tax fund established under paragraph (g) of this Section.

Nothing in this paragraph shall be construed to authorize a county water commission to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State.

(d) If a tax has been imposed under subsection (b), a tax shall also imposed upon the privilege of using, in the territory of the commission, any item of tangible personal property that is purchased outside the territory at retail from a retailer, and that is titled or registered with an agency of this State's government, at a rate of 1/4% of the selling price of the tangible personal property within the territory, as "selling price" is defined in the Use Tax Act. The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the territory. The tax shall be collected by the Department of Revenue for a county water commission. The tax must be paid to the State, or an exemption determination must be obtained from the Department of Revenue, before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or the State officer with whom, the tangible personal property must be titled or registered if the

Department and the State agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this paragraph; to collect all taxes, penalties and interest due hereunder; to dispose of taxes, penalties and interest so collected in the manner hereinafter provided; and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of, and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 through 3-80 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers, and except that food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, shall not be subject

to tax hereunder), 4, 11, 12, 12a, 14, 15, 19 (except the portions pertaining to claims by retailers and except the last paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act and Section 3-7 of the Uniform Penalty and Interest Act that are not inconsistent with this paragraph, as fully as if those provisions were set forth herein.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of a county water commission tax fund established under paragraph (g) of this Section.

(e) A certificate of registration issued by the State Department of Revenue to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit the registrant to engage in a business that is taxed under the tax imposed under paragraphs (b), (c) or (d) of this Section and no additional registration shall be required under the tax. A certificate issued under the Use Tax Act or the Service Use Tax Act shall be applicable with regard to any tax imposed under paragraph (c) of this Section.

(f) Any ordinance imposing or discontinuing any tax under this Section shall be adopted and a certified copy thereof filed with the Department on or before June 1, whereupon the

Department of Revenue shall proceed to administer and enforce this Section on behalf of the county water commission as of September 1 next following the adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing.

(g) The State Department of Revenue shall, upon collecting any taxes as provided in this Section, pay the taxes over to the State Treasurer as trustee for the commission. The taxes shall be held in a trust fund outside the State Treasury. On or before the 25th day of each calendar month, the State Department of Revenue shall prepare and certify to the Comptroller of the State of Illinois the amount to be paid to the commission, which shall be the then balance in the fund, less any amount determined by the Department to be necessary for the payment of refunds. Within 10 days after receipt by the Comptroller of the certification of the amount to be paid to



the commission, the Comptroller shall cause an order to be drawn for the payment for the amount in accordance with the direction in the certification.

(h) Beginning June 1, 2016, any tax imposed pursuant to this Section may no longer be imposed or collected, unless a continuation of the tax is approved by the voters at a referendum as set forth in this Section.

(Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

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