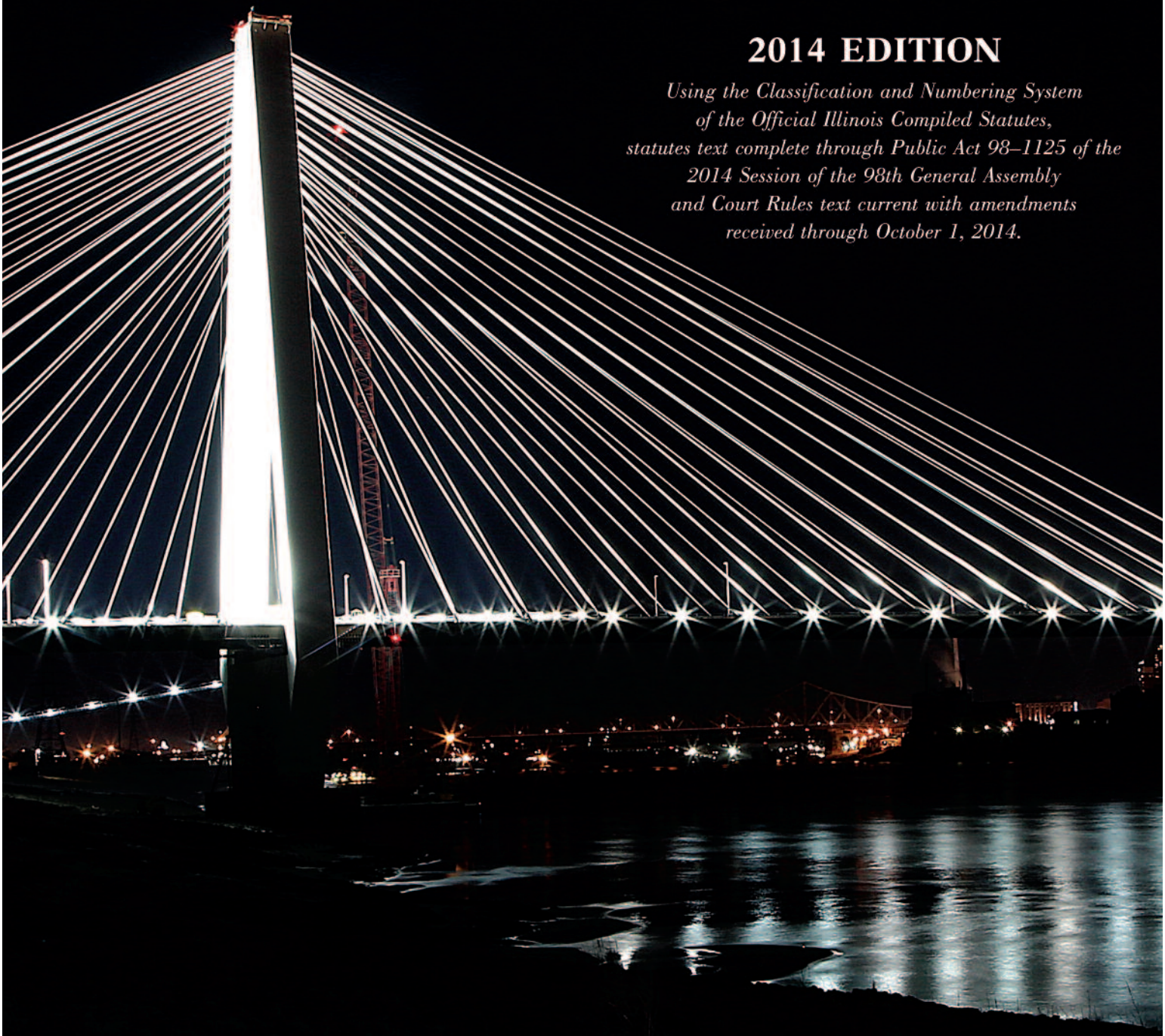
Road, Bridge and Other Related Laws of Illinois



2014 EDITION

Using the Classification and Numbering System of the Official Illinois Compiled Statutes, statutes text complete through Public Act 98–1125 of the 2014 Session of the 98th General Assembly and Court Rules text current with amendments received through October 1, 2014.

State of Illinois
Illinois Department of Transportation

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FOREWORD

The material presented in the 2014 Edition of Road, Bridge and Other Related Laws of Illinois, as currently amended through October 31, 2014, includes the enactments of the 98th Illinois General Assembly through Public Act 98–1125. All changes to the laws have been incorporated in the text, and effective dates have been added where applicable. A comprehensive index is also included.

Some sections of the law were affected by several Public Acts which were issued concurrently or consecutively during the same legislative session. If no summary bill was passed, all changes, additions and deletions were incorporated into the changed section. Please consult all Public Acts from the same legislative session affecting sections of the law.

Under provisions of Public Act 87–1005, the Illinois Revised Statutes were recompiled as the Illinois Compiled Statutes (ILCS). This was the first statutory compilation of the statutes since 1874. To assist you in going from the Illinois Revised Statutes format to the Illinois Compiled Statutes format, we included a disposition table in the back of this publication in numerical order by Illinois Revised Statute number.

The Illinois Compiled Statutes are arranged topically with the chapters and acts arranged numerically. The numbering arrangement assures that every statute has a unique and unambiguous identity. Citation to a statute contains a chapter, act and section identifier. The citation ''755 ILCS 5/1–1,'' for example, is to Chapter 755 (Estates), Act 5 (Probate Act of 1975), Section 1–1 (Section 1–1 of the Probate Act of 1975).

This book is published for the convenience of road and street officials and those in the private highway industry. It provides a ready reference to various chapters and sections of the Illinois Compiled Statutes that govern road and bridge issues.

Comments from users of this book, and ways to improve its use, are appreciated. Please send comments to:

Illinois Department of Transportation
Bureau of Local Roads & Streets
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Springfield, IL 62764
DOT.LocalPolicy@illinois.gov

Sections Affected by Public Acts 98-1 through 98-1125

Sections Affected	Effect	Public Act No.	Public Act Sec.
5 ILCS 120/1.02	Amended	98–806	35
5 ILCS 120/1.05	Amended	98–900	5
5 ILCS 120/2	Amended	98–49	25
		98–63	115
		98–756	10
		98–1027	5
		98–1039	5
5 ILCS 120/2.01	Amended	98–992	5
5 ILCS 120/4	Amended	98–900	5
5 ILCS 120/7	Amended	98–992	5
5 ILCS 220/6	Amended	98–504	5
		98–969	5
20 ILCS 2705/2705–220	Amended	98–109	4–5
20 ILCS 2705/2705–575	Amended	98–721	5
20 ILCS 2705/2705–600	Amended	98–670	5
20 ILCS 2705/2705–605	Amended	98–412	5
20 ILCS 2705/2705–610	Added	98–117	5
20 ILCS 3420/3	Amended	98–463	110
20 ILCS 3435/1.75	Added	98–109	4–10
30 ILCS 105/5h	Amended	98–44	30
30 ILCS 105/5i	Added	98–24	5–25
		98–403	5
	Amended	98–756	150
	Redesignated as 30 ILCS 105/5j and amended	98–756	150
30 ILCS 105/5j	Redesignated from 30 ILCS 105/5i and amended	98–756	150
30 ILCS 105/5k	Added	98–682	65
30 ILCS 105/8.3	Amended	98–674	20–10
30 ILCS 235/2	Amended	98–756	155
30 ILCS 235/6.5	Amended	98–703	10
		98–756	155
30 ILCS 500/1–10	Amended	98–90	15
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		98–1076	5
30 ILCS 500/1–11	Amended	98–1076	5
30 ILCS 500/1–15.01	Added	98–1076	5
30 ILCS 500/1–15.02	Added	98–1076	5
30 ILCS 500/1–15.12	Added	98–1076	5
30 ILCS 500/1–15.13	Added	98–1076	5
30 ILCS 500/1–15.17	Added	98–1076	5
30 ILCS 500/1–15.30	Amended	98–1076	5
30 ILCS 500/1–15.50	Amended	98–1076	5
30 ILCS 500/1–15.51	Added	98–1076	5
30 ILCS 500/1–15.52	Added	98–1076	5
30 ILCS 500/1–15.80	Amended	98–1076	5
30 ILCS 500/1–15.86	Added	98–1076	5
30 ILCS 500/1–15.107	Amended	98–1076	5
30 ILCS 500/1–15.108	Amended	98–1076	5
30 ILCS 500/1–15.110	Amended	98–1076	5
30 ILCS 500/1–15.111	Added	98–1076	5
30 ILCS 500/5–5	Amended	98–1076	5
30 ILCS 500/5–25	Amended	98–1076	5
30 ILCS 500/5–30	Amended	98–1076	5
30 ILCS 500/10–20	Amended	98–1076	5

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30 ILCS 500/15–20	Amended	98–1076	5
30 ILCS 500/15–25	Amended	98–1038	5
		98–1076	5
30 ILCS 500/15–30	Amended	98–1076	5
30 ILCS 500/15–35	Amended	98–1076	5
30 ILCS 500/15–40	Added	98–1076	5
30 ILCS 500/15–45	Added	98–1076	5
30 ILCS 500/20–5	Amended	98–1076	5
30 ILCS 500/20–10	Amended	98–1076	5
30 ILCS 500/20–15	Amended	98–1076	5
30 ILCS 500/20–25	Amended	98–1076	5
30 ILCS 500/20–30	Amended	98–1076	5
30 ILCS 500/20–35	Amended	98–1076	5
30 ILCS 500/20–40	Amended	98–1076	5
30 ILCS 500/20–43	Amended	98–1076	5
30 ILCS 500/20–50	Amended	98–1076	5
30 ILCS 500/20–80	Amended	98–1076	5
30 ILCS 500/20–95	Amended	98–1076	5
30 ILCS 500/20–120	Amended	98–1076	5
30 ILCS 500/20–155	Amended	98–1076	5
30 ILCS 500/20–160	Amended	98–1076	5
30 ILCS 500/20–165	Added	98–348	90
30 ILCS 500/25–80	Amended	98–1076	5
30 ILCS 500/30–22	Amended	98–1076	5
30 ILCS 500/30–30	Amended	98–431	5
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30 ILCS 500/50–5	Amended	98–1076	5
30 ILCS 500/50–10	Amended	98–1076	5
30 ILCS 500/50–10.5	Amended	98–1076	5
30 ILCS 500/50–11	Amended	98–1076	5
30 ILCS 500/50–12	Amended	98–1076	5
30 ILCS 500/50–13	Amended	98–1076	5
30 ILCS 500/50–14	Amended	98–1076	5
30 ILCS 500/50–20	Amended	98–1076	5
30 ILCS 500/50–25	Amended	98–1076	5
30 ILCS 500/50–35	Amended	98–1076	5
30 ILCS 500/50–36	Amended	98–1076	5
30 ILCS 500/50–37	Amended	98–1076	5
30 ILCS 500/50–38	Amended	98–1076	5
30 ILCS 500/50–39	Amended	98–1076	5
30 ILCS 500/50–40	Amended	98–1076	5
30 ILCS 500/50–45	Amended	98–1076	5
30 ILCS 500/50–70	Amended	98–1076	5
30 ILCS 550/1	Amended	98–216	5
		98–1018	5
30 ILCS 550/1.5	Amended	98–109	4–30
30 ILCS 570/2.5	Amended	98–109	4–35
35 ILCS 105/9	Amended	98–24	5–40
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35 ILCS 110/9	Amended	98–24	5–45
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35 ILCS 115/9	Amended	98–24	5–50
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35 ILCS 115/9 (Cont'd)	Amended (Cont'd)	98–496	27
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35 ILCS 120/3	Amended	98–24	5–55
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35 ILCS 200/18–185	Amended	98–6	5
		98–23	10
35 ILCS 200/18–190	Amended	98–1088	5
35 ILCS 505/1	Amended	98–756	205
35 ILCS 505/8	Amended	98–24	5–60
		98–674	20–45
50 ILCS 105/3	Amended	98–1083	5
50 ILCS 510/4	Amended	98–420	5
55 ILCS 5/5–1035.1	Amended	98–1049	5
60 ILCS 1/30–50	Amended	98–549	5
		98–653	5
70 ILCS 3305/11	Added	98–1002	50
225 ILCS 325/14	Amended	98–289	15
225 ILCS 325/24	Amended	98–756	460
225 ILCS 440/3	Amended	98–756	490
225 ILCS 440/3.12	Amended	98–56	5
225 ILCS 440/3.17	Added	98–56	5
225 ILCS 440/3.18	Added	98–56	5
225 ILCS 440/3.19	Added	98–56	5
225 ILCS 440/3.20	Added	98–56	5
225 ILCS 440/4.02	Amended	98–56	5
225 ILCS 440/4.03	Amended	98–56	5
225 ILCS 440/4.04	Amended	98–56	5
225 ILCS 440/4.07	Repealed	98–56	10
225 ILCS 440/8	Amended	98–56	5
415 ILCS 5/9.1	Amended	98–284	5
415 ILCS 5/21	Amended	98–239	5
		98–484	5
		98–756	590
415 ILCS 5/57.7	Amended	98–109	5–73
415 ILCS 5/57.8	Amended	98–109	5–73
415 ILCS 5/57.11	Amended	98–109	5–73
415 ILCS 5/57.17	Repealed	98–822	8
415 ILCS 5/58.16	Amended	98–756	590
430 ILCS 70/3	Amended	98–320	5
430 ILCS 70/6	Amended	98–320	5
520 ILCS 5/2.33	Amended	98–119	5
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		98–183	5
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		98–756	645
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520 ILCS 10/4	Amended	98–752	900–10
520 ILCS 10/5	Amended	98–752	900–10
605 ILCS 5/4–105	Repealed	98–877	5
605 ILCS 5/4–223	Redesignated from 605 ILCS 5/223 and amended	98–756	655
605 ILCS 5/5–205.10	Added	98–127	25
605 ILCS 5/6–501	Amended	98–818	5
605 ILCS 5/6–602	Amended	98–454	5
605 ILCS 5/6–906	Amended	98–244	5
605 ILCS 5/223	Added	98–442	10

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605 ILCS 5/223 (Cont'd)	Redesignated as 605 ILCS 5/4–223 and amended	98–756	655
605 ILCS 10/9.5	Amended	98–736	5
605 ILCS 10/10	Amended	98–559	5
605 ILCS 10/11	Amended	98–442	15
605 ILCS 125/23.1	Added	98–334	5
605 ILCS 130/25	Amended	98–595	5
625 ILCS 5/11–208.6	Amended	98–463	440
625 ILCS 5/11–208.8	Amended	98–463	440
625 ILCS 5/11–601	Amended	98–511	5
625 ILCS 5/11–601.5	Amended	98–511	5
625 ILCS 5/11–602	Amended	98–511	5
625 ILCS 5/11–603	Amended	98–511	5
625 ILCS 5/11–605.1	Amended	98–337	5
625 ILCS 5/11–1426.1	Amended	98–567	5
625 ILCS 5/15–111	Amended	98–409	5
		98–410	5
		98–756	675
		98–942	5
		98–956	5
		98–1029	5
625 ILCS 5/15–115	Repealed	98–44	90
720 ILCS 5/21–5	Amended	98–748	5
720 ILCS 5/33E–18	Amended	98–756	695
730 ILCS 5/3–2–2	Amended	98–463	460
		98–488	935
		98–558	105
		98–756	720
735 ILCS 30/10–5–10	Amended	98–109	4–70
735 ILCS 30/15–5–15	Amended	98–756	730
735 ILCS 30/15–5–35	Amended	98–756	730
735 ILCS 30/15–5–47	Added	98–109	4–70
		98–564	120
	Amended	98–756	730
735 ILCS 30/25–5–45	Added	98–109	4–70
		98–229	5
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	Redesignated as 735 ILCS 30/25–5–50 and amended	98–756	730
735 ILCS 30/25–5–50	Redesignated from 735 ILCS 30/25–5–45 and amended	98–756	730
735 ILCS 30/25–5–55	Added	98–852	5
		98–1070	5
820 ILCS 130/2	Amended	98–109	5–75
		98–482	5
		98–740	5
		98–756	825
820 ILCS 130/5	Amended	98–328	5
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820 ILCS 130/5	Amended	98–756	825
820 ILCS 130/5.1	Added	98–482	5
820 ILCS 130/9	Amended	98–173	5
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5/9.21, 5/9.22. Renumbered.
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OPEN MEETINGS

ACT 120. OPEN MEETINGS ACT

120/1. Policy

§ 1. Policy. It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.

The General Assembly further declares it to be the public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way. Exceptions to the public's right to attend exist only in those limited circumstances where the General Assembly has specifically determined that the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.

To implement this policy, the General Assembly declares:

(1) It is the intent of this Act to protect the citizen's right to know; and

(2) The provisions for exceptions to the open meeting requirements shall be strictly construed against closed meetings.

Laws 1957, p. 2892, § 1, eff. July 11, 1957. Amended by Laws 1965, p. 2643, § 1, eff. Aug. 5, 1965; Laws 1967, p. 1960, § 1, eff. July 24, 1967; P.A. 88–621, § 5, eff. Jan. 1, 1995.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 41.

120/1.01. Short title

§ 1.01. This Act shall be known and may be cited as the Open Meetings Act.

Laws 1957, p. 2892, § 1.01, added by P.A. 82–378, § 1, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 41.01.

120/1.02. Definitions

§ 1.02. For the purposes of this Act:

"Meeting" means any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5–member public body, a quorum of the members of a public body held for the purpose of discussing public business.

Accordingly, for a 5–member public body, 3 members of the body constitute a quorum and the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities and Services Review Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, [1] an ethics commission acting under the State Officials and Employees Ethics Act, [2] a regional youth advisory board or the Statewide Youth Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act, [3] or the Illinois Independent Tax Tribunal.

Laws 1957, p. 2892, § 1.02, added by P.A. 82–378, § 1, eff. Jan. 1, 1982. Amended by P.A. 88–614, § 90, eff. Sept. 7, 1994; P.A. 90–517, § 2, eff. Aug. 22, 1997; P.A. 90–737, § 205, eff. Jan. 1, 1999; P.A. 91–782, § 5, eff. June 9, 2000; P.A. 92–468, § 5, eff. Aug. 22, 2001; P.A. 93–617, § 60, eff. Dec. 9, 2003; P.A. 94–1058, § 5, eff. Jan. 1, 2007; P.A. 95–245, § 3, eff. Aug. 17, 2007; P.A. 96–31, § 5, eff. June 30, 2009; P.A. 97–1129, § 5–5, eff. Aug. 28, 2012; P.A. 98–806, § 35, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 41.02.

[1] 20 ILCS 515/1 et seq.

[2] 5 ILCS 430/1–1 et seq.

[3] 20 ILCS 527/1 et seq.

120/1.05. Training

§ 1.05. Training.

(a) Every public body shall designate employees, officers, or members to receive training on compliance with this Act. Each public body shall submit a list of designated employees, officers, or members to the Public Access Counselor. Within 6 months after the effective date of this amendatory Act of the 96th General Assembly, the designated employees, officers, and members must successfully complete an electronic training curriculum, developed and administered by the Public Access Counselor, and thereafter must successfully complete an annual training program. Thereafter, whenever a public body designates an additional employee, officer, or member to receive this training, that person must successfully complete the electronic training curriculum within 30 days after that designation.

(b) Except as otherwise provided in this Section, each elected or appointed member of a public body subject to this Act who is such a member on the effective date of this amendatory Act of the 97th General Assembly must successfully complete the electronic training curriculum developed and administered by the Public Access Counselor. For these members, the training must be completed within one year after the effective date of this amendatory Act.

Except as otherwise provided in this Section, each elected or appointed member of a public body subject to this Act who becomes such a member after the effective date of this amendatory Act of the 97th General Assembly shall successfully complete the electronic training curriculum developed and administered by the Public Access Counselor. For these members, the training must be completed not later than the 90th day after the date the member:

(1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the public body; or

(2) otherwise assumes responsibilities as a member of the public body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

Each member successfully completing the electronic training curriculum shall file a copy of the certificate of completion with the public body.

Completing the required training as a member of the public body satisfies the requirements of this Section with regard to the member's service on a committee or subcommittee of the public body and the member's ex officio service on any other public body.

The failure of one or more members of a public body to complete the training required by this Section does not affect the validity of an action taken by the public body.

An elected or appointed member of a public body subject to this Act who has successfully completed the training required under this subsection (b) and filed a copy of the certificate of completion with the public body is not required to subsequently complete the training required under this subsection (b).

(c) An elected school board member may satisfy the training requirements of this Section by participating in a course of training sponsored or conducted by an organization created under Article 23 of the School Code. The course of training shall include, but not be limited to, instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this Act to public bodies;

(3) procedures and requirements regarding quorums, notice, and record-keeping under this Act;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this Act; and

(5) penalties and other consequences for failing to comply with this Act.

If an organization created under Article 23 of the School Code provides a course of training under this subsection (c), it must provide a certificate of course completion to each school board member who successfully completes that course of training.

(d) A commissioner of a drainage district may satisfy the training requirements of this Section by participating in a course of training sponsored or conducted by an organization that represents the drainage districts created under the Illinois Drainage Code. The course of training shall include, but not be limited to, instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this Act to public bodies;

(3) procedures and requirements regarding quorums, notice, and record-keeping under this Act;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this Act; and

(5) penalties and other consequences for failing to comply with this Act.

If an organization that represents the drainage districts created under the Illinois Drainage Code provides a course of training under this subsection (d), it must provide a certificate of course completion to each commissioner who successfully completes that course of training.

(e) A director of a soil and water conservation district may satisfy the training requirements of this Section by participating in a course of training sponsored or conducted by an organization that represents soil and water conservation districts created under the Soil and Water Conservation Districts Act. The course of training shall include, but not be limited to, instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this Act to public bodies;

(3) procedures and requirements regarding quorums, notice, and record-keeping under this Act;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this Act; and

(5) penalties and other consequences for failing to comply with this Act.

If an organization that represents the soil and water conservation districts created under the Soil and Water Conservation Districts Act provides a course of training under this subsection (e), it must provide a certificate of course completion to each director who successfully completes that course of training.

(f) An elected or appointed member of a public body of a park district, forest preserve district, or conservation district may satisfy the training requirements of this Section by participating in a course of training sponsored or conducted by an organization that represents the park districts created in the Park District Code. The course of training shall include, but not be limited to, instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this Act to public bodies;

(3) procedures and requirements regarding quorums, notice, and record-keeping under this Act;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this Act; and

(5) penalties and other consequences for failing to comply with this Act.

If an organization that represents the park districts created in the Park District Code provides a course of training under this subsection (f), it must provide a certificate of course completion to each elected or appointed member of a public body who successfully completes that course of training.

Laws 1957, p. 2892, § 1.5, added by P.A. 96–542, § 5, eff. Jan. 1, 2010. Amended by P.A. 97–504, § 5, eff. Jan. 1, 2012; P.A. 97–1153, § 5, eff. Jan. 25, 2013; P.A. 98–900, § 5, eff. Aug. 15, 2014.

120/2. Open meetings

§ 2. Open meetings.

(a) Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a.

(b) Construction of exceptions. The exceptions contained in subsection (c) are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope. The exceptions authorize but do not require the holding of a closed meeting to discuss a subject included within an enumerated exception.

(c) Exceptions. A public body may hold closed meetings to consider the following subjects:

(1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.

(2) Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees.

(3) The selection of a person to fill a public office, as defined in this Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance.

(4) Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in this Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

(5) The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired.

(6) The setting of a price for sale or lease of property owned by the public body.

(7) The sale or purchase of securities, investments, or investment contracts. This exception shall not apply to the investment of assets or income of funds deposited into the Illinois Prepaid Tuition Trust Fund.

(8) Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a

reasonably potential danger to the safety of employees, students, staff, the public, or public property.

(9) Student disciplinary cases.

(10) The placement of individual students in special education programs and other matters relating to individual students.

(11) Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting.

(12) The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, [1] if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member.

(13) Conciliation of complaints of discrimination in the sale or rental of housing, when closed meetings are authorized by the law or ordinance prescribing fair housing practices and creating a commission or administrative agency for their enforcement.

(14) Informant sources, the hiring or assignment of undercover personnel or equipment, or ongoing, prior or future criminal investigations, when discussed by a public body with criminal investigatory responsibilities.

(15) Professional ethics or performance when considered by an advisory body appointed to advise a licensing or regulatory agency on matters germane to the advisory body's field of competence.

(16) Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member.

(17) The recruitment, credentialing, discipline or formal peer review of physicians or other health care professionals for a hospital, or other institution providing medical care, that is operated by the public body.

(18) Deliberations for decisions of the Prisoner Review Board.

(19) Review or discussion of applications received under the Experimental Organ Transplantation Procedures Act. [2]

(20) The classification and discussion of matters classified as confidential or continued confidential by the State Government Suggestion Award Board.

(21) Discussion of minutes of meetings lawfully closed under this Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06.

(22) Deliberations for decisions of the State Emergency Medical Services Disciplinary Review Board.

(23) The operation by a municipality of a municipal utility or the operation of a municipal power agency or municipal natural gas agency when the discussion involves (i) contracts relating to the purchase, sale, or delivery of electricity or natural gas or (ii) the results or conclusions of load forecast studies.

(24) Meetings of a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(25) Meetings of an independent team of experts under Brian's Law.

(26) Meetings of a mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act.

(27) (Blank).

(28) Correspondence and records (i) that may not be disclosed under Section 11–9 of the Public Aid Code or (ii) that pertain to appeals under Section 11–8 of the Public Aid Code.

(29) Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America.

(30) Those meetings or portions of meetings of a fatality review team or the Illinois Fatality Review Team Advisory Council during which a review of the death of an eligible adult in which abuse or neglect is suspected, alleged, or substantiated is conducted pursuant to Section 15 of the Adult Protective Services Act.

(31) Meetings and deliberations for decisions of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act.

(32) Meetings between the Regional Transportation Authority Board and its Service Boards when the discussion involves review by the Regional Transportation Authority Board of employment contracts under Section 28d of the Metropolitan Transit Authority Act and Sections 3A.18 and 3B.26 of the Regional Transportation Authority Act.

(d) Definitions. For purposes of this Section:

"Employee" means a person employed by a public body whose relationship with the public body constitutes an employer-employee relationship under the usual common law rules, and who is not an independent contractor.

"Public office" means a position created by or under the Constitution or laws of this State, the occupant of which is charged with the exercise of some portion of the sovereign power of this State. The term "public office" shall include members of the public body, but it shall not include organizational positions filled by members thereof, whether established by law or by a public body itself, that exist to assist the body in the conduct of its business.

"Quasi-adjudicative body" means an administrative body charged by law or ordinance with the responsibility to conduct hearings, receive evidence or testimony and make determinations based thereon, but does not include local electoral boards when such bodies are considering petition challenges.

(e) Final action. No final action may be taken at a closed meeting. Final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted.

Laws 1957, p. 2892, § 2, eff. July 11, 1957. Amended by Laws 1965, p. 2643, § 1, eff. Aug. 5, 1965; Laws 1967, p. 1960, § 1, eff. July 24, 1967; P.A. 76–1023, § 1, eff. Aug. 26, 1969; P.A. 76–1345, § 1, eff. Sept. 6, 1969; P.A. 76–1841, § 1, eff. Oct. 10, 1969; P.A. 76–1914, § 1, eff. Oct. 10, 1969; P.A. 76–2215, § 1, eff. July 1, 1970; P.A. 77–1060, § 1, eff. Aug. 17, 1971; P.A. 78–311, § 1, eff. Oct. 1, 1973; P.A. 79–1112, § 1, eff. Nov. 20, 1975; P.A. 80–608, § 1, eff. Oct. 1, 1977;

P.A. 81–559, § 1, eff. Sept. 11, 1979; P.A. 82–378, § 1, eff. Jan. 1, 1982; P.A. 83–945, § 22, eff. Dec. 1, 1983; P.A. 83–1046, § 1, eff. Jan. 5, 1984; P.A. 83–1362, Art. II, § 106, eff. Sept. 11, 1984; P.A. 84–626, § 1, eff. Sept. 20, 1985; P.A. 84–988, § 1, eff. Sept. 25, 1985; P.A. 84–1028, § 5, eff. Nov. 18, 1985; P.A. 84–1308, Art. II, § 104, eff. Aug. 25, 1986; P.A. 84–1431, Art. 8, § 2, eff. Nov. 25, 1986; P.A. 84–1438, Art. II, § 32, eff. Dec. 22, 1986; P.A. 85–1355, § 1, eff. Jan. 1, 1989; P.A. 86–287, § 1, eff. Jan. 1, 1990; P.A. 86–727, § 1, eff. Sept. 1, 1989; P.A. 86–1019, § 5, eff. Jan. 1, 1990; P.A. 86–1027, § 0.2, eff. Jan. 24, 1990; P.A. 86–1389, § 1, eff. Sept. 10, 1990; P.A. 87–491, § 1, eff. Jan. 1, 1992; P.A. 88–530, § 5, eff. July 1, 1994; P.A. 88–621, § 5, eff. Jan. 1, 1995; P.A. 89–86, § 5, eff. June 30, 1995; P.A. 89–177, § 15, eff. July 19, 1995; P.A. 89–626, Art. 2, § 2–4, eff. Aug. 9, 1996; P.A. 90–144, § 5, eff. July 23, 1997; P.A. 91–730, § 5, eff. Jan. 1, 2001; P.A. 93–57, § 5, eff. July 1, 2003; P.A. 93–79, § 5, eff. July 2, 2003; P.A. 93–422, § 5, eff. Aug. 5, 2003; P.A. 93–577, § 90, eff. Aug. 21, 2003; P.A. 94–931, § 5, eff. June 26, 2006; P.A. 95–185, § 5, eff. Jan. 1, 2008; P.A. 96–1235, § 90, eff. Jan. 1, 2011; P.A. 96–1378, § 90, eff. July 29, 2010; P.A. 96–1428, § 5, eff. Aug. 11, 2010; P.A. 97–318, § 5, eff. Jan. 1, 2012; P.A. 97–333, § 15, eff. Aug. 12, 2011; P.A. 97–452, § 5, eff. Aug. 19, 2011; P.A. 97–813, § 10, eff. July 13, 2012; P.A. 97–876, § 5, eff. Aug. 1, 2012; P.A. 98–49, § 25, eff. July 1, 2013; P.A. 98–63, § 115, eff. July 9, 2013; P.A. 98–756, § 10, eff. July 16, 2014; P.A. 98–1027, § 5, eff. Jan. 1, 2015; P.A. 98–1039, § 5, eff. Aug. 25, 2014.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.

[1] 745 ILCS 10/1–101 et seq.

[2] 20 ILCS 3935/1 et seq.

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–1027, § 5, designated the second subd. (c)(30) as (c)(31); and added subd. (c)(32).

P.A. 98–1039, § 5, in the first subd. (c)(30), substituted "meetings of a fatality" for "meetings of an at-risk adult fatality" and deleted "At-Risk Adult" following "Illinois"; and designated the second subd. (c)(30) as (c)(31).

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

120/2.01. Time and place; holidays

§ 2.01. All meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public. No meeting required by this Act to be public shall be held on a legal holiday unless the regular meeting day falls on that holiday.

A quorum of members of a public body must be physically present at the location of an open meeting. If, however, an open meeting of a public body (i) with statewide jurisdiction, (ii) that is an Illinois library system with jurisdiction over a specific geographic area of more than 4,500 square miles, (iii) that is a municipal transit district with jurisdiction over a specific geographic area of more than 4,500 square miles, or (iv) that is a local workforce investment area with jurisdiction over a specific geographic area of more than 4,500 square miles is held simultaneously at one of its offices and one or more other locations in a public building, which may include other of its offices, through an interactive video conference and the public body provides public notice and public access as required under this Act for all locations, then members physically present in those locations all count towards determining a quorum. "Public building", as used in this Section, means any building or portion thereof owned or leased by any public body. The requirement that a quorum be physically present at the location of an open meeting shall not apply, however, to State advisory boards or bodies that do not have authority to make binding recommendations or determinations or to take any other substantive action.

A quorum of members of a public body that is not (i) a public body with statewide jurisdiction, (ii) an Illinois library system with jurisdiction over a specific geographic area of more than 4,500 square miles, (iii) a municipal transit district with jurisdiction over a specific geographic area of more than 4,500 square miles, or (iv) a local workforce investment area with jurisdiction over a specific geographic area of more than 4,500 square miles must be physically present at the location of a closed meeting. Other members who are not physically present at a closed meeting of such a public body may participate in the meeting by means of a video or audio conference. For the purposes of this Section, "local workforce investment area" means any local workforce investment area or areas designated by the Governor pursuant to the federal Workforce Investment Act of 1998 or its reauthorizing legislation.

Laws 1957, p. 2892, § 2.01, added by Laws 1967, p. 1960, § 1, eff. July 24, 1967. Amended by P.A. 88–621, § 5, eff. Jan. 1, 1995; P.A. 94–1058, § 5, eff. Jan. 1, 2007; P.A. 96–664, § 5, eff. Aug. 25, 2009; P.A. 96–1043, § 5, eff. Jan. 1, 2011; P.A. 98–992, § 5, eff. Aug. 18, 2014.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.01.

120/2.02. Public notice; agenda

§ 2.02. Public notice of all meetings, whether open or closed to the public, shall be given as follows:

(a) Every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times, and places of such meetings. An agenda for each regular meeting shall be posted at the principal office of the public body and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting. A public body that has a website that the full-time staff of the public body maintains shall also post on its website the agenda of any regular meetings of the governing body of that public body. Any agenda of a regular meeting that is posted on a public body's website shall remain posted on the website until the regular meeting is concluded. The requirement of a regular meeting agenda shall not preclude the consideration of items not specifically set forth in the agenda. Public notice of any special meeting except a meeting held in the event of a bonafide emergency, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the special, rescheduled, or reconvened meeting, but the validity of any action taken by the public body which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda. The requirement of public notice of reconvened meetings does not apply to any case where the meeting was open to the public and (1) it is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. Notice of an emergency meeting shall be given as soon as practicable, but in any event prior to the holding of such meeting, to any news medium which has filed an annual request for notice under subsection (b) of this Section.

(b) Public notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting

or, if no such office exists, at the building in which the meeting is to be held. In addition, a public body that has a website that the full-time staff of the public body maintains shall post notice on its website of all meetings of the governing body of the public body. Any notice of an annual schedule of meetings shall remain on the website until a new public notice of the schedule of regular meetings is approved. Any notice of a regular meeting that is posted on a public body's website shall remain posted on the website until the regular meeting is concluded. The body shall supply copies of the notice of its regular meetings, and of the notice of any special, emergency, rescheduled or reconvened meeting, to any news medium that has filed an annual request for such notice. Any such news medium shall also be given the same notice of all special, emergency, rescheduled or reconvened meetings in the same manner as is given to members of the body provided such news medium has given the public body an address or telephone number within the territorial jurisdiction of the public body at which such notice may be given. The failure of a public body to post on its website notice of any meeting or the agenda of any meeting shall not invalidate any meeting or any actions taken at a meeting.

(c) Any agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting. The public body conducting a public meeting shall ensure that at least one copy of any requested notice and agenda for the meeting is continuously available for public review during the entire 48–hour period preceding the meeting. Posting of the notice and agenda on a website that is maintained by the public body satisfies the requirement for continuous posting under this subsection (c). If a notice or agenda is not continuously available for the full 48–hour period due to actions outside of the control of the public body, then that lack of availability does not invalidate any meeting or action taken at a meeting.

Laws 1957, p. 2892, § 2.02, added by Laws 1967, p. 1960, § 1, eff. July 24, 1967. Amended by P.A. 82–378, § 1, eff. Jan. 1, 1982; P.A. 88–621, § 5, eff. Jan. 1, 1995; P.A. 89–86, § 5, eff. June 30, 1995; P.A. 94–28, § 5, eff. Jan. 1, 2006; P.A. 97–827, § 5, eff. Jan. 1, 2013.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.02.

