

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 11-135.5-15, 11-135.5-25, and 11-135.5-35
6 and by adding Sections 11-135.5-7, 11-135.5-50, 11-135.5-55,
7 11-135.5-60, 11-135.5-65, 11-135.5-70, and 11-135.5-75 as
8 follows:

9 (65 ILCS 5/11-135.5-7 new)

10 Sec. 11-135.5-7. Definitions. As used in this Division:

11 "Design-build" means a delivery system that provides
12 responsibility within a single contract for the furnishing of
13 architecture, engineering, land surveying, and related
14 services as required and the labor, materials, equipment, and
15 other construction services for the project.

16 "Design-build contract" means a contract for a public
17 project under this Division between a commission and a
18 design-build entity to furnish: architecture, engineering,
19 land surveying, public art or interpretive exhibits, and
20 related services, as required; and the labor, materials,
21 equipment, and other construction services for the project.

22 "Design-build entity" means any individual, sole
23 proprietorship, firm, partnership, joint venture, corporation,

1 professional corporation, or other entity that proposes to
2 design and construct any public project under this Division.

3 "Design professional" means any individual, sole
4 proprietorship, firm, partnership, joint venture, corporation,
5 professional corporation, or other entity that offers services
6 under the Illinois Architecture Practice Act of 1989, the
7 Professional Engineering Practice Act of 1989, the Structural
8 Engineering Practice Act of 1989, or the Illinois Professional
9 Land Surveyor Act of 1989.

10 "Evaluation criteria" means the requirements for the
11 separate phases of the selection process as defined in this
12 Division and may include the specialized experience, technical
13 qualifications and competence, capacity to perform, past
14 performance, experience with similar projects, assignment of
15 personnel to the project, and other appropriate factors.

16 "Proposal" means the offer to enter into a design-build
17 contract as submitted by a design-build entity in accordance
18 with this Division.

19 "Request for proposal" means the document used by the
20 commission to solicit proposals for a design-build contract.

21 "Scope and performance criteria" means the requirements
22 for the commission project, including, but not limited to, the
23 intended usage, capacity, size, scope, quality and performance
24 standards, life-cycle costs, and other programmatic criteria
25 that are expressed in performance-oriented and quantifiable
26 specifications and drawings that can be reasonably inferred

1 and are suited to allow a design-build entity to develop a
2 proposal.

3 (65 ILCS 5/11-135.5-15)

4 Sec. 11-135.5-15. Establishment of commission; members;
5 initial costs and funding.

6 (a) Establishment of commission. Two or more
7 municipalities, at least one of which is located in whole or in
8 part in the county of Cook, Kane, Kendall, Lake, McHenry, or
9 Will and has 140,000 or more inhabitants at the time of
10 establishment of a regional water commission, excluding cities
11 of 500,000 or more inhabitants, may acquire, either by
12 purchase or construction, a waterworks system or a common
13 source of supply of water, or both, and may operate jointly a
14 waterworks system or a common source of supply of water, or
15 both, and improve and extend the same, as provided in this
16 Division. The municipality meeting the requirement to have
17 140,000 or more inhabitants as required by this paragraph must
18 have attained that population as of December 16, 2021 (the
19 effective date of Public Act 102-684) ~~this amendatory Act of~~
20 ~~the 102nd General Assembly.~~

21 The corporate authorities of the municipalities desiring
22 to avail themselves of the provisions of this Division shall
23 establish a regional water commission by adopting an ordinance
24 determining and electing to acquire and operate jointly a
25 waterworks system or a common source of supply of water, or

1 both, as the case may be, and approving an intergovernmental
2 agreement among the municipalities establishing the regional
3 water commission. This agreement may be amended at any time
4 upon the adoption, by the corporate authorities of all member
5 municipalities, of ~~concurring~~ ordinances approving the
6 amendment to the agreement ~~by the corporate authorities of all~~
7 ~~member municipalities.~~

8 (b) Addition or withdrawal of members; dissolution. The
9 agreement may provide for additional municipalities to join
10 the commission upon adoption of an ordinance by the corporate
11 authorities of the joining municipality and, upon such
12 consents, conditions, and approvals of the board of
13 commissioners and of existing member municipalities as shall
14 be provided in the agreement. The agreement shall provide the
15 manner and terms on which a municipality may withdraw from
16 membership in the commission and on which the commission may
17 terminate and dissolve in whole or in part.

18 (c) Filing of agreement. Promptly upon entering into the
19 agreement or any amendment to it, a copy of such agreement or
20 amendment shall be filed in the office of the Secretary of
21 State. Promptly upon the addition or withdrawal of a
22 municipality, or, upon the dissolution of the commission, that
23 fact shall be certified by an officer of the commission to the
24 Secretary of State.

