



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5008

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 for profit 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 20147 SMS 35432 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 for profit water utility or water
15 distribution company or any of its assets, facilities, piping,
16 pumping and lift stations, water sources and rights, real
17 estate, easements, intangibles, franchises, or other
18 properties.

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

1 statute), the determination of value or price to be paid for
2 the water assets:

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

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

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

24 (d) This Section shall apply to all valuations or price
25 determinations made or to be made or determined after the
26 effective date of this amendatory Act of the 100th General

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

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

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