

# HB5328



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5328

by Rep. Franco Coladipietro

### SYNOPSIS AS INTRODUCED:

70 ILCS 805/6

from Ch. 96 1/2, par. 6309

Amends the Downstate Forest Preserve District Act. Makes technical changes in a Section concerning the acquisition of property by a forest preserve district.

LRB095 17964 HLH 44046 b

A BILL FOR

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 Downstate Forest Preserve District Act is  
5 amended by changing Section 6 as follows:

6 (70 ILCS 805/6) (from Ch. 96 1/2, par. 6309)

7 Sec. 6. Acquisition of property. Any such District shall  
8 have power to acquire lands and ~~and~~ grounds for the aforesaid  
9 purposes by lease, or in fee simple by gift, grant, legacy,  
10 purchase or condemnation, or to acquire easements in land, and  
11 to construct, lay out, improve and maintain wells, power  
12 plants, comfort stations, shelter houses, paths, driveways,  
13 public roads, roadways and other improvements and facilities in  
14 and through such forest preserves as they shall deem necessary  
15 or desirable for the use of such forest preserves by the public  
16 and may acquire, develop, improve and maintain waterways in  
17 conjunction with the district. No district with a population  
18 less than 600,000 shall have the power to purchase, condemn,  
19 lease or acquire an easement in property within a municipality  
20 without the concurrence of the governing body of the  
21 municipality, except where such district is acquiring land for  
22 a linear park or trail not to exceed 100 yards in width or is  
23 acquiring land contiguous to an existing park or forest

1 preserve, and no municipality shall annex any land for the  
2 purpose of defeating a District acquisition once the District  
3 has given notice of intent to acquire a specified parcel of  
4 land. No district with a population of less than 500,000 shall  
5 (i) have the power to condemn property for a linear park or  
6 trail within a municipality without the concurrence of the  
7 governing body of the municipality or (ii) have the power to  
8 condemn property for a linear park or trail in an  
9 unincorporated area without the concurrence of the governing  
10 body of the township within which the property is located or  
11 (iii) once having commenced a proceeding to acquire land by  
12 condemnation, dismiss or abandon that proceeding without the  
13 consent of the property owners. No district shall establish a  
14 trail surface within 50 feet of an occupied dwelling which was  
15 in existence prior to the approval of the acquisition by the  
16 district without obtaining permission of the owners of the  
17 premises or the concurrence of the governing body of the  
18 municipality or township within which the property is located.  
19 All acquisitions of land by a district with a population less  
20 than 600,000 within 1 1/2 miles of a municipality shall be  
21 preceded by a conference with the mayor or president of the  
22 municipality or his designated agent. If a forest preserve  
23 district is in negotiations for acquisition of land with owners  
24 of land adjacent to a municipality, the annexation of that land  
25 shall be deferred for 6 months. The district shall have no  
26 power to acquire an interest in real estate situated outside

1 the district by the exercise of the right of eminent domain, by  
2 purchase or by lease, but shall have the power to acquire any  
3 such property, or an easement in any such property, which is  
4 contiguous to the district by gift, legacy, grant, or lease by  
5 the State of Illinois, subject to approval of the county board  
6 of the county, and of any forest preserve district or  
7 conservation district, within which the property is located.  
8 The district shall have the same control of and power over  
9 land, an interest in which it has so acquired, as over forest  
10 preserves within the district. If any of the powers to acquire  
11 lands and hold or improve the same given to Forest Preserve  
12 Districts, by Sections 5 and 6 of this Act should be held  
13 invalid, such invalidity shall not invalidate the remainder of  
14 this Act or any of the other powers herein given and conferred  
15 upon the Forest Preserve Districts. Such Forest Preserve  
16 Districts shall also have power to lease not to exceed 40 acres  
17 of the lands and grounds acquired by it, for a term of not more  
18 than 99 years to veterans' organizations as grounds for  
19 convalescing sick and disabled veterans, and as a place upon  
20 which to construct rehabilitation quarters, or to a county as  
21 grounds for a county nursing home or convalescent home. Any  
22 such Forest Preserve District shall also have power to grant  
23 licenses, easements and rights-of-way for the construction,  
24 operation and maintenance upon, under or across any property of  
25 such District of facilities for water, sewage, telephone,  
26 telegraph, electric, gas or other public service, subject to

1 such terms and conditions as may be determined by such  
2 District.

3 Any such District may purchase, but not condemn, a parcel  
4 of land and sell a portion thereof for not less than fair  
5 market value pursuant to resolution of the Board. Such  
6 resolution shall be passed by the affirmative vote of at least  
7 2/3 of all members of the board within 30 days after  
8 acquisition by the district of such parcel.

9 Whenever the board of any forest preserve district  
10 determines that the public interest will be subserved by  
11 vacating any street, roadway, or driveway, or part thereof,  
12 located within a forest preserve, it may vacate that street,  
13 roadway, or driveway, or part thereof, by an ordinance passed  
14 by the affirmative vote of at least 3/4 of all the members of  
15 the board, except that the affirmative vote of at least 6/7 of  
16 all the members of the board is required if the board members  
17 are elected under Section 3c of this Act. This vote shall be  
18 taken by ayes and nays and entered in the records of the board.

19 The determination of the board that the nature and extent  
20 of the public use or public interest to be subserved is such as  
21 to warrant the vacation of any street, roadway, or driveway, or  
22 part thereof, is conclusive, and the passage of such an  
23 ordinance is sufficient evidence of that determination,  
24 whether so recited in the ordinance or not. The relief to the  
25 public from further burden and responsibility of maintaining  
26 any street, roadway or driveway, or part thereof, constitutes a

1 public use or public interest authorizing the vacation.

2 Nothing contained in this Section shall be construed to  
3 authorize the board of any forest preserve district to vacate  
4 any street, roadway, or driveway, or part thereof, that is part  
5 of any State or county highway.

6 When property is damaged by the vacation or closing of any  
7 street, roadway, or driveway, or part thereof, damage shall be  
8 ascertained and paid as provided by law.

9 Except in cases where the deed, or other instrument  
10 dedicating a street, roadway, or driveway, or part thereof, has  
11 expressly provided for a specific devolution of the title  
12 thereto upon the abandonment or vacation thereof, and except  
13 where such street, roadway or driveway, or part thereof, is  
14 held by the district by lease, or where the district holds an  
15 easement in the land included within the street, roadway or  
16 driveway, whenever any street, roadway, or driveway, or part  
17 thereof is vacated under or by virtue of any ordinance of any  
18 forest preserve district, the title to the land in fee simple  
19 included within the street, roadway, or driveway, or part  
20 thereof, so vacated vests in the forest preserve district.

21 The board of any forest preserve district is authorized to  
22 sell at fair market price, gravel, sand, earth and any other  
23 material obtained from the lands and waters owned by the  
24 district.

25 For the purposes of this Section, "acquiring land" includes  
26 acquiring a fee simple, lease or easement in land.

1 (Source: P.A. 93-247, eff. 7-22-03.)