



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB3032

Introduced 4/16/2008, by Sen. Christine Radogno

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-139-2  
220 ILCS 5/8-406

from Ch. 24, par. 11-139-2  
from Ch. 111 2/3, par. 8-406

Amends the Illinois Municipal Code. Provides that the Village of Woodridge may not acquire, construct, contract to construct, or maintain a waterworks or sewerage system outside of its corporate boundaries or planned boundaries without the approval by the Illinois Commerce Commission of a certificate of public convenience and necessity. Amends the Public Utilities Act. Provides that the Village of Woodridge shall not begin the construction of, or contract for the construction of, any waterworks or sewerage system outside of its corporate boundaries or planned boundaries unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Effective immediately.

LRB095 20715 MJR 49137 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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  
5 changing Section 11-139-2 as follows:

6 (65 ILCS 5/11-139-2) (from Ch. 24, par. 11-139-2)

7 Sec. 11-139-2. Any municipality may acquire, or construct,  
8 and maintain and operate a combined waterworks and sewerage  
9 system either within or without the corporate limits thereof. A  
10 municipality owning and operating a waterworks or sewerage  
11 system may provide for the inclusion of that waterworks or  
12 sewerage system or the combination of the 2 in a combined  
13 waterworks and sewerage system under this Division 139, and in  
14 connection therewith may provide for paying or refunding any  
15 unpaid obligations which are payable solely from the revenue of  
16 or which are secured by a mortgage of that waterworks or  
17 sewerage system, or any part thereof included in the combined  
18 waterworks and sewerage system. Any municipality owning and  
19 operating a combined waterworks and sewerage system may also  
20 provide for paying or refunding any unpaid obligations which  
21 are payable solely from the revenue of the combined waterworks  
22 and sewerage system. A municipality owning, acquiring, or  
23 constructing and providing for the operation of a combined

1 waterworks and sewerage system may improve and extend that  
2 system, and may impose and collect charges or rates for the use  
3 of that system as provided in this Division 139. A municipality  
4 may also, when determined by its corporate authorities to be in  
5 the public interest and necessary for the protection of the  
6 public health or in the best interests of the municipality and  
7 its environs, enter into and perform contracts, whether  
8 long-term or short-term, with any other municipality within a  
9 radius of 25 miles of its corporate limits and construct water  
10 mains to such municipality and supply water to such  
11 municipalities on the request of any such municipality;  
12 provided, that such water mains be constructed and that such  
13 municipality purchase water on a long term basis at rates  
14 sufficient to amortize the cost of the construction of such  
15 water mains and pay the cost of maintenance and operation  
16 thereof, as hereinafter provided in this Division 139, and also  
17 with any industrial establishment for the provision and  
18 operation by the municipality of sewerage facilities, either  
19 within or without the corporate limits of such municipality, to  
20 abate or reduce the pollution of waters caused by discharges of  
21 industrial wastes by the industrial establishment and the  
22 payment periodically by such municipality or municipalities or  
23 the industrial establishment to the municipality of amounts at  
24 least sufficient, in the determination of such corporate  
25 authorities, to compensate the municipality for the cost of  
26 providing (including payment of principal and interest

1 charges, if any) and of operating and maintaining any such  
2 facilities. This amendatory Act is not a prohibition upon the  
3 contractual and associational powers granted by Article VII,  
4 Section 10 of the Constitution.

5 Notwithstanding any other provision of law, on and after  
6 the effective date of this amendatory Act of the 95th General  
7 Assembly, the Village of Woodridge may not acquire, construct,  
8 contract to construct, or maintain a waterworks or sewerage  
9 system outside of its corporate boundaries or planned  
10 boundaries without the approval by the Illinois Commerce  
11 Commission of a certificate of public convenience and  
12 necessity.

13 (Source: P.A. 77-2837.)

14 Section 10. The Public Utilities Act is amended by changing  
15 Section 8-406 as follows:

16 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

17 Sec. 8-406. Certificate of public convenience and  
18 necessity.

19 (a) No public utility not owning any city or village  
20 franchise nor engaged in performing any public service or in  
21 furnishing any product or commodity within this State as of  
22 July 1, 1921 and not possessing a certificate of public  
23 convenience and necessity from the Illinois Commerce  
24 Commission, the State Public Utilities Commission or the Public

1 Utilities Commission, at the time this amendatory Act of 1985  
2 goes into effect, shall transact any business in this State  
3 until it shall have obtained a certificate from the Commission  
4 that public convenience and necessity require the transaction  
5 of such business.

