



Sen. A. J. Wilhelmi

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1 AMENDMENT TO SENATE BILL 83

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 83, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Public Labor Relations Act is  
6 amended by changing Section 3 as follows:

7 (5 ILCS 315/3) (from Ch. 48, par. 1603)

8 Sec. 3. Definitions. As used in this Act, unless the  
9 context otherwise requires:

10 (a) "Board" means the Illinois Labor Relations Board or,  
11 with respect to a matter over which the jurisdiction of the  
12 Board is assigned to the State Panel or the Local Panel under  
13 Section 5, the panel having jurisdiction over the matter.

14 (b) "Collective bargaining" means bargaining over terms  
15 and conditions of employment, including hours, wages, and other  
16 conditions of employment, as detailed in Section 7 and which

1 are not excluded by Section 4.

2 (c) "Confidential employee" means an employee who, in the  
3 regular course of his or her duties, assists and acts in a  
4 confidential capacity to persons who formulate, determine, and  
5 effectuate management policies with regard to labor relations  
6 or who, in the regular course of his or her duties, has  
7 authorized access to information relating to the effectuation  
8 or review of the employer's collective bargaining policies.

9 (d) "Craft employees" means skilled journeymen, crafts  
10 persons, and their apprentices and helpers.

11 (e) "Essential services employees" means those public  
12 employees performing functions so essential that the  
13 interruption or termination of the function will constitute a  
14 clear and present danger to the health and safety of the  
15 persons in the affected community.

16 (f) "Exclusive representative", except with respect to  
17 non-State fire fighters and paramedics employed by fire  
18 departments and fire protection districts, non-State peace  
19 officers, and peace officers in the Department of State Police,  
20 means the labor organization that has been (i) designated by  
21 the Board as the representative of a majority of public  
22 employees in an appropriate bargaining unit in accordance with  
23 the procedures contained in this Act, (ii) historically  
24 recognized by the State of Illinois or any political  
25 subdivision of the State before July 1, 1984 (the effective  
26 date of this Act) as the exclusive representative of the

1 employees in an appropriate bargaining unit, (iii) after July  
2 1, 1984 (the effective date of this Act) recognized by an  
3 employer upon evidence, acceptable to the Board, that the labor  
4 organization has been designated as the exclusive  
5 representative by a majority of the employees in an appropriate  
6 bargaining unit; (iv) recognized as the exclusive  
7 representative of personal care attendants or personal  
8 assistants under Executive Order 2003-8 prior to the effective  
9 date of this amendatory Act of the 93rd General Assembly, and  
10 the organization shall be considered to be the exclusive  
11 representative of the personal care attendants or personal  
12 assistants as defined in this Section; or (v) recognized as the  
13 exclusive representative of child and day care home providers,  
14 including licensed and license exempt providers, pursuant to an  
15 election held under Executive Order 2005-1 prior to the  
16 effective date of this amendatory Act of the 94th General  
17 Assembly, and the organization shall be considered to be the  
18 exclusive representative of the child and day care home  
19 providers as defined in this Section.

20 With respect to non-State fire fighters and paramedics  
21 employed by fire departments and fire protection districts,  
22 non-State peace officers, and peace officers in the Department  
23 of State Police, "exclusive representative" means the labor  
24 organization that has been (i) designated by the Board as the  
25 representative of a majority of peace officers or fire fighters  
26 in an appropriate bargaining unit in accordance with the

1 procedures contained in this Act, (ii) historically recognized  
2 by the State of Illinois or any political subdivision of the  
3 State before January 1, 1986 (the effective date of this  
4 amendatory Act of 1985) as the exclusive representative by a  
5 majority of the peace officers or fire fighters in an  
6 appropriate bargaining unit, or (iii) after January 1, 1986  
7 (the effective date of this amendatory Act of 1985) recognized  
8 by an employer upon evidence, acceptable to the Board, that the  
9 labor organization has been designated as the exclusive  
10 representative by a majority of the peace officers or fire  
11 fighters in an appropriate bargaining unit.