25 (d) Development costs. A municipality whose corporate
26 authorities adopted an ordinance and approved an

1 intergovernmental agreement to acquire and operate jointly a
2 waterworks system or a common source of supply of water, or
3 both, as the case may be, under the provisions of this
4 Division, may from time to time pay, advance, or obligate
5 itself to the commission to bear a proportionate share of the
6 development costs, including principal and interest, of any
7 project proposed by the commission, including plans,
8 feasibility reports, and engineering, even if the project is
9 never constructed or water is never supplied by the commission
10 to such municipality.

11 Whenever the corporate authorities of a municipality
12 determine that the municipality will pay, advance, or be
13 obligated for its proportionate share of development costs as
14 provided in this subsection, they shall adopt an ordinance
15 declaring their intention that the municipality will do so,
16 fix the maximum amount of the municipality's share of the cost
17 the municipality proposes to pay or that the municipality will
18 advance or to obligate the municipality for, and fix the
19 period over which it is proposed to pay the obligation (not
20 exceeding 10 years), ~~and the maximum amount to be paid~~
21 ~~annually,~~ if such obligation is to be paid in installments.
22 The time of payment of any such installment obligation may be
23 extended for a period not exceeding 10 years from the final
24 maturity date of the original obligation. On and after the
25 date such ordinance becomes effective, the municipality shall
26 include an amount sufficient to pay the annual installments of

1 its obligation each year in the next succeeding appropriation
2 ordinances. The commission may require that if any such
3 municipality whose corporate authorities determined to pay, to
4 advance, or to obligate the municipality to the commission for
5 development costs defaults in such payments, advances, or
6 obligations, then the remaining municipalities whose corporate
7 authorities have determined to pay, to advance, or to obligate
8 the respective municipalities to the commission for
9 development costs will be required to pay for all or a portion
10 of the payments, advances by, or obligations of the defaulting
11 municipality. No prior appropriation shall be required for the
12 corporate authorities of a municipality to authorize the
13 payments, advances, or obligations herein provided for.

14 Whenever the corporate authorities of a municipality have
15 obligated the municipality for development costs as herein
16 provided and after the effective date of the ordinance under
17 which the municipality became obligated for a specific amount
18 for development costs of a project and after approval of such
19 obligation by the commission, the commission is authorized to
20 borrow funds temporarily for payment of such development costs
21 in advance of permanent financing. The commission may from
22 time to time and pursuant to an appropriate ordinance or
23 resolution borrow money and issue its interim notes to
24 evidence borrowings for such purpose, including all necessary
25 and incidental expenses in connection therewith.

26 An ordinance or resolution authorizing the issuance of

1 such notes shall describe the project and the development
2 costs to be undertaken and specify the principal amount, rate
3 of interest as authorized under Section 2 of the Bond
4 Authorization Act, and the maturity date, which shall coincide
5 with the due date of the obligations or the installments
6 thereof incurred by the respective municipalities pursuant to
7 this Section not, however, to exceed 10 years from date.

8 Contemporaneously with the issuance of revenue bonds under
9 Section 11-135.5-30, all outstanding interim notes issued for
10 development costs of a project though they have not then
11 matured shall be paid, both principal and interest to date of
12 payment, from funds derived from the sale of revenue bonds for
13 the permanent financing of any such project for which interim
14 notes may have been issued and such interim notes shall be
15 surrendered and cancelled, or, in the alternative, the
16 commission may determine to pay such interim notes out of
17 receipts from other sources available to the commission,
18 including grants and loans.

19 Whenever a member municipality has incurred development
20 costs for a project and has advanced funds or otherwise
21 obligated itself for the payment of such costs, the commission
22 is authorized to accept assignment of such debt instruments
23 and the payment obligations thereunder and to thereafter make
24 all necessary payments to meet such obligations out of
25 receipts from other sources available to the commission,
26 including grants and loans, or provide for credits against

1 amounts otherwise due to the commission from the municipality,
2 including interest on the amounts due.

3 As used in this subsection, "development costs" means the
4 costs of development of a project, including debt incurred and
5 principal and interest payments, whether incurred by the
6 commission or a member municipality.

7 (e) Construction and operating costs. A municipality, the
8 corporate authorities of which adopted an ordinance and
9 approved an intergovernmental agreement to acquire and operate
10 jointly a waterworks system or a common source of supply of
11 water, or both, as the case may be, under the provisions of
12 this Division, may from time to time pay, advance, or obligate
13 itself to the commission to bear a proportionate share of the
14 construction and operating costs of any project proposed by
15 the commission.

16 Whenever the corporate authorities of a municipality
17 determine that the municipality will pay, advance, or be
18 obligated for its proportionate share of construction or
19 operating costs as above provided, they shall adopt an
20 ordinance declaring their intention to do so, fix the maximum
21 amount of the municipality's share of the cost it proposes to
22 pay, to advance, or to obligate itself for, and fix the period
23 over which it is proposed to pay the obligation, ~~and state the~~
24 ~~maximum amount to be paid annually,~~ if such obligation is to be
25 paid in installments. On and after the date such ordinance
26 becomes effective, the municipality shall include an amount

1 sufficient to pay the annual installments of its obligation
2 each year in the next succeeding appropriation ordinances. The
3 commission may require that if any such municipality whose
4 corporate authorities determined that the municipality will
5 pay, advance, or be obligated to the commission for
6 construction or operating costs defaults in such payments,
7 advances, or obligations, then the remaining municipalities
8 whose corporate authorities have determined that the
9 municipality will pay, advance, or be obligated to the
10 commission for construction or operating costs will be
11 required to pay for all or a portion of the payments, advances
12 by, or obligations of the defaulting municipality. No prior
13 appropriation shall be required for the corporate authorities
14 of a municipality to authorize the payments, advances, or
15 obligations herein provided for.

