



Sen. Eric Mattson

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10200HB2870sam001

LRB102 14777 AWJ 42567 a

1 AMENDMENT TO HOUSE BILL 2870

2 AMENDMENT NO. _____. Amend House Bill 2870 by replacing
3 everything after the enacting clause with the following:

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

1 project under this Division between a commission and a
2 design-build entity to furnish: architecture, engineering,
3 land surveying, public art or interpretive exhibits, and
4 related services, as required; and the labor, materials,
5 equipment, and other construction services for the project.

6 "Design-build entity" means any individual, sole
7 proprietorship, firm, partnership, joint venture, corporation,
8 professional corporation, or other entity that proposes to
9 design and construct any public project under this Division.

10 "Design professional" means any individual, sole
11 proprietorship, firm, partnership, joint venture, corporation,
12 professional corporation, or other entity that offers services
13 under the Illinois Architecture Practice Act of 1989, the
14 Professional Engineering Practice Act of 1989, the Structural
15 Engineering Practice Act of 1989, or the Illinois Professional
16 Land Surveyor Act of 1989.

17 "Evaluation criteria" means the requirements for the
18 separate phases of the selection process as defined in this
19 Division and may include the specialized experience, technical
20 qualifications and competence, capacity to perform, past
21 performance, experience with similar projects, assignment of
22 personnel to the project, and other appropriate factors.

23 "Proposal" means the offer to enter into a design-build
24 contract as submitted by a design-build entity in accordance
25 with this Division.

26 "Request for proposal" means the document used by the

1 commission to solicit proposals for a design-build contract.

2 "Scope and performance criteria" means the requirements
3 for the commission project, including, but not limited to, the
4 intended usage, capacity, size, scope, quality and performance
5 standards, life-cycle costs, and other programmatic criteria
6 that are expressed in performance-oriented and quantifiable
7 specifications and drawings that can be reasonably inferred
8 and are suited to allow a design-build entity to develop a
9 proposal.

10 (65 ILCS 5/11-135.5-15)

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

13 (a) Establishment of commission. Two or more
14 municipalities, at least one of which is located in whole or in
15 part in the county of Cook, Kane, Kendall, Lake, McHenry, or
16 Will and has 140,000 or more inhabitants at the time of
17 establishment of a regional water commission, excluding cities
18 of 500,000 or more inhabitants, may acquire, either by
19 purchase or construction, a waterworks system or a common
20 source of supply of water, or both, and may operate jointly a
21 waterworks system or a common source of supply of water, or
22 both, and improve and extend the same, as provided in this
23 Division. The municipality meeting the requirement to have
24 140,000 or more inhabitants as required by this paragraph must
25 have attained that population as of December 16, 2021 (the

1 effective date of Public Act 102-684) ~~this amendatory Act of~~
2 ~~the 102nd General Assembly.~~

3 The corporate authorities of the municipalities desiring
4 to avail themselves of the provisions of this Division shall
5 establish a regional water commission by adopting an ordinance
6 determining and electing to acquire and operate jointly a
7 waterworks system or a common source of supply of water, or
8 both, as the case may be, and approving an intergovernmental
9 agreement among the municipalities establishing the regional
10 water commission. This agreement may be amended at any time
11 upon the adoption, by the corporate authorities of all member
12 municipalities, of ~~concurring~~ ordinances approving the
13 amendment to the agreement ~~by the corporate authorities of all~~
14 ~~member municipalities.~~

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

25 (c) Filing of agreement. Promptly upon entering into the
26 agreement or any amendment to it, a copy of such agreement or

1 amendment shall be filed in the office of the Secretary of
2 State. Promptly upon the addition or withdrawal of a
3 municipality, or, upon the dissolution of the commission, that
4 fact shall be certified by an officer of the commission to the
5 Secretary of State.

6 (d) Development costs. A municipality whose corporate
7 authorities adopted an ordinance and approved an
8 intergovernmental agreement to acquire and operate jointly a
9 waterworks system or a common source of supply of water, or
10 both, as the case may be, under the provisions of this
11 Division, may from time to time pay, advance, or obligate
12 itself to the commission to bear a proportionate share of the
13 development costs, including principal and interest, of any
14 project proposed by the commission, including plans,
15 feasibility reports, and engineering, even if the project is
16 never constructed or water is never supplied by the commission
17 to such municipality.