120/2.03. Schedule of meetings

§ 2.03. In addition to the notice required by Section 2.02, each body subject to this Act must, at the beginning of each calendar or fiscal year, prepare and make available a schedule of all its regular meetings for such calendar or fiscal year, listing the times and places of such meetings.

If a change is made in regular meeting dates, at least 10 days' notice of such change shall be given by publication in a newspaper of general circulation in the area in which such body functions. However, in the case of bodies of local governmental units with a population of less than 500 in which no newspaper is published, such 10 days' notice may be given by posting a notice of such change in at least 3 prominent places within the governmental unit. Notice of such change shall also be posted at the principal office of the public body or, if no such office exists, at the building in which the meeting is to be held. Notice of such change shall also be supplied to those news media which have filed an annual request for notice as provided in paragraph (b) of Section 2.02.

Laws 1957, p. 2892, § 2.03, added by Laws 1967, p. 1960, § 1, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.03.

120/2.04. Other notices; failure to receive notice

§ 2.04. The notice requirements of this Act are in addition to, and not in substitution of, any other notice required by law. Failure of any news medium to receive a notice provided for by this Act shall not invalidate any meeting provided notice was in fact given in accordance with this Act.

Laws 1957, p. 2892, § 2.04, added by Laws 1967, p. 1960, § 1, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.04.

120/2.05. Recording meetings

§ 2.05. Recording meetings. Subject to the provisions of Section 8–701 of the Code of Civil Procedure, any person may record the proceedings at meetings required to be open by this Act by tape, film or other means. The authority holding the meeting shall prescribe reasonable rules to govern the right to make such recordings.

If a witness at any meeting required to be open by this Act which is conducted by a commission, administrative agency or other tribunal, refuses to testify on the grounds that he may not be compelled to testify if any portion of his testimony is to be broadcast or televised or if motion pictures are to be taken of him while he is testifying, the authority holding the meeting shall prohibit such recording during the testimony of the witness. Nothing in this Section shall be construed to extend the right to refuse to testify at any meeting not subject to the provisions of Section 8–701 of the Code of Civil Procedure.

Laws 1957, p. 2892, § 2.05, added by P.A. 80–862, § 1, eff. Oct. 1, 1977. Amended by P.A. 82–378, § 1, eff. Jan. 1, 1982; P.A. 94–1058, § 5, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.05.

120/2.06. Minutes; right to speak

§ 2.06. Minutes; right to speak.

(a) All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent and whether the members were physically present or present by means of video or audio conference; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) A public body shall approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later. The minutes of meetings open to the public shall be available for public inspection within 10 days after the approval of such minutes by the public body. Beginning July 1, 2006, at the time it complies with the other requirements of this subsection, a public body that has a website that the full-time staff of the public body maintains shall post the minutes of a regular meeting of its governing body open to the public on the public body's website within 10 days after the approval of the minutes by the public body. Beginning July 1, 2006, any minutes of meetings open to the public posted on the public body's website shall remain posted on the website for at least 60 days after their initial posting.

(c) The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State

Records Act no less than 18 months after the completion of the meeting recorded but only after:

(1) the public body approves the destruction of a particular recording; and

(2) the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.

(d) Each public body shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection. The failure of a public body to strictly comply with the semi-annual review of closed session written minutes, whether before or after the effective date of this amendatory Act of the 94th General Assembly, shall not cause the written minutes or related verbatim record to become public or available for inspection in any judicial proceeding, other than a proceeding involving an alleged violation of this Act, if the public body, within 60 days of discovering its failure to strictly comply with the technical requirements of this subsection, reviews the closed session minutes and determines and thereafter reports in open session that either (1) the need for confidentiality still exists as to all or part of the minutes or verbatim record, or that the minutes or recordings or portions thereof no longer require confidential treatment and are available for public inspection.

(e) Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative or judicial proceeding other than one brought to enforce this Act. In the case of a civil action brought to enforce this Act, the court, if the judge believes such an examination is necessary, must conduct such in camera examination of the verbatim record as it finds appropriate in order to determine whether there has been a violation of this Act. In the case of a criminal proceeding, the court may conduct an examination in order to determine what portions, if any, must be made available to the parties for use as evidence in the prosecution. Any such initial inspection must be held in camera. If the court determines that a complaint or suit brought for noncompliance under this Act is valid it may, for the purposes of discovery, redact from the minutes of the meeting closed to the public any information deemed to qualify under the attorney-client privilege. The provisions of this subsection do not supersede the privacy or confidentiality provisions of State or federal law.

(f) Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.

(g) Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.

Laws 1957, p. 2892, § 2.06, added by P.A. 82–378, § 1, eff. Jan. 1, 1982. Amended by P.A. 85–1355, § 1, eff. Jan. 1, 1989; P.A. 88–621, § 5, eff. Jan. 1, 1995; P.A. 93–523, § 5, eff. Jan. 1, 2004; P.A. 93–974, § 5, eff. Jan. 1, 2005; P.A. 94–28, § 5, eff. Jan. 1, 2006; P.A. 94–542, § 5, eff. Aug. 10, 2005; P.A. 94–1058, § 5, eff. Jan. 1, 2007; P.A. 96–1473, § 5, eff. Jan. 1, 2011.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42.06.

120/2a. Closed sessions; procedure

§ 2a. A public body may hold a meeting closed to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by this Act. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in such series involves the same particular matters and is scheduled to be held within no more than 3 months of the vote. The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting. Nothing in this Section or this Act shall be construed to require that any meeting be closed to the public.

At any open meeting of a public body for which proper notice under this Act has been given, the body may, without additional notice under Section 2.02, hold a closed meeting in accordance with this Act. Only topics specified in the vote to close under this Section may be considered during the closed meeting.

Laws 1957, p. 2892, § 2a, added by P.A. 82–378, § 1, eff. Jan. 1, 1982. Amended by P.A. 83–1046, § 1, eff. Jan. 5, 1984; P.A. 86–727, § 1, eff. Sept. 1, 1989; P.A. 88–621, § 5, eff. Jan. 1, 1995; P.A. 89–86, § 5, eff. June 30, 1995.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 42a.

120/2b. § 2b. Repealed by P.A. 88–621, § 10, eff. Jan. 1, 1995

120/3. Noncompliance; civil actions; public disclosure; relief; fees and costs

§ 3. (a) Where the provisions of this Act are not complied with, or where there is probable cause to believe that the provisions of this Act will not be complied with, any person, including the State's Attorney of the county in which such noncompliance may occur, may bring a civil action in the circuit court for the judicial circuit in which the alleged noncompliance has occurred or is about to occur, or in which the affected public body has its principal office, prior to or within 60 days of the meeting alleged to be in violation of this Act or, if facts concerning the meeting are not discovered within the 60–day period, within 60 days of the discovery of a violation by the State's Attorney.

Records that are obtained by a State's Attorney from a public body for purposes of reviewing whether the public body has complied with this Act may not be disclosed to the public. Those records, while in the possession of the State's Attorney, are exempt from disclosure under the Freedom of Information Act.

(b) In deciding such a case the court may examine in camera any portion of the minutes of a meeting at which a violation of the Act is alleged to have occurred, and may take such additional evidence as it deems necessary.

(c) The court, having due regard for orderly administration and the public interest, as well as for the interests of the parties, may grant such relief as it deems appropriate, including granting a relief by mandamus requiring that a meeting be open to the public, granting an injunction against future violations of this Act, ordering the public body to make available to the public such portion of the minutes of a meeting as is not authorized to be kept confidential under

this Act, or declaring null and void any final action taken at a closed meeting in violation of this Act.

(d) The court may assess against any party, except a State's Attorney, reasonable attorney's fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with this Section, provided that costs may be assessed against any private party or parties bringing an action pursuant to this Section only upon the court's determination that the action is malicious or frivolous in nature.

Laws 1957, p. 2892, § 3, eff. July 11, 1957. Amended by Laws 1967, p. 1960, § 1, eff. July 24, 1967; P.A. 82–378, § 1, eff. Jan. 1, 1982; P.A. 83–346, § 35, eff. Sept. 14, 1983; P.A. 83–1046, § 1, eff. Jan. 5, 1984; P.A. 83–1362, Art. II, § 106, eff. Sept. 11, 1984; P.A. 85–1355, § 1, eff. Jan. 1, 1989; P.A. 88–621, § 5, eff. Jan. 1, 1995; P.A. 96–542, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 43.

120/3.5. Public Access Counselor; opinions

§ 3.5. Public Access Counselor; opinions.

(a) A person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the alleged violation. The request for review must be in writing, must be signed by the requester, and must include a summary of the facts supporting the allegation.

(b) Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. If the Public Access Counselor determines from the request for review that the alleged violation is unfounded, he or she shall so advise the requester and the public body and no further action shall be undertaken. In all other cases, the Public Access Counselor shall forward a copy of the request for review to the public body within 7 working days. The Public Access Counselor shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, the public body shall provide copies of the records requested and shall otherwise fully cooperate with the Public Access Counselor. If a public body fails to furnish specified records pursuant to this Section, or if otherwise necessary, the Attorney General may issue a subpoena to any person or public body having knowledge of or records pertaining to an alleged violation of this Act. For purposes of conducting a thorough review, the Public Access Counselor has the same right to examine a verbatim recording of a meeting closed to the public or the minutes of a closed meeting as does a court in a civil action brought to enforce this Act.

(c) Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the public body may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. Upon request, the public body may also furnish the Public Access Counselor with a redacted copy of the answer excluding specific references to any matters at issue. The Public Access Counselor shall forward a copy of the answer or redacted answer, if furnished, to the person submitting the request for review. The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the public body.

(d) In addition to the request for review, and the answer and the response thereto, if any, a requester or a public body may furnish affidavits and records concerning any matter germane to the review.

(e) Unless the Public Access Counselor extends the time by no more than 21 business days by sending written notice to the requester and public body that includes a statement of the reasons for the extension in the notice, or decides to address the matter without the issuance of a binding opinion, the Attorney General shall examine the issues and the records, shall make findings of fact and conclusions of law, and shall issue to the requester and the public body an opinion within 60 days after initiating review. The opinion shall be binding upon both the requester and the public body, subject to administrative review under Section 7.5 of this Act.

In responding to any written request under this Section 3.5, the Attorney General may exercise his or her discretion and choose to resolve a request for review by mediation or by a means other than the issuance of a binding opinion. The decision not to issue a binding opinion shall not be reviewable.

Upon receipt of a binding opinion concluding that a violation of this Act has occurred, the public body shall either take necessary action as soon as practical to comply with the directive of the opinion or shall initiate administrative review under Section 7.5. If the opinion concludes that no violation of the Act has occurred, the requester may initiate administrative review under Section 7.5.

(f) If the requester files suit under Section 3 with respect to the same alleged violation that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall take no further action with respect to the request for review and shall so notify the public body.

(g) Records that are obtained by the Public Access Counselor from a public body for purposes of addressing a request for review under this Section 3.5 may not be disclosed to the public, including the requester, by the Public Access Counselor. Those records, while in the possession of the Public Access Counselor, shall be exempt from disclosure by the Public Access Counselor under the Freedom of Information Act.

(h) The Attorney General may also issue advisory opinions to public bodies regarding compliance with this Act. A review may be initiated upon receipt of a written request from the head of the public body or its attorney. The request must contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the public body in order to facilitate the review. A public body that relies in good faith on an advisory opinion of the Attorney General in complying with the requirements of this Act is not liable for penalties under this Act, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.

Laws 1957, p. 2892, § 3.5, added by P.A. 96–542, § 5, eff. Jan. 1, 2010.

120/4. Violations of provisions of Act

§ 4. Any person violating any of the provisions of this Act, except subsection (b), (c), (d), (e), or (f) of Section 1.05, shall be guilty of a Class C misdemeanor.

Laws 1957, p. 2892, § 4, eff. July 11, 1957. Amended by P.A. 77–2549, § 1, eff. Jan. 1, 1973; P.A. 97–504, § 5, eff. Jan. 1, 2012; P.A. 97–1153, § 5, eff. Jan. 25, 2013; P.A. 98–900, § 5, eff. Aug. 15, 2014.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 44.

120/5. Effect of invalid provisions or applications of Act

§ 5. If any provision of this Act, or the application of this Act to any particular meeting or type of meeting is held invalid or unconstitutional, such decision shall not affect the validity of the remaining provisions or the other applications of this Act.

Laws 1957, p. 2892, § 5, eff. July 11, 1957.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 45.

120/6. Minimum requirements for home rule units

§ 6. The provisions of this Act constitute minimum requirements for home rule units; any home rule unit may enact an ordinance prescribing more stringent requirements binding upon itself which would serve to give further notice to the public and facilitate public access to meetings.

Laws 1957, p. 2892, § 6, added by P.A. 78–448, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 46.

120/7. Attendance by a means other than physical presence

§ 7. Attendance by a means other than physical presence.

(a) If a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) employment purposes or the business of the public body; or (iii) a family or other emergency. "Other means" is by video or audio conference.

(b) If a member wishes to attend a meeting by other means, the member must notify the recording secretary or clerk of the public body before the meeting unless advance notice is impractical.

(c) A majority of the public body may allow a member to attend a meeting by other means only in accordance with and to the extent allowed by rules adopted by the public body. The rules must conform to the requirements and restrictions of this Section, may further limit the extent to which attendance by other means is allowed, and may provide for the giving of additional notice to the public or further facilitate public access to meetings.

(d) The limitations of this Section shall not apply to (i) closed meetings of (A) public bodies with statewide jurisdiction, (B) Illinois library systems with jurisdiction over a specific geographic area of more than 4,500 square miles, (C) municipal transit districts with jurisdiction over a specific geographic area of more than 4,500 square miles, or (D) local workforce investment areas with jurisdiction over a specific geographic area of more than 4,500 square miles or (ii) open or closed meetings of State advisory boards or bodies that do not have authority to make binding recommendations or determinations or to take any other substantive action. State advisory boards or bodies, public bodies with statewide jurisdiction, Illinois library systems with jurisdiction over a specific geographic area of more than 4,500 square miles, municipal transit districts with jurisdiction over a specific geographic area of more than 4,500 square miles, and local workforce investment areas with jurisdiction over a specific geographic area of more than 4,500 square miles, however, may permit members to attend meetings by other means only in accordance with and to the extent allowed by specific procedural rules adopted by the body. For the purposes of this Section, "local workforce investment area" means any local workforce investment area or areas designated by the Governor pursuant to the federal Workforce Investment Act of 1998 or its reauthorizing legislation.

Laws 1957, p. 2892, § 7, added by P.A. 94–1058, § 5, eff. Jan. 1, 2007. Amended by P.A. 96–664, § 5, eff. Aug. 25, 2009; P.A. 96–1043, § 5, eff. Jan. 1, 2011; P.A. 98–992, § 5, eff. Aug. 18, 2014.

120/7.5. Administrative review

§ 7.5. Administrative review. A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law (735 ILCS 5/Art. III). An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook or Sangamon County. An advisory opinion issued to a public body shall not be considered a final decision of the Attorney General for purposes of this Section.

Laws 1957, p. 2892, § 7.5, added by P.A. 96–542, § 5, eff. Jan. 1, 2010.

INTERGOVERNMENTAL COOPERATION

ACT 220. INTERGOVERNMENTAL COOPERATION ACT

220/1. Short title

§ 1. This Act may be cited as the Intergovernmental Cooperation Act.

P.A. 78–785, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 741.

220/2. Definitions

§ 2. Definitions. For the purpose of this Act:

(1) The term "public agency" shall mean any unit of local government as defined in the Illinois Constitution of 1970, any school district, any public community college district, any public building commission, the State of Illinois, any agency of the State government or of the United States, or of any other State, any political subdivision of another State, and any combination of the above pursuant to an intergovernmental agreement which includes provisions for a governing body of the agency created by the agreement.

For the purposes of this Act, "public agency" includes the Mid-America Intermodal Authority Port District created under the Mid-America Intermodal Authority Port District Act.[1]

(2) The term "state" shall mean a state of the United States.

P.A. 78–785, § 2, eff. Oct. 1, 1973. Amended by P.A. 83–231, § 1, eff. Sept. 7, 1983; P.A. 83–852, § 1, eff. Sept. 26, 1983; P.A. 83–1362, Art. II, § 164, eff. Sept. 11, 1984; P.A. 87–1208, § 11, eff. Jan. 1, 1993; P.A. 90–636, § 800, eff. July 24, 1998.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 742.

[1] 70 ILCS 1832/1 et seq.

220/3. Intergovernmental cooperation

§ 3. Intergovernmental cooperation. Any power or powers, privileges, functions, or authority exercised or which

may be exercised by a public agency of this State may be exercised, combined, transferred, and enjoyed jointly with any other public agency of this State and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States do not prohibit joint exercise or enjoyment and except where specifically and expressly prohibited by law. This includes, but is not limited to, (i) arrangements between the Illinois Student Assistance Commission and agencies in other states which issue professional licenses and (ii) agreements between the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) and public agencies for the establishment and enforcement of child support orders and for the exchange of information that may be necessary for the enforcement of those child support orders. P.A. 78–785, § 3, eff. Oct. 1, 1973. Amended by P.A. 86–1002, § 3, eff. July 1, 1990; P.A. 89–6, § 5, eff. March 6, 1995; P.A. 90–18, § 10, eff. July 1, 1997; P.A. 91–298, § 5, eff. July 29, 1999; P.A. 95–331, § 25, eff. Aug. 21, 2007. **Formerly** Ill.Rev.Stat.1991, ch. 127, ¶ 743.

220/3.1. Municipal Joint Action Water Agency

§ 3.1. Municipal Joint Action Water Agency.

(a) Any municipality or municipalities of this State, any county or counties of this State, any township in a county with a population under 700,000 of this State, any public water district or districts of this State, State university, or any combination thereof may, by intergovernmental agreement, establish a Municipal Joint Action Water Agency to provide adequate supplies of water on an economical and efficient basis for member municipalities, public water districts and other incorporated and unincorporated areas within such counties. Any such Agency shall itself be a municipal corporation, public body politic and corporate. A Municipal Joint Action Water Agency so created shall not itself have taxing power except as hereinafter provided.

A Municipal Joint Action Water Agency shall be established by an intergovernmental agreement among the various member municipalities, public water districts, townships, State universities, and counties, upon approval by an ordinance adopted by the corporate authorities of each member municipality, public water district, township, State university, or county. This agreement may be amended at any time upon the adoption of concurring ordinances by the corporate authorities of all member municipalities, public water districts, townships, State universities, and counties. The agreement may provide for additional municipalities, public water districts, any State universities, townships in counties with a population under 700,000, or counties to join the Agency upon adoption of an ordinance by the corporate authorities of the joining municipality, public water district, township, or county, and upon such consents, conditions and approvals of the governing body of the Municipal Joint Action Water Agency and of existing member municipalities, public water districts, townships, State universities, and counties as shall be provided in the agreement. The agreement shall provide the manner and terms on which any municipality, public water district, township, or county may withdraw from membership in the Municipal Joint Action Water Agency and on which the Agency may terminate and dissolve in whole or in part. The agreement shall set forth the corporate name of the Municipal Joint Action Water Agency and its duration. Promptly upon any agreement establishing a Municipal Joint Action Water Agency being entered into, or upon the amending of any such agreement, a copy of such agreement or amendment shall be filed in the office of the Secretary of State of Illinois. Promptly upon the addition or withdrawal of any municipality, public water district, township in a county with a population under 700,000, or county, or upon the dissolution of a Municipal Joint Action Water Agency, that fact shall be certified by an officer of the Agency to the Secretary of State of Illinois.

(b) The governing body of any Municipal Joint Action Water Agency established pursuant to this Section 3.1 shall be a Board of Directors. There shall be one Director from each member municipality, public water district, township, State university, and county of the Municipal Joint Action Water Agency appointed by ordinance of the corporate authorities of the municipality, public water district, township, or county. Each Director shall have one vote. Each Director shall be the Mayor or President of the member municipality, or the chairman of the board of trustees of the member public water district, the supervisor of the member township, the appointee of the State university, or the chairman of the county board or chief executive officer of the member county or a county board member appointed by the chairman of the county board of the member county, appointing the Director; an elected member of the corporate authorities of that municipality, public water district, township, or county; or other elected official of the appointing municipality, public water district, township, or county. Any agreement establishing a Municipal Joint Action Water Agency shall specify the period during which a Director shall hold office and may provide for the appointment of Alternate Directors from member municipalities, public water districts, townships, or counties. The Board of Directors shall elect one Director to serve as Chairman, and shall elect persons, who need not be Directors, to such other offices as shall be designated in the agreement.

The Board of Directors shall determine the general policy of the Municipal Joint Action Water Agency, shall approve the annual budget, shall make all appropriations (which may include appropriations made at any time in addition to those made in any annual appropriation document), shall approve all contracts for the purchase or sale of water, shall adopt any resolutions providing for the issuance of bonds or notes by the Agency, shall adopt its by-laws, rules and regulations, and shall have such other powers and duties as may be prescribed in the agreement. Such agreement may further specify those powers and actions of the Municipal Joint Action Water Agency which shall be authorized only upon votes of greater than a majority of all Directors or only upon consents of the corporate authorities of a certain number of member municipalities, public water districts, townships, State universities, or counties.

The agreement may provide for the establishment of an Executive Committee to consist of the municipal manager or other elected or appointed official of each member municipality, public water district, township, State university, or county, as designated by ordinance or other official action, from time to time by the corporate authorities of the member municipality, public water district, township, State university, or county, and may prescribe powers and duties of the Executive Committee for the efficient administration of the Agency.

(c) A Municipal Joint Action Water Agency established pursuant to this Section 3.1 may plan, construct, improve, extend, acquire, finance (including the issuance of revenue bonds or notes as provided in this Section 3.1), operate, maintain, and contract for a joint waterworks or water supply system which may include, or may consist of, without limitation, facilities for receiving, storing, and transmitting water from any source for supplying water to member municipalities, public water districts, townships, or counties

(including county special service areas created under the Special Service Area Tax Act[1] and county service areas authorized under the Counties Code), or other public agencies, persons, or corporations. Facilities of the Municipal Joint Action Water Agency may be located within or without the corporate limits of any member municipality.

A Municipal Joint Action Water Agency shall have such powers as shall be provided in the agreement establishing it, which may include, but need not be limited to, the following powers:

(i) to sue or be sued;

(ii) to apply for and accept gifts or grants or loans of funds or property or financial or other aid from any public agency or private entity;

(iii) to acquire, hold, sell, lease as lessor or lessee, transfer or dispose of such real or personal property, or interests therein, as it deems appropriate in the exercise of its powers, and to provide for the use thereof by any member municipality, public water district, township, or county;

(iv) to make and execute all contracts and other instruments necessary or convenient to the exercise of its powers (including contracts with member municipalities, with public water districts, with townships, and with counties on behalf of county service areas); and

(v) to employ agents and employees and to delegate by resolution to one or more of its Directors or officers such powers as it may deem proper.

Member municipalities, public water districts, townships, State universities, or counties may, for the purposes of, and upon request by, the Municipal Joint Action Water Agency, exercise the power of eminent domain available to them, convey property so acquired to the Agency for the cost of acquisition, and be reimbursed for all expenses related to this exercise of eminent domain power on behalf of the Agency.

All property, income and receipts of or transactions by a Municipal Joint Action Water Agency shall be exempt from all taxation, the same as if it were the property, income or receipts of or transaction by the member municipalities, public water districts, townships, State universities, or counties.

(d) A Municipal Joint Action Water Agency established pursuant to this Section 3.1 shall have the power to buy water and to enter into contracts with any person, corporation or public agency (including any member municipality, public water district, township, or county) for that purpose. Any such contract made by an Agency for a supply of water may contain provisions whereby the Agency is obligated to pay for the supply of water without setoff or counterclaim and irrespective of whether the supply of water is ever furnished, made available or delivered to the Agency or whether any project for the supply of water contemplated by any such contract is completed, operable or operating and notwithstanding any suspension, interruption, interference, reduction or curtailment of the supply of water from such project. Any such contract may provide that if one or more of the other purchasers defaults in the payment of its obligations under such contract or a similar contract made with the supplier of the water one or more of the remaining purchasers party to such contract or such similar contract shall be required to pay for all or a portion of the obligations of the defaulting purchasers. No such contract may have a term in excess of 50 years.

A Municipal Joint Action Water Agency shall have the power to sell water and to enter into contracts with any person, corporation or public agency (including any member municipality, any public water district, any township, any State university, or any county on behalf of a county service area as set forth in this Section) for that purpose. No such contract may have a term in excess of 50 years. Any such contract entered into to sell water to a public agency may provide that the payments to be made thereunder by such public agency shall be made solely from revenues to be derived by such public agency from the operation of its waterworks system or its combined waterworks and sewerage system. Any public agency so contracting to purchase water shall establish from time to time such fees and charges for its water service or combined water and sewer service as will produce revenues sufficient at all times to pay its obligations to the Agency under the purchase contract. Any such contract so providing shall not constitute indebtedness of such public agency so contracting to buy water within the meaning of any statutory or constitutional limitation. Any such contract of a public agency to buy water shall be a continuing, valid and binding obligation of such public agency payable from such revenues.

A Municipal Joint Action Water Agency shall establish fees and charges for the purchase of water from it or for the use of its facilities. No prior appropriation shall be required by either the Municipal Joint Action Water Agency or any public agency before entering into any contract authorized by this paragraph (d).

The changes in this Section made by this amendatory Act of 1984 are intended to be declarative of existing law.

(e) 1. A Municipal Joint Action Water Agency established pursuant to this Section 3.1 may, from time to time, borrow money and, in evidence of its obligation to repay the borrowing, issue its negotiable water revenue bonds or notes pursuant to this paragraph (e) for any of the following purposes: for paying costs of constructing, acquiring, improving or extending a joint waterworks or water supply system; for paying other expenses incident to or incurred in connection with such construction, acquisition, improvement or extension; for repaying advances made to or by the Agency for such purposes; for paying interest on the bonds or notes until the estimated date of completion of any such construction, acquisition, improvement or extension and for such period after the estimated completion date as the Board of Directors of the Agency shall determine; for paying financial, legal, administrative and other expenses of the authorization, issuance, sale or delivery of bonds or notes; for paying costs of insuring payment of the bonds or notes; for providing or increasing a debt service reserve fund with respect to any or all of the Agency's bonds or notes; and for paying, refunding or redeeming any of the Agency's bonds or notes before, after or at their maturity, including paying redemption premiums or interest accruing or to accrue on such bonds or notes being paid or redeemed or for paying any other costs in connection with any such payment or redemption.

2. Any bonds or notes issued pursuant to this paragraph (e) by a Municipal Joint Action Water Agency shall be authorized by a resolution of the Board of Directors of the Agency adopted by the affirmative vote of Directors from a majority of the member municipalities, public water districts, townships, State universities, and counties, and any additional requirements as may be set forth in the agreement establishing the Agency. The authorizing resolution may be effective immediately upon its adoption. The authorizing resolution shall describe in a general way any project contemplated to be financed by the bonds or notes, shall set forth the estimated cost of the project and shall determine its period of usefulness. The authorizing resolution shall deter-

mine the maturity or maturities of the bonds or notes, the rate or rates at which the bonds or notes are to bear interest and all the other terms and details of the bonds or notes. All such bonds or notes shall mature within the period of estimated usefulness of the project with respect to which such bonds or notes are issued, as determined by the Board of Directors, but in any event not more than 50 years from their date of issue. The bonds and notes may bear interest, payable at such times, at a rate or rates not exceeding the maximum rate established in the Bond Authorization Act, as from time to time in effect. Bonds or notes of a Municipal Joint Action Water Agency shall be sold in such manner as the Board of Directors of the Agency shall determine, either at par or at a premium or discount, but such that the effective interest cost (excluding any redemption premium) to the Agency of the bonds or notes shall not exceed a rate equal to the rate of interest specified in the Act referred to in the preceding sentence.

The resolution authorizing the issuance of any bonds or notes pursuant to this paragraph (e) shall constitute a contract with the holders of the bonds and notes. The resolution may contain such covenants and restrictions with respect to the purchase or sale of water by the Agency and the contracts for such purchases or sales, the operation of the joint waterworks system or water supply system, the issuance of additional bonds or notes by the Agency, the security for the bonds and notes, and any other matters, as may be deemed necessary or advisable by the Board of Directors to assure the payment of the bonds or notes of the Agency.

3. The resolution authorizing the issuance of bonds or notes by a Municipal Joint Action Water Agency shall pledge and provide for the application of revenues derived from the operation of the Agency's joint waterworks or water supply system (including from contracts for the sale of water by the Agency) and investment earnings thereon to the payment of the cost of operation and maintenance of the system (including costs of purchasing water), to provision of adequate depreciation, reserve or replacement funds with respect to the system or the bonds or notes, and to the payment of principal, premium, if any, and interest on the bonds or notes of the Agency (including amounts for the purchase of such bonds or notes). The resolution shall provide that revenues of the Municipal Joint Action Water Agency so derived from the operation of the system, sufficient (together with other receipts of the Agency which may be applied to such purposes) to provide for such purposes, shall be set aside as collected in a separate fund or funds and used for such purposes. The resolution may provide that revenues not required for such purposes may be used for any proper purpose of the Agency or may be returned to member municipalities.

Any notes of a Municipal Joint Action Water Agency issued in anticipation of the issuance of bonds by it may, in addition, be secured by a pledge of proceeds of bonds to be issued by the Agency, as specified in the resolution authorizing the issuance of such notes.

4. (i) Except as provided in clauses (ii) and (iii) of this subparagraph 4 of this paragraph (e), all bonds and notes of the Municipal Joint Action Water Agency issued pursuant to this paragraph (e) shall be revenue bonds or notes. Such revenue bonds or notes shall have no claim for payment other than from revenues of the Agency derived from the operation of its joint waterworks or water supply system (including from contracts for the sale of water by the Agency) and investment earnings thereon, from bond or note proceeds and investment earnings thereon, or from such other receipts of the Agency as the agreement establishing the Agency may authorize to be pledged to the payment of revenue bonds or notes, all as and to the extent as provided in the resolution of the Board of Directors authorizing the issuance of the revenue bonds or notes. Revenue bonds or notes issued by a Municipal Joint Action Water Agency pursuant to this paragraph (e) shall not constitute an indebtedness of the Agency or of any member municipality, public water district, township, or county within the meaning of any constitutional or statutory limitation. It shall be plainly stated on each revenue bond and note that it does not constitute an indebtedness of the Municipal Joint Action Water Agency or of any member municipality, public water district, township, or county within the meaning of any constitutional or statutory limitation.

(ii) If the Agreement so provides and subject to the referendum provided for in clause (iii) of this subparagraph 4 of this paragraph (e), the Municipal Joint Action Water Agency may borrow money for corporate purposes on the credit of the Municipal Joint Action Water Agency, and issue general obligation bonds therefor, in such amounts and form and on such conditions as it shall prescribe, but shall not become indebted in any manner or for any purpose in an amount including existing indebtedness in the aggregate which exceeds 5.75% of the aggregate value of the taxable property within the boundaries of the participating municipalities, public water districts, townships, and county service areas within a member county determined by the governing body of the county by resolution to be served by the Municipal Joint Action Water Agency (including any territory added to the Agency after the issuance of such general obligation bonds), collectively defined as the "Service Area", as equalized and assessed by the Department of Revenue and as most recently available at the time of the issue of said bonds. Before or at the time of incurring any such general obligation indebtedness, the Municipal Joint Action Water Agency shall provide for the collection of a direct annual tax, which shall be unlimited as to rate or amount, sufficient to pay the interest on such debt as it falls due and also to pay and discharge the principal thereof at maturity, which shall be within 40 years after the date of issue thereof. Such tax shall be levied upon and collected from all of the taxable property within the territorial boundaries of such Service Area at the time of the referendum provided for in clause (iii) and shall be levied upon and collected from all taxable property within the boundaries of any territory subsequently added to the Service Area. Dissolution of the Municipal Joint Action Water Agency for any reason shall not relieve the taxable property within such Service Area from liability for such tax. Liability for such tax for property transferred to or released from such Service Area shall be determined in the same manner as for general obligation bonds of such county, if in an unincorporated area, and of such municipality, if within the boundaries thereof. The clerk or other officer of the Municipal Joint Action Water Agency shall file a certified copy of the resolution or ordinance by which such bonds are authorized to be issued and such tax is levied with the County Clerk or Clerks of the county or counties containing the Service Area, and such filing shall constitute, without the doing of any other act, full and complete authority for such County Clerk or Clerks to extend such tax for collection upon all the taxable property within the Service Area subject to such tax in each and every year, as required, in amounts sufficient to pay the principal of and interest on such bonds, as aforesaid, without limit as to rate or amount. Such tax shall be in addition to and in excess of all other taxes authorized to be levied by the Municipal Joint Action Water Agency or by such county, municipality, township, or public water district. The issuance of such general obligation bonds

shall be subject to the other provisions of this paragraph (e), except for the provisions of clause (i) of this subparagraph 4.

(iii) No issue of general obligation bonds of the Municipal Joint Action Water Agency (except bonds to refund an existing bonded indebtedness) shall be authorized unless the Municipal Joint Action Water Agency certifies the proposition of issuing such bonds to the proper election authorities, who shall submit the proposition to the voters in the Service Area at an election in accordance with the general election law, and the proposition has been approved by a majority of those voting on the proposition.

The proposition shall be substantially in the following form:

Shall general obligation bonds for the purpose of (state purpose), in the sum not to exceed $ ..... (insert amount), be issued by the ..... (insert corporate name of the Municipal Joint Action Water Agency)?	Yes	
	No	

5. As long as any bonds or notes of a Municipal Joint Action Water Agency created pursuant to this Section 3.1 are outstanding and unpaid, the Agency shall not terminate or dissolve and, except as permitted by the resolution or resolutions authorizing outstanding bonds or notes, no member municipality, public water district, township, or county may withdraw from the Agency. While any such bonds or notes are outstanding, all contracts for the sale of water by the Agency to member municipalities, public water districts, townships, or counties shall be irrevocable except as permitted by the resolution or resolutions authorizing such bonds or notes. The Agency shall establish fees and charges for its operations sufficient to provide adequate revenues to meet all of the requirements under its various resolutions authorizing bonds or notes.

6. A holder of any bond or note issued pursuant to this paragraph (e) may, in any civil action, mandamus or other proceeding, enforce and compel performance of all duties required to be performed by the Agency or such counties, as provided in the authorizing resolution, or by any of the public agencies contracting with the Agency to purchase water, including the imposition of fees and charges, the collection of sufficient revenues and the proper application of revenues as provided in this paragraph (e) and the levying, extension and collection of such taxes.

7. In addition, the resolution authorizing any bonds or notes issued pursuant to this paragraph (e) may provide for a pledge, assignment, lien or security interest, for the benefit of the holders of any or all bonds or notes of the Agency, (i) on any or all revenues derived from the operation of the joint waterworks or water supply system (including from contracts for the sale of water) and investment earnings thereon or (ii) on funds or accounts securing the payment of the bonds or notes as provided in the authorizing resolution. In addition, such a pledge, assignment, lien or security interest may be made with respect to any receipts of the Agency which the agreement establishing the Agency authorizes it to apply to payment of bonds or notes. Any such pledge, assignment, lien or security interest for the benefit of holders of bonds or notes shall be valid and binding from the time the bonds or notes are issued, without any physical delivery or further act, and shall be valid and binding as against or prior to any claims of any other party having any claims of any kind against the Agency irrespective of whether such other parties have notice of such pledge, assignment, lien or security interest.