12 Where a historical pattern of representation exists for the  
13 workers of a water system that was owned by a public utility,  
14 as defined in Section 3-105 of the Public Utilities Act, prior  
15 to becoming certified employees of a municipality or  
16 municipalities once the municipality or municipalities have  
17 acquired the water system as authorized in Section 11-124-5 of  
18 the Illinois Municipal Code, the Board shall find the labor  
19 organization that has historically represented the workers to  
20 be the exclusive representative under this Act, and shall find  
21 the unit represented by the exclusive representative to be the  
22 appropriate unit.

23 (g) "Fair share agreement" means an agreement between the  
24 employer and an employee organization under which all or any of  
25 the employees in a collective bargaining unit are required to  
26 pay their proportionate share of the costs of the collective

1 bargaining process, contract administration, and pursuing  
2 matters affecting wages, hours, and other conditions of  
3 employment, but not to exceed the amount of dues uniformly  
4 required of members. The amount certified by the exclusive  
5 representative shall not include any fees for contributions  
6 related to the election or support of any candidate for  
7 political office. Nothing in this subsection (g) shall preclude  
8 an employee from making voluntary political contributions in  
9 conjunction with his or her fair share payment.

10 (g-1) "Fire fighter" means, for the purposes of this Act  
11 only, any person who has been or is hereafter appointed to a  
12 fire department or fire protection district or employed by a  
13 state university and sworn or commissioned to perform fire  
14 fighter duties or paramedic duties, except that the following  
15 persons are not included: part-time fire fighters, auxiliary,  
16 reserve or voluntary fire fighters, including paid on-call fire  
17 fighters, clerks and dispatchers or other civilian employees of  
18 a fire department or fire protection district who are not  
19 routinely expected to perform fire fighter duties, or elected  
20 officials.

21 (g-2) "General Assembly of the State of Illinois" means the  
22 legislative branch of the government of the State of Illinois,  
23 as provided for under Article IV of the Constitution of the  
24 State of Illinois, and includes but is not limited to the House  
25 of Representatives, the Senate, the Speaker of the House of  
26 Representatives, the Minority Leader of the House of

1 Representatives, the President of the Senate, the Minority  
2 Leader of the Senate, the Joint Committee on Legislative  
3 Support Services and any legislative support services agency  
4 listed in the Legislative Commission Reorganization Act of  
5 1984.

6 (h) "Governing body" means, in the case of the State, the  
7 State Panel of the Illinois Labor Relations Board, the Director  
8 of the Department of Central Management Services, and the  
9 Director of the Department of Labor; the county board in the  
10 case of a county; the corporate authorities in the case of a  
11 municipality; and the appropriate body authorized to provide  
12 for expenditures of its funds in the case of any other unit of  
13 government.

14 (i) "Labor organization" means any organization in which  
15 public employees participate and that exists for the purpose,  
16 in whole or in part, of dealing with a public employer  
17 concerning wages, hours, and other terms and conditions of  
18 employment, including the settlement of grievances.

19 (j) "Managerial employee" means an individual who is  
20 engaged predominantly in executive and management functions  
21 and is charged with the responsibility of directing the  
22 effectuation of management policies and practices.

23 (k) "Peace officer" means, for the purposes of this Act  
24 only, any persons who have been or are hereafter appointed to a  
25 police force, department, or agency and sworn or commissioned  
26 to perform police duties, except that the following persons are

1 not included: part-time police officers, special police  
2 officers, auxiliary police as defined by Section 3.1-30-20 of  
3 the Illinois Municipal Code, night watchmen, "merchant  
4 police", court security officers as defined by Section 3-6012.1  
5 of the Counties Code, temporary employees, traffic guards or  
6 wardens, civilian parking meter and parking facilities  
7 personnel or other individuals specially appointed to aid or  
8 direct traffic at or near schools or public functions or to aid  
9 in civil defense or disaster, parking enforcement employees who  
10 are not commissioned as peace officers and who are not armed  
11 and who are not routinely expected to effect arrests, parking  
12 lot attendants, clerks and dispatchers or other civilian  
13 employees of a police department who are not routinely expected  
14 to effect arrests, or elected officials.

15 (l) "Person" includes one or more individuals, labor  
16 organizations, public employees, associations, corporations,  
17 legal representatives, trustees, trustees in bankruptcy,  
18 receivers, or the State of Illinois or any political  
19 subdivision of the State or governing body, but does not  
20 include the General Assembly of the State of Illinois or any  
21 individual employed by the General Assembly of the State of  
22 Illinois.

