



Rep. Joe Sosnowski

Filed: 3/13/2013

09800HB3104ham001

LRB098 08168 CEL 42833 a

1 AMENDMENT TO HOUSE BILL 3104

2 AMENDMENT NO. _____. Amend House Bill 3104 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Section 11-117-12.3 and by changing Section 11-141-7 as
6 follows:

7 (65 ILCS 5/11-117-12.3 new)

8 Sec. 11-117-12.3. Discontinued water or sewer service. A
9 water or sewer utility may discontinue service only on a day
10 followed by a business day and after the water or sewer utility
11 has mailed or delivered by other means a written notice of
12 discontinuance.

13 (65 ILCS 5/11-141-7) (from Ch. 24, par. 11-141-7)

14 Sec. 11-141-7. Powers. The corporate authorities of any
15 municipality that owns and operates or that may hereafter own

1 and operate a sewerage system constructed or acquired under the
2 provisions of any law of this state may make, enact, and
3 enforce all needful rules, regulations, and ordinances for the
4 improvement, care, and protection of its sewerage system and
5 any other sewer or sewerage system, located outside the
6 corporate boundary of the municipality and not owned by it,
7 that directly or indirectly connects with the municipality's
8 sewerage system, which may be conducive to the preservation of
9 the public health, comfort, and convenience, and may render the
10 sewage carried in the sewerage system of the municipality
11 harmless in so far as it is reasonably possible to do so.

12 The corporate authorities of such a municipality may, by
13 ordinance, charge the inhabitants thereof for the use and
14 service of its sewerage system whether by direct or indirect
15 connection therewith within or without the corporate boundary,
16 and to establish charges or rates for that purpose. The
17 corporate authorities of such a municipality may by ordinance
18 charge the users thereof, whether they be inside of or outside
19 of the municipality, for the use and service of its sewerage
20 system whether by direct or indirect connection therewith,
21 within or without the corporate boundary, and may establish
22 charges or rates for that purpose, provided however that where
23 such users are residents of another municipality with whom
24 there is a contract for use and service of the sewerage system,
25 then such charges or rates shall be made in accordance with the
26 terms of the contract, either directly to the users or to the

1 contracting municipality as may be provided by the provisions
2 of the contract. In making such rates and charges the
3 municipality may provide for a rate to the outside users in
4 excess of the rate fixed for the inhabitants of said
5 municipality as may be reasonable. Where bonds are issued as
6 provided in Sections 11-141-2 and 11-141-3, the corporate
7 authorities shall establish rates or charges as provided in
8 this section, and these charges or rates shall be sufficient at
9 all times to pay the cost of operation and maintenance, to
10 provide an adequate depreciation fund, and to pay the principal
11 of and interest upon all revenue bonds issued under Sections
12 11-141-2 and 11-141-3.

13 A depreciation fund is a fund for such replacements as may
14 be necessary from time to time for the continued effective and
15 efficient operation of the system. The depreciation fund shall
16 not be allowed to accumulate beyond a reasonable amount
17 necessary for that purpose, and shall not be used for
18 extensions to the system.

19 Charges or rates shall be established, revised, and
20 maintained by ordinance and become payable as the corporate
21 authorities may determine by ordinance.

22 Such charges or rates are liens upon the real estate upon
23 or for which sewerage service is supplied whenever the charges
24 or rates become delinquent as provided by the ordinance of the
25 municipality fixing a delinquency date. A lien is created under
26 the preceding sentence only if the municipality sends to the

1 owner or owners of record, as referenced by the taxpayer's
2 identification number, of the real estate (i) a copy of each
3 delinquency notice sent to the person who is delinquent in
4 paying the charges or rates or other notice sufficient to
5 inform the owner or owners of record, as referenced by the
6 taxpayer's identification number, that the charges or rates
7 have become delinquent and (ii) a notice that unpaid charges or
8 rates may create a lien on the real estate under this Section.
9 However, the municipality has no preference over the rights of
10 any purchaser, mortgagee, judgment creditor, or other lien
11 holder arising prior to the filing of the notice of such a lien
12 in the office of the recorder of the county in which such real
13 estate is located, or in the office of the registrar of titles
14 of such county if the property affected is registered under "An
15 Act concerning land titles", approved May 1, 1897, as amended.
16 This notice shall consist of a sworn statement setting out (1)
17 a description of such real estate sufficient for the
18 identification thereof, (2) the amount of money due for such
19 sewerage service, and (3) the date when such amount became
20 delinquent. The municipality shall send a copy of the notice of
21 the lien to the owner or owners of record of the real estate,
22 as referenced by the taxpayer's identification number. The
23 municipality has the power to foreclose this lien in the same
24 manner and with the same effect as in the foreclosure of
25 mortgages on real estate.