18 Whenever the corporate authorities of a municipality
19 determine that the municipality will pay, advance, or be
20 obligated for its proportionate share of development costs as
21 provided in this subsection, they shall adopt an ordinance
22 declaring their intention that the municipality will do so,
23 fix the maximum amount of the municipality's share of the cost
24 the municipality proposes to pay or that the municipality will
25 advance or to obligate the municipality for, and fix the
26 period over which it is proposed to pay the obligation (not

1 exceeding 10 years), ~~and the maximum amount to be paid~~
2 ~~annually~~, if such obligation is to be paid in installments.
3 The time of payment of any such installment obligation may be
4 extended for a period not exceeding 10 years from the final
5 maturity date of the original obligation. On and after the
6 date such ordinance becomes effective, the municipality shall
7 include an amount sufficient to pay the annual installments of
8 its obligation each year in the next succeeding appropriation
9 ordinances. The commission may require that if any such
10 municipality whose corporate authorities determined to pay, to
11 advance, or to obligate the municipality to the commission for
12 development costs defaults in such payments, advances, or
13 obligations, then the remaining municipalities whose corporate
14 authorities have determined to pay, to advance, or to obligate
15 the respective municipalities to the commission for
16 development costs will be required to pay for all or a portion
17 of the payments, advances by, or obligations of the defaulting
18 municipality. No prior appropriation shall be required for the
19 corporate authorities of a municipality to authorize the
20 payments, advances, or obligations herein provided for.

21 Whenever the corporate authorities of a municipality have
22 obligated the municipality for development costs as herein
23 provided and after the effective date of the ordinance under
24 which the municipality became obligated for a specific amount
25 for development costs of a project and after approval of such
26 obligation by the commission, the commission is authorized to

1 borrow funds temporarily for payment of such development costs
2 in advance of permanent financing. The commission may from
3 time to time and pursuant to an appropriate ordinance or
4 resolution borrow money and issue its interim notes to
5 evidence borrowings for such purpose, including all necessary
6 and incidental expenses in connection therewith.

7 An ordinance or resolution authorizing the issuance of
8 such notes shall describe the project and the development
9 costs to be undertaken and specify the principal amount, rate
10 of interest as authorized under Section 2 of the Bond
11 Authorization Act, and the maturity date, which shall coincide
12 with the due date of the obligations or the installments
13 thereof incurred by the respective municipalities pursuant to
14 this Section not, however, to exceed 10 years from date.

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

26 Whenever a member municipality has incurred development

1 costs for a project and has advanced funds or otherwise
2 obligated itself for the payment of such costs, the commission
3 is authorized to accept assignment of such debt instruments
4 and the payment obligations thereunder and to thereafter make
5 all necessary payments to meet such obligations out of
6 receipts from other sources available to the commission,
7 including grants and loans, or provide for credits against
8 amounts otherwise due to the commission from the municipality,
9 including interest on the amounts due.

10 As used in this subsection, "development costs" means the
11 costs of development of a project, including debt incurred and
12 principal and interest payments, whether incurred by the
13 commission or a member municipality.

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

23 Whenever the corporate authorities of a municipality
24 determine that the municipality will pay, advance, or be
25 obligated for its proportionate share of construction or
26 operating costs as above provided, they shall adopt an

1 ordinance declaring their intention to do so, fix the maximum
2 amount of the municipality's share of the cost it proposes to
3 pay, to advance, or to obligate itself for, and fix the period
4 over which it is proposed to pay the obligation, ~~and state the~~
5 ~~maximum amount to be paid annually,~~ if such obligation is to be
6 paid in installments. On and after the date such ordinance
7 becomes effective, the municipality shall include an amount
8 sufficient to pay the annual installments of its obligation
9 each year in the next succeeding appropriation ordinances. The
10 commission may require that if any such municipality whose
11 corporate authorities determined that the municipality will
12 pay, advance, or be obligated to the commission for
13 construction or operating costs defaults in such payments,
14 advances, or obligations, then the remaining municipalities
15 whose corporate authorities have determined that the
16 municipality will pay, advance, or be obligated to the
17 commission for construction or operating costs will be
18 required to pay for all or a portion of the payments, advances
19 by, or obligations of the defaulting municipality. No prior
20 appropriation shall be required for the corporate authorities
21 of a municipality to authorize the payments, advances, or
22 obligations herein provided for.

