



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0463

by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

220 ILCS 5/5-119 new

Amends the Public Utilities Act. Adds provisions concerning pricing of water assets, meaning a water utility or water distribution company and its tangible and intangible properties, by an Illinois governmental purchaser. Provides that the determination of value or price for the purchase or acquisition of water assets by the Illinois governmental purchaser: may not distinguish, penalize, or increase the value or price to be paid by an Illinois governmental purchaser based on specified characteristics of the purchaser; or may not use as a factor any excess of replacement cost new minus depreciation over the value of price based on fair market value of the water assets, as determined by what a willing buyer in the private sector would value, price, or pay for the water assets. Provides for application of the provisions to contracts already in place. Contains a severability clause. Effective immediately.

LRB100 05572 RJF 15586 b

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by adding
5 Section 5-119 as follows:

6 (220 ILCS 5/5-119 new)

7 Sec. 5-119. Prevent unfairness in pricing of water assets
8 acquired by governmental purchasers.

9 (a) In this Section:

10 "Illinois governmental purchaser" means the State of
11 Illinois, any State agency, department, or division, or any
12 municipality, county, city, township, water district, or other
13 body politic or political subdivision of the State of Illinois.

14 "Water assets" means a water utility or water distribution
15 company or any of its assets, facilities, piping, pumping and
16 lift stations, water sources and rights, real estate,
17 easements, intangibles, franchises, or other properties.

18 (b) In determining the value or price for the purchase or
19 acquisition of water assets by an Illinois governmental
20 purchaser, whether in an eminent domain proceeding or any other
21 exercise of a right possessed by an Illinois governmental
22 purchaser to purchase or acquire water assets (by contract or
23 statute), the determination of value or price to be paid for

1 the water assets:

2 (1) may not distinguish, penalize, or increase the
3 value or price to be paid by an Illinois governmental
4 purchaser for the purchase or acquisition of water assets
5 because the purchaser or acquirer: is an Illinois
6 governmental purchaser or public body; does not pay income,
7 property, or other taxes; has or may have taxing or
8 ratemaking authority; or has other supposed or real
9 advantages as an Illinois governmental purchaser over a
10 private purchaser; or

11 (2) may not use as a factor any excess of replacement
12 cost new minus depreciation over the value or price based
13 on fair market value of the water assets to be acquired or
14 purchased, as determined by what a willing buyer in the
15 private sector would value, price, or pay for the water
16 assets.

17 (c) The intent of paragraphs (1) and (2) of subsection (b)
18 is to put an Illinois governmental purchaser on equal footing
19 for valuation and price determination purposes with private
20 purchasers in a free and open marketplace with respect to
21 determining values or prices to be paid for water assets and
22 actual valuing, pricing, and purchasing water assets.

23 (d) This Section shall apply to all valuations or price
24 determinations made or to be made or determined after the
25 effective date of this amendatory Act of the 100th General
26 Assembly, except: (1) in the case of paragraph (1) of

1 subsection (b), for contracts already in place on the effective
2 date of this amendatory Act of the 100th General Assembly that
3 expressly require or provide that the value of the water assets
4 be priced or valued on a basis that takes into account that the
5 benefits of the purchaser as a public body over or as opposed
6 to a private body; and (2) in the case of paragraph (2) of
7 subsection (b), for contracts already in place on the effective
8 date of this amendatory Act of the 100th General Assembly that
9 expressly require or provide that the value or price to be paid
10 for water assets may or must take into account the replacement
11 cost new minus depreciation of the water assets to be valued or
12 priced, even though such cost is in excess of a fair market
13 price that a private purchaser would value, price, or pay for
14 such assets.

15 Section 97. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

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