26 Except in counties with a population of more than 250,000

1 where the majority of the municipal sewerage system users are
2 located outside of the municipality's corporate limits, the
3 payment of delinquent charges for sewerage service to any
4 premises may be enforced by discontinuing either the water
5 service or the sewerage service to that premises, or both. A
6 rate or charge is delinquent if the customer has not paid the
7 balance within 30 days after the receipt of the bill ~~it is more~~
8 ~~than 30 days overdue~~. Any public or municipal corporation or
9 political subdivision of the State furnishing water service to
10 a premises (i) shall discontinue that service upon receiving
11 written notice from the municipality providing sewerage
12 service that payment of the rate or charge for sewerage service
13 to the premises has become delinquent and (ii) shall not resume
14 water service until receiving a similar notice that the
15 delinquency has been removed. A water or sewer utility may
16 discontinue service only on a day followed by a business day
17 and after the water or sewer utility has mailed or delivered by
18 other means a written notice of discontinuance. ~~The provider of~~
19 ~~sewerage service shall not request discontinuation of water~~
20 ~~service before sending a notice of the delinquency to the sewer~~
21 ~~user and affording the user an opportunity to be heard.~~ An
22 investor-owned public utility providing water service within a
23 municipality that provides sewerage service may contract with
24 the municipality to discontinue water service to a premises
25 with respect to which the payment of a rate or charge for
26 sewerage service has become delinquent. The municipality shall

1 reimburse the privately owned public utility, public or
2 municipal corporation, or political subdivision of the State
3 for the reasonable cost of the discontinuance and the
4 resumption of water service, any lost water service revenues,
5 and the costs of discontinuing water service. The municipality
6 shall indemnify the privately owned public utility, public or
7 municipal corporation, or political subdivision of the State
8 for any judgment and related attorney's fees resulting from an
9 action based on any provision of this paragraph.

10 The municipality also has the power, from time to time, to
11 sue the occupant or user of that real estate in a civil action
12 to recover money due for sewerage services, plus a reasonable
13 attorney's fee, to be fixed by the court. However, whenever a
14 judgment is entered in such a civil action, the foregoing
15 provisions in this section with respect to filing sworn
16 statements of such delinquencies in the office of the recorder
17 and creating a lien against the real estate shall not be
18 effective as to the charges sued upon and no lien shall exist
19 thereafter against the real estate for the delinquency.
20 Judgment in such a civil action operates as a release and
21 waiver of the lien upon the real estate for the amount of the
22 judgment.

23 (Source: P.A. 93-500, eff. 6-1-04.)

24 Section 10. The Public Utilities Act is amended by changing
25 Section 8-306 as follows:

1 (220 ILCS 5/8-306)

2 Sec. 8-306. Special provisions relating to water and sewer
3 utilities.

4 (a) No later than 120 days after the effective date of this
5 amendatory Act of the 94th General Assembly, the Commission
6 shall prepare, make available to customers upon request, and
7 post on its Internet web site information concerning the
8 service obligations of water and sewer utilities and remedies
9 that a customer may pursue for a violation of the customer's
10 rights. The information shall specifically address the rights
11 of a customer of a water or sewer utility in the following
12 situations:

13 (1) The customer's water meter is replaced.

14 (2) The customer's bill increases by more than 50%
15 within one billing period.

16 (3) The customer's water service is terminated.

17 (4) The customer wishes to complain after receiving a
18 termination of service notice.

19 (5) The customer is unable to make payment on a billing
20 statement.

21 (6) A rate is filed, including without limitation a
22 surcharge or annual reconciliation filing, that will
23 increase the amount billed to the customer.

24 (7) The customer is billed for services provided prior
25 to the date covered by the billing statement.

1 (8) The customer is due to receive a credit.

2 Each billing statement issued by a water or sewer utility
3 shall include an Internet web site address where the customer
4 can view the information required under this subsection (a) and
5 a telephone number that the customer may call to request a copy
6 of the information.