23 Whenever a municipality, through its corporate
24 authorities, has paid, advanced, or obligated the municipality
25 for development, construction, or operating costs as herein
26 provided, the commission may contract with the municipality,

1 on such terms as may be agreed, for the repayment to the
2 municipality by the commission of any payment or advance made
3 by the municipality to the commission and to charge, in
4 addition to all other charges and rates authorized under this
5 Division, such rates and charges for water sold by the
6 commission as shall be necessary to provide for such
7 repayment. In addition, any payment or advance of such costs
8 made by a municipality pursuant to this Section may be repaid
9 by the commission to the municipality: (i) from the proceeds
10 of revenue bonds authorized to be issued by the commission
11 pursuant to this Division; (ii) ~~or, in the alternative, the~~
12 ~~commission may determine to pay all or part of such amounts~~ out
13 of receipts from other sources available to the commission,
14 including grants and loans; or (iii) by the commission
15 providing credits against amounts otherwise due to the
16 commission from the municipality, including interest on the
17 amounts due.

18 Whenever a member municipality has incurred construction
19 and operating costs for a project and has advanced funds or
20 otherwise obligated itself for the payment of such costs, the
21 commission is authorized to accept assignment of such debt
22 instruments and the payment obligations thereunder and to
23 thereafter make all necessary payments to meet such
24 obligations: (i) from the proceeds of revenue bonds authorized
25 to be issued by the commission pursuant to this Division; (ii)
26 ~~or, in the alternative, the commission may determine to pay~~

1 ~~all or part of such amounts~~ out of receipts from other sources
2 available to the commission, including grants and loans; or
3 (iii) by the commission providing credits against amounts
4 otherwise due to the commission from the municipality,
5 including interest on the amounts due.

6 As used in this subsection, "construction and operating
7 costs" means the costs of construction and operation of a
8 project, including debt incurred and principal and interest
9 payments, whether incurred by the commission or a member
10 municipality.

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

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

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

2 (a) Organization of board. A commission shall organize by
3 electing a chair from among its own members and shall elect
4 persons, who need not be commissioners, to such other offices
5 as shall be designated in the agreement. It shall adopt its own
6 bylaws, rules, and regulations and provide for its meetings.
7 The commission has full and complete supervision, management,
8 and control of the waterworks system or the common source of
9 supply of water, or both, as provided in the agreement and
10 ordinances for acquiring and operating the same, and in their
11 maintenance, operation, and extension. The board of
12 commissioners shall determine the general policy of the
13 commission, shall approve the annual budget, shall make all
14 appropriations (which may include appropriations made at any
15 time in addition to those made in any annual appropriation
16 document), shall approve all contracts for the purchase or
17 sale of water, shall adopt ordinances or resolutions providing
18 for the issuance of bonds or notes by the commission, shall
19 adopt its bylaws, rules, and regulations, and shall have such
20 other powers and duties as may be prescribed in the agreement.
21 Such agreement may further specify the voting and approval
22 requirements for actions regarding the commission's powers and
23 duties, including those powers and actions of the commission
24 which shall be authorized only upon votes of greater than a
25 majority of all commissioners or only upon consents of the
26 corporate authorities of a certain number of member

1 municipalities, or both.

2 The agreement may provide for the establishment of a
3 technical advisory committee to consist of a municipal
4 employee member from each member municipality as designated by
5 ordinance or other official action, from time to time by the
6 corporate authorities of the member municipality, and having
7 the qualifications as prescribed in the agreement, and also
8 may provide for such functions and duties of the committee as
9 will support the efficient administration and operation of the
10 commission.

11 The board of commissioners may establish other committees
12 from time to time, consisting of either members of the board or
13 members who are municipal employees from each member
14 municipality, in order to support the efficient administration
15 and operation of the commission.

