



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4333

Introduced 12/29/2005, by Rep. Renee Kosel

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-124-5 new  
220 ILCS 5/8-302.5 new  
220 ILCS 5/8-303.5 new  
220 ILCS 5/8-303.9 new  
220 ILCS 5/9-220.2  
220 ILCS 5/9-220.5 new  
220 ILCS 5/9-220.7 new

Amends the Illinois Municipal Code. Provides that, if any individual or entity, including a public utility, maintains and operates a water or sewer system that (i) is partially or entirely within the boundaries of a municipality or (ii) serves a municipality, then that individual or entity shall not convey, transfer, lease, or otherwise dispose of any interest in the water or sewer system unless the individual or entity offers the municipality a right of first refusal to acquire that interest on the same terms and conditions. Requires the offer to be delivered to the municipal clerk and requires the corporate authorities of the municipality either to accept or reject the offer within 30 days after it is received by the municipal clerk. Amends the Public Utilities Act. Provides that if a public utility charges a flat fee for water service, then the public utility is prohibited from charging any other customer for the use of the same water service. Provides that, if a public utility furnishing water to any customer determines that a meter owned by the public utility has malfunctioned, then the public utility is prohibited from charging the customer during the malfunction unless the customer intentionally caused the malfunction. Provides that, if a public utility furnishing water service measures individual consumption by meter, then the meter must be inspected and certified by an independent inspector approved by the Commission. Requires all existing meters to be inspected and certified within 18 months after the effective date of the amendatory Act and all new meters to be inspected and certified upon installation. Requires the inspector to file with the Commission a report detailing the operation of each inspected meter. Provides that, if a water or sewer public utility files a surcharge to adjust rates and charges to provide for recovery of certain costs, then the Illinois Commerce Commission must not authorize the surcharge in an amount that is greater than the surcharge the utility filed. Prohibits a public utility from filing a surcharge in an amount that is greater than its actual costs. Prohibits a public utility that provides water and sewer service from charging a customer for sewer service in any billing period in which the customer uses less than 100 gallons of water. Requires each public utility that provides water and sewer service to offer separate rates for water and sewer service to any customer who uses separate meters to measure those services. Effective immediately.

LRB094 16381 MKM 51633 b

1 AN ACT concerning regulation.

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

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

6 (65 ILCS 5/11-124-5 new)

7 Sec. 11-124-5. Right of first refusal for water or sewer  
8 system. If any individual or entity, including a public  
9 utility, maintains and operates a water or sewer system that  
10 (i) is partially or entirely within the boundaries of a  
11 municipality or (ii) serves a municipality, then that  
12 individual or entity shall not convey, transfer, lease, or  
13 otherwise dispose of any interest in the water or sewer system  
14 unless the individual or entity offers the municipality a right  
15 of first refusal to acquire that interest on the same terms and  
16 conditions. The offer must be delivered to the municipal clerk.  
17 The corporate authorities of the municipality must either  
18 accept or reject the offer within 30 days after it is received  
19 by the municipal clerk.

20 Section 10. The Public Utilities Act is amended by adding  
21 Sections 8-302.5, 8-303.5, 8-303.9, 9-220.5, and 9-220.7 and by  
22 changing Section 9-220.2 as follows:

23 (220 ILCS 5/8-302.5 new)

24 Sec. 8-302.5. Unmetered water. If a public utility charges  
25 any customer a flat fee for water service, then the public  
26 utility is prohibited from charging any other customer for the  
27 same water service.

28 (220 ILCS 5/8-303.5 new)

29 Sec. 8-303.5. Meter malfunction. If a public utility

1 furnishing water to any customer determines that a meter owned  
2 by the public utility has malfunctioned, then the public  
3 utility is prohibited from charging the customer during the  
4 malfunction unless the customer intentionally caused the  
5 malfunction.

6 (220 ILCS 5/8-303.9 new)

7 Sec. 8-303.9. Water meter certification. If a public  
8 utility furnishing water service measures individual  
9 consumption by meter, then the meter must be inspected and  
10 certified by an independent inspector approved by the  
11 Commission. The inspector must inspect and certify all existing  
12 meters within 18 months after the effective date of this  
13 amendatory Act of the 94th General Assembly and must inspect  
14 and certify all meters installed on or after the effective date  
15 of this amendatory Act of the 94th General Assembly upon  
16 installation. The inspector must file with the Commission a  
17 report detailing the operation of each inspected meter.

18 (220 ILCS 5/9-220.2)

19 Sec. 9-220.2. Water and sewer surcharges authorized.

20 (a) The Commission may authorize a water or sewer utility  
21 to file a surcharge which adjusts rates and charges to provide  
22 for recovery of (i) the cost of purchased water, (ii) the cost  
23 of purchased sewage treatment service, (iii) other costs which  
24 fluctuate for reasons beyond the utility's control or are  
25 difficult to predict, or (iv) costs associated with an  
26 investment in qualifying infrastructure plant, independent of  
27 any other matters related to the utility's revenue requirement.  
28 A surcharge approved under this Section can operate on an  
29 historical or a prospective basis. If a water or sewer public  
30 utility files a surcharge to adjust rates and charges under  
31 this Section, then the Commission must not authorize the  
32 surcharge in an amount that is greater than the surcharge the  
33 utility filed. In addition, the public utility is prohibited  
34 from filing a surcharge in an amount greater its actual costs.

1 (b) For purposes of this Section, "costs associated with an  
2 investment in qualifying infrastructure plant" include a  
3 return on the investment in and depreciation expense related to  
4 plant items or facilities (including, but not limited to,  
5 replacement mains, meters, services, and hydrants) which (i)  
6 are not reflected in the rate base used to establish the  
7 utility's base rates and (ii) are non-revenue producing. For  
8 purposes of this Section, a "non-revenue producing facility" is  
9 one that is not constructed or installed for the purpose of  
10 serving a new customer.

11 (c) On a periodic basis, the Commission shall initiate  
12 hearings to reconcile amounts collected under each surcharge  
13 authorized pursuant to this Section with the actual prudently  
14 incurred costs recoverable for each annual period during which  
15 the surcharge was in effect.

16 (Source: P.A. 91-638, eff. 1-1-00.)

17 (220 ILCS 5/9-220.5 new)

18 Sec. 9-220.5. Water and sewer utilities; low usage.  
19 Notwithstanding any other provision of law to the contrary, if  
20 in any billing period, a public utility provides water and  
21 sewer service to a customer who uses less than 100 gallons of  
22 water, then the public utility must not charge the customer for  
23 sewer service for that billing period.

24 (220 ILCS 5/9-220.7 new)

25 Sec. 9-220.7. Water and sewer utilities; separate meters.  
26 Each public utility that provides water and sewer service must  
27 offer separate rates for water and sewer service to any  
28 customer who uses separate meters to measure each of those  
29 services. In order for the separate rate to apply, the water  
30 meter must not measure the use of water that reaches the sewer  
31 system and the sewer meter must measure only the use of water  
32 that reaches the sewer system.

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.