16 Whenever a municipality, through its corporate
17 authorities, has paid, advanced, or obligated the municipality
18 for development, construction, or operating costs as herein
19 provided, the commission may contract with the municipality,
20 on such terms as may be agreed, for the repayment to the
21 municipality by the commission of any payment or advance made
22 by the municipality to the commission and to charge, in
23 addition to all other charges and rates authorized under this
24 Division, such rates and charges for water sold by the
25 commission as shall be necessary to provide for such
26 repayment. In addition, any payment or advance of such costs

1 made by a municipality pursuant to this Section may be repaid
2 by the commission to the municipality: (i) from the proceeds
3 of revenue bonds authorized to be issued by the commission
4 pursuant to this Division; (ii) ~~or, in the alternative, the~~
5 ~~commission may determine to pay all or part of such amounts~~ out
6 of receipts from other sources available to the commission,
7 including grants and loans; or (iii) by the commission
8 providing credits against amounts otherwise due to the
9 commission from the municipality, including interest on the
10 amounts due.

11 Whenever a member municipality has incurred construction
12 and operating costs for a project and has advanced funds or
13 otherwise obligated itself for the payment of such costs, the
14 commission is authorized to accept assignment of such debt
15 instruments and the payment obligations thereunder and to
16 thereafter make all necessary payments to meet such
17 obligations: (i) from the proceeds of revenue bonds authorized
18 to be issued by the commission pursuant to this Division; (ii)
19 ~~or, in the alternative, the commission may determine to pay~~
20 ~~all or part of such amounts~~ out of receipts from other sources
21 available to the commission, including grants and loans; or
22 (iii) by the commission providing credits against amounts
23 otherwise due to the commission from the municipality,
24 including interest on the amounts due.

25 As used in this subsection, "construction and operating
26 costs" means the costs of construction and operation of a

1 project, including debt incurred and principal and interest
2 payments, whether incurred by the commission or a member
3 municipality.

4 (f) Commission facilities. A waterworks system or a common
5 source of supply of water, or both, purchased or constructed
6 by the commission: (1) may be located within or without the
7 corporate limits of any member municipality; (2) may include,
8 or may consist of, without limitation, facilities for
9 receiving, storing, and transmitting water from any source for
10 supplying water to member municipalities and other purchasers
11 of water from the commission; and (3) may include, without
12 limitation, facilities that are developed, acquired,
13 constructed, extended, or improved by the commission that may
14 at any time be owned by another unit of local government if
15 such facilities will serve the waterworks system or provide a
16 common source of supply of water for the commission.

17 (Source: P.A. 102-684, eff. 12-16-21.)

18 (65 ILCS 5/11-135.5-25)

19 Sec. 11-135.5-25. Board organization and powers.

20 (a) Organization of board. A commission shall organize by
21 electing a chair from among its own members and shall elect
22 persons, who need not be commissioners, to such other offices
23 as shall be designated in the agreement. It shall adopt its own
24 bylaws, rules, and regulations and provide for its meetings.
25 The commission has full and complete supervision, management,

1 and control of the waterworks system or the common source of
2 supply of water, or both, as provided in the agreement and
3 ordinances for acquiring and operating the same, and in their
4 maintenance, operation, and extension. The board of
5 commissioners shall determine the general policy of the
6 commission, shall approve the annual budget, shall make all
7 appropriations (which may include appropriations made at any
8 time in addition to those made in any annual appropriation
9 document), shall approve all contracts for the purchase or
10 sale of water, shall adopt ordinances or resolutions providing
11 for the issuance of bonds or notes by the commission, shall
12 adopt its bylaws, rules, and regulations, and shall have such
13 other powers and duties as may be prescribed in the agreement.
14 Such agreement may further specify the voting and approval
15 requirements for actions regarding the commission's powers and
16 duties, including those powers and actions of the commission
17 which shall be authorized only upon votes of greater than a
18 majority of all commissioners or only upon consents of the
19 corporate authorities of a certain number of member
20 municipalities, or both.

21 The agreement may provide for the establishment of a
22 technical advisory committee to consist of a municipal
23 employee member from each member municipality as designated by
24 ordinance or other official action, from time to time by the
25 corporate authorities of the member municipality, and having
26 the qualifications as prescribed in the agreement, and also

1 may provide for such functions and duties of the committee as
2 will support the efficient administration and operation of the
3 commission.