23 (m) "Professional employee" means any employee engaged in  
24 work predominantly intellectual and varied in character rather  
25 than routine mental, manual, mechanical or physical work;  
26 involving the consistent exercise of discretion and adjustment

1 in its performance; of such a character that the output  
2 produced or the result accomplished cannot be standardized in  
3 relation to a given period of time; and requiring advanced  
4 knowledge in a field of science or learning customarily  
5 acquired by a prolonged course of specialized intellectual  
6 instruction and study in an institution of higher learning or a  
7 hospital, as distinguished from a general academic education or  
8 from apprenticeship or from training in the performance of  
9 routine mental, manual, or physical processes; or any employee  
10 who has completed the courses of specialized intellectual  
11 instruction and study prescribed in this subsection (m) and is  
12 performing related work under the supervision of a professional  
13 person to qualify to become a professional employee as defined  
14 in this subsection (m).

15 (n) "Public employee" or "employee", for the purposes of  
16 this Act, means any individual employed by a public employer,  
17 including (i) interns and residents at public hospitals, (ii)  
18 as of the effective date of this amendatory Act of the 93rd  
19 General Assembly, but not before, personal care attendants and  
20 personal assistants working under the Home Services Program  
21 under Section 3 of the Disabled Persons Rehabilitation Act,  
22 subject to the limitations set forth in this Act and in the  
23 Disabled Persons Rehabilitation Act, and (iii) as of the  
24 effective date of this amendatory Act of the 94th General  
25 Assembly, but not before, child and day care home providers  
26 participating in the child care assistance program under



1 Section 9A-11 of the Illinois Public Aid Code, subject to the  
2 limitations set forth in this Act and in Section 9A-11 of the  
3 Illinois Public Aid Code, but excluding all of the following:  
4 employees of the General Assembly of the State of Illinois;  
5 elected officials; executive heads of a department; members of  
6 boards or commissions; the Executive Inspectors General; any  
7 special Executive Inspectors General; employees of each Office  
8 of an Executive Inspector General; commissioners and employees  
9 of the Executive Ethics Commission; the Auditor General's  
10 Inspector General; employees of the Office of the Auditor  
11 General's Inspector General; the Legislative Inspector  
12 General; any special Legislative Inspectors General; employees  
13 of the Office of the Legislative Inspector General;  
14 commissioners and employees of the Legislative Ethics  
15 Commission; employees of any agency, board or commission  
16 created by this Act; employees appointed to State positions of  
17 a temporary or emergency nature; all employees of school  
18 districts and higher education institutions except  
19 firefighters and peace officers employed by a state university  
20 and except peace officers employed by a school district in its  
21 own police department in existence on the effective date of  
22 this amendatory Act of the 96th General Assembly; managerial  
23 employees; short-term employees; confidential employees;  
24 independent contractors; and supervisors except as provided in  
25 this Act.

26 Personal care attendants and personal assistants shall not

1 be considered public employees for any purposes not  
2 specifically provided for in the amendatory Act of the 93rd  
3 General Assembly, including but not limited to, purposes of  
4 vicarious liability in tort and purposes of statutory  
5 retirement or health insurance benefits. Personal care  
6 attendants and personal assistants shall not be covered by the  
7 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

8 Child and day care home providers shall not be considered  
9 public employees for any purposes not specifically provided for  
10 in this amendatory Act of the 94th General Assembly, including  
11 but not limited to, purposes of vicarious liability in tort and  
12 purposes of statutory retirement or health insurance benefits.  
13 Child and day care home providers shall not be covered by the  
14 State Employees Group Insurance Act of 1971.

15 Notwithstanding Section 9, subsection (c), or any other  
16 provisions of this Act, all peace officers above the rank of  
17 captain in municipalities with more than 1,000,000 inhabitants  
18 shall be excluded from this Act.