A resolution of a Municipal Joint Water Agency authorizing the issuance of bonds or notes pursuant to this paragraph (e) may provide for the appointment of a corporate trustee with respect to any or all of such bonds or notes (which trustee may be any trust company or state or national bank having the power of a trust company within Illinois). In that event, the resolution shall prescribe the rights, duties and powers of the trustee to be exercised for the benefit of the Agency and the protection of the holders of such bonds or notes. The resolution may provide for the trustee to hold in trust, invest and use amounts in funds and accounts created as provided in the resolution. The resolution authorizing the bonds or notes may provide for the assignment and direct payment to the trustee of amounts owed by public agencies to the Municipal Joint Action Water Agency under water sales contracts for application by the trustee to the purposes for which such revenues are to be used as provided in this paragraph (e) and as provided in the authorizing resolution. Upon receipt of notice of such assignment, the public agency shall thereafter make the assigned payments directly to such trustee.

Nothing in this Section authorizes a Joint Action Water Agency to provide water service directly to residents within a municipality or in territory within one mile or less of the corporate limits of a municipality that operates a public water supply unless the municipality has consented in writing to such service being provided.

P.A. 78–785, § 3.1, added by P.A. 81–1502, § 1, eff. Sept. 19, 1980. Amended by P.A. 83–1123, § 4, eff. June 30, 1984; P.A. 83–1524, § 2, eff. Jan. 17, 1985; P.A. 84–708, § 4, eff. Sept. 20, 1985; P.A. 84–967, § 4, eff. Sept. 25, 1985; P.A. 84–1308, Art. II, § 187, eff. Aug. 25, 1986; P.A. 87–1126, § 1, eff. Jan. 1, 1993; P.A. 90–210, § 15, eff. July 25, 1997; P.A. 90–595, § 5, eff. Jan. 1, 1999; P.A. 91–134, § 5, eff. Jan. 1, 2000; P.A. 94–1007, § 5, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.1.

[1] 35 ILCS 235/0.01 et seq. (repealed).

220/3.2. Municipal Joint Action Agency

§ 3.2. (a) Any two or more municipalities, counties or combination thereof may, by intergovernmental agreement, establish a Municipal Joint Action Agency to provide for efficient and environmentally sound collection, transportation, processing, storage and disposal of municipal waste. Any such Agency shall itself be a municipal corporation, public body politic and corporate. A Municipal Joint Action Agency formed for such purpose shall be established by an intergovernmental agreement among the various members upon approval by an ordinance adopted by the corporate authorities of each member. Such agreement may be amended at any time as may be provided in the intergovernmental agreement. The agreement may provide for additional members to join the Agency upon adoption of an ordinance by the corporate authorities of the joining member and upon such consents, conditions and approvals of the governing body of the Municipal Joint Action Agency and of existing members as shall be provided in the agreement. The intergovernmental agreement shall provide the manner and terms on which any member may withdraw from membership in the Municipal Joint Action Agency and on which the Agency may terminate and dissolve in whole or in part. The agreement shall set forth the corporate name of the Municipal Joint Action Agency and its duration. Promptly upon any agreement establishing a Municipal Joint Action Agency being entered into, or upon the amending of any such

agreement, a copy of such agreement or amendment shall be filed in the office of the Secretary of State of Illinois. Promptly upon the addition or withdrawal of any member, or upon the dissolution of a Municipal Joint Action Agency, that fact shall be certified by an officer of the Agency to the Secretary of State of Illinois.

(b) The governing body of any Municipal Joint Action Agency established pursuant to this Section 3.2 shall be a Board of Directors. The number, terms of office and qualifications of the Board of Directors shall be provided for in the intergovernmental agreement. Directors shall be selected by vote of the members which are eligible to vote under the terms of the intergovernmental agreement. The method of voting by members for directors shall be provided for in the intergovernmental agreement which may authorize the corporate authorities of a member to designate an individual to cast its vote or votes at any such election. The Board of Directors shall determine the general policy of the Agency, shall approve the annual budget, shall make all appropriations, shall adopt all resolutions providing for the issuance of bonds or notes by the Agency, shall adopt its bylaws, rules and regulations, and shall have such other powers and duties as may be prescribed in the agreement.

The Board of Directors shall act by a vote of a majority of its members or by such greater majority as may be provided in the intergovernmental agreement. If the intergovernmental agreement so provides, the Board of Directors may create one or more committees, define their duties and designate the members of the committees, who need not be members of the Board. The Municipal Joint Action Agency shall have such officers who shall be elected in such manner and for such terms as shall be prescribed by the intergovernmental agreement or as may be determined by the Board of Directors. The officers shall have such duties as may be provided in the intergovernmental agreement or as may be determined by the Board of Directors.

(c) A Municipal Joint Action Agency may plan, construct, reconstruct, acquire, own, lease (as lessor or lessee), equip, extend, improve, manage, operate, maintain, repair, close and finance waste projects. In determining the size of the waste project, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area.

A Municipal Joint Action Agency shall have such powers as shall be provided in the agreement establishing it, which may include, but need not be limited to, the following powers:

(i) To sue or be sued;

(ii) To apply for and accept gifts, grants or loans of funds or property or financial or other aid from any public agency or private entity;

(iii) To acquire, hold, sell, lease as lessor or lessee, lend, transfer or dispose of such real or personal property including intangible property, or interests therein, as it deems appropriate in the exercise of its powers, to provide for the use thereof by any member upon such terms and conditions and with such fees or charges as it shall determine, and to mortgage, pledge or otherwise grant security interests in any such property;

(iv) To make and execute all contracts and other instruments necessary or convenient to the exercise of its power;

(v) To adopt, amend and repeal ordinances, resolutions, rules and regulations with respect to its powers and functions and not inconsistent with this Section 3.2;

(vi) To provide for the insurance, including self insurance, of any property or operations of the Municipal Joint Action Agency or its members, directors, officers and employees, against any risk or hazard, and to indemnify its members, directors, officers and employees therefrom;

(vii) To appoint, retain and employ officers, agents, independent contractors and employees to carry out its powers and functions hereunder;

(viii) To make and execute any contract with the federal, state, or a unit of local government or any person relating to a waste project, including contracts which require:

(1) the contracting party pay the Agency a fixed amount for the collection, processing and disposal of a stated amount of municipal waste (whether or not the stated amount of waste is collected or disposed of), or pay all or a portion of the capital and operating expenses of a waste project;

(2) the contracting party make exclusive use of a waste project for collecting, processing or disposing of all or any portion of municipal waste over which the party has control;

(3) the abandonment, restriction, or prohibition on completion or construction of competing waste projects by the contracting party;

(4) specific provisions with respect to the collection, processing, transportation, storage and disposal of municipal waste;

(5) payment of fees and charges with respect to a waste project;

(ix) To enter into contracts which provide for compensation to areas affected by an Agency waste project;

(x) To enter into contracts with the host community controlling location, use, operation, maintenance and closing of the waste project;

(xi) To create reserves for the purpose of planning, constructing, reconstructing, acquiring, owning, managing, insuring, leasing, equipping, extending, improving, operating, maintaining, repairing, and closing waste projects;

(xii) To create, develop and implement plans for closing and re-use of sites on which waste projects are located, which plans may provide for various uses, including but not limited to, residential, recreational, commercial, office and industrial uses;

(xiii) To prepare, submit and administer plans, and to participate in intergovernmental agreements, pursuant to the Local Solid Waste Disposal Act.[1]

(d) 1. A Municipal Joint Action Agency may, from time to time, borrow money, and, in evidence of its obligation to repay the borrowing, issue its negotiable revenue bonds or notes for any of its corporate purposes, including, but not limited to, the following: for paying costs of planning, constructing, reconstructing, acquiring, owning, leasing, equipping, improving, closing or extending a waste project and implementing a re-use of the waste project; for paying other expenses incident to or incurred in connection with such project; for repaying advances made to or by the Agency for such purposes; for paying interest on the bonds or notes until the estimated date of completion of any such project and for such period after the estimated completion date as the Board of Directors of the Agency shall determine; for paying financial, legal, administrative and other expenses of the authorization, issuance, sale or delivery of bonds or notes; for paying costs of insuring payment of or other credit enhancement of the bonds or notes; for providing or increasing a debt service reserve fund with respect to any or all of the Agency's bonds or notes; for creation of reserves for the planning, constructing, reconstructing, acquiring, leasing, managing, equipping, extending, insuring, improving or clos-

ing of waste projects; and for paying, refunding or redeeming any of the Agency's bonds or notes before, after or at their maturity, including paying redemption premiums or interest accruing or to accrue on such bonds or notes being paid or redeemed or for paying any other costs in connection with any such payment or redemption.

2. Any bonds or notes issued pursuant to this paragraph (d) by a Municipal Joint Action Agency shall be authorized by a resolution of the Board of Directors of the Agency adopted by the affirmative vote of a majority of the Directors and in compliance with any additional requirements as may be set forth in the agreement establishing the Agency. The authorizing resolution may be effective immediately upon its adoption. The authorizing resolution shall describe in a general way any waste project contemplated to be financed by the bonds or notes, shall set forth the estimated cost of the waste project and shall determine its period of usefulness. The authorizing resolution shall determine the maturity or maturities of the bonds or notes, the denominations, the rate or rates at which the bonds or notes are to bear interest and all the other terms and details of the bonds or notes. The bonds or notes may be issued as serial bonds payable in installments or as term bonds with or without sinking fund installments or a combination thereof. All such bonds or notes shall mature within the period of estimated usefulness of the project with respect to which such bonds or notes are issued, as determined by the Board of Directors, but in any event not more than 50 years from their date of issue. The bonds and notes may bear interest at such rate or rates as the resolution shall provide, notwithstanding any other provision of law, and shall be payable at such times as determined by the authorizing resolution. Bonds or notes of a Municipal Joint Action Agency shall be sold in such manner as the Board of Directors of the Agency shall determine, either at par or at a premium or discount.

3. In connection with the issuance of its bonds or notes, the Municipal Joint Action Agency may enter into arrangements to provide additional security and liquidity for its obligations. These may include, without limitation, municipal bond insurance, letters of credit, lines of credit by which the Municipal Joint Action Agency may borrow funds to pay or redeem its obligations and purchase or remarketing arrangements for assuring the ability of owners of the obligations to sell or to have redeemed the obligations. The Municipal Joint Action Agency may enter into contracts and may agree to pay fees to persons providing such arrangements, including from bond or note proceeds.

The resolution of the Municipal Joint Action Agency authorizing the issuance of its bonds or notes may provide that interest rates may vary from time to time depending upon criteria set forth in the resolution, which may include, without limitation, a variation of interest rates as may be necessary to cause bonds or notes to be remarketable from time to time at a price equal to their principal amount, and may provide for appointment of a national banking association, bank, trust company, investment banker or other financial institution to serve as a remarketing agent in that connection. Notwithstanding any other provision of law, the resolution of the Municipal Joint Action Agency authorizing the issuance of its bonds or notes may provide that alternative interest rates or provisions will apply during such times as the bonds or notes are held by a person providing a letter of credit or other credit enhancement arrangement for those bonds or notes.

4. The resolution authorizing the issuance of any bonds or notes pursuant to this paragraph (d) shall constitute a contract with the holders of the bonds and notes. The resolution may contain such covenants and restrictions with respect to the waste project and the contracts with respect to such waste project, the issuance of additional bonds or notes by the Agency, the security for the bonds and notes, and any other matters as may be deemed necessary or advisable by the Board of Directors to assure the payment of the bonds or notes of the Agency.

5. The resolution authorizing the issuance of bonds or notes by a Municipal Joint Action Agency established pursuant to this Section 3.2 shall pledge and provide for the application of revenues derived from the operation of the Agency's waste projects, revenues received from its members (including from contracts for the use of the Agency's waste projects) and revenues from its investment earnings to the payment of the operating expenses of the waste projects, to provision of adequate depreciation, reserve or replacement funds with respect to the waste project, planned waste projects, or the bonds or notes, and to the payment of principal, premium, if any, and interest on the bonds or notes of the Agency (including amounts for the purchase of such bonds or notes). The resolution may provide that revenues of the Municipal Joint Action Agency so derived and other receipts of the Agency which may be applied to such purposes shall be set aside as collected in a separate fund or funds and used for such purposes. The resolution may provide that revenues not required for such purposes may be used for any proper purpose of the Agency or may be returned to members.

Any notes of a Municipal Joint Action Agency may, in addition, be secured by a pledge of proceeds of bonds to be issued by the Agency, as specified in the resolution authorizing the issuance of such notes.

6. All bonds and notes of the Municipal Joint Action Agency issued pursuant to this paragraph (d) shall be revenue bonds or notes. Such bonds or notes shall have no claim for payment other than from revenues of the Agency derived from the operation of its waste projects, from revenues received from its members (including from contracts for the use of the Agency's waste projects), from bond or note proceeds, from such other receipts of the Agency as the agreement establishing the Agency may authorize to be pledged to the payment of bonds or notes, and from investment earnings on the foregoing, all as and to the extent as provided in the resolution of the Board of Directors authorizing the issuance of the bonds or notes. Bonds or notes issued by a Municipal Joint Action Agency pursuant to this paragraph (d) shall not constitute an indebtedness of the Agency or of any member within the meaning of any constitutional or statutory limitation. It shall be plainly stated on each bond and note that it does not constitute an indebtedness of the Municipal Joint Action Agency or of any member within the meaning of any constitutional or statutory limitation.

7. As long as any bonds or notes of a Municipal Joint Action Agency created pursuant to this Section 3.2 are outstanding and unpaid, the Agency shall not terminate or dissolve and, except as permitted by the resolution or resolutions authorizing outstanding bonds or notes, no member may withdraw from the Agency. The Agency shall establish fees and charges for its operations sufficient to provide adequate revenues to meet all of the requirements under its various resolutions authorizing bonds or notes.

8. A holder of any bond or note issued pursuant to this paragraph (d) may, in any civil action, mandamus or other proceeding, enforce and compel performance of all duties required to be performed by the Agency, as provided in the authorizing resolution, or by any of the members or other

persons contracting with the Agency to use the Agency's waste projects, including the imposition of fees and charges, the collection of sufficient revenues and the proper application of revenues as provided in this paragraph (d).

9. In addition, the resolution authorizing any bonds or notes issued pursuant to this paragraph (d) may provide for a pledge, assignment, lien or security interest, for the benefit of the holders of any or all bonds or notes of the Agency, (i) on any and all revenues derived from the operation of the Agency's waste projects (including from contracts for the use of the Agency's waste projects) and investment earnings thereon, (ii) on any and all revenues received from its members, or (iii) on funds or accounts securing the payment of the bonds or notes as provided in the authorizing resolution. In addition, such a pledge, assignment, lien or security interest may be made with respect to any receipts of the Agency which the agreement establishing the Agency authorizes it to apply to payment of bonds or notes. Any such pledge, assignment, lien or security interest for the benefit of holders of bonds or notes shall be valid and binding from the time the bonds or notes are issued, without any physical delivery or further act, and shall be valid and binding against or prior to any claims of any other party having any claims of any kind against the Agency irrespective of whether such other parties have notice of such pledge, assignment, lien or security interest.

A resolution of a Municipal Joint Action Agency authorizing the issuance of bonds or notes pursuant to this paragraph (d) may provide for the appointment of a corporate trustee with respect to any or all of such bonds or notes (which trustee may be any trust company or state or national bank having the power of a trust company within Illinois). In that event, the resolution shall prescribe the rights, duties and powers of the trustee to be exercised for the benefit of the Agency and the protection of the holders of such bonds or notes. The resolution may provide for the trustee to hold in trust, invest and use amounts in funds and accounts created as provided in the resolution. The resolution authorizing the bonds or notes may provide for the assignment and direct payment to the trustee of amounts owed by members and other persons to the Municipal Joint Action Agency under contracts for the use of or access to the Agency's waste projects for application by the trustee to the purposes for which such revenues are to be used as provided in this paragraph (d) and as provided in the authorizing resolution. Upon receipt of notice of such assignment, the member or other person shall thereafter make the assigned payments directly to such trustee.

(e) A Municipal Joint Action Agency established pursuant to this Section 3.2 and any of its members shall each have the power to enter into contracts with any person, corporation or public agency, including any other member and the Municipal Joint Action Agency, with respect to a waste project. Any such contract may permit the contracting party to make use of the waste project and pay such fees and charges as may be established. Any member so contracting to use a waste project shall establish such fees and charges for the collection, transportation, processing, storage and disposal of municipal waste as are necessary to produce revenues sufficient to pay its obligations to the Agency under the contract to use the waste project; provided, however, that the member may satisfy its obligation to make payments under the contract from any funds of the member otherwise available for such purpose. Any contract between the Agency and its members with respect to a waste project shall not constitute an indebtedness of such members within any statutory or constitutional limitation. Any such contract shall be a continuing, valid and binding obligation of such member payable from the fees and charges it imposes for collection, transportation, processing, storage and disposal of municipal waste. Any such contract between the Agency and its members may contain provisions whereby the contracting parties are obligated to pay for all or a portion of the waste project without setoff or counterclaim and irrespective of whether the waste project is ever completed, made available or provided to the contracting party and notwithstanding any suspension, interruption, interference, reduction or curtailment of such waste project. Any such contract may provide that if one or more of the other parties to the contract defaults in the payments of its obligations under such contract or a similar contract made with respect to the waste project, one or more of the remaining parties to such contract or similar contract shall be required to pay for all or a portion of the obligation of the defaulting purchasers. No contract entered into under this subparagraph (e) shall have a term in excess of 50 years. No prior appropriation shall be required by either the Municipal Joint Action Agency or any member before entering into any contract under this subparagraph (e).

(f) A Municipal Joint Action Agency established pursuant to this Section 3.2 and its members shall have the power to enter into contracts for a term not exceeding 50 years relating to the collection, transportation, processing, storage and disposal of municipal waste. Parties to the contract shall have the power to agree to provide by ordinance, license, franchise, contract or other means that the method of collection, transportation, processing, storage and disposal of municipal waste shall be the exclusive methods to be allowed within their respective jurisdiction, notwithstanding the fact that competition may be displaced or that such ordinance, license, franchise, contract or other means may have an anticompetitive effect. Such contract may require the parties by ordinance, license, contract or other means to require that all or any portion of the municipal waste generated within the jurisdiction of the contracting party be delivered to a waste project designated by the parties. Such ordinance, license, franchise, contract or other means may be utilized by the contracting party to insure a constant flow of municipal waste to the facility notwithstanding the fact that competition may be displaced or that such measures have an anticompetitive effect.

(g) Members may, for the purposes of, and upon request by the Municipal Joint Action Agency, exercise the power of eminent domain available to them and convey the property so acquired to the Agency for the cost of acquisition and all expenses related thereto.

(h) A member may enter into an agreement with the Municipal Joint Action Agency obligating the member to make payments to the Municipal Joint Action Agency in order to finance the costs of planning, acquisition and construction of a waste project. A Municipal Joint Action Agency established pursuant to this Section 3.2 may agree to reimburse its members from proceeds of any borrowing for costs of the member with respect to planning, acquisition and construction of an Agency waste project.

(i) Property, income and receipts of or transactions by a Municipal Joint Action Agency created pursuant to this Section 3.2 shall be exempt from all taxation, the same as if it were the property, income of or transaction by a municipality or county member.

(j) The following terms whenever used or referred to in this Section 3.2 shall have the following meanings, except where the context clearly indicates otherwise:

(1) "Municipal waste" means garbage, general household, institutional and commercial waste, industrial lunchroom or

office waste, landscape waste, and construction or demolition debris.

(2) "Waste project" means land, any rights therein and improvements thereto, one or more buildings, structures or other improvements, machinery, equipment, vehicles and other facilities incidental to the foregoing, used in the collection, transportation, transfer, storage, disposal, processing, treatment, recovery and re-use of municipal waste. A waste project shall include land held for a planned waste project or used to buffer a waste project from adjacent land uses.

(3) "Bonds or notes" includes other evidences of indebtedness.

P.A. 78–785, § 3.2, added by P.A. 83–846, § 1, eff. Sept. 26, 1983. Amended by P.A. 84–963, § 9, eff. Jan. 1, 1986; P.A. 84–1375, § 1, eff. Sept. 12, 1986; P.A. 87–650, § 5, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.2.

[1] 415 ILCS 10/1 et seq.

220/3.2a. Waste disposal; municipal lead agencies; ordinance

§ 3.2a. Whenever this Act, as amended from time to time, grants a municipal joint action agency the power to organize and exercise powers in connection with the efficient and environmentally sound collection, transportation, processing, storage and disposal of municipal waste ("waste disposal"), a municipality in the State of Illinois acting as a lead agency ("municipal lead agency") in cooperation with other units of local government to accomplish waste disposal may, by passage of an ordinance to that effect by the municipal lead agency and by the other cooperating units of local government, cause the municipal lead agency to possess all the powers of a municipal joint action agency as if the municipal lead agency were established as a municipal joint action agency under this Act, and also cause the other cooperating units of local government to possess the same powers to enter into contracts and perform those acts as they would with a municipal joint action agency. The corporate authorities of the municipal lead agency shall exercise the powers as are given the Board of Directors of the municipal joint action agency. Copies of the ordinances of the municipal lead agency and the other cooperating units of local government to operate under this Section shall be filed with the Secretary of State.

P.A. 78–785, § 3.2a, added by P.A. 86–771, § 2, eff. Sept. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.2a.

220/3.3. Local Economic Development Commissions

§ 3.3. (1) Any municipality or municipalities of this State, any county or counties of this State or any combination thereof upon adoption of an ordinance by the governing body may, by intergovernmental agreement, join with any community college district of this State in forming Local Economic Development Commissions, hereinafter to be referred to as Commissions. The purpose of such Commissions shall be to coordinate community economic and commercial development programs, to obtain and administer State and federal financial aid, and to perform various other functions to benefit the economic strength of the community.

(2) The membership of a Commission formed by a municipality or municipalities and a county or counties shall be as follows:

(a) 2 public members appointed by the mayor or president of each municipality with the advice and consent of the municipal governing body; and

(b) 2 public members appointed by the chairman of the county board or chief executive officer of each county with the advice and consent of the county governing body; and

(c) 2 public members appointed by the chief executive officer of the community college district with the advice and consent of the community college district board.

The mayor or president of each municipality, the chairman of the county board or chief executive officer of each county, and the chief executive officer of the community college district shall serve as ex officio members of the Commission.

(3) The membership of a Commission formed by a municipality or municipalities shall be as follows:

(a) 3 public members appointed by the mayor or president of each municipality with the advice and consent of the municipal governing body; and

(b) 3 public members appointed by the chief executive officer of the community college district with the advice and consent of the community college district board.

The mayor or president of each municipality and the chief executive officer of the community college district shall serve as ex officio members of the Commission.

(4) The membership of a Commission formed by a county or counties shall be as follows:

(a) 3 public members appointed by the chairman of the county board or chief executive officer of each county with the advice and consent of the county governing body; and

(b) 3 public members appointed by the chief executive officer of the community college district with the advice and consent of the community college district board.

The chairman of the county board or chief executive officer of each county and the chief executive officer of the community college district shall serve as ex officio members of the Commission.

(5) Of the public members appointed to a Commission, the respective appointing authorities shall ensure that the business community and organized labor are equally represented.

(6) The members appointed to a Commission shall serve for terms of 2 years; however, of the initial appointees 2 shall serve terms of one year, 2 shall serve terms of 2 years and 2 shall serve terms of 3 years as determined by drawing lots. The members of each Commission shall, by majority vote of the membership, elect from among the public members a chairman. The chairman shall schedule meetings at least 6 times per year and notify members at least 10 days prior to the meetings of the date, time, and place of such meetings. The chairman shall preside over all such meetings. Other operational guidelines shall be decided upon by majority vote of the membership. Commission members shall not be entitled to receive compensation for their services as members but may receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties as commission members.

(7) A Commission may apply for and accept funding from any or all of the participating units of government, any other unit of local, State or federal government and any private entity.

P.A. 78–785, § 3.2, added by P.A. 83–852, § 1, eff. Sept. 26, 1983. Renumbered § 3.3 and amended by P.A. 83–1362, Art. II, § 164, eff. Sept. 11, 1984.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.3.

220/3.4. Municipal Joint Sewage Treatment Agency

§ 3.4. (a) Any 2 or more municipalities or counties, or any combination thereof, may, by intergovernmental agreement, establish a Municipal Joint Sewage Treatment Agency to provide for the treatment, carrying off and disposal of swamp, stagnant or overflow water, sewage, industrial wastes and other drainage of member municipalities and counties. Any such Agency shall itself be a municipal corporation and a public body politic and corporate.

(b) The governing body of any Municipal Joint Sewage Treatment Agency shall be a Board of Directors. The composition and manner of appointment of the Board of Directors shall be determined pursuant to the intergovernmental agreement. The Board of Directors shall determine the general policy of the Agency, shall approve the annual budget, shall make all appropriations, shall approve all contracts, shall adopt all resolutions providing for the issuance of bonds or notes by the Agency, shall adopt its bylaws, rules and regulations, and shall have such other powers and duties as may be prescribed in the intergovernmental agreement.

(c) A Municipal Joint Sewage Treatment Agency may plan, construct, reconstruct, acquire, own, lease as lessor or lessee, equip, extend, improve, operate, maintain, repair and finance drainage and sewage treatment projects, and may enter into agreements or contracts for the provision of drainage or sewage treatment services for member municipalities or counties.

(d) A Municipal Joint Sewage Treatment Agency shall have such powers as shall be provided in the agreement establishing it, which may include, but need not be limited to, the following powers:

(1) To sue or be sued;

(2) To apply for and accept gifts, grants or loans of funds or property, or financial or other aid, from any public agency or private entity;

(3) To acquire, hold, sell, lease as lessor or lessee, transfer or dispose of such real or personal property, or interests therein, as it deems appropriate in the exercise of its powers, and to provide for the use thereof by any member municipality or county;

(4) To make and execute all contracts and other instruments necessary or convenient to the exercise of its power; and

(5) To make and execute any contract with the federal government, a state, or a unit of local government, relating to drainage and the treatment of sewage.

(e) A Municipal Joint Sewage Treatment Agency may, from time to time, borrow money, and, in evidence of its obligation to repay the borrowing, issue its negotiable revenue bonds or notes for any of the following purposes: for paying costs of planning, constructing, reconstructing, acquiring, leasing, equipping, improving or extending a drainage and sewage treatment project; for paying other expenses incident to or incurred in connection with such project; for repaying advances made to or by the Agency for such purposes; for paying interest on the bonds or notes until the estimated date of completion of any such project and for such period after the estimated completion date as the Board of Directors of the Agency shall determine; for paying financial, legal, administrative and other expenses of the authorization, issuance, sale or delivery of bonds or notes; for providing or increasing a debt service reserve fund with respect to any or all of the Agency's bonds or notes; and for paying, refunding or redeeming any of the Agency's bonds or notes before, after or at their maturity, including paying redemption premiums or interest accruing or to accrue on such bonds or notes being paid or redeemed or for paying any other costs in connection with any such payment or redemption.

The resolution authorizing the issuance of the bonds or notes shall pledge and provide for the application of revenues derived from the operation of the project to payment of the cost of operation and maintenance of the project, to provision for adequate depreciation, reserve or replacement funds with respect to the project, the bonds or notes, and to the payment of principal, premium, if any, and interest on the bonds or notes of the Agency. All bonds or notes of the Agency shall be revenue bonds or notes and shall have no claim for payment other than from revenues of the Agency derived from operation of the drainage and sewage treatment project. Bonds or notes issued by the Agency shall not constitute an indebtedness of any member municipality or county.

P.A. 78–785, § 3.4, added by P.A. 83–1423, § 1, eff. Sept. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.4.

220/3.5. Expenditure of funds

§ 3.5. Any expenditure of funds by a public agency organized pursuant to an intergovernmental agreement in accordance with the provisions of this Act and consisting of 5 public agencies or less, except for an intergovernmental risk management association, self-insurance pool or self-administered health and accident cooperative or pool, shall be in accordance with the Illinois Purchasing Act [1] if the State is a party to the agreement, and shall be in accordance with any law or ordinance applicable to the public agency with the largest population which is a party to the agreement if the State is not a party to the agreement. If the State is not a party to the agreement and there is no such applicable law or ordinance, all purchases shall be subject to the provisions of "An Act authorizing certain governmental units to purchase personal property, supplies and services jointly", approved August 15, 1961, as amended.[2] Such self-insurance or insurance pools may enter into reinsurance agreements for the protection of their members.

P.A. 78–785, § 3.4, added by P.A. 83–1512, § 1, eff. Jan. 14, 1985. Renumbered § 3.5 and amended by P.A. 84–832, Art. II, § 23, eff. Sept. 23, 1985. Amended by P.A. 84–1431, Art. 16, § 1, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.5.

[1] 30 ILCS 505/1 et seq. (repealed; see, now, 30 ILCS 500/1–1 et seq.).

[2] 30 ILCS 525/0.01 et seq.

220/3.6. Merger of special districts into townships

§ 3.6. (a) Any special district the boundaries of which are exactly coterminous with, or entirely within, the boundaries of a township may merge into and transfer all of its rights, powers, duties, liabilities and functions to the township as provided in this Section notwithstanding any other provision of the law.

(b) "Special district" means any political subdivision other than a county, municipality, township, school district or community college district.

(c) By resolution or ordinance the special district may petition the township for merger. Within 30 days after the adoption of such resolution or ordinance, the special district shall file a copy of the petition with the town clerk of the township and with the county clerk.

(d) Within 60 days of the filing of the petition with the town clerk the board of town trustees shall by ordinance either agree or refuse to agree to the merger. Failure of the board of town trustees to adopt such an ordinance within the 60 days shall constitute a refusal to agree to the merger.

(e) After an ordinance is passed by the board of town trustees agreeing to a merger, it shall be published once within 30 days after its passage in one or more newspapers published in the township or, if no newspaper is published therein, it shall be published in a newspaper published in the county in which such township is located and having general circulation within such township. If no newspaper is published in the county having general circulation in the township, publication may be made instead by posting copies of such ordinance in 10 public places within the township. The publication or posting of the ordinance shall include a notice of (1) the specific number of voters required to sign a petition requesting that the question of the merger be submitted to the voters of the township; (2) the time within which the petition must be filed; and (3) the date of the prospective referendum. The township clerk shall provide a petition form to any individual requesting one. The ordinance shall not become effective until 30 days after its publication or the date of such posting of such copies.

Whenever a petition signed by the electors of the township equal in number to 10% or more of the registered voters in the township is filed with the board of town trustees thereof which has adopted an ordinance agreeing to merger and such petition has been filed with the board of town trustees within 30 days after the publication or the date of the posting of the copies which petition seeks the submission of such merger to an election, the board of town trustees shall certify the question to the proper election officials who shall submit the question at an election in accordance with the general election law.

The proposition shall be substantially in the following form:

Shall (name of special district)	YES	
be merged into ..... Township?	NO	

If the boundaries of the township and special district are coterminous and a majority of the voters voting on the question shall favor merger, the special district shall merge into the township. If a majority of the voters voting on the question shall not favor merger, the special district shall not merge into the township. If the boundaries of the township and special district are not coterminous, then a majority of the voters voting upon the question in the special district and a majority of the voters voting in that portion of the township that is not included within the special district must both favor the merger. If a majority of the voters residing in the special district or a majority of the voters voting in that portion of the townships that is not included within the special district do not favor the merger, the special district shall not merge into the township.

(f) The effective date of the merger shall be the first day of January of the year immediately following the effective date of the ordinance or the approval by the referendum as the case may be.

(g) If the board of town trustees refuses to agree to the merger or if a majority of the voters voting on the question shall not favor merger, then the special district shall not file a petition for merger with the town clerk within 3 years after such refusal to agree or referendum.

(h) Upon the effective date of the merger the township shall assume and succeed to all of the rights, powers, duties, liabilities and functions of the special district, including assuming any indebtedness of the special district, and the special district shall be dissolved and cease to exist as a separate and distinct political subdivision. In connection with such rights, powers, duties, liabilities and functions the township shall be subject to, governed by and have the benefit of the statutes, as then or thereafter amended, and laws affecting such a special district, including without limitation the right to levy taxes in such amounts as allowed to such a special district, but the right to levy taxes shall exist only within the area formerly comprising such merged special district. Upon the effective date of the merger all books, records, equipment, property and personnel held by, in the custody of or employed by the special district shall be transferred to the township. The transfer shall not affect the status or employment benefits of transferred personnel.

P.A. 78–785, § 3.6, added by P.A. 85–672, § 1, eff. Jan. 1, 1988. Amended by P.A. 86–1253, § 11, eff. Jan. 1, 1991; P.A. 87–767, § 119, eff. Jan. 1, 1992; P.A. 89–150, § 5, eff. July 14, 1995; P.A. 94–144, § 5, eff. Jan. 1, 2006.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.6.

220/3.7. Regional Juvenile Detention Authority

§ 3.7. (a) Any 2 or more contiguous counties of this State, upon adoption of ordinances by the governing bodies, may, by intergovernmental agreement, form a Regional Juvenile Detention Authority to coordinate the construction of a Regional Juvenile Detention Facility.

(b) The governing body of an Authority created under this Section shall consist of the County Board Chairman, the County Sheriff and the State's Attorney of each member county. Each member shall serve as long as he continues to hold his county office. The County Board Chairman of the most populous member county shall preside at the first organizational meeting of the Authority. At the first organizational meeting, the Authority shall elect a chairman from among its members to serve a 2 year term. No chairman shall remain chairman after losing his county office. The Authority shall adopt bylaws and elect officers and may establish a staff.

(c) An Authority may apply for and accept funding from participating units of government, any other unit of local, State or federal government or any private entity.

P.A. 78–785, § 3.7, added by P.A. 86–669, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 743.7.

220/3.8. Floodwater management

§ 3.8. Floodwater management. In counties having 3,000,000 or more inhabitants, a municipality may enter into intergovernmental agreements with a township for floodwater management in the unincorporated areas of the county.

P.A. 78–785, § 3.8, added by P.A. 91–424, § 5, eff. Jan. 1, 2000.

220/3.9. Flood prevention

§ 3.9. Flood prevention. Two or more county flood prevention districts may enter into an intergovernmental agreement to provide any services authorized in the Flood Prevention District Act, to construct, reconstruct, repair, or otherwise provide any facilities described in that Act either within or outside of any district's corporate limits, to issue bonds, notes, or other evidences of indebtedness, to pledge the taxes authorized to be imposed pursuant to Section 25

of that Act to the obligations of any other district, and to exercise any other power authorized in that Act.

P.A. 78–785, § 3.9, added by P.A. 95–719, § 60, eff. May 21, 2008. Amended by P.A. 95–723, § 10, eff. June 23, 2008.

P.A. 95–723 incorporated the section as enacted by P.A. 95–719.

220/4. Appropriations, furnishing of property, personnel and services

§ 4. Any public agency entering into an agreement pursuant to this Act may appropriate funds and may sell, lease, give, authorize the receipt of grants, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

P.A. 78–785, § 4, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 744.

220/4.5. Prohibited agreements and contracts

§ 4.5. Prohibited agreements and contracts. No intergovernmental or interagency agreement or contract may be entered into, implemented, or given effect if the agreement's or contract's intent or effect is (i) to circumvent any limitation established by law on State appropriation or State expenditure authority with respect to health care and employee benefits contracts or (ii) to expend State moneys in a manner inconsistent with the purpose for which they were appropriated with respect to health care and employee benefits contracts.

P.A. 78–785, § 4.5, added by P.A. 93–839, Art. 10, § 10–50, eff. July 30, 2004.

220/5. Intergovernmental contracts

§ 5. Intergovernmental contracts. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking or to combine, transfer, or exercise any powers, functions, privileges, or authority which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be approved by the governing bodies of each party to the contract and except where specifically and expressly prohibited by law. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.