16 (b) Water contracts to acquire water supply. A commission
17 may contract to acquire a supply of water on such terms and
18 conditions as it finds in the best interests of the commission
19 for a period not exceeding 101 years. The term of the water
20 supply contract may, at the end of the initial or extended
21 term, be extended by an amendment, renewal, or revision beyond
22 101 years by further agreement of the parties. A commission
23 may contract with any person, corporation, political
24 subdivision, municipal corporation, or other governmental or
25 non-governmental entity for a supply of water, and any such
26 political subdivision, municipal corporation, or other

1 governmental entity is authorized to enter into such a
2 contract with the commission. A commission may accept from a
3 municipality that is a member of the commission the assignment
4 of a contract to acquire a supply of water and to accept and
5 perform the duties and obligations and make all payments
6 required pursuant to such assigned contract.

7 A contract made by or assigned to a commission for a supply
8 of water may contain provisions whereby the commission is
9 obligated to pay for such supply of water without setoff or
10 counterclaim and irrespective of whether such supply of water
11 is ever furnished, made available, or delivered to the
12 commission or whether any project for the supply of water
13 contemplated by the contract is completed, operable, or
14 operating and notwithstanding any suspension, interruption,
15 interference, reduction, or curtailment of the supply of water
16 from such project.

17 No prior appropriation shall be required before entering
18 into or accepting assignment of such contract, and no
19 appropriation shall be required to authorize payments to be
20 made under the terms of the contract, notwithstanding any
21 provision of this Code to the contrary. The contract shall not
22 be a debt within the meaning of any statutory or
23 constitutional limitations.

24 (c) Water contracts to provide water supply to members.
25 The commission is authorized to contract with the
26 municipalities which established the commission, and with

1 other municipalities that have become members pursuant to the
2 process established in the intergovernmental agreement, for a
3 supply of water to those municipalities, for a period not
4 exceeding 101 years, and those municipalities are authorized
5 to enter into such contracts with the commission. The term of
6 the water supply contract may, at the end of the initial or
7 extended term, be extended by an amendment, renewal, or
8 revision beyond 101 years by further agreement of the parties.

9 Any such contract made by a commission and any such
10 municipalities to supply water may contain provisions whereby
11 the purchasing municipality is obligated to pay for such
12 supply of water without setoff or counterclaim and
13 irrespective of whether such supply of water is ever
14 furnished, made available, or delivered to the purchasing
15 municipality or whether any project for the supply of water
16 contemplated by any such contract is completed, operable, or
17 operating and notwithstanding any suspension, interruption,
18 interference, reduction, or curtailment of the supply of water
19 from such project. Any such contract may provide that if one or
20 more of the other purchasers' defaults in the payment of its
21 obligations under the contract or similar contract made with
22 the supplier of the water, the remaining purchasers party to
23 such contract or such similar contract shall be required to
24 pay for all or a portion of the obligations of the defaulting
25 purchaser. Each municipality that enters into such a contract
26 shall be obligated and have the duty to include an amount

1 sufficient to pay the annual amount of its obligation each
2 year in the next succeeding appropriation ordinances. No prior
3 appropriation shall be required for a municipality to
4 authorize the payments, advances, or obligations provided for
5 in such contracts or this subsection.

6 (d) Water contracts to provide water supply to nonmembers
7 and extend system. A commission may supply water to and
8 contract with a person, corporation, political subdivision,
9 municipal corporation, or other governmental or
10 non-governmental entity, in addition to the municipalities
11 which have formed the commission and other municipalities that
12 have become members pursuant to the process established in the
13 intergovernmental agreement, and to construct water
14 transmission and distribution lines within a radius of 25
15 miles outside the corporate limits of member municipalities
16 for the purpose of furnishing water to any additional entities
17 which contract with the commission for a supply of water, upon
18 such payment, terms, and conditions as may be mutually agreed
19 upon. Any such contract shall be a continuing, valid, and
20 binding obligation of the purchaser for such period of years,
21 not to exceed 40, as may be provided in such contract.

22 Any such contract entered into to supply water to a
23 municipal corporation or political subdivision shall provide
24 that the payments to be made thereunder shall be from the
25 revenues to be derived by such municipality or political
26 subdivision from the operation of the waterworks system or

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

1 payments, advances, or obligations provided for in such
2 contracts or this subsection. Any such contract shall not be a
3 debt within the meaning of any statutory or constitutional
4 limitations.