19 (o) Except as otherwise in subsection (o-5), "public  
20 employer" or "employer" means the State of Illinois; any  
21 political subdivision of the State, unit of local government or  
22 school district; authorities including departments, divisions,  
23 bureaus, boards, commissions, or other agencies of the  
24 foregoing entities; and any person acting within the scope of  
25 his or her authority, express or implied, on behalf of those  
26 entities in dealing with its employees. As of the effective

1 date of the amendatory Act of the 93rd General Assembly, but  
2 not before, the State of Illinois shall be considered the  
3 employer of the personal care attendants and personal  
4 assistants working under the Home Services Program under  
5 Section 3 of the Disabled Persons Rehabilitation Act, subject  
6 to the limitations set forth in this Act and in the Disabled  
7 Persons Rehabilitation Act. The State shall not be considered  
8 to be the employer of personal care attendants and personal  
9 assistants for any purposes not specifically provided for in  
10 this amendatory Act of the 93rd General Assembly, including but  
11 not limited to, purposes of vicarious liability in tort and  
12 purposes of statutory retirement or health insurance benefits.  
13 Personal care attendants and personal assistants shall not be  
14 covered by the State Employees Group Insurance Act of 1971 (5  
15 ILCS 375/). As of the effective date of this amendatory Act of  
16 the 94th General Assembly but not before, the State of Illinois  
17 shall be considered the employer of the day and child care home  
18 providers participating in the child care assistance program  
19 under Section 9A-11 of the Illinois Public Aid Code, subject to  
20 the limitations set forth in this Act and in Section 9A-11 of  
21 the Illinois Public Aid Code. The State shall not be considered  
22 to be the employer of child and day care home providers for any  
23 purposes not specifically provided for in this amendatory Act  
24 of the 94th General Assembly, including but not limited to,  
25 purposes of vicarious liability in tort and purposes of  
26 statutory retirement or health insurance benefits. Child and

1 day care home providers shall not be covered by the State  
2 Employees Group Insurance Act of 1971.

3 "Public employer" or "employer" as used in this Act,  
4 however, does not mean and shall not include the General  
5 Assembly of the State of Illinois, the Executive Ethics  
6 Commission, the Offices of the Executive Inspectors General,  
7 the Legislative Ethics Commission, the Office of the  
8 Legislative Inspector General, the Office of the Auditor  
9 General's Inspector General, and educational employers or  
10 employers as defined in the Illinois Educational Labor  
11 Relations Act, except with respect to a state university in its  
12 employment of firefighters and peace officers and except with  
13 respect to a school district in the employment of peace  
14 officers in its own police department in existence on the  
15 effective date of this amendatory Act of the 96th General  
16 Assembly. County boards and county sheriffs shall be designated  
17 as joint or co-employers of county peace officers appointed  
18 under the authority of a county sheriff. Nothing in this  
19 subsection (o) shall be construed to prevent the State Panel or  
20 the Local Panel from determining that employers are joint or  
21 co-employers.

22 (o-5) With respect to wages, fringe benefits, hours,  
23 holidays, vacations, proficiency examinations, sick leave, and  
24 other conditions of employment, the public employer of public  
25 employees who are court reporters, as defined in the Court  
26 Reporters Act, shall be determined as follows:

1           (1) For court reporters employed by the Cook County  
2           Judicial Circuit, the chief judge of the Cook County  
3           Circuit Court is the public employer and employer  
4           representative.

5           (2) For court reporters employed by the 12th, 18th,  
6           19th, and, on and after December 4, 2006, the 22nd judicial  
7           circuits, a group consisting of the chief judges of those  
8           circuits, acting jointly by majority vote, is the public  
9           employer and employer representative.

10          (3) For court reporters employed by all other judicial  
11          circuits, a group consisting of the chief judges of those  
12          circuits, acting jointly by majority vote, is the public  
13          employer and employer representative.

14          (p) "Security employee" means an employee who is  
15          responsible for the supervision and control of inmates at  
16          correctional facilities. The term also includes other  
17          non-security employees in bargaining units having the majority  
18          of employees being responsible for the supervision and control  
19          of inmates at correctional facilities.

20          (q) "Short-term employee" means an employee who is employed  
21          for less than 2 consecutive calendar quarters during a calendar  
22          year and who does not have a reasonable assurance that he or  
23          she will be rehired by the same employer for the same service  
24          in a subsequent calendar year.