P.A. 78–785, § 5, eff. Oct. 1, 1973. Amended by P.A. 91–298, § 5, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 745.

220/5.1. Personnel rules; assignment of employees

§ 5.1. All personnel rules applicable to an employee of a public agency shall continue to apply to such employee if the employee is assigned to perform services for another public agency pursuant to an intergovernmental agreement.

P.A. 78–785, § 5.1, added by P.A. 84–1248, § 2, eff. Aug. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 745.1.

220/6. Joint self-insurance

§ 6. Joint self-insurance. An intergovernmental contract may, among other undertakings, authorize public agencies to jointly self-insure and authorize each public agency member of the contract to utilize its funds to pay to a joint insurance pool its costs and reserves to protect, wholly or partially, itself or any public agency member of the contract against liability or loss in the designated insurable area.

A joint insurance pool shall have an annual audit performed by an independent certified public accountant and shall file an annual audited financial report with the Director of Insurance no later than 150 days after the end of the pool's immediately preceding fiscal year. The Director of Insurance shall issue rules necessary to implement this audit and report requirement. The rule shall establish the due date for filing the initial annual audited financial report. Within 30 days after January 1, 1991, and within 30 days after each January 1 thereafter, public agencies that are jointly self-insured to protect against liability under the Workers' Compensation Act [1] and the Workers' Occupational Diseases Act [2] shall file with the Illinois Workers' Compensation Commission a report indicating an election to self-insure.

The joint insurance pool shall also annually file with the Director a statement of actuarial opinion that conforms to the Actuarial Standards of Practice issued by the Actuarial Standards Board. All statements of actuarial opinion shall be issued by an independent actuary who is an associate or fellow of the Casualty Actuarial Society or of the Society of Actuaries. The statement of actuarial opinion shall include a statement that the pool's reserves are calculated in accordance with sound loss-reserving standards and adequate for the payment of claims. This opinion shall be filed no later than 150 days after the end of each fiscal year. The joint insurance pool shall be exempt from filing a statement of actuarial opinion by an independent actuary who is an associate or fellow of the Casualty Actuarial Society or of the Society of Actuaries that the joint insurance pool's reserves are in accordance with sound loss-reserving standards and payment of claims for the primary level of coverage if the joint insurance pool files with the Director, by the reporting deadline, a statement of actuarial opinion from the provider of the joint pool's aggregate coverage, reinsurance, or other similar excess insurance coverage. Any statement of actuarial opinion must be prepared by an actuary who satisfies the qualification standards set forth by the American Academy of Actuaries to issue the opinion in the particular area of actuarial practice.

The Director may assess penalties against a joint insurance pool that fails to comply with the auditing, statement of actuarial opinion, and examination requirements of this Section in an amount equal to $500 per day for each violation, up to a maximum of $10,000 for each violation. The Director (or his or her staff) or a Director-selected independent auditor (or actuarial firm) that is not owned or affiliated with an insurance brokerage firm, insurance company, or other insurance industry affiliated entity may examine, as often as the Director deems advisable, the affairs, transactions, accounts, records, and assets and liabilities of each joint insurance pool that fails to comply with this Section. The joint insurance pool shall cooperate fully with the Director's representatives in all evaluations and audits of the joint insurance pool and resolve issues raised in those evaluations and audits. The failure to resolve those issues may constitute a violation of this Section, and may, after notice and an opportunity to be heard, result in the imposition of penalties pursuant to this Section. No sanctions under this Section may become effective until 30 days after the date that a notice of sanctions is delivered by registered or certified mail to the joint insurance pool. The Director shall have the authority to extend the time for filing any statement by any joint insurance pool for reasons that he or she considers good and sufficient.

If a joint insurance pool requires a member to submit written notice in order for the member to withdraw from a

qualified pool, then the period in which the member must provide the written notice cannot be greater than 120 days, except that this requirement applies only to joint insurance pool agreements entered into, modified, or renewed on or after the effective date of this amendatory Act of the 98th General Assembly.

For purposes of this Section, "public agency member" means any public agency defined or created under this Act, any local public entity as defined in Section 1–206 of the Local Governmental and Governmental Employees Tort Immunity Act, [3] and any public agency, authority, instrumentality, council, board, service region, district, unit, bureau, or, commission, or any municipal corporation, college, or university, whether corporate or otherwise, and any other local governmental body or similar entity that is presently existing or created after the effective date of this amendatory Act of the 92nd General Assembly, whether or not specified in this Section. Only public agency members with tax receipts, tax revenues, taxing authority, or other resources sufficient to pay costs and to service debt related to intergovernmental activities described in this Section, or public agency members created by or as part of a public agency with these powers, may enter into contracts or otherwise associate among themselves as permitted in this Section.

No joint insurance pool or other intergovernmental cooperative offering health insurance shall interfere with the statutory obligation of any public agency member to bargain over or to reach agreement with a labor organization over a mandatory subject of collective bargaining as those terms are used in the Illinois Public Labor Relations Act. No intergovernmental contract of insurance offering health insurance shall limit the rights or obligations of public agency members to engage in collective bargaining, and it shall be unlawful for a joint insurance pool or other intergovernmental cooperative offering health insurance to discriminate against public agency members or otherwise retaliate against such members for limiting their participation in a joint insurance pool as a result of a collective bargaining agreement.

It shall not be considered a violation of this Section for an intergovernmental contract of insurance relating to health insurance coverage, life insurance coverage, or both to permit the pool or cooperative, if a member withdraws employees or officers into a union-sponsored program, to re-price the costs of benefits provided to the continuing employees or officers based upon the same underwriting criteria used by that pool or cooperative in the normal course of its business, but no member shall be expelled from a pool or cooperative if the continuing employees or officers meet the general criteria required of other members.

P.A. 78–785, § 6, eff. Oct. 1, 1973. Amended by P.A. 84–1431, Art. 16, § 1, eff. Nov. 25, 1986; P.A. 86–1405, § 4, eff. Sept. 11, 1990; P.A. 89–97, § 5, eff. July 7, 1995; P.A. 92–530, § 5, eff. Feb. 8, 2002; P.A. 93–721, § 5, eff. Jan. 1, 2005; P.A. 94–685, § 5, eff. Nov. 2, 2005; P.A. 98–504, § 5, eff. Jan. 1, 2014; P.A. 98–969, § 5, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 746.

[1] 820 ILCS 305/1 et seq.

[2] 820 ILCS 310/1 et seq.

[3] 745 ILCS 10/1–206.

P.A. 98–969 incorporated the amendment by P.A. 98–504.

220/7. Construction with Const. Art. 7, § 10

§ 7. This Act is not a prohibition on the contractual and associational powers granted by Section 10 of Article VII of the Constitution.

P.A. 78–785, § 7, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 747.

220/7.5. Eminent domain

§ 7.5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

P.A. 78–785, § 7.5, added by P.A. 94–1055, Art. 95, § 95–5–2, eff. Jan. 1, 2007.

220/8. Separability

§ 8. If any section, subsection, sentence or clause of this Act shall be adjudged unconstitutional, such adjudication shall not affect the validity of the Act as a whole or of any part not adjudged unconstitutional.

P.A. 78–785, § 8, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 748.

220/9. County participation

§ 9. County participation. Any county may participate in an intergovernmental agreement under this Act notwithstanding the absence of specific authority under State law to perform the action involved provided that the unit of local government contracting with the county has authority to perform the action. The authority of the county shall be limited to the territorial limits of the local governmental unit with which the county contracts. In the case of an intergovernmental agreement between a county and a municipality, however, the agreement may provide that the county may perform an action within the territorial limits of the municipality, within the contiguous territory not more than one and one-half miles beyond the corporate limits and not included in any municipality, or within both.

P.A. 78–785, § 9, added by P.A. 81–1121, § 1, eff. July 1, 1980. Amended by P.A. 91–298, § 5, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 749.

220/15. Authorized investments

§ 15. Authorized investments. In addition to other investments authorized by law, an intergovernmental risk management entity created under this Act with assets of at least $5,000,000 and adopting an investment policy under Section 16 of this Act may invest in any combination of the following:

(1) the common stocks listed on a recognized exchange or market;

(2) stock and convertible debt investments, or investment grade corporate bonds, in or issued by any corporation the book value of which shall not exceed 5% of the total intergovernmental risk management entity's investment account at book value in which those securities are held, determined as of the date of the investment, provided that investments in the stock of any one corporation shall not exceed 5% of the total outstanding stock of the corporation and that the investments in the convertible debt of any one corporation shall not exceed 5% of the total amount of such debt that may be outstanding;

(3) the straight preferred stocks or convertible preferred stocks and convertible debt securities issued or guaranteed by a corporation whose common stock is listed on a recognized exchange or market;

(4) mutual funds or commingled funds that meet the following requirements:

(i) the mutual fund or commingled fund is managed by an investment company as defined and registered under the federal Investment Company Act of 1940 [1] and registered under the Illinois Securities Law of 1953 [2] or an investment adviser as defined under the federal Investment Advisers Act of 1940; [3]

(ii) the mutual fund has been in operation for at least 5 years; and

(iii) the mutual fund has total net assets of $250,000,000 or more;

(5) commercial grade real estate located in the State of Illinois.

Any investment advisor retained by the board of the intergovernmental risk management entity must be a fiduciary, who has the power to manage, acquire, or dispose of any asset of the intergovernmental risk management entity, has acknowledged in writing that he or she is a fiduciary with respect to the intergovernmental risk management entity and that he or she has read and understands the intergovernmental risk management entity's investment policy and will adhere to all of the principles and standards set forth in that policy, and is one or more of the following:

(i) registered as an investment adviser under the federal Investment Adviser Act of 1940;

(ii) registered as an investment adviser under the Illinois Securities Law of 1953;

(iii) a bank, as defined in the federal Investment Adviser Act of 1940;

(iv) an insurance company authorized to transact business in this State.

Nothing in this Section shall be construed to authorize an intergovernmental risk management entity to accept the deposit of public funds except for risk management purposes.

P.A. 78–785, § 15, added by P.A. 89–592, § 5, eff. Aug. 1, 1996. Amended by P.A. 90–319, § 5, eff. Aug. 1, 1997.

[1] 15 U.S.C.A. § 80a–1 et seq.

[2] 815 ILCS 5/1 et seq.

[3] 15 U.S.C.A. § 80b–1 et seq.

220/16. Investment policy

§ 16. Investment policy.

(a) Investments made by an intergovernmental risk management entity may be governed by a written investment policy adopted by the corporate authorities of the entity.

An intergovernmental risk management entity may have an investment policy for any public funds in excess of the amount needed to meet current expenses as provided in subsection (b). The policy shall address safety of principal, liquidity of funds, and return on investment.

(b) The investment policy shall apply to funds under the control of the intergovernmental risk management entity in excess of those required to meet short-term expenses.

(c) The intergovernmental risk management entity shall develop performance measures appropriate for the nature and size of the funds within its custody.

(d) The intergovernmental risk management entity shall adopt the prudent person rule, which provides that: "investments should be made with the judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived from the investment."

(e) The investment policy shall list authorized investments as provided by law.

(f) The investment policy shall require that the investment portfolio be structured in such manner as to provide sufficient liquidity to pay obligations as they come due.

(g) The investment policy shall establish guidelines for investments. The guidelines shall be appropriate with the nature and size of the public funds within the custody of the intergovernmental risk management entity.

(h) The investment policy shall provide for guidelines for appropriate diversification of the investment portfolio. Diversification strategies within the established guidelines shall be reviewed and revised periodically, as deemed necessary by the intergovernmental risk management entity.

(i) The investment policy shall provide guidelines for the selection of investment advisors, money managers, and banks.

(j) The investment policy shall provide appropriate arrangements for the holding of assets of the intergovernmental risk management entity. No withdrawal of securities, in whole or in part, shall be made, except by an authorized staff member of the intergovernmental risk management entity.

(k) The investment policy shall provide for a system of internal controls and operational procedures. The intergovernmental risk management entity's chief executive officer shall, by January 1, 1997, establish a system of internal controls that shall be in writing and made a part of the intergovernmental risk management entity's operational procedures. The investment policy shall provide for review of the controls by independent auditors as part of any financial audit periodically required of the intergovernmental risk management entity. The internal controls shall be designed to prevent losses of funds that might arise from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the intergovernmental risk management entity.

(*l*) The investment policy shall provide for appropriate quarterly or more frequent reporting of investment activities. To that end, the intergovernmental risk management entities' chief financial officer shall prepare periodic reports for submission to the governing body and chief executive officer of the intergovernmental risk management entity, which shall include securities in the portfolio by class or type, book value, income earned, and market value as of the report date.

P.A. 78–785, § 16, added by P.A. 89–592, § 5, eff. Aug. 1, 1996.

OFFICERS AND EMPLOYEES

ACT 315. ILLINOIS PUBLIC LABOR RELATIONS ACT

315/1. Short title

§ 1. This Act shall be known and may be cited as the "Illinois Public Labor Relations Act".

P.A. 83–1012, § 1, eff. July 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1601.

315/20. Prohibitions

§ 20. Prohibitions.

(a) Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal

act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee be deemed a strike under this Act.

(b) This Act shall not be applicable to units of local government employing less than 5 employees at the time the Petition for Certification or Representation is filed with the Board. This prohibition shall not apply to bargaining units in existence on the effective date of this Act and units of local government employing more than 5 employees where the total number of employees falls below 5 after the Board has certified a bargaining unit.

P.A. 83–1012, § 20, eff. July 1, 1984. Amended by P.A. 84–1104, § 1, eff. Jan. 1, 1986; P.A. 87–736, § 1, eff. Jan. 1, 1992; P.A. 93–442, § 5, eff. Jan. 1, 2004; P.A. 93–1080, § 5, eff. June 1, 2005; P.A. 94–67, § 5, eff. Jan. 1, 2006.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1620.

CHAPTER 20

EXECUTIVE BRANCH

EXECUTIVE DEPARTMENTS

ACT 5. CIVIL ADMINISTRATIVE CODE OF ILLINOIS

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EXECUTIVE DEPARTMENTS

ACT 5. CIVIL ADMINISTRATIVE CODE OF ILLINOIS

Civil Administrative Code

Provisions comprising Act 5 used to constitute Parts 1 and 9 of the Civil Administrative Code, Laws 1917, p. 2. Other provisions of the 1917 act constituted separate acts within ILCS.

5/9. § 9. Renumbered § 5–300 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.01 to 5/9.05. §§ 9.01 to 9.05. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.05a. Renumbered § 5–355 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.07 to 5/9.12. §§ 9.07 to 9.12. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.15 to 5/9.19. §§ 9.15 to 9.19. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.21, 5/9.22. §§ 9.21, 9.22. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.24, 5/9.25. §§ 9.24, 9.25. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

5/9.29 to 5/20. §§ 9.29 to 20. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

ARTICLE 1. GENERAL PROVISIONS

Date Effective

Article 1 refers to Article 1 of the Civil Administrative Code of Illinois as added by P.A. 91–239, Art. 5, § 5–5, eff. January 1, 2000, and amended by P.A. 92–16, § 11, eff. June 28, 2001. See Disposition and Derivation Tables concerning this Code, post.

5/1–1. Short title

§ 1–1. Short title. This Act may be cited as the Civil Administrative Code of Illinois.

Laws 1917, p. 2, § 1. Amended by P.A. 86–1475, Art. 4, § 4–97, eff. Jan. 10, 1991. Renumbered § 1–1 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 1.

ARTICLE 5. DEPARTMENTS OF STATE GOVERNMENT

Date Effective

Article 5 refers to Article 5 of the Civil Administrative Code of Illinois as added by P.A. 91–239, Art. 5, § 5–5, eff. January 1, 2000. See Disposition and Derivation Tables concerning this Code preceding 20 ILCS 5/1–1.

5/5–5. "Department"

§ 5–5. "Department". As used in the Civil Administrative Code of Illinois,[1] unless the context otherwise clearly indicates, the word "department" means the several departments of the State government as designated in Section 5–15 of this Law, and none other.

Laws 1917, p. 2, § 2. Renumbered § 5–5 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 2.

[1] 20 ILCS 5/1–1 et seq.

5/5–10. "Director"

§ 5–10. "Director". As used in the Civil Administrative Code of Illinois,[1] unless the context clearly indicates otherwise, the word "director" means the several directors of the departments of State government as designated in Section 5–20 of this Law and includes the Secretary of Human Services and the Secretary of Transportation.

Laws 1917, p. 2, § 2.1, added by P.A. 89–507, Art. 90, § 90–1, eff. July 1, 1997. Renumbered § 5–10 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

[1] 20 ILCS 5/1–1 et seq.

5/5–15. Departments of State government

§ 5–15. Departments of State government. The Departments of State government are created as follows:

The Department on Aging.

The Department of Agriculture.

The Department of Central Management Services.

The Department of Children and Family Services.

The Department of Commerce and Economic Opportunity.

The Department of Corrections.

The Department of Employment Security.

The Illinois Emergency Management Agency.

The Department of Financial and Professional Regulation.

The Department of Healthcare and Family Services.

The Department of Human Rights.

The Department of Human Services.

The Department of Juvenile Justice.

The Department of Labor.

The Department of the Lottery.

The Department of Natural Resources.

The Department of Public Health.

The Department of Revenue.

The Department of State Police.

The Department of Transportation.

The Department of Veterans' Affairs.

Laws 1917, p. 2, § 3. Amended by Laws 1925, p. 585, § 1; Laws 1933, p. 1061, § 1; Laws 1941, vol. 1, p. 1214, § 1; Laws 1943, vol. 2, p. 300, § 1; Laws 1945, p. 1641, § 1; Laws 1955, p. 2222, § 1; Laws 1959, p. 2245, § 1; Laws 1961, p. 2659, § 1; Laws 1963, p. 1055, § 1; Laws 1963, p. 2055, § 1; Laws 1965, p. 3738, § 1; Laws 1967, S.B.No.1364, § 1, eff. Jan. 1, 1968; P.A. 76–428, § 1, eff. Jan. 1, 1970; P.A. 76–525, § 1, eff. Jan. 1, 1970; P.A. 76–1158, § 1, eff. Jan. 2, 1970; P.A. 76–2281, § 1, eff. July 1, 1970; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 78–242, Art. II, § 1, eff. Nov. 9, 1973; P.A. 78–479, § 1, eff. Aug. 30, 1973; P.A. 78–992, § 46, eff. Oct. 1, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 80–57, § 24, eff. July 1, 1977; P.A. 80–1455, § 21, eff. Sept. 16, 1978; P.A. 81–36, § 3, eff. June 26, 1979; P.A. 81–1050, § 15, eff. Sept. 24, 1979; P.A. 81–1216, § 10–106, eff. July 1, 1980; P.A. 81–1509, Art. I, § 91, eff. Sept. 26, 1980; P.A. 81–1509, Art. IV, § 2, eff. Sept. 26, 1980; P.A. 81–1516, Art. I, § 1, eff. Dec. 3, 1980; P.A. 82–592, § 20, eff. Sept. 24, 1981; P.A. 82–789, Art. I, § 3, eff. July 13, 1982; P.A. 83–969, Art. VI, § 70, eff. July 1, 1984; P.A. 83–1503, § 15, eff. Dec. 27, 1984; P.A. 84–25, Art. IV, § 43, eff. July 18, 1985; P.A. 84–1128, Art. II, § 2, eff. July 1, 1986; P.A. 85–225, § 4, eff. Jan. 1, 1988; P.A. 89–445, § 9A–4, eff. Feb. 7, 1996; P.A. 89–507, Art; 90, § 90–1, eff. July 1, 1997. Renumbered § 5–15 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 93–25, Art. 25, § 25–5, eff. June 20, 2003; P.A. 93–1029, § 905, eff. Aug. 25, 2004; P.A. 94–696, § 5, eff. June 1, 2006; P.A. 95–331, § 90, eff. Aug. 21, 2007; P.A. 95–481, Art. 5, § 5–905, eff. Aug. 28, 2007; P.A. 95–777, § 5, eff. Aug. 4, 2008; P.A. 96–328, § 35, eff. Aug. 11, 2009; P.A. 97–618, § 830, eff. Oct. 26, 2011.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 3.

5/5–20. Heads of departments

§ 5–20. Heads of departments. Each department shall have an officer as its head who shall be known as director or secretary and who shall, subject to the provisions of the Civil Administrative Code of Illinois, execute the powers and discharge the duties vested by law in his or her respective department.

The following officers are hereby created:

Director of Aging, for the Department on Aging.

Director of Agriculture, for the Department of Agriculture.

Director of Central Management Services, for the Department of Central Management Services.

Director of Children and Family Services, for the Department of Children and Family Services.

Director of Commerce and Economic Opportunity, for the Department of Commerce and Economic Opportunity.

Director of Corrections, for the Department of Corrections.

Director of the Illinois Emergency Management Agency, for the Illinois Emergency Management Agency.

Director of Employment Security, for the Department of Employment Security.

Secretary of Financial and Professional Regulation, for the Department of Financial and Professional Regulation.

Director of Healthcare and Family Services, for the Department of Healthcare and Family Services.

Director of Human Rights, for the Department of Human Rights.

Secretary of Human Services, for the Department of Human Services.

Director of Juvenile Justice, for the Department of Juvenile Justice.

Director of Labor, for the Department of Labor.

Director of the Lottery, for the Department of the Lottery.

Director of Natural Resources, for the Department of Natural Resources.

Director of Public Health, for the Department of Public Health.

Director of Revenue, for the Department of Revenue.

Director of State Police, for the Department of State Police.

Secretary of Transportation, for the Department of Transportation.

Director of Veterans' Affairs, for the Department of Veterans' Affairs.

Laws 1917, p. 2, § 4. Amended by Laws 1925, p. 585, § 1; Laws 1933, p. 1061, § 1; Laws 1941, vol. 1, p. 1214, § 1; Laws 1943, vol. 2, p. 300, § 1; Laws 1945, p. 1641, § 1; Laws 1955, p. 2222, § 1; Laws 1959, p. 2245, § 1; Laws 1961, p. 2659, § 1; Laws 1963, p. 1055, § 1; Laws 1963, p. 2055, § 1; Laws 1965, p. 3738, § 1; Laws 1967, S.B.No.1364, § 1; P.A. 76–428, § 1, eff. Jan. 1, 1970; P.A. 76–525, § 1, eff. Jan. 1, 1970; P.A. 76–1158, § 1, eff. Jan. 2, 1970; P.A. 76–2282, § 1, eff. July 1, 1970; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 78–242, Art. II, § 1, eff. Nov. 9, 1973; P.A. 78–479, § 1, eff. Aug. 30, 1973; P.A. 78–992, § 46, eff. Oct. 1, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–376, § 6, eff. Jan. 1, 1976; P.A. 80–57, § 24, eff. July 1, 1977; P.A. 80–1455, § 21, eff. Sept. 16, 1978; P.A. 81–36, § 3, eff. June 26, 1979; P.A. 81–1216, § 10–106, eff. July 1, 1980; P.A. 81–1509, Art. I, § 91, eff. Sept. 26, 1980; P.A. 81–1509, Art. IV, § 2, eff. Sept. 26, 1980; P.A. 81–1516, Art. I, § 1, eff. Dec. 3, 1980; P.A. 82–592, § 20, eff. Sept. 24, 1981; P.A. 82–789, Art. I, § 3, eff. July 13, 1982; P.A. 83–969, Art. VI, § 70, eff. July 1, 1984; P.A. 83–1503, § 15, eff. Dec. 27, 1984; P.A. 84–25, Art. IV, § 43, eff. July 18, 1985; P.A. 84–1128, Art. II, § 2, eff. July 1, 1986; P.A. 85–225, § 4, eff. Jan. 1, 1988; P.A. 89–445, § 9A–4, eff. Feb. 7, 1996; P.A. 89–507, Art; 90, § 90–1, eff. July 1, 1997. Renumbered § 5–20 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 93–25, Art. 25, § 25–5, eff. June 20, 2003; P.A. 93–1029, § 905, eff. Aug. 25, 2004; P.A. 94–696, § 5, eff. June 1, 2006; P.A. 95–331, § 90, eff. Aug. 21, 2007; P.A. 95–481, Art. 5, § 5–905, eff.

Aug. 28, 2007; P.A. 95–777, § 5, eff. Aug. 4, 2008; P.A. 96–328, § 35, eff. Aug. 11, 2009; P.A. 97–464, § 5, eff. Oct. 15, 2011; P.A. 97–618, § 830, eff. Oct. 26, 2011; P.A. 97–813, § 50, eff. July 13, 2012; P.A. 98–499, § 5, eff. Aug. 16, 2013.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4.

5/5–100. Executive and administrative officers, boards, and commissions

§ 5–100. Executive and administrative officers, boards, and commissions. In addition to the directors of departments, the executive and administrative officers, boards, and commissions designated in the Sections following this Section and preceding Section 5–200 are created. These officers, boards, and commissions in the respective departments shall hold offices created and designated in those Sections.

Laws 1917, p. 2, § 5. Amended by Laws 1919, p. 9, § 1; Laws 1921, p. 335, § 1; Laws 1925, p. 580, § 1; Laws 1925, p. 585, § 1; Laws 1927, p. 844, § 1; Laws 1929, p. 749, § 1; Laws 1933, p. 1078, § 1; Laws 1933, p. 1061, § 1; Laws 1937, p. 1201, § 1; Laws 1937, p. 1127, § 1; Laws 1939, p. 1136, § 1; Laws 1941, vol. 1, p. 1214, § 1; Laws 1941, vol. 1, p. 1275, § 1; Laws 1943, vol. 2, p. 300, § 1; Laws 1945, p. 1641, § 1; Laws 1947, p. 1649, § 1; Laws 1951, p. 850, § 1; Laws 1951, p. 908, § 1; Laws 1951, p. 959, § 1; Laws 1951, p. 1210, § 1; Laws 1951, p. 1228, § 1; Laws 1953, p. 82, § 1; Laws 1953, p. 567, § 1; Laws 1953, p. 916, § 1; Laws 1957, p. 636, § 1; Laws 1959, p. 2245, § 1; Laws 1963, p. 2055, § 1; Laws 1967, S.B.No.1364, § 1, eff. Jan. 1, 1968; P.A. 76–1158, § 1, eff. Jan. 2, 1970; P.A. 89–507, Art. 90, § 90–1, eff. July 1, 1997. Renumbered § 5–100 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 5.

5/5–105. Direction, supervision, and control of officers

§ 5–105. Direction, supervision, and control of officers. Each officer named in the Sections following Section 5–100 and preceding Section 5–200 shall, except as otherwise provided in the Civil Administrative Code of Illinois,[1] be under the direction, supervision, and control of the director or secretary of the officer's respective department and shall perform the duties prescribed by the director or secretary.

Laws 1917, p. 2, § 5.14, added by Laws 1953, p. 82, § 1; Laws 1953, p. 567, § 1; Laws 1953, p. 916, § 1. Amended by Laws 1955, p. 2222, § 1; Laws 1963, p. 2055, § 1; Laws 1967, S.B.No.1364, § 1, eff. Jan. 1, 1968; P.A. 76–1158, § 1, eff. Jan. 2, 1970; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 83–1503, § 15, eff. Dec. 27, 1984; P.A. 89–507, Art. 90, § 90–1, eff. July 1, 1997. Renumbered § 5–105 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 5.14.

[1] 20 ILCS 5/1–1 et seq.

5/5–185. In the Department of Transportation

§ 5–185. In the Department of Transportation. Assistant Secretary of Transportation.

Laws 1917, p. 2, § 5.05, added by Laws 1953, p. 82, § 1; Laws 1953, p. 567, § 1; Laws 1953, p. 916, § 1. Amended by Laws 1963, p. 2208, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 5–185 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 5.05.

5/5–300. Officers' qualifications and salaries

§ 5–300. Officers' qualifications and salaries. The executive and administrative officers, whose offices are created by this Act, must have the qualifications prescribed by law and shall receive annual salaries, payable in equal monthly installments, as designated in the Sections following this Section and preceding Section 5–500. If set by the Governor, those annual salaries may not exceed 85% of the Governor's annual salary.

Laws 1917, p. 2, § 9. Amended by Laws 1919, p. 9, § 1; Laws 1921, p. 335, § 1; Laws 1925, p. 580, § 1; Laws 1925, p. 585, § 1; Laws 1927, p. 844, § 1; Laws 1929, p. 749, § 1; Laws 1931, p. 885, § 1; Laws 1931–32, Third Sp.Sess., p. 213, § 1; Laws 1933, p. 1061, § 1; Laws 1937, p. 1127, § 1; Laws 1937, p. 1201, § 1; Laws 1939, p. 1136, § 1; Laws 1941, vol. 1, p. 1214, § 1; Laws 1943, vol. 2, p. 300, § 1; Laws 1945, p. 1641, § 1; Laws 1947, p. 1649, § 1; Laws 1949, p. 1502, § 1; Laws 1951, p. 850, § 1; Laws 1951, p. 1210, § 1; Laws 1951, p. 1996, § 1; Laws 1953, p. 400, § 1; Laws 1953, p. 567, § 1; Laws 1953, p. 916, § 1; Laws 1955, p. 2222, § 1; Laws 1957, p. 636, § 1; Laws 1959, p. 2245, § 1; Laws 1963, p. 1055, § 1; Laws 1963, p. 2055, § 1; Laws 1965, p. 1958, § 1; Laws 1967, S.B. No.1364, § 1, eff. Jan. 1, 1968; P.A. 76–1158, § 1, eff. Jan. 2, 1970; P.A. 78–242, Art. II, § 1, eff. Nov. 9, 1973; P.A. 78–671, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 49, eff. March 4, 1975; P.A. 81–1516, Art. I, eff. Dec. 3, 1980; P.A. 91–25, § 3, eff. June 9, 1999. Renumbered § 5–300 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 92–16, § 11, eff. June 28, 2001.

5/5–415. In the Department of Transportation

§ 5–415. In the Department of Transportation. The Secretary of Transportation shall receive an annual salary as set by the Compensation Review Board.

The Assistant Secretary of Transportation shall receive an annual salary as set by the Compensation Review Board.

Laws 1917, p. 2, § 9.05, added by Laws 1953, p. 400, § 1; Laws 1953, p. 567, § 1; Laws 1953, p. 916, § 1. Amended by Laws 1957, p. 2887, § 1; Laws 1963, p. 2208, § 1; Laws 1965, p. 1987, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 77–590, § 1, eff. July 31, 1971; P.A. 77–2829, § 62, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–1285, § 10, eff. Feb. 1, 1975; P.A. 80–1, 4th Sp.Sess., § 14, eff. Jan. 7, 1979; P.A. 80–1470, § 14, eff. Nov. 29, 1978; P.A. 83–1177, § 29, eff. July 17, 1984; P.A. 91–25, § 3, eff. June 9, 1999. Renumbered § 5–415 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 92–16, § 11, eff. June 28, 2001; P.A. 96–800, § 5, eff. Oct. 30, 2009.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 9.05.

5/5–515. Compensation prohibited

§ 5–515. Compensation prohibited. No member of an advisory and non-executive board shall receive any compensation.

Laws 1917, p. 2, § 10. Renumbered § 5–515 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 10.

5/5–600. Officer's performance of duties

§ 5–600. Officer's performance of duties. Each officer provided for by the Civil Administrative Code of Illinois[1] shall perform the duties that are prescribed by law for the officer's position and to the best of the officer's ability shall render faithful and efficient service in the performance of

those duties, to the end that the public interest and welfare may be furthered.

Laws 1917, p. 2, § 11. Amended by Laws 1925, p. 585, § 1; Laws 1927, p. 844, § 1, eff. July 6, 1927. Renumbered § 5–600 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 11.

[1] 20 ILCS 5/1–1 et seq.

5/5–605. Appointment of officers

§ 5–605. Appointment of officers. Each officer whose office is created by the Civil Administrative Code of Illinois [1] or by any amendment to the Code shall be appointed by the Governor, by and with the advice and consent of the Senate. In case of vacancies in those offices during the recess of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate, when the Governor shall nominate some person to fill the office, and any person so nominated who is confirmed by the Senate shall hold office during the remainder of the term and until his or her successor is appointed and qualified. If the Senate is not in session at the time the Code or any amendments to the Code take effect, the Governor shall make a temporary appointment as in the case of a vacancy.

During the absence or inability to act of the director of any department, or of the Secretary of Human Services or the Secretary of Transportation, or in case of a vacancy in any such office until a successor is appointed and qualified, the Governor may designate some person as acting director or acting secretary to execute the powers and discharge the duties vested by law in that director or secretary.

During the term of a General Assembly, the Governor may not designate a person to serve as an acting director or secretary under this Section if that person's nomination to serve as the director or secretary of that same Department was rejected by the Senate of the same General Assembly. This Section is subject to the provisions of subsection (c) of Section 3A–40 of the Illinois Governmental Ethics Act.

Laws 1917, p. 2, § 12. Amended by Laws 1925, p. 585, § 1; Laws 1927, p. 844, § 1; Laws 1961, p. 2659, § 1; Laws 1965, p. 1339, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 78–992, § 46, eff. Oct. 1, 1974; P.A. 79–347, § 1, eff. Oct. 1, 1975; P.A. 89–507, Art. 90, § 90–1, eff. July 1, 1997. Renumbered § 5–605 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 97–582, § 10, eff. Aug. 26, 2011.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 12.

[1] 20 ILCS 5/1–1 et seq.

5/5–610. Term of office

§ 5–610. Term of office. Each officer whose office is created by the Civil Administrative Code of Illinois,[1] except as otherwise specifically provided for in the Code, shall hold office for a term of 2 years from the third Monday in January of each odd-numbered year and until the officer's successor is appointed and qualified. Where the provisions of the Code require General Assembly members to be included in the membership of any advisory and nonexecutive board, the General Assembly members shall serve such terms or until termination of their legislative service, whichever first occurs.

Laws 1917, p. 2, § 13. Amended by Laws 1919, p. 9, § 1; Laws 1925, p. 580, § 1; Laws 1925, p. 585, § 1; Laws 1927, p. 844, § 1; Laws 1929, p. 749, § 1; Laws 1933, p. 1061, § 1; Laws 1941, vol. 1, p. 1275, § 1; Laws 1945, p. 1641, § 1; Laws 1949, p. 1511, § 1; Laws 1951, p. 959, § 1; Laws 1951, p. 1210, § 1; Laws 1951, p. 1228, § 1; Laws 1953, p. 1438, § 1; Laws 1957, p. 1270, § 1; Laws 1959, p. 2245, § 1; Laws 1961, p. 2659, § 1; Laws 1963, p. 31, § 1; Laws 1965, p. 714, § 1; Laws 1967, S.B.No. 241, § 1; Laws 1967, S.B.No. 847, § 1; Laws 1968, p. 149, § 1, eff. Aug. 17, 1968; P.A. 76–428, § 1, eff. Jan. 1, 1970; P.A. 76–2033, § 1, eff. July 1, 1970; P.A. 77–581, § 1, eff. July 31, 1971; P.A. 77–2830, Art. 101, § 1, eff. Jan. 1, 1973; P.A. 80–156, § 1, eff. July 29, 1977; P.A. 83–1250, Art. I, § 2, eff. Aug. 9, 1984. Renumbered § 5–610 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 13.

[1] 20 ILCS 5/1–1 et seq.

5/5–615. Officer's oath

§ 5–615. Officer's oath. Each officer whose office is created by the Civil Administrative Code of Illinois [1] or by any amendments to the Code shall, before entering upon the discharge of the duties of the office, qualify for the office by taking and subscribing the constitutional oath of office and filing the signed oath in the office of the Secretary of State.

Laws 1917, p. 2, § 14. Amended by Laws 1925, p. 585, § 1; P.A. 79–1348, § 1, eff. Aug. 2, 1976. Renumbered § 5–615 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 14.

