



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2141

Introduced 2/20/2009, 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.

LRB096 10766 RLJ 20960 b

HOME RULE 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 96th 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.