4 The board of commissioners may establish other committees
5 from time to time, consisting of either members of the board or
6 members who are municipal employees from each member
7 municipality, in order to support the efficient administration
8 and operation of the commission.

9 (b) Water contracts to acquire water supply. A commission
10 may contract to acquire a supply of water on such terms and
11 conditions as it finds in the best interests of the commission
12 for a period not exceeding 101 years. The term of the water
13 supply contract may, at the end of the initial or extended
14 term, be extended by an amendment, renewal, or revision beyond
15 101 years by further agreement of the parties. A commission
16 may contract with any person, corporation, political
17 subdivision, municipal corporation, or other governmental or
18 non-governmental entity for a supply of water, and any such
19 political subdivision, municipal corporation, or other
20 governmental entity is authorized to enter into such a
21 contract with the commission. A commission may accept from a
22 municipality that is a member of the commission the assignment
23 of a contract to acquire a supply of water and to accept and
24 perform the duties and obligations and make all payments
25 required pursuant to such assigned contract.

26 A contract made by or assigned to a commission for a supply

1 of water may contain provisions whereby the commission is
2 obligated to pay for such supply of water without setoff or
3 counterclaim and irrespective of whether such supply of water
4 is ever furnished, made available, or delivered to the
5 commission or whether any project for the supply of water
6 contemplated by the contract is completed, operable, or
7 operating and notwithstanding any suspension, interruption,
8 interference, reduction, or curtailment of the supply of water
9 from such project.

10 No prior appropriation shall be required before entering
11 into or accepting assignment of such contract, and no
12 appropriation shall be required to authorize payments to be
13 made under the terms of the contract, notwithstanding any
14 provision of this Code to the contrary. The contract shall not
15 be a debt within the meaning of any statutory or
16 constitutional limitations.

17 (c) Water contracts to provide water supply to members.
18 The commission is authorized to contract with the
19 municipalities which established the commission, and with
20 other municipalities that have become members pursuant to the
21 process established in the intergovernmental agreement, for a
22 supply of water to those municipalities, for a period not
23 exceeding 101 years, and those municipalities are authorized
24 to enter into such contracts with the commission. The term of
25 the water supply contract may, at the end of the initial or
26 extended term, be extended by an amendment, renewal, or

1 revision beyond 101 years by further agreement of the parties.

2 Any such contract made by a commission and any such
3 municipalities to supply water may contain provisions whereby
4 the purchasing municipality is obligated to pay for such
5 supply of water without setoff or counterclaim and
6 irrespective of whether such supply of water is ever
7 furnished, made available, or delivered to the purchasing
8 municipality or whether any project for the supply of water
9 contemplated by any such contract is completed, operable, or
10 operating and notwithstanding any suspension, interruption,
11 interference, reduction, or curtailment of the supply of water
12 from such project. Any such contract may provide that if one or
13 more of the other purchasers' defaults in the payment of its
14 obligations under the contract or similar contract made with
15 the supplier of the water, the remaining purchasers party to
16 such contract or such similar contract shall be required to
17 pay for all or a portion of the obligations of the defaulting
18 purchaser. Each municipality that enters into such a contract
19 shall be obligated and have the duty to include an amount
20 sufficient to pay the annual amount of its obligation each
21 year in the next succeeding appropriation ordinances. No prior
22 appropriation shall be required for a municipality to
23 authorize the payments, advances, or obligations provided for
24 in such contracts or this subsection.

25 (d) Water contracts to provide water supply to nonmembers
26 and extend system. A commission may supply water to and

1 contract with a person, corporation, political subdivision,
2 municipal corporation, or other governmental or
3 non-governmental entity, in addition to the municipalities
4 which have formed the commission and other municipalities that
5 have become members pursuant to the process established in the
6 intergovernmental agreement, and to construct water
7 transmission and distribution lines within a radius of 25
8 miles outside the corporate limits of member municipalities
9 for the purpose of furnishing water to any additional entities
10 which contract with the commission for a supply of water, upon
11 such payment, terms, and conditions as may be mutually agreed
12 upon. Any such contract shall be a continuing, valid, and
13 binding obligation of the purchaser for such period of years,
14 not to exceed 40, as may be provided in such contract.

15 Any such contract entered into to supply water to a
16 municipal corporation or political subdivision shall provide
17 that the payments to be made thereunder shall be from the
18 revenues to be derived by such municipality or political
19 subdivision from the operation of the waterworks system or
20 combined waterworks and sewer system of such municipality or
21 political subdivision or from receipts from other sources
22 available to the municipality or political subdivision,
23 including grants and loans. Any such contract made by a
24 commission and a purchaser that is such a municipal
25 corporation or political subdivision to supply water may
26 contain provisions whereby the purchaser is obligated to pay