[1] 20 ILCS 5/1–1 et seq.

5/5–620. Bond

§ 5–620. Bond. Each executive and administrative officer whose office is created by the Civil Administrative Code of Illinois [1] or by any amendments to the Code shall give bond before entering upon the discharge of the duties of his or her office by inclusion in the blanket bond or bonds or self-insurance program provided for in Sections 14.1 and 14.2 of the Official Bond Act.[2]

All official bonds required to be executed and filed under this Section are subject to the requirements of the Official Bond Act.[3]

Laws 1917, p. 2, § 15. Amended by Laws 1925, p. 585, § 1; P.A. 79–1348, § 1, eff. Aug. 2, 1976; P.A. 90–372, Art. 5, § 5–55, eff. July 1, 1998. Renumbered § 5–620 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 15.

[1] 20 ILCS 5/1–1 et seq.

[2] 5 ILCS 260/14.1 and 260/14.2.

[3] 5 ILCS 260/0.01 et seq.

5/5–625. Department regulations

§ 5–625. Department regulations. The director of each department (see Section 5–10 of this Law for the definition of "director") is empowered to prescribe regulations, not inconsistent with law, for the government of the director's department, the conduct of the department's employees and clerks, the distribution and performance of the department's business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining to the department.

Laws 1917, p. 2, § 16. Amended by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 5–625 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 16.

5/5–630. Department offices

§ 5–630. Department offices. Each department shall maintain a central office in Springfield, in space provided by

the Secretary of State, the Department of Central Management Services, or the Architect of the Capitol, excepting the Department of Agriculture, which shall maintain a central office at the State fair grounds at Springfield, and the Department of Transportation, which shall also maintain a Division of Aeronautics at Capital Airport. The director of each department (see Section 5–10 of this Law for the definition of "director") may, in the director's discretion and with the approval of the Governor, establish and maintain, at places other than the seat of government, branch offices for the conduct of any one or more functions of the director's department.

Laws 1917, p. 2, § 17. Amended by Laws 1951, p. 353, § 1; Laws 1955, p. 1195, § 1; Laws 1965, p. 3754, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 78–479, § 1, eff. Aug. 30, 1973; P.A. 82–659, § 1, eff. Sept. 25, 1981; P.A. 82–789, Art. I, § 3, eff. July 13, 1982. Renumbered § 5–630 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 93–632, § 10, eff. Feb. 1, 2004.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 17.

5/5–635. Department office hours

§ 5–635. Department office hours. Each department shall be open for the transaction of public business at least from 8:30 in the morning until 5:00 in the evening of each day except Saturdays, Sundays, and days that may hereafter be declared by the Governor to be holidays for State employees.

Laws 1917, p. 2, § 18. Amended by Laws 1965, p. 542, § 1, eff. July 1, 1965. Renumbered § 5–635 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 18.

5/5–640. Department seal

§ 5–640. Department seal. Each department shall adopt and keep an official seal.

Laws 1917, p. 2, § 19. Renumbered § 5–640 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 19.

5/5–645. Department employees

§ 5–645. Department employees. Each department may obtain necessary employees and, if the rate of compensation is not otherwise fixed by law, may fix their compensation subject to the Personnel Code.[1]

Laws 1917, p. 2, § 20. Amended by Laws 1955, p. 2222, § 1; Laws 1967, p. 4068, S.B.No. 848, § 1, eff. Sept. 7, 1967. Renumbered § 5–645 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 20.

[1] 20 ILCS 415/1 et seq.

5/5–650. Department reports

§ 5–650. Department reports. The Governor may require from each director of a department (see Section 5–10 of this Law for the definition of "director") a report in writing concerning the condition, management, and financial transactions of the director's department. In addition to those reports, each director of a department shall make the semi-annual and biennial reports provided by the Constitution.

Laws 1917, p. 2, § 25. Amended by Laws 1959, p. 798, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 82–905, § 1, eff. Aug. 16, 1982. Renumbered § 5–650 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 25.

5/5–655. Cooperation by directors

§ 5–655. Cooperation by directors. The directors of departments (see Section 5–10 of this Law for the definition of "director") shall devise a practical and working basis for co-operation and co-ordination of work, eliminating duplication and overlapping of functions. They shall, so far as practicable, co-operate with each other in the employment of services and the use of quarters and equipment. The director of any department may empower or require an employee of another department, subject to the consent of the superior officer of the employee, to perform any duty that the director might require of his or her own subordinates.

The directors of departments may co-operate in the investigation of any licensed health care professional or may jointly investigate such a person and may share the results of any cooperative, joint, or independent investigation of such a person.

Laws 1917, p. 2, § 26. Amended by P.A. 84–1252, § 9, eff. Jan. 1, 1987. Renumbered § 5–655 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 26.

5/5–675. Acquisition of land

§ 5–675. Acquisition of land. The Secretary of Transportation and the Director of Natural Resources are respectively authorized, with the consent in writing of the Governor, to acquire by private purchase, or by condemnation in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act,[1] any and all lands, buildings, and grounds for which an appropriation may be made by the General Assembly to their respective departments. To the extent necessary to comply with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, Public Law 91–646,[2] the Department of Transportation and the Department of Natural Resources, respectively, are authorized to operate a relocation program and to pay relocation costs. The departments are authorized to exceed the maximum payment limits of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act when necessary to ensure the provision of decent, safe, or sanitary housing or to secure a suitable relocation site.

The Director of Central Management Services is authorized, with the consent in writing of the Governor, to acquire by private purchase, or by condemnation in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act, all other lands, buildings, and grounds for which an appropriation may be made by the General Assembly. To the extent necessary to comply with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, Public Law 91–646, the Department of Central Management Services is authorized to operate a relocation program and to pay relocation costs. The Department is authorized to exceed the maximum payment limits of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act when necessary to ensure the provision of decent, safe, and sanitary housing or to secure a suitable relocation site. The Department shall make or direct the payment of the relocation amounts from the funds available to acquire the property.

Laws 1917, p. 2, § 51. Amended by Laws 1921, p. 335, § 1; Laws 1925, p. 585, § 1; Laws 1933, p. 1061, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 80–57, § 24, eff. July 1, 1977; P.A. 82–783, Art. XI, § 270, eff. July 13, 1982; P.A. 82–789, Art. I, § 3, eff. July 13, 1982; P.A. 82–1057, Art. II, § 21, eff. Feb. 11, 1983; P.A. 85–1407, § 5, eff. Sept. 22, 1988; P.A.

89–445, § 9A–4, eff. Feb. 7, 1996. Renumbered § 5–675 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000; P.A. 94–1055, Art. 95, § 95–10–10, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 51.

[1] 735 ILCS 30/1–1–1 et seq.

[2] 42 U.S.C.A. § 4601 et seq.

5/5–680. Eminent domain

§ 5–680. Eminent domain. Notwithstanding any other provision of this Code, any power granted under this Code to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1917, p. 2, § 5–680, added by P.A. 94–1055, Art. 95, § 95–5–15, eff. Jan. 1, 2007.

DEPARTMENT OF NATURAL RESOURCES

ACT 830. INTERAGENCY WETLAND POLICY ACT OF 1989

ARTICLE I. GENERAL PROVISIONS

830/1–1. Short Title

§ 1–1. Short Title. This Act shall be known and may be cited as the "Interagency Wetland Policy Act of 1989".

P.A. 86–157, Art. I, § 1–1, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9701–1.

830/1–2. Legislative declaration

§ 1–2. Legislative declaration. The General Assembly finds and determines that:

(a) In 1818, Illinois contained an estimated 8.2 million acres of wetlands. Based upon preliminary results of the Illinois portion of the National Wetlands Inventory, less than nine percent of the original acres remain.

(b) With the significant loss in acreage, a corresponding loss in the functional values and benefits that wetlands provide has occurred.

(c) Continued loss of Illinois' wetlands may deprive the people of this State of some or all of the benefits which they provide, including:

(1) reducing flood damages by absorbing, storing and conveying peak flows from storms;

(2) improving water quality by serving as sedimentation and filtering basins and as natural biological treatment areas;

(3) providing breeding, nesting, forage and protective habitat for approximately 40 percent of the State's threatened and endangered plants and animals, in addition to other forms of fish, wildlife, waterfowl and shorebirds;

(4) protecting underground water resources and helping to recharge rivers, streams and local or regional underground water supplies;

(5) serving as recreational areas for hunting, fishing, boating, hiking, bird watching, photography and other uses;

(6) providing open space and aesthetic values, particularly in rapidly developing areas;

(7) providing unique educational and research opportunities because of their high diversity of plants and animals, their support for a high incidence of threatened and endangered species, and their function as a natural buffer for rivers, lakes and streams;

(8) supplying nutrients in freshwater food cycles and serving as nursery areas and sanctuaries for young fish; and

(9) helping to protect shorelines from the forces of water erosion.

P.A. 86–157, Art. I, § 1–2, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9701–2.

830/1–3. Application

§ 1–3. Application. The General Assembly recognizes the environmental, economic and social values of the State's remaining wetlands and directs that State agencies shall preserve, enhance, and create wetlands where possible and avoid adverse impacts to wetlands from:

(a) State and State pass-through funded construction activities. This Act does not apply to construction activities costing less than $10,000, in which non-public contributions are at least 25 percent of the total cost. This Act does not apply to cleanup of contaminated sites authorized, funded or approved pursuant to: (1) the federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (P.L. 96–510), as amended; [1] (2) the leaking underground storage tank program, as established in Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98–616), as amended,[2] of the Resource Conservation and Recovery Act of 1976 (P.L. 94–580); [3] (3) the State remedial action program established under Section 4 of the Environmental Protection Act, as amended,[4] or any other Section of this Act or regulations promulgated thereunder which pertain to the above exempted federal cleanup programs.

This Act does not apply to projects receiving loan assistance provided to local government units under the provisions of the Illinois Water Pollution Control Revolving Fund, that are subject to review under the National Environmental Policy Act of 1969 (NEPA) [5] or the state equivalent, pursuant to rules governing the Illinois Water Pollution Control Revolving Fund.

(b) State supported land management activities;

(c) State and State supported technical assistance programs; and

(d) Other State activities that result in adverse impacts to wetlands.

Educational materials produced with State support, shall be consistent with the policies contained within this Act.

P.A. 86–157, Art. I, § 1–3, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9701–3.

[1] 42 U.S.C.A. § 9602.

[2] 42 U.S.C.A. § 6901 et seq.

[3] 42 U.S.C.A. § 6901 et seq.

[4] 415 ILCS 5/4.

[5] 42 U.S.C.A. § 4321 et seq.

830/1–4. State goal

§ 1–4. State goal. It shall be the goal of the State that there be no overall net loss of the State's existing wetland acres or their functional value due to State supported activities. Further, State agencies shall preserve, enhance and create wetlands where necessary in order to increase the quality and quantity of the State's wetland resource base.

P.A. 86–157, Art. I, § 1–4, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9701–4.

830/1–5. Goal implementation

§ 1–5. Goal implementation. The goal is implemented through a State Wetland Mitigation Policy and the development of Agency Action Plans.

P.A. 86–157, Art. I, § 1–5, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9701–5.

830/1–6. Definitions

§ 1–6. Definitions. As used in this Act:

(a) "Wetland" means land that has a predominance of hydric soils (soils which are usually wet and where there is little or no free oxygen) and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation (plants typically found in wet habitats) typically adapted for life in saturated soil conditions. Areas which are restored or created as the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present.

(b) "Adverse wetland impacts" means any land management and construction or related project activity which directly or indirectly reduces the size of a wetland or impairs a wetland's functional value, as described in subsection (c) of Section 1–2 of this Act, or the hydraulic and hydrologic characteristics of a wetland.

(c) "Director" means the Director of Natural Resources.

(d) "Department" with reference to this Act means the Department of Natural Resources.

(e) "Committee" means the Interagency Wetlands Committee created by this Act.

(f) "Mitigation" includes avoiding, minimizing or compensating for adverse wetland impacts. This includes:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing the impact by limiting the magnitude of the action; and

(3) Compensating for the impact by replacing or providing substitute wetland resources or environments.

(g) "Agency Action Plan" means a plan developed by an individual agency to implement this Act.

(h) "Wetland Compensation Plan" means a plan developed for each individual construction project that details how the responsible agency will compensate for actions which will result in adverse wetland impacts.

(i) "Conservation Organization" means an organization, legally established under Illinois Law, for the purpose of managing and protecting natural resources.

(j) "Necessary" means in a manner consistent with the intent of this Act.

P.A. 86–157, Art. I, § 1–6, eff. Aug. 12, 1989. Amended by P.A. 89–445, § 9A–13, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9701–6.

ARTICLE II. AGENCY COORDINATION

830/2–1. Interagency Wetlands Committee

§ 2–1. Interagency Wetlands Committee. An Interagency Wetlands Committee, chaired by the Director of Natural Resources or his or her representative, is established. The Directors of the following agencies, or their respective representatives, shall serve as members of the Committee:

Capital Development Board,

Department of Agriculture,

Department of Commerce and Economic Opportunity,

Environmental Protection Agency,

Department of Transportation, and

Historic Preservation Agency.

The Interagency Wetlands Committee shall also include 2 additional persons with relevant expertise designated by the Director of Natural Resources.

The Interagency Wetlands Committee shall advise the Director in the administration of this Act. This will include:

(a) Developing rules and regulations for the implementation and administration of this Act.

(b) Establishing guidelines for developing individual Agency Action Plans.

(c) Developing and adopting technical procedures for the consistent identification, delineation and evaluation of existing wetlands and quantification of their functional values and the evaluation of wetland restoration or creation projects.

(d) Developing a research program for wetland function, restoration and creation.

(e) Preparing reports, including:

(1) A biennial report to the Governor and the General Assembly on the impact of State supported activities on wetlands.

(2) A comprehensive report on the status of the State's wetland resources, including recommendations for additional programs, by January 15, 1991.

(f) Development of educational materials to promote the protection of wetlands.

P.A. 86–157, Art. II, § 2–1, eff. Aug. 12, 1989. Amended by P.A. 89–445, § 9B–6, eff. Feb. 7, 1996; P.A. 92–651, § 13, eff. July 11, 2002; P.A. 94–793, § 215, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9702–1.

830/2–2. Agency Action Plans

§ 2–2. Agency Action Plans. Within one year following passage of this Act each State agency serving on the Interagency Wetlands Committee shall prepare an Agency Action Plan, which shall be used as the agency's procedural plan for the implementation of this Act. Guidelines for Agency Action Plans shall be developed by the Department and reviewed by the Committee within 6 months of the effective date of this Act.

(a) Minimum elements of each Agency Action Plan will include:

(1) Provisions for both a consultation process with the Department and conflict resolution process through the Governor's office;

(2) Procedures for the development of a Wetland Compensation Plan;

(3) Procedures to scientifically monitor the success of wetland restoration/creation projects.

(4) Procedures to minimize the destruction of wetlands caused or encouraged by State supported construction, land management, technical assistance, educational and other activities;

(5) Procedures to increase the quantity and quality of wetlands as a standard component of agency activities includ-

ing incentives for the creation of wetlands in the agency's regulation of activities for which wetland compensation plans are not required by this Act;

(6) Procedures to coordinate the responsibilities contained within this Act with other State programs;

(7) Procedures to ensure that historic and archaeological resources will not be negatively impacted by this Act; and

(8) An acquisition policy related to implementation of this Act.

(b) Agency Action Plans may also include: (1) procedures for the development and management of a Wetland Compensation Account; and (2) procedures to expedite the review of certain classes of projects.

(c) Agency Action Plans shall be submitted to the Governor and the General Assembly after review and approval by the Department.

P.A. 86–157, Art. II, § 2–2, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9702–2.

ARTICLE III. STATE WETLAND MITIGATION POLICY

830/3–1. State Wetland Mitigation Policy

§ 3–1. State Wetland Mitigation Policy. This Act implements the State Wetland Mitigation Policy, which directs that each State agency shall preserve wetlands as a priority of action when they develop construction or land management plans. When an agency can establish that no other feasible alternative exists and adverse wetland impacts are unavoidable, adverse impacts are to be compensated for through the development and implementation of a Department approved Wetland Compensation Plan.

The policy requires progressive levels of compensation based upon the level of impact to the existing wetland and the location of compensation wetlands. Priority shall be given to locating compensation wetlands close to the wetland area impacted.

Proposed State and State-supported construction activities which may impact wetlands identified on the Illinois Natural Areas Inventory, under public ownership or which provide habitat for State or federally threatened or endangered species will continue to require direct consultation with the Department and compliance with the Endangered Species Protection Act of 1986.[1]

P.A. 86–157, Art. III, § 3–1, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9703–1.

[1] 520 ILCS 10/1 et seq.

830/3–2. Ownership and management

§ 3–2. Ownership and management. Wetlands, whether purchased, restored or created as the result of this Act shall be protected through either easements or fee simple transfer to either a public conservation agency or private conservation organization which will protect and manage the area.

P.A. 86–157, Art. III, § 3–2, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9703–2.

830/3–3. Wetland Compensation Account

§ 3–3. Wetland Compensation Account. Each State agency is hereby authorized to establish a Wetland Compensation Account to reconcile debits and credits established as the result of Wetland Compensation Plans.

Management of a Wetland Compensation Account, if established, is the responsibility of the individual State agency. The Department shall review each agency's Compensation Account to confirm that all debits and credits are accounted for and balanced.

P.A. 86–157, Art. III, § 3–3, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9703–3.

830/3–4. Impact evaluation

§ 3–4. Impact evaluation. For each project action involving a wetland, State agencies shall follow a multi-step process to avoid and minimize adverse wetland impacts as the preferred course of action. An agency must document that no other feasible alternative exists before adverse impacts are considered.

In order of priority, these steps shall include:

(1) The avoidance of adverse wetland impacts;

(2) Minimal alteration with compensation on the site of the proposed project;

(3) Significant alteration with compensation on the site of the proposed project;

(4) Wetland destruction with compensation on the site of the proposed project;

(5) Wetland destruction with compensation off the site of the proposed project but within the same drainage basin; and

(6) Wetland destruction with compensation both off the site of the proposed project and out of the drainage basin.

P.A. 86–157, Art. III, § 3–4, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9703–4.

830/3–5. Value

§ 3–5. Value. Value shall include:

Value for each compensation plan shall be established by the agency developing the compensation plan in consultation with the Department.

P.A. 86–157, Art. III, § 3–5, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9703–5.

830/3–6. Compensation ratios

§ 3–6. Compensation ratios. Wetland Compensation Plans must adhere to a schedule of increasing compensation ratios based upon the amount of adverse wetland impact and the location of compensation projects.

(a) Compensation ratios are required to:

(1) Ensure that wetland systems are not destroyed without careful evaluation of other alternatives; and

(2) Discourage destruction of wetland resources in rapidly developing areas of Illinois and their replacement within other regions of the State.

(b) Compensation ratios shall be established and shall be progressively higher to reflect the priority actions identified in Section 3–4.

The lowest compensation ratio shall be for minimal alteration and compensation on-site. The highest compensation ratio shall be for destruction and compensation outside the impacted wetland's drainage basin.

Progressively higher compensation ratios shall strongly encourage agencies to avoid or minimize adverse wetland impacts and to compensate on-site.

(c) Compensation may be accomplished through a combination of creation of new wetlands, restoration of degraded wetlands, acquisition of existing wetlands, or research. Com-

pensation shall be accomplished using the best available technology.

(d) The Department, through the Interagency Wetlands Committee, shall review the compensation ratios to determine their adequacy and appropriateness, and shall report the results of this review in the biennial report required in Section 2–1.

(e) When adverse wetland impacts occur, the Wetland Compensation Plan must include the creation of at least one-for-one replacement of new wetlands of comparable functional type and size, before restoration, acquisition or research alternatives are considered.

One provision of a Wetland Compensation Plan may include funding for needed research on wetland functions, restoration or creation. Credit for research funding requires approval of the Department upon consultation of the Committee.

P.A. 86–157, Art. III, § 3–6, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9703–6.

ARTICLE IV. ADMINISTRATION

830/4–1. Administration

§ 4–1. Administration. The Department shall administer this Act and shall formulate rules and regulations necessary for its implementation.

P.A. 86–157, Art. IV, § 4–1, eff. Aug. 12, 1989.

Formerly Ill.Rev.Stat.1991, ch. 96 ½, ¶ 9704–1.

DEPARTMENT OF STATE POLICE

ACT 2605. CIVIL ADMINISTRATIVE CODE OF ILLINOIS

Civil Administrative Code

Provisions comprising this act used to constitute Part 10.5 of the Civil Administrative Code, Laws 1917, p. 2. Other provisions of the 1917 act constituted separate acts within ILCS.

DEPARTMENT OF STATE POLICE

ARTICLE 2605. DEPARTMENT OF STATE POLICE

Date Effective

Article 2605 refers to Article 2605 of the Civil Administrative Code of Illinois as added by P.A. 91–239, Art. 5, § 5–5, eff. January 1, 2000. See Disposition and Derivation Tables concerning this Code preceding 20 ILCS 5/1–1.

2605/2605–410. Over Dimensional Load Police Escort Fund

§ 2605–410. Over Dimensional Load Police Escort Fund. To charge, collect, and receive fees or moneys as described in Section 15–312 of the Illinois Vehicle Code. All fees received by the Illinois State Police under Section 15–312 of the Illinois Vehicle Code shall be deposited into the Over Dimensional Load Police Escort Fund, a special fund that is created in the State treasury. Subject to appropriation, the money in the Over Dimensional Load Police Escort Fund shall be used by the Department for its expenses in providing police escorts and commercial vehicle enforcement activities.

Laws 1917, p. 2, § 2605–410, added by P.A. 95–787, § 5, eff. Jan. 1, 2009.

ACT 2610. STATE POLICE ACT

2610/16. Powers and duties; enforcement of motor vehicle laws

§ 16. State policemen shall enforce the provisions of The Illinois Vehicle Code, approved September 29, 1969, as amended,[1] and Article 9 of the "Illinois Highway Code" as amended;[2] and shall patrol the public highways and rural districts to make arrests for violations of the provisions of such Acts. They are conservators of the peace and as such have all powers possessed by policemen in cities, and sheriffs, except that they may exercise such powers anywhere in this State. The State policemen shall cooperate with the police of cities, villages and incorporated towns, and with the police officers of any county, in enforcing the laws of the State and in making arrests and recovering property. They may be equipped with standardized and tested devices for weighing motor vehicles and may stop and weigh, acting reasonably, or cause to be weighed, any motor vehicle which appears to weigh in excess of the weight permitted by law. It shall also be the duty of the State police to determine, whenever possible, the person or persons or the causes responsible for the breaking or destruction of any improved hard-surfaced roadway; to arrest all persons criminally responsible for such breaking or destruction and bring them before the proper officer for trial. The Department of State Police shall divide the State into Districts and assign each district to one or more policemen. No person employed under this Act, however, shall serve or execute civil process, except for process issued under the authority of the General Assembly, or a committee or commission thereof vested with subpoena powers when the county sheriff refuses or fails to serve such process, and except for process issued under the authority of the Illinois Department of Revenue.

Laws 1949, p. 1357, § 16. Amended by Laws 1951, p. 2116, § 1; Laws 1953, p. 1030, § 1; Laws 1959, p. 183, § 1; P.A. 76–1764, § 1, eff. Oct. 6, 1969; P.A. 77–177, § 1, eff. Jan. 1, 1972; P.A. 77–568, § 1, eff. July 31, 1971; P.A. 77–2829, § 59, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 83–333, § 71, eff. Sept. 14, 1983; P.A. 83–1415, § 9, eff. Sept. 13, 1984; P.A. 84–25, Art. IV, § 38, eff. July 18, 1985.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 307.16.

[1] 625 ILCS 5/1–100 et seq.

[2] 605 ILCS 5/9–101 et seq.

2610/21. Toll highway policemen; powers and duties

§ 21. (a) The Department shall appoint as State policemen the number of persons required for assignment to the policing of toll highways by contracts made pursuant to Section 20 of this Act; and such policemen shall have the same qualifications and shall be appointed and paid and shall receive the same benefits, as all other State policemen.

(b) The Director shall assign such policemen in accordance with the contract provisions, which may authorize temporary increases or decreases in the number of policemen so assigned when emergency conditions so require.

(c) State policemen so assigned have, in policing the toll highways, all powers and duties of enforcement and arrest which Section 16 of this Act confers upon State policemen generally in policing other public highways and other areas,

and in addition have the duty to enforce all regulations established by the Illinois State Toll Highway Authority pursuant to the authority of "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Authority, and to define its powers and duties, to make an appropriation in conjunction therewith", approved August 7, 1967, as amended.[1]

Laws 1949, p. 1357, § 21, added by Laws 1957, p. 2287, § 1. Amended by P.A. 77–568, § 1, eff. July 31, 1971; P.A. 81–840, § 51, eff. Sept. 19, 1979; P.A. 85–1042, § 6, eff. July 13, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 307.18b.

[1] 605 ILCS 10/1 et seq.

DEPARTMENT OF TRANSPORTATION

ACT 2705. CIVIL ADMINISTRATIVE CODE OF ILLINOIS

Civil Administrative Code

Provisions comprising this act used to constitute Part 8.5 of the Civil Administrative Code, Laws 1917, p. 2. Other provisions of the 1917 act constituted separate acts within ILCS.

2705/49.04, 2705/49.05. §§ 49.04, 49.05. Repealed by P.A. 89–445, § 9E–2.5, eff. Feb. 7, 1996

2705/49.06c to 2705/49.06f. §§ 49.06c to 49.06f. Repealed by P.A. 89–445, § 9E–2.5, eff. Feb. 7, 1996

2705/49.11 to 2705/49.31. §§ 49.11 to 49.31. Renumbered and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000

2705/49.32. § 49.32. Repealed effective July 1, 1998

The repealed section, relating to railway service studies, was repealed by its own terms in subsec. (b), eff. July 1, 1998.

ARTICLE 2705. DEPARTMENT OF TRANSPORTATION

2705/2705–1. Article short title

§ 2705–1. Article short title. This Article 2705 of the Civil Administrative Code of Illinois may be cited as the Department of Transportation Law.

Laws 1917, p. 2, § 2705–1, added by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

2705/2705–5. Definitions

§ 2705–5. Definitions. In this Law:

"Department" means the Department of Transportation.

"Secretary" means the Secretary of Transportation.

Laws 1917, p. 2, § 2705–5, added by P.A. 91–239, § 5–5, eff. Jan. 1, 2000.

2705/2705–10. Powers, generally

§ 2705–10. Powers, generally. The Department has the powers enumerated in the following Sections.

Laws 1917, p. 2, § 49. Amended by Laws 1925, p. 585, § 1; Laws 1933, p. 1061, § 1; Laws 1941, vol. 1, p. 1224, § 1; Laws 1941, vol. 1, p. 1259, § 1; Laws 1941, vol. 1, p. 1274, § 1; Laws 1945, p. 1660, § 1; Laws 1951, p. 850, § 1; Laws 1953, p. 1443, § 1; Laws 1955, p. 1196, § 1; Laws 1965, p. 430, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 78–479, § 1, eff. Aug. 30, 1973; P.A. 79–834, § 1, eff. Sept. 5, 1975; P.A. 79–1193, § 1, eff. Feb. 5, 1976; P.A. 80–32, § 1, eff. June 30, 1977; P.A. 80–1031, § 31, eff. Sept. 22, 1977; P.A. 81–1404, § 2, eff. Aug. 25, 1980; P.A. 84–137, § 1, eff. Jan. 1, 1986; P.A. 84–642, § 1, eff. Sept. 20, 1985; P.A. 84–1049, § 1, eff. July 1, 1986; P.A. 84–1308, Art. II, § 178, eff. Aug. 25, 1986; P.A. 86–610, § 7, eff. July 1, 1990. Renumbered § 2705–10 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.

2705/2705–15. Administrative organization

§ 2705–15. Administrative organization. (a) The Secretary may create and establish offices, divisions, and administrative units as necessary for the efficient administration and operation of the Department and may assign functions, powers, and duties to the several offices, divisions, and administrative units in the Department.

(b) The Department has the power to establish the administrative organization within the Department that as is required to carry out the powers, duties, and functions of the Department and best utilize the personnel, skills, facilities, and resources of the Department and its offices, divisions, and agencies.

Laws 1917, p. 2, § 49. Amended by Laws 1925, p. 585, § 1; Laws 1933, p. 1061, § 1; Laws 1941, vol. 1, p. 1224, § 1; Laws 1941, vol. 1, p. 1259, § 1; Laws 1941, vol. 1, p. 1274, § 1; Laws 1945, p. 1660, § 1; Laws 1951, p. 850, § 1; Laws 1953, p. 1443, § 1; Laws 1955, p. 1196, § 1; Laws 1965, p. 430, § 1; P.A. 77–153, § 1, eff. Jan. 1, 1972; P.A. 78–479, § 1, eff. Aug. 30, 1973; P.A. 79–834, § 1, eff. Sept. 5, 1975; P.A. 79–1193, § 1, eff. Feb. 5, 1976; P.A. 80–32, § 1, eff. June 30, 1977; P.A. 80–1031, § 31, eff. Sept. 22, 1977; P.A. 81–1404, § 2, eff. Aug. 25, 1980; P.A. 84–137, § 1, eff. Jan. 1, 1986; P.A. 84–642, § 1, eff. Sept. 20, 1985; P.A. 84–1049, § 1, eff. July 1, 1986; P.A. 84–1308, Art. II, § 178, eff. Aug. 25, 1986; P.A. 86–610, § 7, eff. July 1, 1990. Laws 1917, p. 2, § 49.23, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 2705–15 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶¶ 49, 49.23.

2705/2705–90. Criminal history record information from Department of State Police

§ 2705–90. Criminal history record information from Department of State Police. Whenever the Department is authorized or required by law to consider some aspect of criminal history record information for the purpose of carrying out its statutory powers and responsibilities, then, upon request and payment of fees in conformance with the requirements of Section 2605–400 of the Department of State Police Law (20 ILCS 2605/2605–400), the Department of State Police is authorized to furnish, pursuant to positive

identification, the information contained in State files that is necessary to fulfill the request.

Laws 1917, p. 2, § 49.31, added by P.A. 86–610, § 7, eff. July 1, 1990. Renumbered § 2705–90 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.31.

2705/2705–100. Aeronautics; transfer from Department of Aeronautics

§ 2705–100. Aeronautics; transfer from Department of Aeronautics. The Department has the power to exercise, administer, and enforce, through a Division of Aeronautics, all rights, powers, and duties vested in the Department of Aeronautics by the Illinois Aeronautics Act.[1] The Department has the power to regulate and supervise aeronautics in this State and to administer and enforce all laws of this State pertaining to aeronautics.

Laws 1917, p. 2, § 49.01a, added by P.A. 78–479, § 1, eff. Aug. 30, 1973. Renumbered § 2705–100 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.01a.

[1] 620 ILCS 5/1 et seq.

2705/2705–105. Bridge and ferry operation; transfer from Department of Public Works and Buildings

§ 2705–105. Bridge and ferry operation; transfer from Department of Public Works and Buildings. The Department has the power to exercise, administer, and enforce the rights, powers, and duties vested in the Department of Public Works and Buildings by any law relating to the operation of bridges and ferries.

Laws 1917, p. 2, § 49.06a, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Amended by P.A. 89–445, § 9E–2, eff. Feb. 7, 1996. Renumbered § 2705–105 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.06a.

2705/2705–110. Motor vehicles; transfer from Department of Public Works and Buildings

§ 2705–110. Motor vehicles; transfer from Department of Public Works and Buildings. The Department has the power to exercise, administer, and enforce all rights, powers, and duties vested in the Department of Public Works and Buildings by the Illinois Vehicle Code.[1]

Laws 1917, p. 2, § 49.07a, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 2705–110 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.07a.

[1] 625 ILCS 5/1–100 et seq.

2705/2705–115. Roads and bridges; transfer from Department of Public Works and Buildings

§ 2705–115. Roads and bridges; transfer from Department of Public Works and Buildings. The Department has the power to exercise, administer, and enforce all rights, powers, and duties vested in the Department of Public Works and Buildings by the Illinois Highway Code [1] and any other law relating to roads, streets, and bridges and toll highways.

Laws 1917, p. 2, § 49.08a, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 2705–115 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.08a.

[1] 605 ILCS 5/1–101 et seq.

2705/2705–120. Transfer of other rights, powers, and duties from Department of Public Works and Buildings

§ 2705–120. Transfer of other rights, powers, and duties from Department of Public Works and Buildings. The Department has the power to exercise all rights, powers, and duties vested by law in the Department of Public Works and Buildings and in the Director of Public Works and Buildings not otherwise expressly transferred to and vested in another department.

Laws 1917, p. 2, § 49.11, added by Laws 1953, p. 1443, § 1. Amended by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 2705–120 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.11.

2705/2705–125. Safety inspection of motor vehicles; transfer from various State agencies

§ 2705–125. Safety inspection of motor vehicles; transfer from various State agencies. The Department has the power to administer, exercise, and enforce the rights, powers, and duties presently vested in the Department of State Police and the Division of State Troopers under the Illinois Vehicle Inspection Law, in the Illinois Commerce Commission, in the State Board of Education, and in the Secretary of State under laws relating to the safety inspection of motor vehicles operated by common carriers, of school buses, and of motor vehicles used in the transportation of school children and motor vehicles used in driver exam training schools for hire licensed under Article IV of the Illinois Driver Licensing Law or under any other law relating to the safety inspection of motor vehicles of the second division as defined in the Illinois Vehicle Code.[1]

Laws 1917, p. 2, § 49.22, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Amended by P.A. 81–1508, § 28, eff. Sept. 25, 1980; P.A 84–25, Art. IV, § 43, eff. July 18, 1985. Renumbered § 2705–125 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000; P.A. 96–740, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.22.

[1] 625 ILCS 5/1–100 et seq.

2705/2705–175. State employees; effect of transfer to Department

§ 2705–175. State employees; effect of transfer to Department. The transfer to the Department of Transportation of employees of the Department of Public Works and Buildings or of any other department, office, or agency of the State shall not affect the status of those employees under civil service, merit service, the Personnel Code,[1] or other laws relating to State employees.

Laws 1917, p. 2, § 49.24, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 2705–175 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.24.

[1] 20 ILCS 415/1 et seq.

2705/2705–200. Master plan; reporting requirements

§ 2705–200. Master plan; reporting requirements.

(a) The Department has the power to develop and maintain a continuing, comprehensive, and integrated planning process that shall develop and periodically revise a statewide master plan for transportation to guide program development and to foster efficient and economical transportation services in ground, air, water, and all other modes of transportation throughout the State. The Department shall coordinate its transportation planning activities with those of other State agencies and authorities and shall supervise and review any transportation planning performed by other Executive agencies under the direction of the Governor. The Department shall cooperate and participate with federal, regional, interstate, State, and local agencies, in accordance with Sections 5–301 and 7–301 of the Illinois Highway Code, [1] and with interested private individuals and organizations in the coordination of plans and policies for development of the state's transportation system.

To meet the provisions of this Section, the Department shall publish and deliver to the Governor and General Assembly by December 31, 2012 and every 5 years thereafter, its master plan for highway, waterway, aeronautic, mass transportation, and railroad systems. The plan shall identify priority subsystems or components of each system that are critical to the economic and general welfare of this State regardless of public jurisdictional responsibility or private ownership.

The master plan shall include a comprehensive and multimodal freight mobility plan which shall analyze commodity flows, assess the freight transportation network, and identify significant freight system trends, needs, and economic opportunities. It shall recommend improvements in the operation and management of the freight system, projects that will eliminate inefficiencies in the State's freight network, methods of funding needed for freight system improvements, and policies to ensure the safe, reliable, and efficient movement of goods within and through the State and to ensure the State's economic vitality. The freight mobility plan shall incorporate and maintain compatibility with any federally required rail plan affecting this State.