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

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

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

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

15 (65 ILCS 5/11-135.5-35)

16 Sec. 11-135.5-35. Revenues; rates; costs; construction
17 contracts.

18 (a) Revenue fund. Whenever bonds are issued under this
19 Division, the revenue received from the operation of the
20 properties under the control of the commission shall be set
21 aside as collected and deposited in a separate fund to be used
22 only (1) in paying the cost of the operation and maintenance of
23 those properties, (2) in providing an adequate depreciation
24 fund, (3) in paying the principal of and interest upon the
25 revenue bonds issued by the commission, as provided by this

1 Division, (4) to comply with the covenants of the ordinance or
2 resolution, or the master trust indenture or any applicable
3 supplemental trust indenture or both, authorizing the issuance
4 of such bonds, and (5) to carry out the corporate purposes and
5 powers of the commission.

6 (b) Rates and charges for waterworks system. If the
7 commission has charge of the operation of a complete
8 waterworks system, including the distribution mains, the
9 commission shall establish rates and charges for water and the
10 use of commission waterworks system facilities, which shall be
11 sufficient at all times to pay the cost of operation and
12 maintenance, to provide an adequate depreciation fund, to pay
13 the principal of and interest upon all revenue bonds issued as
14 provided by this Division, to comply with the covenants of the
15 ordinance or resolution, or the master trust indenture or any
16 applicable supplemental trust indenture or both, authorizing
17 the issuance of such bonds, and to carry out the corporate
18 purposes and powers of the commission. Charges and rates shall
19 be established, revised, and maintained by ordinance and
20 become payable as the commission may determine by ordinance.

21 (c) Rates and charges for water source of supply. If the
22 commission has charge of the operation of a common source of
23 supply of water, the municipalities represented by the
24 commission shall contract with the commission for water. These
25 municipalities shall establish such charges and rates for
26 water supplied by them to consumers as will be sufficient at

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

1 (d) Pension costs. Contributions to a retirement fund or
2 other pension alternative authorized by the Illinois Pension
3 Code, including, without limitation, the Illinois Municipal
4 Retirement Fund, by commissions created under this Division
5 which have been included under the retirement fund or other
6 pension alternative shall be considered a cost of operation
7 and maintenance for the purposes of this Section.

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

19 (f) Construction contracts. All or any portion of a
20 waterworks system or other public improvement of such a
21 commission, when the expense thereof will exceed the greater
22 of (i) \$25,000 or (ii) the amount of expense above which a work
23 or public improvement by a municipality must be let to the
24 lowest responsible bidder after advertising for bids under
25 Section 8-9-1 of this Code, shall be constructed, maintained,
26 or repaired either: (1) by a contract let to the lowest

1 responsible bidder after advertising for bids, in the manner
2 prescribed by the commission's bylaws, rules, and regulations
3 and by the vote required as established in the
4 intergovernmental agreement pursuant to Section 11-135.5-25;
5 or (2) without advertising for bids, if authorized by a vote of
6 greater than a majority of all the commissioners as
7 established in the intergovernmental agreement pursuant to
8 Section 11-135.5-25. The commission's bylaws, rules, and
9 regulations shall provide for an alternative procedure for
10 emergency procurement if an emergency makes it impracticable
11 to follow the procedures in this subsection.

12 (g) Alternative project delivery. A commission may use
13 alternative project delivery methods if the commission
14 determines it to be in the commission's best interest for a
15 particular project. An alternative project delivery method may
16 include, without limitation, design-build or
17 construction-manager-at-risk. All notices for the procurement
18 of goods, services, or work to be provided pursuant to an
19 alternate delivery method shall include all requirements for
20 the goods, services, or work to be procured. All awards of
21 contracts or agreements for the procurement of goods,
22 services, or work to be provided pursuant to an alternate
23 delivery method shall be made on the basis of demonstrated
24 competence and qualifications and with due regard for the
25 principles of competitive selection. As part of an alternate
26 project delivery procurement process, prior to submission of

1 proposals, the commission may conduct meetings and exchange
2 confidential information with proposers to promote
3 understanding of the request for proposals, review alternative
4 design concepts, or discuss other issues related to the
5 procurement.