1 for such supply of water without setoff or counterclaim and
2 irrespective of whether such supply of water is ever
3 furnished, made available, or delivered to the purchaser or
4 whether any project for the supply of water contemplated by
5 any such contract is completed, operable, or operating and
6 notwithstanding any suspension, interruption, interference,
7 reduction, or curtailment of the supply of water from such
8 project. The contract may provide that, if one or more of the
9 other purchasers defaults in the payment of its obligations
10 under such contract or similar contract made with the supplier
11 of the water, the remaining purchasers party to such contract
12 or such similar contract shall be required to pay for all or a
13 portion of the obligations of the defaulting purchaser. Each
14 municipal corporation or political subdivision that enters
15 into such a contract shall be obligated and have the duty to
16 include an amount sufficient to pay the annual amount of its
17 obligation each year in the next succeeding appropriation
18 ordinances. No prior appropriation shall be required for a
19 municipality or political subdivision to authorize the
20 payments, advances, or obligations provided for in such
21 contracts or this subsection. Any such contract shall not be a
22 debt within the meaning of any statutory or constitutional
23 limitations.

24 (e) Additional powers. In addition to any other powers set
25 forth in this Division and in the agreement, a commission has
26 the following powers:

1 (1) The power to enter into intergovernmental police
2 assistance agreements with any municipality or county.

3 (2) The power to enter into intergovernmental
4 agreements with any unit of local government or other
5 governmental entity in order to carry out the purposes for
6 which the commission was formed.

7 (Source: P.A. 102-684, eff. 12-16-21.)

8 (65 ILCS 5/11-135.5-35)

9 Sec. 11-135.5-35. Revenues; rates; costs; construction
10 contracts.

11 (a) Revenue fund. Whenever bonds are issued under this
12 Division, the revenue received from the operation of the
13 properties under the control of the commission shall be set
14 aside as collected and deposited in a separate fund to be used
15 only (1) in paying the cost of the operation and maintenance of
16 those properties, (2) in providing an adequate depreciation
17 fund, (3) in paying the principal of and interest upon the
18 revenue bonds issued by the commission, as provided by this
19 Division, (4) to comply with the covenants of the ordinance or
20 resolution, or the master trust indenture or any applicable
21 supplemental trust indenture or both, authorizing the issuance
22 of such bonds, and (5) to carry out the corporate purposes and
23 powers of the commission.

24 (b) Rates and charges for waterworks system. If the
25 commission has charge of the operation of a complete

1 waterworks system, including the distribution mains, the
2 commission shall establish rates and charges for water and the
3 use of commission waterworks system facilities, which shall be
4 sufficient at all times to pay the cost of operation and
5 maintenance, to provide an adequate depreciation fund, to pay
6 the principal of and interest upon all revenue bonds issued as
7 provided by this Division, to comply with the covenants of the
8 ordinance or resolution, or the master trust indenture or any
9 applicable supplemental trust indenture or both, authorizing
10 the issuance of such bonds, and to carry out the corporate
11 purposes and powers of the commission. Charges and rates shall
12 be established, revised, and maintained by ordinance and
13 become payable as the commission may determine by ordinance.

14 (c) Rates and charges for water source of supply. If the
15 commission has charge of the operation of a common source of
16 supply of water, the municipalities represented by the
17 commission shall contract with the commission for water. These
18 municipalities shall establish such charges and rates for
19 water supplied by them to consumers as will be sufficient at
20 all times (1) to pay the cost of operation and maintenance of
21 the respective waterworks systems (or combined waterworks and
22 sewerage systems) of the municipalities, (2) to provide an
23 adequate depreciation fund therefor, (3) to pay the principal
24 of and interest on all revenue bonds of the municipalities
25 payable from the revenues of the waterworks system (or
26 combined waterworks and sewerage system), and (4) to pay the

1 charges and rates established by the commission for the sale
2 of water by the commission to, and the use of commission
3 waterworks system facilities by, those municipalities. The
4 commission shall establish such charges and rates for water
5 supplied to those municipalities and the use of commission
6 waterworks system facilities as will be sufficient at all
7 times (1) to pay the cost of operation and maintenance of the
8 common source of supply of water, (2) to provide an adequate
9 depreciation fund therefor, (3) to pay the principal of and
10 interest on the revenue bonds issued by the commission, (4) to
11 comply with the covenants of the ordinance or resolution, or
12 the master trust indenture or any applicable supplemental
13 trust indenture or both, authorizing the issuance of such
14 bonds, and (5) to carry out the corporate purposes and powers
15 of the commission, under the provisions of this Division.
16 Contracts entered into between the commission and the
17 specified municipalities shall include covenants for the
18 establishment of rates and charges as provided in this
19 Section.

20 (d) Pension costs. Contributions to a retirement fund or
21 other pension alternative authorized by the Illinois Pension
22 Code, including, without limitation, the Illinois Municipal
23 Retirement Fund, by commissions created under this Division
24 which have been included under the retirement fund or other
25 pension alternative shall be considered a cost of operation
26 and maintenance for the purposes of this Section.