7 (b) A rate or charge is past due if the customer has not
8 paid the balance of the bill within 30 days after the receipt
9 of the bill. A water or sewer utility may discontinue service
10 only on a day followed by a business day and after it has
11 mailed or delivered by other means a written notice of
12 discontinuance substantially in the form of Appendix A of 83
13 Ill. Adm. Code 280. The notice must include the Internet web
14 site address where the customer can view the information
15 required under subsection (a) and a telephone number that the
16 customer may call to request a copy of the information. Any
17 notice required to be delivered or mailed to a customer prior
18 to discontinuance of service shall be delivered or mailed
19 separately from any bill. Service shall not be discontinued
20 until at least 5 days after delivery or 8 days after the
21 mailing of this notice. Service shall not be discontinued and
22 shall be restored if discontinued for the reason which is the
23 subject of a dispute or complaint during the pendency of
24 informal or formal complaint procedures of the Illinois
25 Commerce Commission under 83 Ill. Adm. Code 280.160 or 280.170,
26 where the customer has complied with those rules. Service shall

1 not be discontinued and shall be restored if discontinued where
2 a customer has established a deferred payment agreement
3 pursuant to 83 Ill. Adm. Code 280.110 and has not defaulted on
4 such agreement. Residential customers who are indebted to a
5 utility for past due utility service shall have the opportunity
6 to make arrangements with the utility to retire the debt by
7 periodic payments, referred to as a deferred payment agreement,
8 unless this customer has failed to make payment under such a
9 plan during the past 12 months. The terms and conditions of a
10 reasonable deferred payment agreement shall be determined by
11 the utility after consideration of the following factors, based
12 upon information available from current utility records or
13 provided by the customer or applicant:

- 14 (1) size of the past due account;
- 15 (2) customer or applicant's ability to pay;
- 16 (3) customer or applicant's payment history;
- 17 (4) reason for the outstanding indebtedness; and
- 18 (5) any other relevant factors relating to the
19 circumstances of the customer or applicant's service.

20 A residential customer shall pay a maximum of one-fourth of the
21 amount past due and owing at the time of entering into the
22 deferred payment agreement, and the water or sewer utility
23 shall allow a minimum of 2 months from the date of the
24 agreement and a maximum of 12 months for payment to be made
25 under a deferred payment agreement. Late payment charges may be
26 assessed against the amount owing that is the subject of a

1 deferred payment agreement.

2 (c) A water or sewer utility shall provide notice as
3 required by subsection (a) of Section 9-201 after the filing of
4 each information sheet under a purchased water surcharge,
5 purchased sewage treatment surcharge, or qualifying
6 infrastructure plant surcharge. The utility also shall post
7 notice of the filing in accordance with the requirements of 83
8 Ill. Adm. Code 255. Unless filed as part of a general rate
9 increase, notice of the filing of a purchased water surcharge
10 rider, purchased sewage treatment surcharge rider, or
11 qualifying infrastructure plant surcharge rider also shall be
12 given in the manner required by this subsection (c) for the
13 filing of information sheets.

14 (d) Commission rules pertaining to formal and informal
15 complaints against public utilities shall apply with full and
16 equal force to water and sewer utilities and their customers,
17 including provisions of 83 Ill. Adm. Code 280.170, and the
18 Commission shall respond to each complaint by providing the
19 consumer with a copy of the utility's response to the complaint
20 and a copy of the Commission's review of the complaint and its
21 findings. The Commission shall also provide the consumer with
22 all available options for recourse.

23 (e) Any refund shown on the billing statement of a customer
24 of a water or sewer utility must be itemized and must state if
25 the refund is an adjustment or credit.

26 (f) Water service for building construction purposes. At

1 the request of any municipality or township within the service
2 area of a public utility that provides water service to
3 customers within the municipality or township, a public utility
4 must (1) require all water service used for building
5 construction purposes to be measured by meter and subject to
6 approved rates and charges for metered water service and (2)
7 prohibit the unauthorized use of water taken from hydrants or
8 service lines installed at construction sites.

9 (g) Water meters.

10 (1) Periodic testing. Unless otherwise approved by the
11 Commission, each service water meter shall be periodically
12 inspected and tested in accordance with the schedule
13 specified in 83 Ill. Adm. Code 600.340, or more frequently
14 as the results may warrant, to insure that the meter
15 accuracy is maintained within the limits set out in 83 Ill.
16 Adm. Code 600.310.

17 (2) Meter tests requested by customer.

18 (A) Each utility furnishing metered water service
19 shall, without charge, test the accuracy of any meter
20 upon request by the customer served by such meter,
21 provided that the meter in question has not been tested
22 by the utility or by the Commission within 2 years
23 previous to such request. The customer or his or her
24 representatives shall have the privilege of witnessing
25 the test at the option of the customer. A written
26 report, giving the results of the test, shall be made

1 to the customer.