25          (r) "Supervisor" is an employee whose principal work is  
26          substantially different from that of his or her subordinates

1 and who has authority, in the interest of the employer, to  
2 hire, transfer, suspend, lay off, recall, promote, discharge,  
3 direct, reward, or discipline employees, to adjust their  
4 grievances, or to effectively recommend any of those actions,  
5 if the exercise of that authority is not of a merely routine or  
6 clerical nature, but requires the consistent use of independent  
7 judgment. Except with respect to police employment, the term  
8 "supervisor" includes only those individuals who devote a  
9 preponderance of their employment time to exercising that  
10 authority, State supervisors notwithstanding. In addition, in  
11 determining supervisory status in police employment, rank  
12 shall not be determinative. The Board shall consider, as  
13 evidence of bargaining unit inclusion or exclusion, the common  
14 law enforcement policies and relationships between police  
15 officer ranks and certification under applicable civil service  
16 law, ordinances, personnel codes, or Division 2.1 of Article 10  
17 of the Illinois Municipal Code, but these factors shall not be  
18 the sole or predominant factors considered by the Board in  
19 determining police supervisory status.

20 Notwithstanding the provisions of the preceding paragraph,  
21 in determining supervisory status in fire fighter employment,  
22 no fire fighter shall be excluded as a supervisor who has  
23 established representation rights under Section 9 of this Act.  
24 Further, in new fire fighter units, employees shall consist of  
25 fire fighters of the rank of company officer and below. If a  
26 company officer otherwise qualifies as a supervisor under the

1 preceding paragraph, however, he or she shall not be included  
2 in the fire fighter unit. If there is no rank between that of  
3 chief and the highest company officer, the employer may  
4 designate a position on each shift as a Shift Commander, and  
5 the persons occupying those positions shall be supervisors. All  
6 other ranks above that of company officer shall be supervisors.

7 (s) (1) "Unit" means a class of jobs or positions that are  
8 held by employees whose collective interests may suitably  
9 be represented by a labor organization for collective  
10 bargaining. Except with respect to non-State fire fighters  
11 and paramedics employed by fire departments and fire  
12 protection districts, non-State peace officers, and peace  
13 officers in the Department of State Police, a bargaining  
14 unit determined by the Board shall not include both  
15 employees and supervisors, or supervisors only, except as  
16 provided in paragraph (2) of this subsection (s) and except  
17 for bargaining units in existence on July 1, 1984 (the  
18 effective date of this Act). With respect to non-State fire  
19 fighters and paramedics employed by fire departments and  
20 fire protection districts, non-State peace officers, and  
21 peace officers in the Department of State Police, a  
22 bargaining unit determined by the Board shall not include  
23 both supervisors and nonsupervisors, or supervisors only,  
24 except as provided in paragraph (2) of this subsection (s)  
25 and except for bargaining units in existence on January 1,  
26 1986 (the effective date of this amendatory Act of 1985). A

1 bargaining unit determined by the Board to contain peace  
2 officers shall contain no employees other than peace  
3 officers unless otherwise agreed to by the employer and the  
4 labor organization or labor organizations involved.  
5 Notwithstanding any other provision of this Act, a  
6 bargaining unit, including a historical bargaining unit,  
7 containing sworn peace officers of the Department of  
8 Natural Resources (formerly designated the Department of  
9 Conservation) shall contain no employees other than such  
10 sworn peace officers upon the effective date of this  
11 amendatory Act of 1990 or upon the expiration date of any  
12 collective bargaining agreement in effect upon the  
13 effective date of this amendatory Act of 1990 covering both  
14 such sworn peace officers and other employees.

15 (2) Notwithstanding the exclusion of supervisors from  
16 bargaining units as provided in paragraph (1) of this  
17 subsection (s), a public employer may agree to permit its  
18 supervisory employees to form bargaining units and may  
19 bargain with those units. This Act shall apply if the  
20 public employer chooses to bargain under this subsection.

21 (3) Public employees who are court reporters, as  
22 defined in the Court Reporters Act, shall be divided into 3  
23 units for collective bargaining purposes. One unit shall be  
24 court reporters employed by the Cook County Judicial  
25 Circuit; one unit shall be court reporters employed by the  
26 12th, 18th, 19th, and, on and after December 4, 2006, the



1           22nd judicial circuits; and one unit shall be court  
2           reporters employed by all other judicial circuits.

3           (Source: P.A. 95-331, eff. 8-21-07; 96-1257, eff. 7-23-10.)