1 (e) Enforcement of obligations. An owner ~~A holder~~ of a
2 bond ~~or of any of its coupons~~ issued under this Division, a
3 trustee under a master trust indenture or supplemental trust
4 indenture or both with respect to the bonds issued under this
5 Division, or both the owner and trustee may, in a civil action,
6 mandamus action, or other proceeding, ~~may~~ enforce and compel
7 performance of all duties required by this Division to be
8 performed by such a commission or by any of the
9 municipalities, including the making of rates and charges, the
10 collecting of sufficient revenue, and the application thereof,
11 as provided in this Division.

12 (f) Construction contracts. All or any portion of a
13 waterworks system or other public improvement of such a
14 commission, when the expense thereof will exceed the greater
15 of (i) \$25,000 or (ii) the amount of expense above which a work
16 or public improvement by a municipality must be let to the
17 lowest responsible bidder after advertising for bids under
18 Section 8-9-1 of this Code, shall be constructed, maintained,
19 or repaired either: (1) by a contract let to the lowest
20 responsible bidder after advertising for bids, in the manner
21 prescribed by the commission's bylaws, rules, and regulations
22 and by the vote required as established in the
23 intergovernmental agreement pursuant to Section 11-135.5-25;
24 or (2) without advertising for bids, if authorized by a vote of
25 greater than a majority of all the commissioners as
26 established in the intergovernmental agreement pursuant to

1 Section 11-135.5-25. The commission's bylaws, rules, and
2 regulations shall provide for an alternative procedure for
3 emergency procurement if an emergency makes it impracticable
4 to follow the procedures in this subsection.

5 (g) Alternative project delivery. A commission may use
6 alternative project delivery methods if the commission
7 determines it to be in the commission's best interest for a
8 particular project. An alternative project delivery method may
9 include, without limitation, design-build or
10 construction-manager-at-risk. All notices for the procurement
11 of goods, services, or work to be provided pursuant to an
12 alternate delivery method shall include all requirements for
13 the goods, services, or work to be procured. All awards of
14 contracts or agreements for the procurement of goods,
15 services, or work to be provided pursuant to an alternate
16 delivery method shall be made on the basis of demonstrated
17 competence and qualifications and with due regard for the
18 principles of competitive selection. As part of an alternate
19 project delivery procurement process, prior to submission of
20 proposals, the commission may conduct meetings and exchange
21 confidential information with proposers to promote
22 understanding of the request for proposals, review alternative
23 design concepts, or discuss other issues related to the
24 procurement.

25 As used in this subsection:

26 "Construction-manager-at-risk" means a delivery method in

1 which the party proposing to be the construction manager
2 commits to be responsible for performance of certain
3 preconstruction services and, if the parties reach agreement
4 on key terms, becomes responsible for construction of the
5 project.

6 "Design-build" means a delivery method that provides
7 responsibility within a single contract for furnishing the
8 architectural, engineering, land-surveying, and related
9 services for the project, as well as the labor, materials,
10 equipment, and other construction services for the project.

11 (h) Procurement goals and requirements. A commission may
12 establish goals or requirements for the procurement of goods
13 and services and for construction contracts to promote and
14 encourage the continuing economic development of (i)
15 businesses that are owned and operated by minorities, women,
16 persons with disabilities, or veterans; (ii) businesses that
17 are located within the territory of one or more of the
18 municipalities that are members of the commission; (iii)
19 businesses that employ persons who reside in the territory of
20 one or more of the municipalities that are members of the
21 commission; (iv) businesses that are located within the
22 territory of a municipality having more than 2,000,000
23 inhabitants in which a portion of the commission's waterworks
24 system or other commission improvement is located; or (v)
25 businesses that employ persons who reside in the territory of
26 a municipality having more than 2,000,000 inhabitants in which

1 a portion of the commission's waterworks system or other
2 commission improvement is located.

3 A commission may also establish other goals or
4 requirements that result in the award to a responsible bidder
5 other than the lowest responsible bidder if the commission
6 determines that the award is in the commission's best
7 interests, notwithstanding the requirements of subsection (f).
8 Goals or requirements that are set by a commission that result
9 in a preference being applied to a bidder or proposer, who has
10 met those goals or requirements, in a commission's process for
11 awarding construction contracts and for the procurement of
12 goods and services must comply with the constitutional
13 standards applicable to the preferences.

14 (i) Contract assignment. A member municipality may enter
15 into a contract for any portion of a waterworks system or other
16 public improvement of a commission pursuant to a contracting
17 method that is consistent with the requirements applicable to
18 the municipality and generally consistent with the principles
19 in subsection (f) or (g). The commission may accept assignment
20 of such a contract and of payment obligations under that
21 contract.

22 (j) ~~(g)~~ Project labor agreement. In connection with a
23 contract by a commission for the construction of all or any
24 portion of a waterworks system or other public improvement of
25 the commission, the commission must enter into a project labor
26 agreement with the applicable local building trades council

1 prior to the commencement of any and all construction,
2 building, renovation, demolition, or any material change to
3 the structure or land.

4 (Source: P.A. 102-684, eff. 12-16-21.)