The master plan shall provide particular emphasis and detail of at least the 5–year period in the immediate future.

Annual and 5–year, or longer, project programs for each State system in this Section shall be published and furnished the General Assembly on the first Wednesday in April of each year.

Identified needs included in the project programs shall be listed and mapped in a distinctive fashion to clearly identify the priority status of the projects: (1) projects to be committed for execution; (2) tentative projects that are dependent upon funding or other constraints; and (3) needed projects that are not programmed due to lack of funding or other constraints.

All projects shall be related to the priority systems of the master plan, and the priority criteria identified. Cost and estimated completion dates shall be included for work required to complete a useable segment or component beyond the period of the program.

(b) The Department shall publish and deliver to the Governor and General Assembly on the first Wednesday in April of each year a 5–year, or longer, Highway Improvement Program reporting the number of fiscal years each project has been on previous plans submitted by the Department.

(c) The Department shall publish and deliver to the Governor and the General Assembly by November 1 of each year a For the Record report that shall include the following:

(1) All the projects accomplished in the previous fiscal year listed by each Illinois Department of Transportation District.

(2) The award cost and the beginning dates of each listed project.

Laws 1917, p. 2, § 49.16, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Amended by P.A. 79–1116, § 1, eff. Nov. 20, 1975; P.A. 82–110, § 1, eff. Aug. 6, 1981; P.A. 90–277, § 5, eff. Jan. 1, 1998; P.A. 91–357, § 40, eff. July 29, 1999. Renumbered § 2705–200 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 92–16, § 25, eff. June 28, 2001; P.A. 94–91, Art. 15, § 15–5, eff. July 1, 2005; P.A. 97–32, § 5, eff. June 28, 2011.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.16.

[1] 605 ILCS 5/5–301 and 5/7–301.

2705/2705–205. Study of demand for transportation

§ 2705–205. Study of demand for transportation. The Department has the power. in cooperation with State universities and other research oriented institutions, to study the extent and nature of the demand for transportation and to collect and assemble information regarding the most feasible, technical and socio-economic solutions for meeting that demand and the costs thereof. The Department has the power to report to the Governor and the General Assembly, by February 15 of each odd-numbered year, the results of the study and recommendations based on the study.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader, and the Clerk of the House of Representatives and the President, the Minority Leader, and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act [1] and by filing additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.[2]

Laws 1917, p. 2, § 49.21, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Amended by P.A. 83–784, § 74, eff. Jan. 1, 1984; P.A. 84–1438, Art. III, § 60, eff. Dec. 22, 1986. Renumbered § 2705–205 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.21.

[1] 25 ILCS 5/3.1.

[2] 15 ILCS 320/7.

2705/2705–207. § 2705–207. Repealed effective January 1, 2005

2705/2705–210. Traffic control and prevention of accidents

§ 2705–210. Traffic control and prevention of accidents. The Department has the power to develop, consolidate, and coordinate effective programs and activities for the advancement of driver education, for the facilitation of the movement of motor vehicle traffic, and for the protection and conservation of life and property on the streets and highways of this State and to advise, recommend, and consult with the several departments, divisions, boards, commissions, and other agencies of this State in regard to those programs and activities. The Department has the power to aid and assist the counties, cities, towns, and other political subdivisions of this State in

the control of traffic and the prevention of traffic accidents. That aid and assistance to counties, cities, towns, and other political subdivisions of this State shall include assistance with regard to planning, traffic flow, light synchronizing, preferential lanes for carpools, and carpool parking allocations.

Laws 1917, p. 2, § 49.15, added by Laws 1965, p. 430, § 1. Amended by P.A. 80–1016, § 1, eff. Sept. 22, 1977. Renumbered § 2705–210 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.15.

2705/2705–215. Cooperative utilization of equipment and services of governmental entities and not-for-profit organizations for the transportation needs in public service programs

§ 2705–215. Cooperative utilization of equipment and services of governmental entities and not-for-profit organizations for the transportation needs in public service programs.

(a) The Department is directed to encourage and assist governmental entities, not-for-profit corporations, and nonprofit community service associations, between or among themselves, in the development of reasonable utilization of transportation equipment and operational service in satisfying the general and specialized public transportation needs.

The Department shall develop and encourage cooperative development, among all entities, of programs promoting efficient service and conservation of capital investment and energy and shall assist all entities in achieving their goals and in their applications for transportation grants under appropriate State or federal programs.

(b) Implementation of cooperative programs is to be developed within the meaning of the provisions of the Intergovernmental Cooperation Act.[1] In the circumstances of nongovernmental entities, the Department shall be guided by that Act and any other State law in encouraging the cooperative programs between those entities.

(c) The Department shall report to the members of the General Assembly, by March 1 of each year, its successes, failures and progress in achieving the intent of this Section. The report shall also include identification of problems as well as the Department's recommendations.

Laws 1917, p. 2, § 49.27, added by P.A. 81–1404, § 2, eff. Aug. 25, 1980. Renumbered § 2705–215 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.27.

[1] 5 ILCS 220/1 et seq.

2705/2705–220. Public private partnerships for transportation

§ 2705–220. Public private partnerships for transportation. The Department may exercise all powers granted to it under the Public Private Agreements for the Illiana Expressway Act and the Public–Private Agreements for the South Suburban Airport Act.

Laws 1917, p. 2, § 2705–220, added by P.A. 96–913, § 905, eff. June 9, 2010. Amended by P.A. 98–109, § 4–5, eff. July 25, 2013.

2705/2705–222. Public-private partnerships for transportation

§ 2705–222. Public-private partnerships for transportation. The Department may exercise all powers granted to it under the Public–Private Partnerships for Transportation Act.

Laws 1917, p. 2, § 2705–222, added by P.A. 97–502, § 905, eff. Aug. 23, 2011.

2705/2705–225. Air transportation for State officers and employees

§ 2705–225. Air transportation for State officers and employees. The Department may provide air transportation for officers and employees of the offices, departments, and agencies of the State government and charge the office, department, or agency for that transportation. Charges for the transportation shall not exceed the expenses incurred and costs involved in providing air transportation and may include expenses for equipment, personnel, and operational expenses.

All requests for air transportation shall be made in writing and shall be signed by the executive officer or employee of the office, department, or agency.

Except as provided herein, all requests shall be filled in the following priority: (1) the Governor, (2) the Lieutenant Governor, (3) the legislative leaders of the General Assembly, specifically, the President and minority leader of the Senate and the Speaker and minority leader of the House of Representatives, (4) the Judges of the Supreme Court, (5) the Attorney General, (6) the Secretary of State, (7) the Comptroller, (8) the Treasurer, (9) other members of the General Assembly; and thereafter as provided by the Department.

Laws 1917, p. 2, § 49.02a, added by P.A. 78–479, § 1, eff. Aug. 30, 1973. Amended by P.A. 84–994, § 2, eff. Sept. 27, 1985; P.A. 84–1101, § 2, eff. Dec. 9, 1985. Renumbered § 2705–225 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.02a.

2705/2705–240. Grants for capital assistance

§ 2705–240. Grants for capital assistance. The Department has the power to administer the allocation of State monies appropriated as grants for capital assistance purposes in the manner prescribed by law. No transportation program administered by any other Executive agency under the direction of the Governor or project undertaken thereunder shall be eligible for capital assistance from the State until that program and project have been approved by the Department.

Laws 1917, p. 2, § 49.17, added by P.A. 77–153, § 1, eff. Jan. 1, 1972. Renumbered § 2705–240 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.17.

2705/2705–245. Inspection of property and records of applicants for and recipients of assistance

§ 2705–245. Inspection of property and records of applicants for and recipients of assistance. The Department at reasonable times may inspect the property and examine the books, records, and other information relating to the nature or adequacy of services, facilities, or equipment of any municipality, district, or carrier that is receiving or has applied for assistance under this Law. It may conduct investigations and hold hearings within or without the State. This Section

shall not affect the regulatory power of any other State or local agency with respect to transportation rates and services. Annual statements of assets, revenues, and expenses and annual audit reports shall be submitted to the Department by any municipality, district, or carrier receiving or applying for capital assistance from the State when requested by the Department as part of an inspection under this Section.

Laws 1917, p. 2, § 49.20, added by P.A. 77–153, § 1, eff. July 2, 1971. Renumbered § 2705–245 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000; P.A. 96–37, § 55–5, eff. July 13, 2009.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.20.

Validity

Provisions added by P.A. 96-35, P.A. 96-37, and P.A. 96-38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96-34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

2705/2705–255. Appropriations from Build Illinois Bond Fund and Build Illinois Purposes Fund

§ 2705–255. Appropriations from Build Illinois Bond Fund and Build Illinois Purposes Fund. Any expenditure of funds by the Department for interchanges, for access roads to and from any State or local highway in Illinois, or for other transportation capital improvements related to an economic development project pursuant to appropriations to the Department from the Build Illinois Bond Fund and the Build Illinois Purposes Fund shall be used for funding improvements related to existing or planned scientific, research, manufacturing, or industrial development or expansion in Illinois. In addition, the Department may use those funds to encourage and maximize public and private participation in those improvements. The Department shall consult with the Department of Commerce and Economic Opportunity prior to expending any funds for those purposes pursuant to appropriations from the Build Illinois Bond Fund and the Build Illinois Purposes Fund.

Laws 1917, p. 2, § 49.14, added by P.A. 84–109, Art. 4, § 4–1, eff. July 25, 1985. Renumbered § 2705–255 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–793, § 265, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.14.

2705/2705–260. Use of Illinois resident labor

§ 2705–260. Use of Illinois resident labor. To the extent permitted by any applicable federal law or regulation, for all work performed for State construction projects which are funded in whole or in part by a capital infrastructure bill enacted by the 96th General Assembly by sums appropriated to the Illinois Department of Transportation, at least 50% of the total labor hours must be performed by actual residents of the State of Illinois. For purposes of this Section, "actual residents of the State of Illinois" means persons domiciled in the State of Illinois. The Department of Labor shall promulgate rules providing for the enforcement of this Section.

Laws 1917, p. 2, § 2705–260, added by P.A. 96–37, § 80–20, eff. July 13, 2009.

Validity

Provisions added by P.A. 96-35, P.A. 96-37, and P.A. 96-38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96-34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

2705/2705–265. Use of coal combustion by-products

§ 2705–265. Use of coal combustion by-products. The Department shall, where economically feasible and safe, foster the use of coal combustion by-products by specifying usage of these by-products in road building materials and by developing and including specifications for their use in beds, fills, backfills, trenches, and embankments.

Laws 1917, p. 2, § 49.33, added by P.A. 89–93, § 15, eff. July 6, 1995. Renumbered § 2705–265 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

2705/2705–275. Grants for airport facilities

§ 2705–275. Grants for airport facilities. The Department may make grants to municipalities and airport authorities for the renovation, construction, and development of airport facilities. The grants may be made from funds appropriated for that purpose from the Build Illinois Bond Fund.

Laws 1917, p. 2, § 49.25j, added by P.A. 84–109, Art. 7, § 7–1, eff. July 25, 1985. Renumbered § 2705–275 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–91, Art. 55, § 55–35, eff. July 1, 2005.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25j.

2705/2705–285. Ports and waterways

§ 2705–285. Ports and waterways. The Department has the power to undertake port and waterway development planning and studies of port and waterway development problems and to provide technical assistance to port districts and units of local government in connection with port and waterway development activities. The Department may provide financial assistance for the ordinary and contingent expenses of port districts upon the terms and conditions that the Department finds necessary to aid in the development of those districts.

The Department shall coordinate all its activities under this Section with the Department of Commerce and Economic Opportunity.

Laws 1917, p. 2, § 49.06b, added by P.A. 80–542, § 1, eff. Oct. 1, 1977. Amended by P.A. 81–1509, Art. IV, § 2, eff. Sept. 26, 1980. Renumbered § 2705–285 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–793, § 265, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.06b.

2705/2705–300. Powers concerning mass transportation

§ 2705–300. Powers concerning mass transportation. The Department has the power to do the following:

(1) Advise and assist the Governor and the General Assembly in formulating (i) a mass transportation policy for the State, (ii) proposals designed to help meet and resolve special problems of mass transportation within the State, and (iii) programs of assistance for the comprehensive planning, development, and administration of mass transportation facilities and services.

(2) Appear and participate in proceedings before any federal, State, or local regulatory agency involving or affecting mass transportation in the State.

(3) Study mass transportation problems and provide technical assistance to units of local government.

(4) Encourage experimentation in developing new mass transportation facilities and services.

(5) Recommend policies, programs, and actions designed to improve utilization of mass transportation services.

(6) Cooperate with mass transit districts and systems, local governments, and other State agencies in meeting those problems of air, noise, and water pollution associated with transportation.

(7) Participate fully in a statewide effort to improve transport safety.

(8) Conduct by contract or otherwise technical studies, and demonstration and development projects which shall be designed to test and develop methods for increasing public use of mass transportation and for providing mass transportation in an efficient, coordinated, and convenient manner.

(9) Make applications for, receive, and make use of grants for mass transportation.

(10) Make grants for mass transportation from the Transportation Fund pursuant to the standards and procedures of Sections 2705–305 and 2705–310.

Laws 1917, p. 2, § 49.18, added by P.A. 77–153, § 1, eff. July 2, 1971. Amended by P.A. 78–205, § 1, eff. July 18, 1973; P.A. 81–1464, § 1, eff. Jan. 1, 1981. Renumbered § 2705–300 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.18.

2705/2705–305. Grants for mass transportation

§ 2705–305. Grants for mass transportation.

(a) For the purpose of mass transportation grants and contracts, the following definitions apply:

"Carrier" means any corporation, authority, partnership, association, person, or district authorized to provide mass transportation within the State.

"District" means all of the following:

(i) Any district created pursuant to the Local Mass Transit District Act.[1]

(ii) The Authority created pursuant to the Metropolitan Transit Authority Act.[2]

(iii) Any authority, commission, or other entity that by virtue of an interstate compact approved by Congress is authorized to provide mass transportation.

(iv) The Authority created pursuant to the Regional Transportation Authority Act.[3]

"Facilities" comprise all real and personal property used in or appurtenant to a mass transportation system, including parking lots.

"Mass transportation" means transportation provided within the State of Illinois by rail, bus, or other conveyance and available to the general public on a regular and continuing basis, including the transportation of handicapped or elderly persons as provided more specifically in Section 2705–310.

"Unit of local government" means any city, village, incorporated town, or county.

(b) Grants may be made to units of local government, districts, and carriers for the acquisition, construction, extension, reconstruction, and improvement of mass transportation facilities. Grants shall be made upon the terms and conditions that in the judgment of the Secretary are necessary to ensure their proper and effective utilization.

(c) The Department shall make grants under this Law in a manner designed, so far as is consistent with the maintenance and development of a sound mass transportation system within the State, to: (i) maximize federal funds for the assistance of mass transportation in Illinois under the Federal Transit Act[4] and other federal Acts; (ii) facilitate the movement of persons who because of age, economic circumstance, or physical infirmity are unable to drive; (iii) contribute to an improved environment through the reduction of air, water, and noise pollution; and (iv) reduce traffic congestion.

(d) The Secretary shall establish procedures for making application for mass transportation grants. The procedures shall provide for public notice of all applications and give reasonable opportunity for the submission of comments and objections by interested parties. The procedures shall be designed with a view to facilitating simultaneous application for a grant to the Department and to the federal government.

(e) Grants may be made for mass transportation projects as follows:

(1) In an amount not to exceed 100% of the nonfederal share of projects for which a federal grant is made.

(2) In an amount not to exceed 100% of the net project cost for projects for which a federal grant is not made.

(3) In an amount not to exceed five-sixths of the net project cost for projects essential for the maintenance of a sound transportation system and eligible for federal assistance for which a federal grant application has been made but a federal grant has been delayed. If and when a federal grant is made, the amount in excess of the nonfederal share shall be promptly returned to the Department.

In no event shall the Department make a grant that, together with any federal funds or funds from any other source, is in excess of 100% of the net project cost.

(f) Regardless of whether any funds are available under a federal grant, the Department shall not make a mass transportation grant unless the Secretary finds that the recipient has entered into an agreement with the Department in which the recipient agrees not to engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators where those private school bus operators are able to provide adequate transportation, at reasonable rates, in conformance with applicable safety standards, provided that this requirement shall not apply to a recipient that operates a school system in the area to be served and operates a separate and exclusive school bus program for the school system.

(g) Grants may be made for mass transportation purposes with funds appropriated from the Build Illinois Bond Fund consistent with the specific purposes for which those funds are appropriated by the General Assembly. Grants under this subsection (g) are not subject to any limitations or conditions imposed upon grants by any other provision of this Section, except that the Secretary may impose the terms and conditions that in his or her judgment are necessary to ensure the proper and effective utilization of the grants under this subsection.

(h) The Department may let contracts for mass transportation purposes and facilities for the purpose of reducing urban congestion funded in whole or in part with bonds described in subdivision (b)(1) of Section 4 of the General Obligation Bond Act,[5] not to exceed $75,000,000 in bonds.

(i) The Department may make grants to carriers, districts, and units of local government for the purpose of reimbursing

them for providing reduced fares for mass transportation services for students, handicapped persons and the elderly. Grants shall be made upon the terms and conditions that in the judgment of the Secretary are necessary to ensure their proper and effective utilization.

(j) The Department may make grants to carriers, districts, and units of local government for costs of providing ADA paratransit service.

Laws 1917, p. 2, § 49.19, added by P.A. 77–153, § 1, eff. July 2, 1971. Amended by P.A. 77–1943, § 1, eff. July 7, 1972; P.A. 78–255, § 58, eff. Oct. 1, 1973; P.A. 78–18, Third Sp.Sess., § 1; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 81–3, 2nd Sp.Sess., § 17, eff. Sept. 19, 1979; P.A. 81–1464, § 1, eff. Jan. 1, 1981; P.A. 83–984, § 1, eff. Dec. 12, 1983; P.A. 84–109, Art. 5, § 5–1, eff. July 25, 1985; P.A. 84–939, § 4, eff. Sept. 24, 1985; P.A. 84–1308, Art. II, § 178, eff. Aug. 25, 1986; P.A. 86–16, Art. 3, § 2, eff. June 30, 1989; P.A. 90–774, § 3, eff. Aug. 14, 1998. Renumbered § 2705–305 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–91, Art. 55, § 55–35, eff. July 1, 2005.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.19.

[1] 70 ILCS 3610/1 et seq.

[2] 70 ILCS 3605/1 et seq.

[3] 70 ILCS 3615/1.01 et seq.

[4] 49 U.S.C.A. § 5301 et seq.

[5] 30 ILCS 330/4.

2705/2705–310. Grants for transportation for handicapped persons

§ 2705–310. Grants for transportation for handicapped persons.

(a) For the purposes of this Section, the following definitions apply:

"Carrier" means a district or a not for profit corporation providing mass transportation for handicapped persons on a regular and continuing basis.

"Handicapped person" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special mass transportation facilities or special planning or design to utilize ordinary mass transportation facilities and services as effectively as persons who are not so affected.

"Unit of local government", "district", and "facilities" have the meanings ascribed to them in Section 2705–305.

(b) The Department may make grants from the Transportation Fund and the General Revenue Fund (i) to units of local government, districts, and carriers for vehicles, equipment, and the acquisition, construction, extension, reconstruction, and improvement of mass transportation facilities for handicapped persons and (ii) during State fiscal years 1986 and 1987, to the Regional Transportation Authority for operating assistance for mass transportation for mobility limited handicapped persons, including paratransit services for the mobility limited. The grants shall be made upon the terms and conditions that in the judgment of the Secretary are necessary to ensure their proper and effective utilization. The procedures, limitations, and safeguards provided in Section 2705–305 to govern grants for mass transportation shall apply to grants made under this Section.

For the efficient administration of grants, the Department, on behalf of grant recipients under this Section and on behalf of recipients receiving funds under Sections 5309 and 5311 of the Federal Transit Act [1] and State funds, may administer and consolidate procurements and may enter into contracts with manufacturers of vehicles and equipment.

(c) The Department may make operating assistance grants from the Transportation Fund to those carriers that, during federal fiscal year 1986, directly received operating assistance pursuant to Section 5307 or Section 5311 of the Federal Transit Act,[2] or under contracts with a unit of local government or mass transit district that received operating expenses under Section 5307 or Section 5311 of the Federal Transit Act, to provide public paratransit services to the general mobility limited population. The Secretary shall take into consideration the reduction in federal operating expense grants to carriers when considering the grant applications. The procedures, limitations, and safeguards provided in Section 2705–305 to govern grants for mass transportation shall apply to grants made under this Section.

Laws 1917, p. 2, § 49.19a, added by P.A. 78–205, § 1, eff. July 18, 1973. Amended by P.A. 81–1464, § 1, eff. Jan. 1, 1981; P.A. 84–939, § 4, eff. Sept. 24, 1985; P.A. 84–1240, Art. I, § 4, eff. July 29, 1986; P.A. 84–1246, § 5, eff. July 29, 1986; P.A. 84–1438, Art. II, § 43, eff. Dec. 22, 1986; P.A. 86–16, Art. 3, § 2, eff. June 30, 1989; P.A. 90–774, § 3, eff. Aug. 14, 1998. Renumbered § 2705–310 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.19a.

[1] 49 U.S.C.A. §§ 5309 and 5311.

[2] 49 U.S.C.A. §§ 5307 or 5311.

2705/2705–315. Grants for passenger security

§ 2705–315. Grants for passenger security. The Department may make grants from the Transportation Fund and the General Revenue Fund to the Regional Transportation Authority created under the Regional Transportation Authority Act [1] to be used to provide protection against crime for the consumers of public transportation, and for the employees and facilities of public transportation providers, in the metropolitan region. The grants may be used (1) to provide that protection directly, or (2) to contract with any municipality or county in the metropolitan region to provide that protection, or (3) except for the Chicago Transit Authority created under the Metropolitan Transit Authority Act,[2] to contract with a private security agency to provide that protection.

The grants shall be made upon the terms and conditions that in the judgment of the Secretary are necessary to ensure their proper and effective utilization. The procedures provided in Section 2705–305 to govern grants for mass transportation shall apply to grants made under this Section.

Laws 1917, p. 2, § 49.19b, added by P.A. 84–1246, § 5, eff. July 29, 1986. Renumbered § 2705–315 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.19b.

[1] 70 ILCS 3615/1.01.

[2] 70 ILCS 3605/1 et seq.

2705/2705–317. Safe Routes to School Construction Program

§ 2705–317. Safe Routes to School Construction Program.

(a) Upon enactment of a federal transportation bill with a dedicated fund available to states for safe routes to schools, the Department, in cooperation with the State Board of Education and the Department of State Police, shall establish and administer a Safe Routes to School Construction Program for the construction of bicycle and pedestrian safety

and traffic-calming projects using the federal Safe Routes to Schools Program funds.

(b) The Department shall make construction grants available to local governmental agencies under the Safe Routes to School Construction Program based on the results of a statewide competition that requires submission of Safe Routes to School proposals for funding and that rates those proposals on all of the following factors:

(1) Demonstrated needs of the grant applicant.

(2) Potential of the proposal for reducing child injuries and fatalities.

(3) Potential of the proposal for encouraging increased walking and bicycling among students.

(4) Identification of safety hazards.

(5) Identification of current and potential walking and bicycling routes to school.

(6) Consultation and support for projects by school-based associations, local traffic engineers, local elected officials, law enforcement agencies, and school officials.

(7) Proximity to parks and other recreational facilities.

With respect to the use of federal Safe Routes to Schools Program funds, prior to the award of a construction grant or the use of those funds for a Safe Routes to School project encompassing a highway, the Department shall consult with and obtain approval from the Department of State Police and the highway authority with jurisdiction to ensure that the Safe Routes to School proposal is consistent with a statewide pedestrian safety statistical analysis.

(c) On March 30, 2006 and each March 30th thereafter, the Department shall submit a report to the General Assembly listing and describing the projects funded under the Safe Routes to School Construction Program.

(d) The Department shall study the effectiveness of the Safe Routes to School Construction Program, with particular emphasis on the Program's effectiveness in reducing traffic accidents and its contribution to improving safety and reducing the number of child injuries and fatalities in the vicinity of a Safe Routes to School project. The Department shall submit a report to the General Assembly on or before December 31, 2006 regarding the results of the study.

(e) The Department, the State Board of Education, and the Department of State Police may adopt any rules necessary to implement this Section.

Laws 1917, p. 2, § 2705–317, added by P.A. 94–493, § 5, eff. Aug. 8, 2005.

2705/2705–321. Illinois Transit Ridership and Economic Development (TRED) Pilot Project Program; new facilities and service.

§ 2705–321. Illinois Transit Ridership and Economic Development (TRED) Pilot Project Program; new facilities and service.

(a) Subject to appropriation, the Department of Transportation shall establish the Illinois Transit Ridership and Economic Development (TRED) Pilot Project Program to build transit systems that more effectively address the needs of Illinois workers, families, and businesses. The Illinois TRED Pilot Project Program shall provide for new or expanded mass transportation service and facilities, including rapid transit, rail, bus, and other equipment used in connection with mass transit, by the State, a public entity, or 2 or more of these entities authorized to provide and promote public transportation in order to increase the level of service available in local communities, as well as improve the quality of life and economic viability of the State of Illinois.

The Illinois TRED Pilot Project Program expenditures for mass transportation service and facilities within the State must:

(1) Improve the economic viability of Illinois by facilitating the transportation of Illinois residents to places of employment, to educational facilities, and to commercial, medical, and shopping districts.

(2) Increase the frequency and reliability of public transit service.

(3) Facilitate the movement of all persons, including those persons who, because of age, economic circumstance, or physical infirmity, are unable to drive.

(4) Contribute to an improved environment through the reduction of air, water, and noise pollution.

(b) Under the Illinois TRED Pilot Project Program, subject to appropriation, the Department shall fund each fiscal year, in coordination and consultation with other government agencies that provide or fund transportation services, the Illinois Public Transportation Association, and transit advocates, projects as specified in subsection (c). Total funding for each project shall not exceed $500,000 and the funding for all projects shall not exceed $4,500,000. The Department shall submit annual reports to the General Assembly by March 1 of each fiscal year regarding the status of these projects, including service to constituents including local businesses, seniors, and people with disabilities, costs, and other appropriate measures of impact.

(c) Subject to appropriation, the Department shall make grants to any of the following in order to create:

(1) Two demonstration projects for the Chicago Transit Authority to increase services to currently underserved communities and neighborhoods, such as, but not limited to, Altgeld Gardens, Pilsen, and Lawndale.

(2) (Blank.)

(3) The Intertownship Transportation Program for Northwest Suburban Cook County, which shall complement existing Pace service and involve cooperation of several townships to provide transportation services for senior and disabled residents across village and township boundaries that is currently not provided by Pace and by individual townships and municipalities.

(4) RIDES transit services to Richland and Lawrence Counties to extend transit services into Richland and Lawrence Counties and enhance service in Wayne, Edwards, and Wabash Counties that share common travel patterns and needs with Lawrence and Richland counties. Funding shall be used to develop a route structure that shall coordinate social service and general public requirements and obtain vehicles to support the additional service.

(5) Peoria Regional Transportation Initiative, which shall fund the development of a plan to create a regional transportation service in the Peoria–Pekin MSA that integrates and expands the existing services and that would allow local leaders to develop a funding plan and a timetable to secure final political approval. The plan is intended to facilitate regional economic development and provide greater mobility to workers, senior citizens, and people with disabilities.

(6) Rock Island MetroLINK/Black Hawk College Coordination Project, which shall increase mobility for lower income students to access educational services and job training on the metropolitan bus system, which will better

link community college students with transportation alternatives.

(7) The West Central Transit District to serve Scott and Morgan Counties. Funding shall be used to develop a route structure that shall coordinate social service and general public requirements and obtain vehicles to support the service.

(8) Additional community college coordination projects, which shall increase mobility for lower income students to access educational services and job training on any Champaign–Urbana MTD and Danville Mass Transit bus routes, which will better link community college students with transportation alternatives.

Laws 1917, p. 2, § 2705–321, added by P.A. 93–1004, § 5, eff. Aug. 24, 2004.

2705/2705–350. Intercity bus service assistance

§ 2705–350. Intercity bus service assistance. For the purposes of providing intercity bus passenger service and the promotion of an efficient intercity bus passenger system within this State as authorized by Section 22 of the Urban Mass Transportation Act of 1964,[1] the Department is authorized to enter into agreements with any carrier. The cost related to the services shall be borne in the proportion that, by agreement or contract, the parties may determine; provided, however, that no State monies shall be expended for those purposes.

Laws 1917, p. 2, § 49.26, added by P.A. 81–326, § 1, eff. Aug. 30, 1979. Renumbered § 2705–350 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.26.

[1] 49 U.S.C.A. § 1601 et seq.

2705/2705–375. Meigs Users Advisory Committee

§ 2705–375. Meigs Users Advisory Committee.

(a) The Meigs Users Advisory Committee is hereby created. The Meigs Users Advisory Committee shall be composed of the following members: (i) 4 members appointed by the Governor with the advice and consent of the Senate, 2 of whom shall have extensive knowledge of business and corporate aviation and 2 of whom shall have extensive knowledge of general aviation; (ii) 4 members appointed by the Mayor of the City of Chicago, all of whom shall have extensive knowledge of general aviation; (iii) 4 members of the General Assembly, one each appointed by the President of the Senate, the Speaker of the House, the Minority Leader of the Senate, and the Minority Leader of the House; and (iv) the Secretary of Transportation or his or her designee, who shall serve as Chairperson. The members appointed by the Governor and the Mayor shall be users of Meigs Field.

(b)(1) The Secretary of Transportation or his or her designee shall serve during the Secretary's term of office.

(2) Members of the committee appointed under subdivision (a)(iii) shall serve for their terms of office, except that no such appointment shall be for a term of more than 3 years. If a committee member who was appointed under subdivision (a)(iii) ceases to be a member of the chamber of the General Assembly from which the member was appointed, he or she shall be replaced in accordance with the method for filling vacancies.

(3) The initial members of the committee who are appointed by the Mayor of the City of Chicago shall be appointed as follows: one shall be appointed for a term of one year, 2 shall be appointed for terms of 2 years, and one shall be appointed for a term of 3 years. After the expiration of the initial terms, all members of the committee who are appointed by the Mayor of the City of Chicago shall be appointed for terms of 3 years.

(4) The initial members of the committee who are appointed by the Governor shall be appointed as follows: one shall be appointed for a term of one year, one shall be appointed for a term of 2 years, and 2 shall be appointed for terms of 3 years. After the expiration of the initial terms, all members of the committee who are appointed by the Governor shall be appointed for terms of 3 years.

(5) Any member of the committee is eligible for reappointment unless he or she no longer meets the applicable qualifications. All members appointed to serve on the committee shall serve until their respective successors are appointed and confirmed. Vacancies shall be filled in the same manner as original appointments.

(6) If a vacancy in membership under subdivision (a)(i) occurs at a time when the Senate is not in session, the Governor shall make a temporary appointment until the next meeting of the Senate, when he or she shall appoint, by and with the advice and consent of the Senate, a person to fill that membership for the unexpired term. If the Senate is not in session when the initial appointments are made, those appointments shall be made as in the case of vacancies.

(7) The committee shall be deemed established on the date that a majority of the total number of members has been appointed, regardless of whether any of those initial members are then serving pursuant to appointment and confirmation or pursuant to temporary appointments that are made by the Governor as in the case of vacancies.

(c) The Committee shall have the power to inspect all books, records, contracts, financial data, agreements, and documents relating to the operation and maintenance of Meigs Field, including, without limitation, as-built plans for all buildings, runways, taxiways, and aprons, the control tower, terminal, and all related facilities, all security agreements, fire protection agreements, airline agreements, FOB agreements, concessionaire agreements, rental/lease agreements, service agreements, financial data and budget reports including revenues and expenditures, and any and all studies or plans regarding the land use of Meigs Field.

(d) The chairperson shall give notice to the members of the time and place for every meeting. The members of the committee shall receive no compensation or reimbursement of expenses in the performance of their duties. The Committee shall review and hold public hearings on any proposals or actions affecting the operation of Meigs Field. The Committee shall issue recommendations to the Governor, the Mayor of the City of Chicago, and the General Assembly with regard to these proposals or actions and any other matters concerning the operation of Meigs Field.

Laws 1917, p. 2, § 49.34, added by P.A. 90–6, § 1.8, eff. June 3, 1997. Renumbered § 2705–375 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

2705/2705–400. Authorization concerning rail assistance funds

§ 2705–400. Authorization concerning rail assistance funds. The Department is hereby authorized to exercise those powers necessary for the State to qualify for rail assistance funds pursuant to the provisions of the federal Regional Rail Reorganization Act of 1973,[1] the Railroad Revitalization and Regulatory Reform Act of 1976,[2] as or other relevant federal or State legislation, including but not limited to authority to do the following:

(1) Establish a State plan for rail transportation and local rail services, including projects funded under Section 2705–435.

(2) Administer and coordinate the State plan.

(3) Provide in the plan for the equitable distribution of federal rail assistance funds among State, local, and regional transportation authorities.

(4) Develop or assist the development of local or regional rail plans.

(5) Promote, supervise, and support safe, adequate, and efficient rail services in accordance with the provisions and limitations of Public Act 79–834.

(6) Employ sufficient trained and qualified personnel for these purposes.

(7) Maintain, in accordance with the provisions and limitations of Public Act 79–834, adequate programs of investigation, research, promotion, and development in connection with these purposes and provide for public hearings.

(8) Provide satisfactory assurances on behalf of the State that fiscal control and fund accounting procedures will be adopted by the State that may be necessary to ensure proper disbursement of and account for federal funds paid to the State as rail assistance.

(9) Comply with the regulations of the Secretary of Transportation of the United States Department of Transportation affecting federal rail assistance funds.

(10) Review all impending rail abandonments and provide its recommendations on those abandonments to the Interstate Commerce Commission.

Laws 1917, p. 2, § 49.25a, added by P.A. 79–834, § 1, eff. Sept. 5, 1975. Amended by P.A. 80–32, § 1, eff. June 30, 1977; P.A. 84–111, Art. 4, § 1, eff. July 25, 1985; P.A. 84–292, § 1, eff. Jan. 1, 1986. Renumbered § 2705–400 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25a.

[1] 45 U.S.C.A. § 701 et seq.

[2] 45 U.S.C.A. § 801 et seq.

2705/2705–405. Preparation of State Rail Plan

§ 2705–405. Preparation of State Rail Plan. In preparation of the State Rail Plan under Section 2705–400, the Department shall consult with recognized railroad labor organizations, the Department of Commerce and Economic Opportunity, railroad management, affected units of local government, affected State agencies, and affected shipping interests.

Laws 1917, p. 2, § 49.25b, added by P.A. 79–834, § 1, eff. Sept. 5, 1975. Amended by P.A. 84–111, Art. 4, § 1, eff. July 25, 1985; P.A. 84–292, § 1, eff. Jan. 1, 1986. Renumbered § 2705–405 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–793, § 265, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25b.

2705/2705–410. Access to information

§ 2705–410. Access to information. The Secretary may authorize any of the Department's officers, employees, or agents to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the books, documents, records, equipment, and property of and to request information kept in the ordinary course of business from any railroad to the extent necessary to carry out the powers enumerated in Sections 2705–400 through 2705–445. Railroads operating within the State shall provide access to those books, documents, records, equipment, and property and shall provide the information kept in the ordinary course of business that the Department may request. Should any railroad fail or refuse to provide that access or information, the Secretary is hereby granted subpoena power to obtain that access and to require the production of that information. The Department shall pay the reasonable costs associated with providing any such information that is not otherwise already required by law. Any officer, employee, or agent of the Department exercising the powers granted by this Section shall, upon request, display proper credentials. The Department shall exercise all necessary caution to avoid disclosure of confidential information supplied under this Section.