6 As used in this subsection:

7 "Construction-manager-at-risk" means a delivery method in
8 which the party proposing to be the construction manager
9 commits to be responsible for performance of certain
10 preconstruction services and, if the parties reach agreement
11 on key terms, becomes responsible for construction of the
12 project.

13 "Design-build" means a delivery method that provides
14 responsibility within a single contract for furnishing the
15 architectural, engineering, land-surveying, and related
16 services for the project, as well as the labor, materials,
17 equipment, and other construction services for the project.

18 (h) Procurement goals and requirements. A commission may
19 establish goals or requirements for the procurement of goods
20 and services and for construction contracts to promote and
21 encourage the continuing economic development of (i)
22 businesses that are owned and operated by minorities, women,
23 persons with disabilities, or veterans; (ii) businesses that
24 are located within the territory of one or more of the
25 municipalities that are members of the commission; (iii)
26 businesses that employ persons who reside in the territory of

1 one or more of the municipalities that are members of the
2 commission; (iv) businesses that are located within the
3 territory of a municipality having more than 2,000,000
4 inhabitants in which a portion of the commission's waterworks
5 system or other commission improvement is located; or (v)
6 businesses that employ persons who reside in the territory of
7 a municipality having more than 2,000,000 inhabitants in which
8 a portion of the commission's waterworks system or other
9 commission improvement is located.

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

21 (i) Contract assignment. A member municipality may enter
22 into a contract for any portion of a waterworks system or other
23 public improvement of a commission pursuant to a contracting
24 method that is consistent with the requirements applicable to
25 the municipality and generally consistent with the principles
26 in subsection (f) or (g). The commission may accept assignment

1 of such a contract and of payment obligations under that
2 contract.

3 (j) ~~(g)~~ Project labor agreement. In connection with a
4 contract by a commission for the construction of all or any
5 portion of a waterworks system or other public improvement of
6 the commission, the commission must enter into a project labor
7 agreement with the applicable local building trades council
8 prior to the commencement of any and all construction,
9 building, renovation, demolition, or any material change to
10 the structure or land.

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

12 (65 ILCS 5/11-135.5-50 new)

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

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

1 must provide a copy of the request for proposal to any party
2 requesting a copy.

3 (b) The request for proposal shall be prepared for each
4 project and must contain, without limitation, the following
5 information:

6 (1) The name of the commission.

7 (2) A preliminary schedule for the completion of the
8 contract.

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

12 (4) Prequalification criteria for design-build
13 entities wishing to submit proposals. The Commission shall
14 include, at a minimum, its normal prequalification,
15 licensing, registration, and other requirements; however,
16 nothing precludes the use of additional prequalification
17 criteria by the commission.

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

21 (6) The performance criteria.

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

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

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

5 (d) The date that proposals are due must be at least 21
6 calendar days after the date of the issuance of the request for
7 proposal. If the cost of the project is estimated to exceed
8 \$12,000,000, then the proposal due date must be at least 28
9 calendar days after the date of the issuance of the request for
10 proposal. The commission shall include in the request for
11 proposal a minimum of 30 days to develop the Phase II
12 submissions after the selection of entities from the Phase I
13 evaluation is completed.

14 (65 ILCS 5/11-135.5-55 new)

15 Sec. 11-135.5-55. Development of scope and performance
16 criteria.

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

1 (b) Each request for proposal shall also include a
2 description of the level of design to be provided in the
3 proposals. This description must include the scope and type of
4 renderings, drawings, and specifications that, at a minimum,
5 will be required by the commission to be produced by the
6 design-build entities.

7 (c) The scope and performance criteria shall be prepared
8 by a design professional or public art designer who is an
9 employee of the commission, or the commission may contract
10 with an independent design professional or public art designer
11 selected under the Local Government Professional Services
12 Selection Act to provide these services.

13 (d) The design professional or public art designer that
14 prepares the scope and performance criteria is prohibited from
15 participating in any design-build entity proposal for the
16 project.

17 (e) The design-build contract may be conditioned upon
18 subsequent refinements in scope and price and may allow the
19 commission to make modifications in the project scope without
20 invalidating the design-build contract.