5 (65 ILCS 5/11-135.5-50 new)

6 Sec. 11-135.5-50. Solicitation of proposals.

7 (a) A commission may enter into design-build contracts. In
8 addition to the requirements set forth in its local
9 ordinances, when the commission elects to use the design-build
10 delivery method, it must issue a notice of intent to receive
11 proposals for the project at least 14 days before issuing the
12 request for the proposal. The commission must publish the
13 advance notice in the manner prescribed by ordinance, which
14 shall include posting the advance notice online on its
15 website. The commission may publish the notice in construction
16 industry publications or post the notice on construction
17 industry websites. A brief description of the proposed
18 procurement must be included in the notice. The commission
19 must provide a copy of the request for proposal to any party
20 requesting a copy.

21 (b) The request for proposal shall be prepared for each
22 project and must contain, without limitation, the following
23 information:

24 (1) The name of the commission.

25 (2) A preliminary schedule for the completion of the

1 contract.

2 (3) The proposed budget for the project, the source of
3 funds, and the currently available funds at the time the
4 request for proposal is submitted.

5 (4) Prequalification criteria for design-build
6 entities wishing to submit proposals. The Commission shall
7 include, at a minimum, its normal prequalification,
8 licensing, registration, and other requirements; however,
9 nothing precludes the use of additional prequalification
10 criteria by the commission.

11 (5) Material requirements of the contract, including,
12 but not limited to, the proposed terms and conditions,
13 required performance and payment bonds, and insurance.

14 (6) The performance criteria.

15 (7) The evaluation criteria for each phase of the
16 solicitation. Price may not be used as a factor in the
17 evaluation of Phase I proposals.

18 (8) The number of entities that will be considered for
19 the technical and cost evaluation phase.

20 (c) The commission may include any other relevant
21 information that it chooses to supply. The design-build entity
22 shall be entitled to rely upon the accuracy of this
23 documentation in the development of its proposal.

24 (d) The date that proposals are due must be at least 21
25 calendar days after the date of the issuance of the request for
26 proposal. If the cost of the project is estimated to exceed

1 \$12,000,000, then the proposal due date must be at least 28
2 calendar days after the date of the issuance of the request for
3 proposal. The commission shall include in the request for
4 proposal a minimum of 30 days to develop the Phase II
5 submissions after the selection of entities from the Phase I
6 evaluation is completed.

7 (65 ILCS 5/11-135.5-55 new)

8 Sec. 11-135.5-55. Development of scope and performance
9 criteria.

10 (a) The commission shall develop, with the assistance of a
11 licensed design professional or public art designer, a request
12 for proposal, which shall include scope and performance
13 criteria. The scope and performance criteria must be in
14 sufficient detail and contain adequate information to
15 reasonably apprise the qualified design-build entities of the
16 commission's overall programmatic needs and goals, including
17 criteria and preliminary design plans, general budget
18 parameters, schedule, and delivery requirements.

19 (b) Each request for proposal shall also include a
20 description of the level of design to be provided in the
21 proposals. This description must include the scope and type of
22 renderings, drawings, and specifications that, at a minimum,
23 will be required by the commission to be produced by the
24 design-build entities.

25 (c) The scope and performance criteria shall be prepared

1 by a design professional or public art designer who is an
2 employee of the commission, or the commission may contract
3 with an independent design professional or public art designer
4 selected under the Local Government Professional Services
5 Selection Act to provide these services.

6 (d) The design professional or public art designer that
7 prepares the scope and performance criteria is prohibited from
8 participating in any design-build entity proposal for the
9 project.

10 (e) The design-build contract may be conditioned upon
11 subsequent refinements in scope and price and may allow the
12 commission to make modifications in the project scope without
13 invalidating the design-build contract.

14 (65 ILCS 5/11-135.5-60 new)

15 Sec. 11-135.5-60. Procedures for selection.

16 (a) The commission must use a two-phase procedure for the
17 selection of the successful design-build entity. Phase I of
18 the procedure will evaluate and shortlist the design-build
19 entities based on qualifications, and Phase II will evaluate
20 the technical and cost proposals.

21 (b) The commission shall include in the request for
22 proposal the evaluating factors to be used in Phase I. These
23 factors are in addition to any prequalification requirements
24 of design-build entities that the commission has set forth.
25 Each request for proposal shall establish the relative

1 importance assigned to each evaluation factor and subfactor,
2 including any weighting of criteria to be employed by the
3 commission. The commission must maintain a record of the
4 evaluation scoring to be disclosed in event of a protest
5 regarding the solicitation.

6 The commission shall include the following criteria in
7 every Phase I evaluation of design-build entities: (i)
8 experience of personnel; (ii) successful experience with
9 similar project types; (iii) financial capability; (iv)
10 timeliness of past performance; (v) experience with similarly
11 sized projects; (vi) successful reference checks of the firm;
12 and (vii) commitment to assign personnel for the duration of
13 the project and qualifications of the entity's consultants.