Laws 1917, p. 2, § 49.25c, added by P.A. 79–834, § 1, eff. Sept. 5, 1975. Amended by P.A. 80–32, § 1, eff. June 30, 1977. Renumbered § 2705–410 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25c.

2705/2705–415. State Rail Plan; responsibilities of other agencies

§ 2705–415. State Rail Plan; responsibilities of other agencies. The State Rail Plan, in its provisions concerning requiring supervision of safety aspects and other railroad matters, shall not abrogate the present statutory responsibilities of the Illinois Commerce Commission and shall meet the requirements of the Federal Railroad Safety Act of 1970.[1] Nothing herein shall provide for or effect the transfer of responsibilities between State agencies.

Laws 1917, p. 2, § 49.25d, added by P.A. 79–834, § 1, eff. Sept. 5, 1975. Renumbered § 2705–415 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25d.

[1] 45 U.S.C.A. § 431 et seq. (repealed); see, now, 49 U.S.C.A § 20101 et seq.

2705/2705–420. Copies of State Rail Plan; report

§ 2705–420. Copies of State Rail Plan; report. The Department shall provide copies of the State Rail Plan to the President of the Senate, the Senate Minority Leader, the Speaker of the House, and the House Minority Leader prior to submitting the Plan to the federal government. The Department shall also so provide, by October 15, 1975, a report including its findings concerning the extent, nature, and proposed use of federal aid available and its recommendations concerning the source and extent of non-federal assistance, both during the period in which federal assistance is available and thereafter.

Laws 1917, p. 2, § 49.25e, added by P.A. 79–834, § 1, eff. Sept. 5, 1975. Renumbered § 2705–420 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25e.

2705/2705–425. Rail freight services assistance; loans; Rail Freight Loan Repayment Fund

§ 2705–425. Rail freight services assistance; loans; Rail Freight Loan Repayment Fund. No funds available for operating or capital assistance under Section 5 of the United States Department of Transportation Act[1] for rail freight services in Illinois may be expended without specific appropriation of those funds . Reimbursements for those loans that financially responsible persons are required by agreement to repay shall be deposited in the State treasury as follows: (1) the State's share shall be deposited in the fund

from which the original expenditure was made, and (2) the federal share shall be deposited in the Rail Freight Loan Repayment Fund. In the case of repaid funds deposited in the Rail Freight Loan Repayment Fund, the Department shall have the reuse of those funds and the interest accrued thereon, which shall also be deposited by the State Treasurer in that Fund, as the federal share in other eligible projects. However, no expenditures from the Rail Freight Loan Repayment Fund for those projects shall at any time exceed the total sum of funds repaid and deposited in the Rail Freight Loan Repayment Fund and interest earned by investment by the State Treasurer that the State Treasurer shall have deposited in that fund.

Laws 1917, p. 2, § 49.25f, added by P.A. 79–834, § 1, eff. Sept. 5, 1975. Amended by P.A. 83–1301, § 1, eff. Aug. 31, 1984. Renumbered § 2705–425 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25f.

[1] 49 U.S.C.A. § 1651 et seq. (repealed); see, now, 49 U.S.C.A. § 22101 et seq.

2705/2705–430. Railroad freight service assistance; lines designated for discontinuation of service or subject to abandonment

§ 2705–430. Railroad freight service assistance; lines designated for discontinuation of service or subject to abandonment. The Department shall enter into agreements with any railroad as necessary to provide assistance for continuous freight service on lines of railroads within Illinois designated for discontinuation of service by the United States Railway Association Final System Plan and not conveyed to a railroad company other than Consolidated Rail Corporation. The Department may enter into such agreements with any railroad as necessary to provide assistance for continuous rail freight service on lines of railroads within Illinois subject to an abandonment proceeding in the Interstate Commerce Commission or classified as potentially subject to abandonment pursuant to Sections 10903 through 10905 of Title 49 of the United States Code or upon which a certificate of discontinuance or abandonment has been issued. The Department shall make rail continuation subsidy payments pursuant to the agreements. The agreements shall provide for a minimum level of service at least equivalent to that provided in calendar year 1975. The agreements shall conform to relevant federal law. The Department shall determine that all payments under this Section are eligible for federal share reimbursement.

Any nonfederal share of the assistance provided under this Section shall be provided by the Department. The State share may include funds, grants, gifts, or donations from the federal government, any local public body, or any person.

Reimbursements shall be deposited in the State fund from which the assistance was paid.

The Department shall provide technical assistance to any local public body or rail user to ensure that rail freight services under these agreements are, to the extent possible, adequate to the needs of Illinois citizens.

The Department shall review the effects of the rail freight service assistance provided under this Section and shall report the results of its review to the General Assembly each year not later than March 15, reporting particularly on the service provided through the assistance, the utilization of rail freight service by shippers, and the cost effectiveness of this rail freight service assistance program in relation to the economy of this State.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader, and the Clerk of the House of Representatives and the President, the Minority Leader, and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act and by filing additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.[1]

For the purpose of promoting efficient rail freight service, the Department shall have the power to either grant or loan funds to any railroad or unit of local government in the State to maintain, improve, and construct rail facilities. The Department shall also have the power to grant or loan funds to any rail users located on an abandoned line, unit of local government, or an owner or lessee of an abandoned railroad right-of-way to undertake substitute service projects that reduce the social, economic, and environmental costs associated with the loss of a particular rail freight service in a manner less expensive than continuing that rail freight service. To facilitate the continuation of rail freight services, the Department shall have the power to purchase railroad materials and supplies.

Laws 1917, p. 2, § 49.25g, added by P.A. 79–1193, § 1, eff. Feb. 5, 1976. Amended by P.A. 80–32, § 1, eff. June 30, 1977; P.A. 82–110, § 1, eff. Aug. 6, 1981; P.A. 83–333, § 79, eff. Sept. 14, 1983; P.A. 83–784, § 74, eff. Jan. 1, 1984; P.A. 83–1362, Art. II, § 157, eff. Sept. 11, 1984; P.A. 84–1438, Art. III, § 60, eff. Dec. 22, 1986. Renumbered § 2705–430 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25g.

[1] 15 ILCS 320/7.

2705/2705–435. Loans, grants, or contracts to rehabilitate, improve, or construct rail facilities; State Rail Freight Loan Repayment Fund

§ 2705–435. Loans, grants, or contracts to rehabilitate, improve, or construct rail facilities; State Rail Freight Loan Repayment Fund. In addition to the powers under Section 105–430, the Department shall have the power to enter into agreements to loan or grant State funds to any railroad, unit of local government, rail user, or owner or lessee of a railroad right of way to rehabilitate, improve, or construct rail facilities.

For each project proposed for funding under this Section the Department shall, to the extent possible, give preference to cost effective projects that facilitate continuation of existing rail freight service. In the exercise of its powers under this Section, the Department shall coordinate its program with the industrial retention and attraction programs of the Department of Commerce and Economic Opportunity. No funds provided under this Section shall be expended for the acquisition of a right of way or for operating subsidies. The costs of a project funded under this Section shall be apportioned in accordance with the agreement of the parties for the project. Projects are eligible for a loan or grant under this Section only when the Department determines that the transportation, economic, and public benefits associated with a project are greater than the capital costs of that project incurred by all parties to the agreement and that the project would not have occurred without its participation. In addition, a project to be eligible for assistance under this Section must be included in a State plan for rail transportation and

local rail service prepared by the Department. The Department may also expend State funds for professional engineering services to conduct feasibility studies of projects proposed for funding under this Section, to estimate the costs and material requirements for those projects, to provide for the design of those projects, including plans and specifications, and to conduct investigations to ensure compliance with the project agreements.

The Department, acting through the Department of Central Management Services, shall also have the power to let contracts for the purchase of railroad materials and supplies. The Department shall also have the power to let contracts for the rehabilitation, improvement, or construction of rail facilities. Any such contract shall be let, after due public advertisement, to the lowest responsible bidder or bidders, upon terms and conditions to be fixed by the Department. With regard to rehabilitation, improvement, or construction contracts, the Department shall also require the successful bidder or bidders to furnish good and sufficient bonds to ensure proper and prompt completion of the work in accordance with the provisions of the contracts.

In the case of an agreement under which State funds are loaned under this Section, the agreement shall provide the terms and conditions of repayment. The agreement shall provide for the security that the Department shall determine to protect the State's interest. The funds may be loaned with or without interest. Loaned funds that are repaid to the Department shall be deposited in a special fund in the State treasury to be known as the State Rail Freight Loan Repayment Fund. In the case of repaid funds deposited in the State Rail Freight Loan Repayment Fund, the Department shall, subject to appropriation, have the reuse of those funds and the interest accrued thereon, which shall also be deposited by the State Treasurer in the Fund, as the State share in other eligible projects under this Section. However, no expenditures from the State Rail Freight Loan Repayment Fund for those projects shall at any time exceed the total sum of funds repaid and deposited in the State Rail Freight Loan Repayment Fund and interest earned by investment by the State Treasurer which the State Treasurer shall have deposited in that Fund.

For the purposes of promoting efficient rail freight service, the Department may also provide technical assistance to railroads, units of local government or rail users, or owners or lessees of railroad rights-of-way.

The Department shall take whatever actions are necessary or appropriate to protect the State's interest in the event of bankruptcy, default, foreclosure, or noncompliance with the terms and conditions of financial assistance or participation provided hereunder, including the power to sell, dispose, lease, or rent, upon terms and conditions determined by the Secretary to be appropriate, real or personal property that the Department may receive as a result thereof.

The Department is authorized to make reasonable rules and regulations consistent with law necessary to carry out the provisions of this Section.

Laws 1917, p. 2, § 49.25g–1, added by P.A. 84–111, Art. 4, § 1, eff. July 25, 1985; P.A. 84–292, § 1, eff. Jan. 1, 1986. Amended by P.A. 84–1308, Art. II, § 178, eff. Aug. 25, 1986; P.A. 85–1033, § 1, eff. July 1, 1988. Renumbered § 2705–435 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–793, § 265, eff. May 19, 2006; P.A. 94–807, § 5, eff. May 26, 2006.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25g–1.

P.A. 94–807 included amendments made by P.A. 94–793.

2705/2705–440. Intercity Rail Service

§ 2705–440. Intercity Rail Service.

(a) For the purposes of providing intercity railroad passenger service within this State (or as part of service to cities in adjacent states), the Department is authorized to enter into agreements with units of local government, the Commuter Rail Division of the Regional Transportation Authority (or a public corporation on behalf of that Division), architecture or engineering firms, the National Railroad Passenger Corporation, any carrier, any adjacent state (or political subdivision, corporation, or agency of an adjacent state), or any individual, corporation, partnership, or public or private entity. The cost related to such services shall be borne in such proportion as, by agreement or contract the parties may desire.

(b) In providing any intercity railroad passenger service as provided in this Section, the Department shall have the following additional powers:

(1) to enter into trackage use agreements with rail carriers;

(2) to enter into haulage agreements with rail carriers;

(3) to lease or otherwise contract for use, maintenance, servicing, and repair of any needed locomotives, rolling stock, stations, or other facilities, the lease or contract having a term not to exceed 50 years (but any multi-year contract shall recite that the contract is subject to termination and cancellation, without any penalty, acceleration payment, or other recoupment mechanism, in any fiscal year for which the General Assembly fails to make an adequate appropriation to cover the contract obligation);

(4) to enter into management agreements;

(5) to include in any contract indemnification of carriers or other parties for any liability with regard to intercity railroad passenger service;

(6) to obtain insurance for any losses or claims with respect to the service;

(7) to promote the use of the service;

(8) to make grants to any body politic and corporate, any unit of local government, or the Commuter Rail Division of the Regional Transportation Authority to cover all or any part of any capital or operating costs of the service and to enter into agreements with respect to those grants;

(9) to set any fares or make other regulations with respect to the service, consistent with any contracts for the service; and

(10) to otherwise enter into any contracts necessary or convenient to provide the service.

(c) All service provided under this Section shall be exempt from all regulations by the Illinois Commerce Commission (other than for safety matters). To the extent the service is provided by the Commuter Rail Division of the Regional Transportation Authority (or a public corporation on behalf of that Division), it shall be exempt from safety regulations of the Illinois Commerce Commission to the extent the Commuter Rail Division adopts its own safety regulations.

(d) In connection with any powers exercised under this Section, the Department

(1) shall not have the power of eminent domain; and

(2) shall not directly operate any railroad service with its own employees.

(e) Any contract with the Commuter Rail Division of the Regional Transportation Authority (or a public corporation on behalf of the Division) under this Section shall provide that all costs in excess of revenue received by the Division

generated from intercity rail service provided by the Division shall be fully borne by the Department, and no funds for operation of commuter rail service shall be used, directly or indirectly, or for any period of time, to subsidize the intercity rail operation. If at any time the Division does not have sufficient funds available to satisfy the requirements of this Section, the Division shall forthwith terminate the operation of intercity rail service. The payments made by the Department to the Division for the intercity rail passenger service shall not be made in excess of those costs or as a subsidy for costs of commuter rail operations. This shall not prevent the contract from providing for efficient coordination of service and facilities to promote cost effective operations of both intercity rail passenger service and commuter rail services with cost allocations as provided in this paragraph.

(f) Whenever the Department is required to enter into an agreement with any carrier for the payment of railroad maintenance expenses necessary for intercity passenger service, the Department may deposit funds in an escrow account. For purposes of this subsection, an escrow account means a fiduciary account established with (i) any banking corporation which is both organized under the Illinois Banking Act and authorized to accept and administer trusts in this State, or (ii) any national banking association which has its principal place of business in this State and which also is authorized to accept and administer trusts in this State. The funds in the escrow account may be withdrawn by the carrier in control of the railroad being maintained only with the consent of the Department, pursuant to a written maintenance agreement and pursuant to a maintenance plan that shall be updated each year. The moneys deposited in the escrow accounts shall be invested and reinvested, pursuant to the direction of the Department, in bonds and other interest bearing obligations of this State, or in such accounts, certificates, bills, obligations, shares, pools or other securities as are authorized for the investment of public funds under the Public Funds Investment Act. Escrow accounts created under this subsection shall not have terms that exceed 20 years. At the end of the term of an escrow account, the remaining balance shall be deposited in the State Treasury. The Department shall prepare a report for presentation to the Comptroller and the Treasurer each year that shows the amounts deposited and withdrawn, the purposes for withdrawal, the balance, and the amounts derived from investment.

Laws 1917, p. 2, § 49.25h, added by P.A. 79–1213, § 1, eff. June 16, 1976. Amended by P.A. 85–1033, § 1, eff. July 1, 1988; P.A. 89–710, § 5, eff. Feb. 14, 1997. Renumbered § 2705–440 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 94–807, § 5, eff. May 26, 2006; P.A. 97–1080, § 5, eff. Aug. 24, 2012.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25h.

2705/2705–441. Intercity passenger rail equipment; public-private partnerships

§ 2705–441. Intercity passenger rail equipment; public-private partnerships. The Department, on behalf of the State, may enter into public-private partnerships for the acquisition of equipment for intercity passenger rail service.

Laws 1917, p. 2, § 2705–441, added by P.A. 96–728, § 5, eff. Jan. 1, 2010.

2705/2705–445. Validation of prior agreements and contracts

§ 2705–445. Validation of prior agreements and contracts. Any agreement or contract for the purposes of Section 2705–440 that was entered into prior to June 16, 1976 (the effective date of Public Act 79–1213) is hereby validated and continued in full force and effect.

Laws 1917, p. 2, § 49.25i, added by P.A. 79–1213, § 1, eff. June 16, 1976. Renumbered § 2705–445 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25i.

2705/2705–450. High-speed rail and magnetic levitation transportation development

§ 2705–450. High-speed rail and magnetic levitation transportation development. The Department is authorized to enter into agreements with any public or private entity for the purpose of promoting and developing high-speed rail and magnetic levitation transportation within this State. The cost related to the service shall be borne in a proportion that the parties may determine by agreement or contract.

Laws 1917, p. 2, § 49.25h–1, added by P.A. 87–829, § 3, eff. Jan. 17, 1992. Renumbered § 2705–450 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.25h–1.

2705/2705–500. Scenic route connecting Mississippi and Ohio Rivers

§ 2705–500. Scenic route connecting Mississippi and Ohio Rivers. The Department shall prepare or have prepared maps, surveys, or plans, shall conduct studies, and shall consult with the Department of Natural Resources for the purpose of proposing a route connecting the Mississippi and Ohio Rivers through the Shawnee National Forest, to be designated as a scenic route. The proposed route shall consist of existing roads to the greatest extent possible, but the proposal may call for any improvements consistent with federal law that the Department deems necessary or desirable. The Department shall submit its proposal, along with any other supporting information it deems appropriate, to the Governor and the General Assembly no later than March 1, 1986.

Laws 1917, p. 2, § 49.28, added by P.A. 84–642, § 1, eff. Sept. 20, 1985. Renumbered § 49.29 and amended by P.A. 84–1308, Art. II, § 178, eff. Aug. 25, 1986. Amended by P.A. 89–445, § 9A–25, eff. Feb. 7, 1996. Renumbered § 2705–500 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.29.

2705/2705–505. Signs indicating travel-related facilities or tourist-oriented businesses

§ 2705–505. Signs indicating travel-related facilities or tourist-oriented businesses. The Department shall, where economically feasible and safe, install along various interstate highways and other freeways with full control of access, except those that are toll highways, signs to alert motorists of the travel-related facilities available in communities served by upcoming interstate exits. The Department may also install, along other rural State highways, signs to alert motorists of the tourist-oriented businesses available on intersecting highways and roads under local jurisdiction in rural areas. The Department has the authority to sell or lease space on the signs to the owners or operators of the facilities and to promulgate rules and regulations for the leasing or purchasing of space.

Laws 1917, p. 2, § 49.28, added by P.A. 84–1049, § 1, eff. July 1, 1986. Renumbered § 49.30 and amended by P.A. 84–

1308, Art. II, § 178, eff. Aug. 25, 1986. Amended by P.A. 86–1340, § 4, eff. Sept. 7, 1990; P.A. 90–272, § 5, eff. July 30, 1997. Renumbered § 2705–505 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.30.

2705/2705–505.5. Child abduction message signs

§ 2705–505.5. Child abduction message signs. The Department of Transportation shall coordinate with the Department of State Police in the use of electronic message signs on roads and highways in the vicinity of a child abduction to immediately provide critical information to the public.

Laws 1917, p. 2, § 2705–505.5, added by P.A. 93–310, § 10, eff. July 23, 2003.

2705/2705–510. Use of prisoners for highway cleanup

§ 2705–510. Use of prisoners for highway cleanup. The Department has the power to request, from the Department of Corrections, the use of prisoners in a program as provided in paragraph (f) of Section 3–2–2 of the Unified Code of Corrections [1] for the cleaning of trash and garbage from the highways of this State.

Laws 1917, p. 2, § 49.15a, added by P.A. 81–214, § 2, eff. Jan. 1, 1980. Renumbered § 2705–510 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.15a.

[1] 730 ILCS 5/3–2–2.

2705/2705–550. Transfer of realty to other State agency; acquisition of federal lands

§ 2705–550. Transfer of realty to other State agency; acquisition of federal lands. The Department has the power to transfer jurisdiction of any realty under the control of the Department to any other department of the State government or to any authority, commission, or other agency of the State or to acquire or accept federal lands when the transfer, acquisition, or acceptance is advantageous to the State and is approved in writing by the Governor.

Laws 1917, p. 2, § 49.12, added by Laws 1953, p. 1443, § 1. Amended by Laws 1955, p. 1196, § 1, eff. July 7, 1955. Renumbered § 2705–550 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.12.

2705/2705–555. Lease of land or property

§ 2705–555. Lease of land or property.

(a) The Department has the power from time to time to lease any land or property, with or without appurtenances, of which the Department has jurisdiction and that is not immediately to be used or developed by the State; provided that no such lease be for a longer period of time than that in which it can reasonably be expected the State will not have use for the property, and further provided that no such lease be for a longer period of time than 5 years, except as provided in subsection (b).

(b) In counties with a population of not less than 500,000 and not more than 800,000, a lease to any other department of State government, any authority, commission, or agency of the State, or a municipality, county, or township of the State, including in any land lease the corresponding vertical rights, subterranean and air rights, and sublease rights, may be for a period of time no longer than 25 years.

(c) In counties with a population of not less than 3,000,000, a lease initially entered into within one year after the effective date of this amendatory Act of the 93rd General Assembly, including in any land lease the corresponding vertical rights, subterranean and air rights, and sublease rights, may be for a period of time no longer than 35 years. The land or property shall be leased by the Department at fair market value.

Laws 1917, p. 2, § 49.13, added by Laws 1953, p. 1443, § 1, eff. July 13, 1953. Renumbered § 2705–555 and amended by P.A. 91–239, Art. 5, § 5–5, eff; Jan. 1, 2000. Amended by P.A. 91–783, § 5, eff. June 9, 2000; P.A. 93–1100, § 5, eff. Mar. 31, 2005.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.13.

2705/2705–565. North Chicago property; study; conveyance

§ 2705–565. North Chicago property; study; conveyance.

(a) The Department shall perform a study of property owned by the Department consisting of approximately 160 acres located in North Chicago, south of IL Route 137, between IL Route 43 and US Route 41. The study shall include, but not be limited to, a survey of the property for the purpose of delineating jurisdictional wetlands in accordance with the Interagency Wetland Policy Act of 1989 and identifying threatened and endangered species in accordance with the Illinois Endangered Species Protection Act, for the purpose of identifying property no longer needed for highway purposes.

(b) Upon completion of the study and for a period ending 3 years after the effective date of this amendatory Act of the 94th General Assembly, the City of North Chicago shall have an exclusive option to purchase for public purposes those portions of the property no longer needed for highway purposes for a consideration, which may be de minimus, negotiated by the parties. The Department of Transportation is authorized to convey the excess property to the City of North Chicago pursuant to this Section within 3 years after the effective date of this amendatory Act of the 94th General Assembly, but may not otherwise convey or transfer the property during that period.

(c) Any conveyance to the City of North Chicago under this Section shall provide (i) that title to the property reverts to the State of Illinois if the property ceases to be used for public purposes and (ii) the City of North Chicago may lease the property but may not convey its ownership of the property to any party, other than the State of Illinois.

Laws 1917, p. 2, § 2705–565, added by P.A. 94–1045, § 5, eff. July 24, 2006.

2705/2705–575. Sale of used vehicles

§ 2705–575. Sale of used vehicles. Whenever the Department has deemed a vehicle shall be replaced, it shall notify the Division of Property Control of the Department of Central Management Services and the Division of Vehicles of the Department of Central Management Services for potential reallocation of the vehicle to another State agency through inter-agency transfer per standard fleet vehicle allocation procedures. If the vehicle is not re-allocated for use into the State fleet or agencies by the Division of Property Control or the Division of Vehicles of the Department of Central Management Services, the Department shall make the vehicle available to those units of local government that have previously requested the notification and provide them the opportunity to purchase the vehicle through a sealed bid sale. Any proceeds from the sale of the vehicles to units of local

government shall be deposited in the Road Fund. The term "vehicle" as used in this Section is defined to include passenger automobiles, light duty trucks, heavy duty trucks, and other self-propelled motorized equipment in excess of 25 horsepower and attachments.

Laws 1917, p. 2, § 49.28, added by P.A. 84–137, § 1, eff. Jan. 1, 1986. Amended by P.A. 85–1010, § 5, eff. March 2, 1988; P.A. 89–445, § 9A–25, eff. Feb. 7, 1996. Renumbered § 2705–575 and amended by P.A. 91–239, Art. 5, § 5–5, eff. Jan. 1, 2000. Amended by P.A. 97–42, § 5, eff. Jan. 1, 2012; P.A. 98–721, § 5, eff. July 16, 2014.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 49.28.

2705/2705–580. Educational facility entrances

§ 2705–580. Educational facility entrances. As part of State highway construction projects, the Department shall evaluate, fund, and repair, within the right-of-way, the entrances to public educational facilities that border State highways.

Laws 1917, p. 2, § 2705–580, added by P.A. 95–271, § 5, eff. Jan. 1, 2008.

2705/2705–585. Diversity goals

§ 2705–585. Diversity goals.

(a) To the extent permitted by any applicable federal law or regulation, all State construction projects funded from amounts (i) made available under the Governor's Fiscal Year 2009 supplemental budget or the American Recovery and Reinvestment Act of 2009 and (ii) that are appropriated to the Illinois Department of Transportation shall comply with the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(b) The Illinois Department of Transportation shall appoint representatives to professional and artistic services selection committees representative of the State's ethnic, cultural, and geographic diversity, including, but not limited to, at least one person from each of the following: an association representing the interests of African American business owners, an association representing the interests of Latino business owners, and an association representing the interests of women business owners. These committees shall comply with all requirements of the Open Meetings Act.

Laws 1917, p. 2, § 2705–585, added by P.A. 96–8, § 5–5, eff. April 28, 2009.

2705/2705–590. Roadbuilding criteria; life-cycle cost analysis

§ 2705–590. Roadbuilding criteria; life-cycle cost analysis.

(a) As used in this Section, "life-cycle cost" means the total of the cost of the initial project plus all anticipated future costs over the life of the pavement. Actual, relevant data, and not assumptions or estimates, shall be used to the extent such data has been collected.

(b) The Department shall develop and implement a life-cycle cost analysis for each State road project under its jurisdiction for which the total pavement costs exceed $500,000 funded in whole, or in part, with State or State-appropriated funds. The Department shall design and award these paving projects utilizing material having the lowest life-cycle cost. All pavement design life shall ensure that State and State-appropriated funds are utilized as efficiently as possible. When alternative material options are substantially equivalent on a life-cycle cost basis, the Department may make a decision based on other criteria. At the discretion of the Department, interstate highways with high traffic volumes or experimental projects may be exempt from this requirement.

(c) Except as otherwise provided in this Section, a life-cycle cost analysis shall compare equivalent designs based upon this State's actual historic project schedules and costs as recorded by the pavement management system, and may include estimates of user costs throughout the entire pavement life.

(d) For pavement projects for which this State has no actual historic project schedules and costs as recorded by the pavement management system, the Department may use actual historical and comparable data for equivalent designs from states with similar climates, soil structures, or vehicle traffic.

Laws 1917, p. 2, § 2705–590, added by P.A. 96–715, § 5, eff. Aug. 25, 2009. Amended by P.A. 96–1000, § 100, eff. July 2, 2010.

2705/2705–593. Office of Business and Workforce Diversity

§ 2705–593. Office of Business and Workforce Diversity.

(a) The Office of Business and Workforce Diversity is established within the Department.

(b) The Office shall administer and be responsible for the Department's efforts to achieve greater diversity in its construction projects and in promoting equal opportunities within the Department. The responsibilities of the Office shall be administered between 2 distinct bureaus, designed to establish policy, procedures, and monitoring efforts pursuant to the governing regulations supporting minorities and those supporting women in contracting and workforce activities.

(c) Applicant firms must be found eligible to be certified as a Disadvantaged Business Enterprise (DBE) program under the federal regulations contained in 49 CFR part 26 and part 23. Only those businesses that are involved in highway construction-related services (non-vertical), consultant, and supplier/equipment rental/trucking services may be considered for participation in the Department's DBE program. Once certified, the firm's name shall be listed in the Illinois Unified Certification Program's (IL UCP) DBE Directory (Directory). The IL UCP's 5 participating agencies shall maintain the Directory to provide a reference source to assist bidders and proposers in meeting DBE contract goals. The Directory shall list the firms in alphabetical order and provides the industry categories/list and the districts in which the firms have indicated they are available.

Laws 1917, p. 2, § 2705–590, added by P.A. 96–795, Art. 95, § 95–15, eff. July 1, 2010. Renumbered as § 2705–593 by P.A. 96–1000, § 100, eff. July 2, 2010.

2705/2705–595. Prequalification of minority-owned and women-owned contractors

§ 2705–595. Prequalification of minority-owned and women-owned contractors. The Department shall, within 30 days after the effective date of this amendatory Act of the 96th General Assembly, establish a committee to review the rules for prequalification of contractors adopted by the Department at 44 Illinois Administrative Code 650. The purpose of the review is to determine whether the rules for prequalification operate as a barrier to minority-owned and women-owned contractors becoming prequalified to bid on or make proposals for Department contracts. The committee shall, in addition to Department staff, be constituted with membership representing the construction industry and minority-owned and women-owned contractors. The committee shall

complete its work and make recommendations for any changes to the rules for prequalification to the Secretary of Transportation within 180 days after the effective date of this amendatory Act of the 96th General Assembly.

Laws 1917, p. 2, § 2705–595, added by P.A. 96–795, Art. 95, § 95–15, eff. July 1, 2010.

2705/2705–600. Target market program

§ 2705–600. Target market program. In order to remedy particular incidents and patterns of egregious race or gender discrimination, the chief procurement officer, in consultation with the Department, shall have the power to implement a target market program incorporating the following terms:

(0.5) Each fiscal year, the Department shall review any and all evidence of discrimination related to transportation construction projects. Evidence of discrimination may include, but is not limited to: (i) the determination of the Department's utilization of minority-owned and female-owned firms in its prime contracts and associated subcontracts; (ii) the availability of minority-owned and female-owned firms in the Department's geographic market areas and specific construction industry markets; (iii) any disparities between the utilization of minority-owned and female-owned firms in the Department's markets and the utilization of those firms on the Department's prime contracts and subcontracts in those markets; (iv) any disparities between the utilization of minority-owned and female-owned firms in the overall construction markets in which the Department purchases and the utilization of those firms in the overall construction economy in which the Department operates; (v) evidence of discrimination in the rates at which minority-owned and female-owned firms in the Department's markets form businesses compared to similar non-minority-owned and non-female-owned firms in the Department's markets and in the dollars earned by such businesses; and (vi) quantitative and qualitative anecdotal evidence of discrimination. If after reviewing such evidence, the Department finds and the chief procurement officer concurs in the findings that the Department has a strong basis in evidence that it has a compelling interest in remedying the identified discrimination against a specific group, race, or gender, and that the only remedy for such discrimination is a narrowly tailored target market, the chief procurement officer, in consultation with the Department, has the power to establish and implement a target market program tailored to address the specific findings of egregious discrimination made by the Department, after a public hearing at which minority, female, and general contractor groups, community organizations, and other interested parties shall have the opportunity to provide comments.

(1) In January of each year, the Department and the chief procurement officer shall report jointly to the General Assembly the results of any evidentiary inquiries or studies that establish the Department's compelling interest in remedying egregious discrimination based upon strong evidence of the need for a narrowly tailored target market to remedy such discrimination and public hearings held pursuant to this Section, and shall report the actions to be taken to address the findings, including, if warranted, the establishment and implementation of any target market initiatives.

(2) The chief procurement officer shall work with the officers and divisions of the Department to determine the appropriate designation of contracts as target market contracts. The chief procurement officer, in consultation with the Department, shall determine appropriate contract formation and bidding procedures for target market contracts, including, but not limited to, the dividing of procurements so designated into contract award units in order to facilitate offers or bids from minority-owned businesses and female-owned businesses and the removal of bid bond requirements for minority-owned businesses and female-owned businesses. Minority-owned businesses and female-owned businesses shall remain eligible to seek the procurement award of contracts that have not been designated as target market contracts.

(3) The chief procurement officer may make participation in the target market program dependent upon submission to stricter compliance audits than are generally applicable. No contract shall be eligible for inclusion in the target market program unless the Department determines that there are at least 3 minority-owned businesses or female-owned businesses interested in participating in that type of contract. The Department, with the concurrence of the chief procurement officer, may develop guidelines to regulate the level of participation of individual minority-owned businesses and female-owned businesses in the target market program in order to prevent the domination of the target market program by a small number of those entities. The Department may require minority-owned businesses and female-owned businesses to participate in training programs offered by the Department or other State agencies as a condition precedent to participation in the target market program.

(4) Participation in the target market program shall be limited to minority-owned businesses and female-owned businesses and joint ventures consisting exclusively of minority-owned businesses, female-owned businesses, or both, that are certified as disadvantaged businesses pursuant to the provisions of Section 6(d) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. A firm awarded a target market contract may subcontract up to 50% of the dollar value of the target market contract to subcontractors who are not minority-owned businesses or female-owned businesses.

(5) The Department may include in the target market program contracts hat are funded by the federal government to the extent allowed by federal law and may vary the standards of eligibility of the target market program to the extent necessary to comply with the federal funding requirements.

(6) If no satisfactory bid or response is received with respect to a contract that has been designated as part of the target market program, the chief procurement officer, in consultation with the Department, may delete that contract from the target market program. In addition, the chief procurement officer, in consultation with the Department, may thereupon designate and set aside for the target market program additional contracts corresponding in approximate value to the contract that was deleted from the target market program, in keeping with the narrowly tailored process used for selecting contracts suitable for the program and to the extent feasible.

(7) The chief procurement officer, in consultation with the Department, shall promulgate such rules as he or she deems necessary to administer the target market program.

If any part, sentence, or clause of this Section is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

This Section is repealed on June 30, 2017.

Laws 1917, p. 2, § 2705–600, added by P.A. 96–795, Art. 95, § 95–15, eff. July 1, 2010. Amended by P.A. 97–228, § 5, eff. July 28, 2011; P.A. 98–670, § 5, eff. June 27, 2014.

Repeal

Text of section repealed by its own terms, eff. June 30, 2017

2705/2705–605. Construction projects; notification of the public

§ 2705–605. Construction projects; notification of the public.

(a) The Department shall develop and publish a policy for the notification of members of the public prior to the commencement of construction projects which impact their communities. The policy shall include procedures for ensuring that the public is informed of construction projects, excluding emergency projects, which are estimated to require the closure of a street or lane of traffic for a period longer than 5 consecutive business days. The policy shall include procedures for the notification of local public officials and affected businesses of affected communities and shall provide the local public officials the opportunity to request a meeting with the Department prior to the initiation of the closure.

(b) The policy shall be completed and published on the Department's Internet website by January 1, 2013.

(c) The Department shall work with affected stakeholders, including residents, businesses, and other community members before and during construction by considering various methods to mitigate and reduce project impacts to better serve those directly impacted by the improvement. Those methods could include, but need not be limited to, detour routing and temporary signage.

Laws 1917, p. 2, § 2705–605, added by P.A. 97–992, § 5, eff. Jan. 1, 2013. Amended by P.A. 98–412, § 5, eff. Jan. 1, 2014.

2705/2705–610. Disadvantaged business revolving loan and grant program

§ 2705–610. Disadvantaged business revolving loan and grant program.

(a) Purpose. The purpose of this Section is to provide for assistance to disadvantaged business enterprises with project financing costs for those firms that are ready, willing, and able to participate on Department construction contracts. The Department's disparity study recommends and supports a financing program to address this barrier faced by disadvantaged business enterprises.

(b) For the purposes of this Section:

"Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Construction-related services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction.

"Contractor" means one who participates, through a contract or subcontract at any tier, in a United States Department of Transportation-assisted or Illinois Department of Transportation-assisted highway, rail, transit, or airport program.

"Escrow account" means a fiduciary account established with (1) a banking corporation which is both organized under the Illinois Banking Act and authorized to accept and administer trusts in this State; or (2) a national banking association which has its principal place of business in this State and which is authorized to accept and administer trusts in this State.

"Fund Control Agent" means a person who provides managerial and technical assistance to disadvantaged business enterprises and holds the authority to manage a loan under this Section. The Fund Control Agent will be procured by the Department under a request for proposal process governed by the Illinois Procurement Code and rules adopted under that Code.