4           Section 10. The Illinois Municipal Code is amended by  
5           changing Section 11-124-5 as follows:

6           (65 ILCS 5/11-124-5)

7           Sec. 11-124-5. 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 all or part of the  
16          water system, in accordance with this Section. Unless it  
17          complies with the provisions set forth in this Section, a  
18          municipality is not permitted to acquire by eminent domain that  
19          portion of a system located in another incorporated  
20          municipality without agreement of that municipality, but this  
21          provision shall not prevent the acquisition of that portion of  
22          the water system existing within the acquiring municipality.

23          (b) Where a water system that is owned by a public utility  
24          (as defined in the Public 16 Utilities Act) provides water to

1 customers located in 2 or more municipalities, the system may  
2 be acquired by a majority ~~either or all~~ of the municipalities  
3 by eminent domain ~~if there is in existence an intergovernmental~~  
4 ~~agreement between the municipalities served providing for~~  
5 ~~acquisition.~~ If the system is to be acquired by more than one  
6 municipality, then there must be an intergovernmental  
7 agreement in existence between the acquiring municipalities  
8 providing for the acquisition.

9 (c) If a water system that is owned by a public utility  
10 provides water to customers located in one or more  
11 municipalities and also to customers in an unincorporated area  
12 and if at least 70% of the customers of the system or portion  
13 thereof are located within the municipality or municipalities,  
14 then the system, or portion thereof as determined by the  
15 corporate authorities, may be acquired, using eminent domain or  
16 otherwise, by either a municipality under subsection (a) or an  
17 entity created by agreement between municipalities where at  
18 least 70% of the customers reside. For the purposes of  
19 determining "customers of the system", only retail customers  
20 directly billed by the company shall be included in the  
21 computation. The number of customers of the system most  
22 recently reported to the Illinois Commerce Commission for any  
23 calendar year preceding the year a resolution is passed by a  
24 municipality or municipalities expressing preliminary intent  
25 to purchase the water system or portion thereof shall be  
26 presumed to be the total number of customers within the system.

1 The public utility shall provide information relative to the  
2 number of customers within each municipality and within the  
3 system within 60 days after any such request by a municipality.

4 (d) In the case of acquisition by a municipality or  
5 municipalities or a public entity created by law to own or  
6 operate a water system under this Section, service and water  
7 supply must be provided to persons who are customers of the  
8 system on the effective date of this amendatory Act of the 94th  
9 General Assembly without discrimination based on whether the  
10 customer is located within or outside of the boundaries of the  
11 acquiring municipality or municipalities or entity, and a  
12 supply contract existing on the effective date of this  
13 amendatory Act of the 94th General Assembly must be honored by  
14 an acquiring municipality, municipalities, or entity according  
15 to the terms so long as the agreement does not conflict with  
16 any other existing agreement.

17 (e) For the purposes of this Section, "system" includes all  
18 assets reasonably necessary to provide water service to a  
19 contiguous or compact geographical service area or to an area  
20 served by a common pipeline and include, but are not limited  
21 to, interests in real estate, all wells, pipes, treatment  
22 plants, pumps and other physical apparatus, data and records of  
23 facilities and customers, fire hydrants, equipment, or  
24 vehicles and also includes service agreements and obligations  
25 derived from use of the assets, whether or not the assets are  
26 contiguous to the municipality, municipalities, or entity

1 created for the purpose of owning or operating a water system.

2 (f) Before making a good faith offer, a municipality may  
3 pass a resolution of intent to study the feasibility of  
4 purchasing or exercising its power of eminent domain to acquire  
5 any water system or water works, sewer system or sewer works,  
6 or combined water and sewer system or works, or part thereof.  
7 Upon the passage of such a resolution, the municipality shall  
8 have the right to review and inspect all financial and other  
9 records, and both corporeal and incorporeal assets of such  
10 utility related to the condition and the operation of the  
11 system or works, or part thereof, as part of the study and  
12 determination of feasibility of the proposed acquisition by  
13 purchase or exercise of the power of eminent domain, and the  
14 utility shall make knowledgeable persons who have access to all  
15 relevant facts and information regarding the subject system or  
16 works available to answer inquiries related to the study and  
17 determination.