6 (b) No public utility shall begin the construction of any  
7 new plant, equipment, property or facility which is not in  
8 substitution of any existing plant, equipment, property or  
9 facility or any extension or alteration thereof or in addition  
10 thereto, unless and until it shall have obtained from the  
11 Commission a certificate that public convenience and necessity  
12 require such construction. Whenever after a hearing the  
13 Commission determines that any new construction or the  
14 transaction of any business by a public utility will promote  
15 the public convenience and is necessary thereto, it shall have  
16 the power to issue certificates of public convenience and  
17 necessity. The Commission shall determine that proposed  
18 construction will promote the public convenience and necessity  
19 only if the utility demonstrates: (1) that the proposed  
20 construction is necessary to provide adequate, reliable, and  
21 efficient service to its customers and is the least-cost means  
22 of satisfying the service needs of its customers or that the  
23 proposed construction will promote the development of an  
24 effectively competitive electricity market that operates  
25 efficiently, is equitable to all customers, and is the least  
26 cost means of satisfying those objectives; (2) that the utility

1 is capable of efficiently managing and supervising the  
2 construction process and has taken sufficient action to ensure  
3 adequate and efficient construction and supervision thereof;  
4 and (3) that the utility is capable of financing the proposed  
5 construction without significant adverse financial  
6 consequences for the utility or its customers.

7 (c) After the effective date of this amendatory Act of  
8 1987, no construction shall commence on any new nuclear power  
9 plant to be located within this State, and no certificate of  
10 public convenience and necessity or other authorization shall  
11 be issued therefor by the Commission, until the Director of the  
12 Illinois Environmental Protection Agency finds that the United  
13 States Government, through its authorized agency, has  
14 identified and approved a demonstrable technology or means for  
15 the disposal of high level nuclear waste, or until such  
16 construction has been specifically approved by a statute  
17 enacted by the General Assembly.

18 As used in this Section, "high level nuclear waste" means  
19 those aqueous wastes resulting from the operation of the first  
20 cycle of the solvent extraction system or equivalent and the  
21 concentrated wastes of the subsequent extraction cycles or  
22 equivalent in a facility for reprocessing irradiated reactor  
23 fuel and shall include spent fuel assemblies prior to fuel  
24 reprocessing.

25 (c-5) The Village of Woodridge shall not begin the  
26 construction of, or contract for the construction of, any

1 waterworks or sewerage system outside of its corporate  
2 boundaries or planned boundaries unless and until it shall have  
3 obtained from the Commission a certificate that public  
4 convenience and necessity require such construction.

5 (d) In making its determination, the Commission shall  
6 attach primary weight to the cost or cost savings to the  
7 customers of the utility. The Commission may consider any or  
8 all factors which will or may affect such cost or cost savings.

9 (e) The Commission may issue a temporary certificate which  
10 shall remain in force not to exceed one year in cases of  
11 emergency, to assure maintenance of adequate service or to  
12 serve particular customers, without notice or hearing, pending  
13 the determination of an application for a certificate, and may  
14 by regulation exempt from the requirements of this Section  
15 temporary acts or operations for which the issuance of a  
16 certificate will not be required in the public interest.

17 A public utility shall not be required to obtain but may  
18 apply for and obtain a certificate of public convenience and  
19 necessity pursuant to this Section with respect to any matter  
20 as to which it has received the authorization or order of the  
21 Commission under the Electric Supplier Act, and any such  
22 authorization or order granted a public utility by the  
23 Commission under that Act shall as between public utilities be  
24 deemed to be, and shall have except as provided in that Act the  
25 same force and effect as, a certificate of public convenience  
26 and necessity issued pursuant to this Section.

1           No electric cooperative shall be made or shall become a  
2 party to or shall be entitled to be heard or to otherwise  
3 appear or participate in any proceeding initiated under this  
4 Section for authorization of power plant construction and as to  
5 matters as to which a remedy is available under The Electric  
6 Supplier Act.

7           (f) Such certificates may be altered or modified by the  
8 Commission, upon its own motion or upon application by the  
9 person or corporation affected. Unless exercised within a  
10 period of 2 years from the grant thereof authority conferred by  
11 a certificate of convenience and necessity issued by the  
12 Commission shall be null and void.

13           No certificate of public convenience and necessity shall be  
14 construed as granting a monopoly or an exclusive privilege,  
15 immunity or franchise.

16           (Source: P.A. 95-700, eff. 11-9-07.)

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