21 (65 ILCS 5/11-135.5-60 new)

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

23 (a) The commission must use a two-phase procedure for the
24 selection of the successful design-build entity. Phase I of
25 the procedure will evaluate and shortlist the design-build

1 entities based on qualifications, and Phase II will evaluate
2 the technical and cost proposals.

3 (b) The commission shall include in the request for
4 proposal the evaluating factors to be used in Phase I. These
5 factors are in addition to any prequalification requirements
6 of design-build entities that the commission has set forth.
7 Each request for proposal shall establish the relative
8 importance assigned to each evaluation factor and subfactor,
9 including any weighting of criteria to be employed by the
10 commission. The commission must maintain a record of the
11 evaluation scoring to be disclosed in event of a protest
12 regarding the solicitation.

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

21 The commission may include any additional relevant
22 criteria in Phase I that it deems necessary for a proper
23 qualification review. The commission may not consider any
24 design-build entity for evaluation or award if the entity has
25 any pecuniary interest in the project or has other
26 relationships or circumstances, including, but not limited to,

1 long-term leasehold, mutual performance, or development
2 contracts with the commission, that may give the design-build
3 entity a financial or tangible advantage over other
4 design-build entities in the preparation, evaluation, or
5 performance of the design-build contract or that create the
6 appearance of impropriety.

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

20 (c) The commission shall include in the request for
21 proposal the evaluating factors to be used in the technical
22 and cost submission components of Phase II. Each request for
23 proposal shall establish, for both the technical and cost
24 submission components of Phase II, the relative importance
25 assigned to each evaluation factor and subfactor, including
26 any weighting of criteria to be employed by the commission.

1 The commission must maintain a record of the evaluation
2 scoring to be disclosed in event of a protest regarding the
3 solicitation.

4 The commission shall include the following criteria in
5 every Phase II technical evaluation of design-build entities:
6 (i) compliance with objectives of the project; (ii) compliance
7 of proposed services to the request for proposal requirements;
8 (iii) quality of products or materials proposed; (iv) quality
9 of design parameters; (v) design concepts; (vi) innovation in
10 meeting the scope and performance criteria; and (vii)
11 constructability of the proposed project. The commission may
12 include any additional relevant technical evaluation factors
13 it deems necessary for proper selection.

14 The commission shall include the following criteria in
15 every Phase II cost evaluation: the total project cost; the
16 construction costs; and the time of completion. The commission
17 may include any additional relevant technical evaluation
18 factors it deems necessary for proper selection. The total
19 project cost criteria weighting factor shall not exceed 30%.

20 The commission shall directly employ or retain a licensed
21 design professional or a public art designer to evaluate the
22 technical and cost submissions to determine if the technical
23 submissions are in accordance with generally accepted industry
24 standards.

25 Upon completion of the technical submissions and cost
26 submissions evaluation, the commission may award the

1 design-build contract to the highest overall ranked entity.

2 (65 ILCS 5/11-135.5-65 new)

3 Sec. 11-135.5-65. Small projects. In any case where the
4 total overall cost of the project is estimated to be less than
5 \$12,000,000, the commission may combine the two-phase
6 procedure for selection described in Section 11-135.5-60 into
7 one combined step, provided that all the requirements of
8 evaluation are performed in accordance with Section
9 11-135.5-60.

10 (65 ILCS 5/11-135.5-70 new)

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

19 Proposals shall include a bid bond in the form and
20 security as designated in the request for proposals. Proposals
21 shall also contain a separate sealed envelope with the cost
22 information within the overall proposal submission. Proposals
23 shall include a list of all design professionals, public art
24 designers, and other entities to which any work may be

1 subcontracted during the performance of the contract.

2 Proposals must meet all material requirements of the
3 request for proposal or they may be rejected as
4 non-responsive. The commission has the right to reject any and
5 all proposals.

6 The drawings and specifications of the proposal may remain
7 the property of the design-build entity.

8 The commission shall review the proposals for compliance
9 with the performance criteria and evaluation factors.

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

13 (65 ILCS 5/11-135.5-75 new)

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

24 A design-build entity and associated design professionals
25 shall conduct themselves in accordance with the relevant laws

1 of this State and the related provisions of the Illinois
2 Administrative Code.

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