18 The right to review and inspect shall be upon reasonable  
19 notice to the utility, with reasonable inspection and review  
20 time limitations and reasonable response times for production,  
21 copying, and answer. In addition, the utility may utilize a  
22 reasonable security protocol for personnel on the  
23 municipality's physical inspection team.

24 In the absence of other agreement, the utility must respond  
25 to any notice by the municipality concerning its review and  
26 inspection within 21 days after receiving the notice. The

1 review and inspection of the assets of the company shall be  
2 over such period of time and carried out in such manner as is  
3 reasonable under the circumstances.

4 Information requested that is not privileged or protected  
5 from discovery under the Illinois Code of Civil Procedure but  
6 is reasonably claimed to be proprietary, including, without  
7 limitation, information that constitutes trade secrets or  
8 information that involves system security concerns, shall be  
9 provided, but shall not be considered a public record and shall  
10 be kept confidential by the municipality.

11 In addition, the municipality must, upon request,  
12 reimburse the utility for the actual, reasonable costs and  
13 expenses, excluding attorneys' fees, incurred by the utility as  
14 a result of the municipality's inspection and requests for  
15 information. Upon written request, the utility shall issue a  
16 statement itemizing, with reasonable detail, the costs and  
17 expenses for which reimbursement is sought by the utility.  
18 Where such written request for a statement has been made, no  
19 payment shall be required until 30 days after receipt of the  
20 statement. Such reimbursement by the municipality shall be  
21 considered income for purposes of any rate proceeding or other  
22 financial request before the Illinois Commerce Commission by  
23 the utility.

24 The municipality and the utility shall cooperate to resolve  
25 any dispute arising under this subsection. In the event the  
26 dispute under this subsection cannot be resolved, either party

1 may request relief from the circuit court in any county in  
2 which the water system is located, with the prevailing party to  
3 be awarded such relief as the court deems appropriate under the  
4 discovery abuse sanctions currently set forth in the Illinois  
5 Code of Civil Procedure.

6 The municipality's right to inspect physical assets and  
7 records in connection with the purpose of this Section shall  
8 not be exercised with respect to any system more than one time  
9 during a 5-year period, unless a substantial change in the size  
10 of the system or condition of the operating assets of the  
11 system has occurred since the previous inspection. Rights under  
12 franchise agreements and other agreements or statutory or  
13 regulatory provisions are not limited by this Section and are  
14 preserved.

15 The passage of time between an inspection of the utilities  
16 and physical assets and the making of a good faith offer or  
17 initiation of an eminent domain action because of the limit  
18 placed on inspections by this subsection shall not be used as a  
19 basis for challenging the good faith of any offer or be used as  
20 the basis for attacking any appraisal, expert, argument, or  
21 position before a court related to an acquisition by purchase  
22 or eminent domain.

23 (g) Notwithstanding any other provision of law, the  
24 Illinois Commerce Commission has no approval authority of any  
25 eminent domain action brought by any governmental entity or  
26 combination of such entities to acquire water systems or water

1 works.

2 (h) The provisions of this Section are severable under  
3 Section 1.31 of the Statute on Statutes.

4 (i) This Section does not apply to any public utility  
5 company that, on January 1, 2006, supplied a total of 70,000 or  
6 fewer meter connections in the State unless and until (i) that  
7 public utility company receives approval from the Illinois  
8 Commerce Commission under Section 7-204 of the Public Utilities  
9 Act for the reorganization of the public utility company or  
10 (ii) the majority control of the company changes through a  
11 stock sale, a sale of assets, a merger (other than an internal  
12 reorganization) or otherwise. For the purpose of this Section,  
13 "public utility company" means the public utility providing  
14 water service and includes any of its corporate parents,  
15 subsidiaries, or affiliates possessing a franchised water  
16 service in the State.

17 (j) Any contractor or subcontractor that performs work on a  
18 water system acquired by a municipality or municipalities under  
19 this Section shall comply with the requirements of Section  
20 30-22 of the Illinois Procurement Code. The contractor or  
21 subcontractor shall submit evidence of compliance with Section  
22 30-22 to the municipality or municipalities.

23 (k) The municipality or municipalities acquiring the water  
24 system shall offer available employee positions to the  
25 qualified employees of the acquired water system.

26 (Source: P.A. 94-1007, eff. 1-1-07.)

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