14 The commission may include any additional relevant
15 criteria in Phase I that it deems necessary for a proper
16 qualification review. The commission may not consider any
17 design-build entity for evaluation or award if the entity has
18 any pecuniary interest in the project or has other
19 relationships or circumstances, including, but not limited to,
20 long-term leasehold, mutual performance, or development
21 contracts with the commission, that may give the design-build
22 entity a financial or tangible advantage over other
23 design-build entities in the preparation, evaluation, or
24 performance of the design-build contract or that create the
25 appearance of impropriety.

26 Upon completion of the qualifications evaluation, the

1 commission shall create a shortlist of the most highly
2 qualified design-build entities. The commission, in its
3 discretion, is not required to shortlist the maximum number of
4 entities as identified for Phase II evaluation, provided that
5 no less than 2 design-build entities nor more than 6 are
6 selected to submit Phase II proposals. The commission shall
7 notify the entities selected for the shortlist in writing.
8 This notification shall commence the period for the
9 preparation of the Phase II technical and cost evaluations.
10 The commission must allow sufficient time for the shortlist
11 entities to prepare their Phase II submittals considering the
12 scope and detail requested by the commission.

13 (c) The commission shall include in the request for
14 proposal the evaluating factors to be used in the technical
15 and cost submission components of Phase II. Each request for
16 proposal shall establish, for both the technical and cost
17 submission components of Phase II, the relative importance
18 assigned to each evaluation factor and subfactor, including
19 any weighting of criteria to be employed by the commission.
20 The commission must maintain a record of the evaluation
21 scoring to be disclosed in event of a protest regarding the
22 solicitation.

23 The commission shall include the following criteria in
24 every Phase II technical evaluation of design-build entities:
25 (i) compliance with objectives of the project; (ii) compliance
26 of proposed services to the request for proposal requirements;

1 (iii) quality of products or materials proposed; (iv) quality
2 of design parameters; (v) design concepts; (vi) innovation in
3 meeting the scope and performance criteria; and (vii)
4 constructability of the proposed project. The commission may
5 include any additional relevant technical evaluation factors
6 it deems necessary for proper selection.

7 The commission shall include the following criteria in
8 every Phase II cost evaluation: the total project cost; the
9 construction costs; and the time of completion. The commission
10 may include any additional relevant technical evaluation
11 factors it deems necessary for proper selection. The total
12 project cost criteria weighting factor shall not exceed 30%.

13 The commission shall directly employ or retain a licensed
14 design professional or a public art designer to evaluate the
15 technical and cost submissions to determine if the technical
16 submissions are in accordance with generally accepted industry
17 standards.

18 Upon completion of the technical submissions and cost
19 submissions evaluation, the commission may award the
20 design-build contract to the highest overall ranked entity.

21 (65 ILCS 5/11-135.5-65 new)

22 Sec. 11-135.5-65. Small projects. In any case where the
23 total overall cost of the project is estimated to be less than
24 \$12,000,000, the commission may combine the two-phase
25 procedure for selection described in Section 11-135.5-60 into

1 one combined step, provided that all the requirements of
2 evaluation are performed in accordance with Section
3 11-135.5-60.

4 (65 ILCS 5/11-135.5-70 new)

5 Sec. 11-135.5-70. Submission of proposals. Proposals must
6 be properly identified and sealed. Proposals may not be
7 reviewed until after the deadline for submission has passed as
8 set forth in the request for proposals. All design-build
9 entities submitting proposals shall be disclosed after the
10 deadline for submission, and all design-build entities who are
11 selected for Phase II evaluation shall also be disclosed at
12 the time of that determination.

13 Proposals shall include a bid bond in the form and
14 security as designated in the request for proposals. Proposals
15 shall also contain a separate sealed envelope with the cost
16 information within the overall proposal submission. Proposals
17 shall include a list of all design professionals, public art
18 designers, and other entities to which any work may be
19 subcontracted during the performance of the contract.

20 Proposals must meet all material requirements of the
21 request for proposal or they may be rejected as
22 non-responsive. The commission has the right to reject any and
23 all proposals.

24 The drawings and specifications of the proposal may remain
25 the property of the design-build entity.

1 The commission shall review the proposals for compliance
2 with the performance criteria and evaluation factors.

3 Proposals may be withdrawn prior to evaluation for any
4 cause. After evaluation begins by the commission, clear and
5 convincing evidence of error is required for withdrawal.

6 (65 ILCS 5/11-135.5-75 new)

7 Sec. 11-135.5-75. Award; performance. The commission may
8 award the contract to the highest overall ranked entity.
9 Notice of award shall be made in writing. Unsuccessful
10 entities shall also be notified in writing. The commission may
11 not request a best and final offer after the receipt of
12 proposals. The commission may negotiate with the selected
13 design-build entity after award but prior to contract
14 execution for the purpose of securing better terms than
15 originally proposed, provided that the salient features of the
16 request for proposal are not diminished.

17 A design-build entity and associated design professionals
18 shall conduct themselves in accordance with the relevant laws
19 of this State and the related provisions of the Illinois
20 Administrative Code.

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