2 (B) When a meter that has been in service less than
3 2 years since its last test is found to be accurate
4 within the limits specified in 83 Ill. Adm. Code
5 600.310, the customer shall pay a fee to the utility
6 not to exceed the amounts specified in 83 Ill. Adm.
7 Code 600.350(b). Fees for testing meters not included
8 in this Section or so located that the cost will be out
9 of proportion to the fee specified will be determined
10 by the Commission upon receipt of a complete
11 description of the case.

12 (3) Commission referee tests. Upon written application
13 to the Commission by any customer, a test will be made of
14 the customer's meter by a representative of the Commission.
15 For such a test, a fee as provided for in subsection (g) (2)
16 shall accompany the application. If the meter is found to
17 be registering more than 1.5% fast on the average when
18 tested as prescribed in 83 Ill. Adm. Code 600.310, the
19 utility shall refund to the customer the amount of the fee.
20 The utility shall in no way disturb the meter after a
21 customer has made an application for a referee test until
22 authority to do so is given by the Commission or the
23 customer in writing.

24 (h) Water and sewer utilities; low usage. Each public
25 utility that provides water and sewer service must establish a
26 unit sewer rate, subject to review by the Commission, that

1 applies only to those customers who use less than 1,000 gallons
2 of water in any billing period.

3 (i) Water and sewer utilities; separate meters. Each public
4 utility that provides water and sewer service must offer
5 separate rates for water and sewer service to any commercial or
6 residential customer who uses separate meters to measure each
7 of those services. In order for the separate rate to apply, a
8 combination of meters must be used to measure the amount of
9 water that reaches the sewer system and the amount of water
10 that does not reach the sewer system.

11 (j) Each water or sewer public utility must disclose on
12 each billing statement any amount billed that is for service
13 provided prior to the date covered by the billing statement.
14 The disclosure must include the dates for which the prior
15 service is being billed. Each billing statement that includes
16 an amount billed for service provided prior to the date covered
17 by the billing statement must disclose the dates for which that
18 amount is billed and must include a copy of the document
19 created under subsection (a) and a statement of current
20 Commission rules concerning unbilled or misbilled service.

21 (k) When the customer is due a refund resulting from
22 payment of an overcharge, the utility shall credit the customer
23 in the amount of overpayment with interest from the date of
24 overpayment by the customer. The rate for interest shall be at
25 the appropriate rate determined by the Commission under 83 Ill.
26 Adm. Code 280.70.

1 (1) Water and sewer public utilities; subcontractors. The
2 Commission shall adopt rules for water and sewer public
3 utilities to provide notice to the customers of the proper kind
4 of identification that a subcontractor must present to the
5 customer, to prohibit a subcontractor from soliciting or
6 receiving payment of any kind for any service provided by the
7 water or sewer public utility or the subcontractor, and to
8 establish sanctions for violations.

9 (m) Water and sewer public utilities; unaccounted-for
10 water. By December 31, 2006, each water public utility shall
11 file tariffs with the Commission to establish the maximum
12 percentage of unaccounted-for water that would be considered in
13 the determination of any rates or surcharges. The rates or
14 surcharges approved for a water public utility shall not
15 include charges for unaccounted-for water in excess of this
16 maximum percentage without well-documented support and
17 justification for the Commission to consider in any request to
18 recover charges in excess of the tariffed maximum percentage.

19 (n) Rate increases; public forums. When any public utility
20 providing water or sewer service proposes a general rate
21 increase, in addition to other notice requirements, the water
22 or sewer public utility must notify its customers of their
23 right to request a public forum. A customer or group of
24 customers must make written request to the Commission for a
25 public forum and must also provide written notification of the
26 request to the customer's municipal or, for unincorporated

1 areas, township government. The Commission, at its discretion,
2 may schedule the public forum. If it is determined that public
3 forums are required for multiple municipalities or townships,
4 the Commission shall schedule these public forums, in locations
5 within approximately 45 minutes drive time of the
6 municipalities or townships for which the public forums have
7 been scheduled. The public utility must provide advance notice
8 of 30 days for each public forum to the governing bodies of
9 those units of local government affected by the increase. The
10 day of each public forum shall be selected so as to encourage
11 the greatest public participation. Each public forum will begin
12 at 7:00 p.m. Reports and comments made during or as a result of
13 each public forum must be made available to the hearing
14 officials and reviewed when drafting a recommended or tentative
15 decision, finding or order pursuant to Section 10-111 of this
16 Act.

17 (Source: P.A. 94-950, eff. 6-27-06.)

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