"Loan" or "loan assistance funds" means a low-interest line of credit made available to a selected disadvantaged business enterprise under this program for the purposes set forth in subsection (f) below.

(c) The Department may enter into agreements to make loans to disadvantaged business enterprises certified by the Department for participation on Department-procured construction and construction-related contracts. For purposes of this Section, the term "disadvantaged business enterprise" has the meaning ascribed to it by 49 CFR Part 26.

The Department shall establish a loan selection committee to review applications and select eligible disadvantaged business enterprises for low-interest loans under this program. A selection committee shall be comprised of at least 3 members appointed by the Secretary of the Department and shall include at least one public member from the construction or financing industry. The public member may not be employed or associated with any disadvantaged business enterprise holding a contract with the Department nor may the public member's firm be considered for a contract with the Department while he or she is serving as a public member of the committee. Terms of service for public members shall not exceed 5 years. No public member of the loan selection committee shall hold consecutive terms, nor shall any member receive any compensation other than for reasonable expenses for service related to this committee.

The Department shall establish through administrative rules the requirements for eligibility and criteria for loan applications, approved use of funds, amount of loans, interest rates, collateral, and terms. The Department is authorized to adopt rules to implement this Section.

The Department shall notify the prime contractor on a project that a subcontractor on the same project has been awarded a loan from the Working Capital Revolving Loan Fund. If the loan agreement is amended by the parties of the loan agreement, the prime contractor shall not be a party to any disadvantaged business enterprise loan agreement between the Department and participating subcontractor and shall not incur any liability for loan debt accrued as a result of the loan agreement.

(d) Loan funds shall be disbursed to the escrow account, subject to appropriation, from the Working Capital Revolving Loan Fund established as a special fund in the State treasury. Loaned funds that are repaid to the Department shall be deposited into the Working Capital Revolving Loan Fund. Other appropriations, grants, awards, and donations to the Department for the purpose of the revolving loan program established by this Section shall be deposited into the Working Capital Revolving Loan Fund.

(e) A funds control process shall be established to serve as an intermediary between the Department and the contractor to verify payments and to ensure paperwork is properly filed. The Fund Control Agent and contractor shall enter into an agreement regarding the control and disbursement of all payments to be made by the Fund Control Agent under the contract. The Department shall authorize and direct the Fund Control Agent to review all disbursement requests and supporting documents received from the contractor. The Fund Control Agent shall direct the escrow account to disburse escrow funds to the subcontractor, material supplier, and other appropriate entities by written request for the disbursement. The disadvantaged business enterprise shall maintain control over its business operations by directing the payments of the loan funds through its relationship with the Funds Control Agent. The funds control process shall require the Fund Control Agent to intercept payments made from a contractor to a subcontractor receiving a loan made under this Act and allow the Fund Control Agent to deduct any unpaid loan repayments owed to the State before releasing the payment to the subcontractor.

(f) Loan assistance funds shall be allowed for current liabilities or working capital expenses associated with participation in the performance of contracts procured and awarded by the Department for transportation construction and construction-related purposes. Loan funds shall not be used for:

(1) refinancing or payment of existing long-term debt;

(2) payment of non-current taxes;

(3) payments, advances, or loans to stockholders, officers, directors, partners, or member owners of limited liability companies; or

(4) the purchase or lease of non-construction motor vehicles or equipment.

The loan agreement shall provide for the terms and conditions of repayment which shall not extend repayment longer than final payment made by the Department following completion and acceptance of the work authorized for loan assistance under the program. The funds shall be loaned with interest.

(g) The number of loans one disadvantaged business enterprise may receive under this program is limited to 3. Loans shall not be granted simultaneously. An applicant shall not be permitted to obtain a loan under this program for a different and additional project until payment in full of any outstanding loans granted under this program have been received by the Department.

(h) The rate of interest for any loan shall be set by rule.

(i) The loan amount to any successful applicant shall not exceed 55% percent of the contract or subcontract supporting the loan.

(j) Nothing in this Section shall impair the contractual rights of the Department and the prime contractor or the contractual rights between a prime contractor and subcontractor.

(k) Nothing in this Section is intended nor shall be construed to vest applicants denied funds by the Department in accordance with this Section a right to challenge, protest, or contest the awarding of funds by the Department to successful applicants or any loan or agreement executed in connection with it.

(*l*) The debt delinquency prohibition under Section 50–11 of the Illinois Procurement Code applies to any future contracts or subcontracts in the event of a loan default.

(m) Investment income which is attributable to the investment of moneys in the Working Capital Revolving Loan Fund shall be retained in the Working Capital Revolving Loan Fund.

(n) By January 1, 2014 and January 1 of each succeeding year, the Department shall report to the Governor and the General Assembly on the utilization and status of the revolving loan program. The report shall, at a minimum, include the amount transferred from the Road Fund to the Working Capital Revolving Loan Fund, the number and size of approved loans, the amounts disbursed to and from the escrow account, the amounts, if any, repaid to the Working Capital Revolving Loan Fund, the interest and fees paid by loan recipients, and the interest earned on balances in the Working Capital Revolving Loan Fund, and the names of any contractors who are delinquent or in default of payment. The January 1, 2017 report shall include an evaluation of the program by the Department to determine the program's viability and progress towards its stated purpose.

(*o*) The Department's authority to execute additional loans or request transfers to the Working Capital Revolving Loan Fund expires on June 1, 2018. The Comptroller shall order transferred and the Treasurer shall transfer any available balance remaining in the Working Capital Revolving Loan Fund to the Road Fund on January 1, 2019, or as soon thereafter as may be practical. Any loan repayments, interest, or fees that are by the terms of a loan agreement payable to the Working Capital Revolving Loan Fund after June 20, 2018 shall instead be paid into the Road Fund as the successor fund to the Working Capital Revolving Loan Fund.

Laws 1917, p. 2, § 2705–610, added by P.A. 98–117, § 5, eff. July 30, 2013.

HISTORIC PRESERVATION AGENCY

ACT 3420. ILLINOIS STATE AGENCY HISTORIC RESOURCES PRESERVATION ACT

3420/1. Purposes

§ 1. Purposes. The purpose of this Act is to provide Illinois State government leadership in preserving, restoring, and maintaining the historic resources of the State. It is the purpose of this Act to establish a program whereby State agencies (1) administer the historic resources under their control to foster and enhance their availability to future generations, (2) prepare policies and plans to contribute to the preservation, restoration, and maintenance of State-owned historic resources for the inspiration and benefit of the people, and (3) in consultation with the Director of Historic Preservation, institute procedures to ensure that State projects consider the preservation and enhancement of both State owned and non-State owned historic resources.

P.A. 86–707, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c21.

3420/2. Short Title

§ 2. Short Title. This Act shall be known and may be cited as the "Illinois State Agency Historic Resources Preservation Act".

P.A. 86–707, § 2, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c22.

3420/3. Definitions

§ 3. Definitions.

(a) "Director" means the Director of Historic Preservation who shall serve as the State Historic Preservation Officer.

(b) "Agency" shall have the same meaning as in Section 1–20 of the Illinois Administrative Procedure Act, [1] and shall specifically include all agencies and entities made subject to such Act by any State statute.

(c) "Historic resource" means any property which is either publicly or privately held and which:

(1) is listed in the National Register of Historic Places (hereafter " National Register");

(2) has been formally determined by the Director to be eligible for listing in the National Register as defined in Section 106 of Title 16 of the United States Code;

(3) has been nominated by the Director and the Illinois Historic Sites Advisory Council for listing in the National Register;

(4) meets one or more criteria for listing in the National Register, as determined by the Director; or

(5) (blank).

(d) "Adverse effect" means:

(1) destruction or alteration of all or part of an historic resource;

(2) isolation or alteration of the surrounding environment of an historic resource;

(3) introduction of visual, audible, or atmospheric elements which are out of character with an historic resource or which alter its setting;

(4) neglect or improper utilization of an historic resource which results in its deterioration or destruction; or

(5) transfer or sale of an historic resource to any public or private entity without the inclusion of adequate conditions or restrictions regarding preservation, maintenance, or use.

(e) "Comment" means the written finding by the Director of the effect of a State undertaking on an historic resource.

(f) "Undertaking" means any project, activity, or program that can result in changes in the character or use of historic property, if any historic property is located in the area of potential effects. The project, activity or program shall be under the direct or indirect jurisdiction of a State agency or licensed or assisted by a State agency. An undertaking includes, but is not limited to, action which is:

(1) directly undertaken by a State agency;

(2) supported in whole or in part through State contracts, grants, subsidies, loan guarantees, or any other form of direct or indirect funding assistance; or

(3) carried out pursuant to a State lease, permit, license, certificate, approval, or other form of entitlement or permission.

(g) "Committee" means the Historic Preservation Mediation Committee.

(h) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(i) "Private undertaking" means any undertaking that does not receive public funding or is not on public lands.

(j) "High probability area" means any occurrence of Cahokia Alluvium, Carmi Member of the Equality Formation, Grayslake Peat, Parkland Sand, Peyton Colluvium, the Bataria Member of the Henry Formation, or the Mackinaw Member, as mapped by Lineback et al. (1979) at a scale of 1–500,000 within permanent stream floodplains and including:

(1) 500 yards of the adjoining bluffline crest of the Fox, Illinois, Kankakee, Kaskaskia, Mississippi, Ohio, Rock and Wabash Rivers and 300 yards of the adjoining bluffline crest of all other rivers or

(2) a 500 yard wide area along the shore of Lake Michigan abutting the high water mark.

P.A. 86–707, § 3, eff. Jan. 1, 1990. Amended by P.A. 87–717, § 1, eff. July 1, 1992; P.A. 87–739, § 1, eff. Sept. 26, 1991; P.A. 87–847, § 110, eff. Feb. 5, 1992; P.A. 88–45, Art. III, § 3–11, eff. July 6, 1993; P.A. 97–785, § 15, eff. July 13, 2012; P.A. 98–463, § 110, eff. Aug. 16, 2013.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c23.

[1] 5 ILCS 100/1–20.

3420/4. State agency undertakings

§ 4. State agency undertakings.

(a) As early in the planning process as may be practicable and prior to the approval of the final design or plan of any undertaking by a State agency, or prior to the funding of any undertaking by a State agency, or prior to an action of approval or entitlement of any private undertaking by a State agency, written notice of the project shall be given to the Director either by the State agency or the recipients of its funds, permits or licenses. The State agency shall consult with the Director to determine the documentation requirements necessary for identification and treatment of historic resources. For the purposes of identification and evaluation of historic resources, the Director may require archaeological and historic investigations. Responsibility for notice and documentation may be delegated by the State agency to a local or private designee.

(b) Within 30 days after receipt of complete and correct documentation of a proposed undertaking, the Director shall review and comment to the agency on the likelihood that the undertaking will have an adverse effect on a historic resource. In the case of a private undertaking, the Director shall, not later than 30 days following the receipt of an application with complete documentation of the undertaking, either approve that application allowing the undertaking to proceed or tender to the applicant a written statement setting forth the reasons for the requirement of an archaeological investigation. If there is no action within 30 days after the filing of the application with the complete documentation of the undertaking, the applicant may deem the application approved and may proceed with the undertaking. Thereafter, all requirements for archaeological investigations are waived under this Act.

(c) If the Director finds that an undertaking will adversely affect an historic resource or is inconsistent with agency policies, the State agency shall consult with the Director and shall discuss alternatives to the proposed undertaking which could eliminate, minimize, or mitigate its adverse effect. During the consultation process, the State agency shall explore all feasible and prudent plans which eliminate, minimize, or mitigate adverse effects on historic resources. Grantees, permittees, licensees, or other parties in interest and representatives of national, State, and local units of government and public and private organizations may participate in the consultation process. The process may involve on-site inspections and public informational meetings pursuant to regulations issued by the Historic Preservation Agency.

(d) The State agency and the Director may agree that there is a feasible and prudent alternative which eliminates, minimizes, or mitigates the adverse effect of the undertaking. Upon such agreement, or if the State agency and the Director agree that there are no feasible and prudent alternatives which eliminate, minimize, or mitigate the adverse effect, the Director shall prepare a Memorandum of Agreement describing the alternatives or stating the finding. The State agency may proceed with the undertaking once a Memorandum of Agreement has been signed by both the State agency and the Director.

(e) After the consultation process, the Director and the State agency may fail to agree on the existence of a feasible and prudent alternative which would eliminate, minimize, or mitigate the adverse effect of the undertaking on the historic resource. If no agreement is reached, the agency shall call a public meeting in the county where the undertaking is proposed within 60 days. If, within 14 days following conclusion of the public meeting, the State agency and the Director fail to agree on a feasible and prudent alternative, the proposed undertaking, with supporting documentation, shall be submitted to the Historic Preservation Mediation Committee. The document shall be sufficient to identify each alternative considered by the Agency and the Director during the consultation process and the reason for its rejection.

(f) The Mediation Committee shall consist of the Director and 5 persons appointed by the Director for terms of 3 years each, each of whom shall be no lower in rank than a division chief and each of whom shall represent a different State agency. An agency that is a party to mediation shall be notified of all hearings and deliberations and shall have the right to participate in deliberations as a non-voting member of the Committee. Within 30 days after submission of the proposed undertaking, the Committee shall meet with the Director and the submitting agency to review each alternative considered by the State agency and the Director and to evaluate the existence of a feasible and prudent alternative. In the event that the Director and the submitting agency continue to disagree, the Committee shall provide a statement of findings or comments setting forth an alternative to the proposed undertaking or stating the finding that there is no feasible or prudent alternative. The State agency shall consider the written comments of the Committee and shall respond in writing to the Committee before proceeding with the undertaking.

(g) When an undertaking is being reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, [1] the procedures of this law shall not apply and any review or comment by the Director on such undertaking shall be within the framework or procedures of the federal law. This subsection shall not prevent the Illinois Historic Preservation Agency from entering into an agreement with the Advisory Council on Historic Preservation pursuant to Section 106 of the National Historic Preservation Act to substitute this Act and its procedures for procedures set forth in Council regulations found in 36 C.F.R. Part 800.7. A State undertaking that is necessary to prevent an immediate and imminent threat to life or property shall be exempt from the requirements of this Act. Where possible, the Director shall be consulted in the determination of the exemption. In all cases, the agency shall provide the Director with a statement of the reasons for the exemption and shall have an opportunity to comment on the exemption. The statement and the comments of the Director shall be included in the annual report of the Historic Preservation Agency as a guide to future actions. The provisions of this Act do not apply to undertakings pursuant to the Illinois Oil and Gas Act, [2] the Surface–Mined Land Conservation and Reclamation Act [3] and the Surface Coal Mining Land Conservation and Reclamation Act. [4]

P.A. 86–707, § 4, eff. Jan. 1, 1990. Amended by P.A. 87–739, § 1, eff. Sept. 26, 1991; P.A. 87–847, § 110, eff. Feb. 5, 1992; P.A. 87–895, Art. 2, § 2–77, eff. Aug. 14, 1992; P.A. 96–1000, § 115, eff. July 2, 2010; P.A. 97–785, § 15, eff. July 13, 2012.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c24.

[1] 16 U.S.C.A. § 470 et seq.

[2] 225 ILCS 725/1 et seq.

[3] 225 ILCS 715/1 et seq.

[4] 225 ILCS 720/1.01 et seq.

3420/5. Responsibilities of the Historic Preservation Agency, Division of Preservation Services

§ 5. Responsibilities of the Historic Preservation Agency, Division of Preservation Services.

(a) The Director shall include in the Agency's annual report an outline of State agency actions on which comment was requested or issued under this Act.

(b) The Director shall maintain a current list of all historic resources owned, operated, or leased by the State and appropriate maps indicating the location of all such resources. These maps shall be in a form available to the public and State agencies, except that the location of archaeological resources shall be excluded.

(c) The Director shall make rules and issue appropriate guidelines to implement this Act. These shall include, but not be limited to, regulations for holding on-site inspections, public information meetings and procedures for consultation, mediation, and resolutions by the Committee pursuant to subsections (e) and (f) of Section 4.

(d) The Director shall (1) assist, to the fullest extent possible, the State agencies in their identification of properties for inclusion in an inventory of historic resources, including provision of criteria for evaluation; (2) provide information concerning professional methods and techniques for preserving, improving, restoring, and maintaining historic resources when requested by State agencies; and (3) help facilitate State agency compliance with this Act.

(e) The Director shall monitor the implementation of actions of each State agency which have an effect, either adverse or beneficial, on an historic resource.

(f) The Agency shall manage and control the preservation, conservation, inventory, and analysis of fine and decorative arts, furnishings, and artifacts of the Illinois Executive Mansion in Springfield, the Governor's offices in the Capitol in Springfield and the James R. Thompson Center in Chicago, and the Hayes House in DuQuoin. The Agency shall manage the preservation and conservation of the buildings and grounds of the Illinois Executive Mansion in Springfield. The Governor shall appoint a Curator of the Executive Mansion, with the advice and consent of the Senate, to assist the Agency in carrying out the duties under this item (f). The person appointed Curator must have experience in historic preservation or as a curator. The Curator shall serve at the pleasure of the Governor. The Governor shall determine the compensation of the Curator, which shall not be diminished during the term of appointment.

P.A. 86–707, § 5, eff. Jan. 1, 1990. Amended by P.A. 92–842, § 5, eff. Aug. 22, 2002.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c25.

3420/6. Review of private undertakings

§ 6. Review of private undertakings.

(a) The Department shall adopt standards, including maps, in accordance with the Illinois Administrative Procedure Act,[1] for determining whether a private undertaking will affect a high probability area for the statewide occurrence of archaeological resources. The Illinois State Museum shall propose to the Department maps of high probability areas for each county in the State that the Department shall consider in creating its standards. The maps shall be made available to any interested person and shall be filed with all regional planning commissions to assist in the planning process.

(b) High probability area maps for each county in the State shall be prepared by the Illinois State Museum and submitted to the Department. Until maps for a particular county are adopted by the Department as rule, the Director's review within that county for archaeological resources shall be limited to determining whether there are known archaeological sites within the area of the undertaking. If there are no known sites, the Director shall so notify the State agency or the local or private designee responsible for the private undertaking and the undertaking may proceed. If there is a known archaeological site within the undertaking, the Director shall so notify the state agency or the local or private designee responsible for the private undertaking and may require additional archaeological investigations.

(c) The Director shall not require archaeological investigations for private undertakings outside high probability areas unless the undertaking may affect a known archaeological site. An archaeological investigation may be required only on that portion of property within a high probability area or where a known site exists on that property. Archaeological investigations shall be required in high probability areas unless the Director indicates that such investigations are not necessary.

P.A. 86–707, § 6, added by P.A. 87–847, § 110, eff. Feb. 5, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c26.

[1] 5 ILCS 100/1–1 et seq.

ACT 3435. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES PROTECTION ACT

3435/.01. Short title

§ .01. This Act shall be known and may be cited as the "Archaeological and Paleontological Resources Protection Act".

Laws 1961, p. 3776, § .01, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c.01.

3435/.02. Definitions

§ .02. For purposes of this Act:

(a) "Archaeological resource" means any significant material remains or localities of past human life or activities on public land, including but not limited to artifacts, historic and prehistoric human skeletal remains, mounds, earthworks, shipwrecks, forts, village sites or mines.

(b) "Disturb" includes defacing, mutilating, injuring, exposing, removing, destroying, desecrating or molesting in any way.

(c) "Paleontological resource" means any significant fossil or material remains on public lands including traces or impressions of animals or plants that occur as part of the geological record that are known and are included in the files maintained by the Illinois State Museum under Section 10.

(d) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representative appointed by order of any court, the federal and State governments, including State universities created by statute or any city, town, county or other political subdivision of this State.

(e) "Public land" means any land owned, but does not include land leased as lessee, by the State of Illinois or its agencies, a State university created by statute, a municipality or a unit of local government.

Laws 1961, p. 3776, § .02, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c.02.

3435/1. Reservation of right to state

§ 1. The State of Illinois reserves to itself the exclusive right and privilege of regulating, exploring, excavating or surveying, through the Historic Preservation Agency, all archaeological and paleontological resources found upon or within any public lands.

Laws 1961, p. 3776, § 1, eff. Aug. 21, 1961. Amended by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c1.

3435/1.5. O'Hare Modernization

§ 1.5. O'Hare Modernization. Nothing in this Act limits the authority of the City of Chicago to exercise its powers under the O'Hare Modernization Act or requires that City, or any person acting on behalf of that City, to obtain a permit under this Act when acquiring property or otherwise exercising its powers under the O'Hare Modernization Act.

Laws 1961, p. 3776, § 1.5, added by P.A. 93–450, § 90, eff. Aug. 6, 2003.

3435/1.75. South Suburban Airport

§ 1.75. South Suburban Airport. The Illinois Department of Transportation, and any person acting on its behalf under a public-private agreement entered into in accordance with the Public–Private Agreements for the South Suburban Airport Act, is exempt from the permit requirements of this Act, provided that the Illinois Department of Transportation, or any such person, takes reasonable steps to comply with the provisions of this Act so long as compliance does not interfere with the design, development, operation, or maintenance of the South Suburban Airport or the exercise of their powers under the Public–Private Agreements for the South Suburban Airport Act.

Laws 1961, p. 3776, § 1.75, added by P.A. 98–109, § 4–10, eff. July 25, 2013.

3435/2. Reservations in deeds from state

§ 2. Any deed hereafter given by the owner of public land may contain a clause reserving to the State a property right in any archaeological and paleontological resources or portion

thereof and also reserving the right to explore and excavate for the same.

Laws 1961, p. 3776, § 2, eff. Aug. 21, 1961. Amended by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c2.

3435/3. Violations

§ 3. (a) It is unlawful for any person, either by himself or through an agent, to explore, excavate or collect any of the archaeological or paleontological resources protected by this Act, unless such person obtains a permit issued by the Historic Preservation Agency.

(b) It is unlawful for any person, either by himself or through an agent, to knowingly disturb any archaeological or paleontological resource protected under this Act.

(c) It is unlawful for any person, either by himself or through an agent, to offer any object for sale or exchange with the knowledge that it has been previously collected or excavated in violation of this Act.

Laws 1961, p. 3776, § 3, eff. Aug. 21, 1961. Amended by Laws 1967, p. 2000, § 1, eff. July 24, 1967; P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c3.

3435/3.1. Prosecutions

§ 3.1. The State's Attorney of the county in which a violation of Section 3 is alleged to have occurred, or the Attorney General, may be requested by the Director of the Historic Preservation Agency to initiate criminal prosecutions or to seek civil damages, injunctive relief and any other appropriate relief. The Historic Preservation Agency shall co-operate with the State's Attorney or the Attorney General. Persons aware of any violation of this Act shall contact the Historic Preservation Agency.

Laws 1961, p. 3776, § 3.1, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c3.1.

3435/3.2. Reward

§ 3.2. The Historic Preservation Agency is authorized to offer a reward of up to $2,000 for information leading to the arrest and conviction of persons who violate Section 3.

Laws 1961, p. 3776, § 3.2, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c3.2.

3435/5. Penalties; damages

§ 5. Any violation of Section 3 not involving the disturbance of human skeletal remains is a Class A misdemeanor and the violator shall be subject to imprisonment and a fine not in excess of $5,000; any subsequent violation is a Class 4 felony. Any violation of Section 3 involving disturbance of human skeletal remains is a Class 4 felony. Each disturbance of an archaeological site or a paleontological site shall constitute a single offense. Persons convicted of a violation of Section 3 shall also be liable for civil damages to be assessed by the land managing agency and the Historic Preservation Agency. Civil damages may include:

(a) forfeiture of any and all equipment used in acquiring the protected material;

(b) any and all costs incurred in cleaning, restoring, analyzing, accessioning and curating the recovered materials;

(c) any and all costs associated with restoring the land to its original contour;

(d) any and all costs associated with recovery of data and analyzing, publishing, accessioning and curating materials when the prohibited activity is so extensive as to preclude the restoration of the archaeological or paleontological site;

(e) any and all costs associated with the determination and collection of the civil damages.

When civil damages are recovered through the Attorney General, the proceeds shall be deposited into the Historic Sites Fund; when civil damages are recovered through the State's Attorney, the proceeds shall be deposited into the county fund designated by the county board.

Laws 1961, p. 3776, § 5, eff. Aug. 21, 1961. Amended by P.A. 77–2599, § 1, eff. Jan. 1, 1973; P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c5.

3435/6. Regulations; permits

§ 6. (a) The Historic Preservation Agency, in consultation with the various State agencies owning or managing land for the use of the State of Illinois, shall develop regulations whereby permits may be issued for exploration or excavation of archaeological and paleontological resources. These permits shall be issued by the Historic Preservation Agency after consultation with the head of the land managing agency.

(b) Permits to any person or entity other than the State of Illinois shall be issued in accordance with regulations which shall be promulgated by the Historic Preservation Agency.

(c) Each permit shall specify all terms and conditions under which the investigation shall be carried out, including, but not limited to, location and nature of the investigation and plans for analysis and publication of the results. Upon completion of the project, the permit holder shall report its results to the Historic Preservation Agency for approval.

Laws 1961, p. 3776, § 6, added by Laws 1967, p. 2000, § 1, eff. July 24, 1967. Amended by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c6.

3435/7. Record management

§ 7. All materials and associated records remain the property of the State and are managed by the Illinois State Museum. The Illinois State Museum, in consultation with the Historic Preservation Agency, is authorized to establish long-term curation agreements with universities, museums and other organizations.

Laws 1961, p. 3776, § 7, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c7.

3435/8. Exemptions

§ 8. (a) The Illinois State Museum shall be exempt from the permit requirements established by this Act for lands under its direct management but shall register that exploration with the Historic Preservation Agency; such registration shall include the information required under subsection (c) of Section 6.

(b) Any agency or department of the State of Illinois which has on its staff a professional archaeologist or paleontologist who meets the minimum qualifications established in Section 9 and which has in effect a memorandum of agreement with the Historic Preservation Agency for the protec-

tion, preservation and management of archaeological and paleontological resources shall be exempt from the permit requirements established by this Act.

(c) Activities reviewed by the Historic Preservation Agency pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) shall be exempt from these permitting requirements.

(d) Where a local government's activities are funded in whole or in part by a State agency and the funded activities are supervised or controlled by the State agency, the local government shall be exempt from the permit requirements established by this Act to the same extent that the State agency is exempt. The State agency shall be responsible for undertaking or causing to be undertaken any steps necessary to comply with this Act for those local government actions so exempted.

Laws 1961, p. 3776, § 8, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c8.

3435/9. Standards of education and experience

§ 9. The Historic Preservation Agency shall, through rulemaking, establish minimum standards of education and experience for an archaeologist or paleontologist to qualify as a professional for the purpose of conducting activities for which a permit is required.

Laws 1961, p. 3776, § 9, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c9.

3435/10. Files

§ 10. The Illinois State Museum, in cooperation with the Historic Preservation Agency, shall develop and maintain files containing information on known archaeological and paleontological sites in the State, whether on State controlled or privately owned property. The Historic Preservation Agency shall ensure the safety of those sites by promulgating regulations limiting access to those files as necessary.

Laws 1961, p. 3776, § 10, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c10.

3435/11. Regulations

§ 11. The Historic Preservation Agency, in consultation with other State agencies and Departments that own or control land, shall promulgate such regulations as may be necessary to carry out the purposes of this Act.

Laws 1961, p. 3776, § 11, added by P.A. 86–459, § 2, eff. Jan. 1, 1990; P.A. 86–707, § 6, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 133c11.

CHAPTER 30

FINANCE

FUNDS

ACT 105. STATE FINANCE ACT

Section

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105/5g. Transfer from General Revenue Fund to Road Fund.

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805/8.30. Exempt mandate.

FUNDS

ACT 105. STATE FINANCE ACT

105/5d. State Construction Account Fund; use

§ 5d. Except as provided by Section 5e of this Act, the State Construction Account Fund shall be used exclusively for the construction, reconstruction and maintenance of the State maintained highway system. Except as provided by Section 5e of this Act, none of the money deposited in the State Construction Account Fund shall be used to pay the cost of administering the Motor Fuel Tax Law as now or hereafter amended,[1] nor be appropriated for use by the Department of Transportation to pay the cost of its operations or administration, nor be used in any manner for the payment of regular or contractual employees of the State, nor be transferred or allocated by the Comptroller and Treasurer or be otherwise used, except for the sole purpose of construction, reconstruction and maintenance of the State maintained highway system as the Illinois General Assembly shall provide by appropriation from this fund. Beginning with the month immediately following the effective date of this amendatory Act of 1985, investment income which is attributable to the investment of moneys of the State Construction Account Fund shall be retained in that fund for the uses specified in this Section.

Laws 1919, p. 946, § 5d, added by P.A. 83–12, § 3, eff. July 1, 1983. Amended by P.A. 84–431, § 1, eff. Sept. 16, 1985.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 141d.

[1] 35 ILCS 505/1 et seq.

105/5e. Transfers from Road Fund to State Construction Account Fund

§ 5e. The Governor, in his discretion, when he deems it necessary for payments of the State's obligations, may authorize transfers from the Road Fund to the State Construction Account Fund. Any amount so transferred shall be retransferred from the State Construction Account Fund to the Road Fund by the end of the fiscal year in which the transfer was made. The transfers out of the Road Fund shall not exceed $35,000,000 in any fiscal year. No transfers from the Road Fund which impair the obligations of the State shall be authorized. The Comptroller and the Treasurer, upon receipt of authorization from the Governor, shall make transfers in accordance with this Section. In the event the Governor fails to authorize the retransfer into the Road Fund as required by this Section, the Comptroller and the Treasurer shall make such retransfer.

Laws 1919, p. 946, § 5e, added by P.A. 84–431, § 1, eff. Sept. 16, 1985.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 141e.

105/5f. Transfers; reports

§ 5f. Within 10 days after the last day of each month, the Comptroller shall report to the Governor, the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives as to any transfers made between funds in the State Treasury during that month. Such report shall include, but shall not be limited to, the amount transferred from the Road Fund under Section 5e of this Act.[1]

Laws 1919, p. 946, § 5f, added by P.A. 84–431, § 1, eff. Sept. 16, 1985.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 141f.

[1] 30 ILCS 105/5e.

105/5g. Transfer from General Revenue Fund to Road Fund

§ 5g. (a) After July 1, 1991, the General Assembly shall direct the transfer from the General Revenue Fund to the Road Fund of the sum of $36,000,000, or so much thereof as may be necessary, so that after such transfer the total expenditures for the fiscal year beginning July 1, 1990 for the Division of State Troopers from the Road Fund do not exceed the amount appropriated in fiscal year 1990 for the Division of State Troopers. Such transfers shall be completed no later than June 30, 1992.

(b) If the General Assembly has not completed the transfers required under subsection (a) of this Section on or before June 30, 1992, and if the General Revenue Fund balance is $250 million or greater on June 30, 1992 or June 30th of any year thereafter, on July 1 of the fiscal year immediately following the fiscal year which has a June 30th balance of $250 million or greater, the Comptroller shall order the transfer and the Treasurer shall transfer from the General Revenue Fund to the Road Fund one-twelfth of the amount remaining to be transferred on July 15, 1992, with such transfers continuing on the first of each month thereafter until the total transfers required to be made by this Section have been completed.

Laws 1919, p. 946, § 5g, added by P.A. 86–1159, § 2, eff. Aug. 10, 1990. Amended by P.A. 87–860, § 95, eff. July 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 141g.

105/5h. Cash flow borrowing and general funds liquidity

§ 5h. Cash flow borrowing and general funds liquidity.

(a) In order to meet cash flow deficits and to maintain liquidity in the General Revenue Fund, the Healthcare Provider Relief Fund, and the Common School Fund, on and after July 1, 2010 and through June 30, 2011, the State Treasurer and the State Comptroller shall make transfers to the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund, as directed by the Governor, out of special funds of the State, to the extent allowed by federal law. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund estimated to be expended for that fiscal year. No such transfer may reduce the cumulative balance of all of the special funds of the State to an amount less than the total debt service payable during the 12 months immediately following the date of the transfer on any bonded indebtedness of the State and any certificates issued under the Short Term Borrowing Act. Notwithstanding any other provision of this Section, no such transfer may be made from any special fund that is exclusively collected by or appropriated to any other constitutional officer without the written approval of that constitutional officer.

(b) If moneys have been transferred to the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund pursuant to subsection (a) of this Section, this amendatory Act of the 96th General Assembly shall constitute the irrevocable and continuing authority for and direction to the State Treasurer and State Comptroller to reimburse the funds of origin from the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund, as appropriate, by transferring to the funds of origin, at such times and in such amounts as directed by the Governor when necessary to support appropriated expenditures from the funds, an amount equal to that transferred from them plus any interest that would have accrued thereon had the transfer not occurred, except that any moneys transferred pursuant to subsection (a) of this Section shall be repaid to the fund of origin within 18 months after the date on which they were borrowed.

(c) On the first day of each quarterly period in each fiscal year, until such time as a report indicates that all moneys borrowed and interest pursuant to this Section have been repaid, the Governor's Office of Management and Budget shall provide to the President and the Minority Leader of the Senate, the Speaker and the Minority Leader of the House of Representatives, and the Commission on Government Forecasting and Accountability a report on all transfers made pursuant to this Section in the prior quarterly period. The report must be provided in both written and electronic format. The report must include all of the following:

(1) The date each transfer was made.

(2) The amount of each transfer.

(3) In the case of a transfer from the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund to a fund of origin pursuant to subsection (b) of this Section, the amount of interest being paid to the fund of origin.

(4) The end of day balance of both the fund of origin and the General Revenue Fund, the Healthcare Provider Relief Fund, or the Common School Fund, whichever the case may be, on the date the transfer was made.

Laws 1919, p. 946, § 5h, added by P.A. 96–958, § 5–15, eff. July 1, 2010. Amended by P.A. 96–1500, § 10, eff. Jan. 18, 2011; P.A. 97–72, § 5–10, eff. June 30, 2011; P.A. 98–44, § 30, eff. June 28, 2013.

105/5i. Transfers

§ 5i. Transfers. Each year, the Governor's Office of Management and Budget shall, at the time set forth for the submission of the State budget under Section 50–5 of the State Budget Law, provide to the Chairperson and the Minority Spokesperson of each of the appropriations committees of the House of Representatives and the Senate a report of (i) all full fiscal year transfers from State general funds to any other special fund of the State in the previous fiscal year and during the current fiscal year to date, and (ii) all projected full fiscal year transfers from State general funds to those funds for the remainder of the current fiscal year and the next fiscal year, based on estimates prepared by the Governor's Office of Management and Budget. The report shall include a detailed summary of the estimates upon which the projected transfers are based. The report shall also indicate, for each transfer:

(1) whether or not there is statutory authority for the transfer;

(2) if there is statutory authority for the transfer, whether that statutory authority exists for the next fiscal year; and

(3) whether there is debt service associated with the transfer.

The General Assembly shall consider the report in the appropriations process.

Laws 1919, p. 946, § 5i, added by P.A. 98–24, § 5–25, eff. June 19, 2013. Amended by P.A. 98–756, § 150, eff. July 16, 2014.

105/5j. Closure of State mental health facilities or developmental disabilities facilities

§ 5j. Closure of State mental health facilities or developmental disabilities facilities. Consistent with the provisions of Sections 4.4 and 4.5 of the Community Services Act,[1] whenever a State mental health facility operated by the Department of Human Services or a State developmental disabilities facility operated by the Department of Human Services is closed, the Department of Human Services, at the direction of the Governor, shall transfer funds from the closed facility to the appropriate line item providing appropriation authority for the new venue of care to facilitate the transition of services to the new venue of care, provided that the new venue of care is a Department of Human Services funded provider or facility.

As used in this Section, the terms "mental health facility" and "developmental disabilities facility" have the meanings ascribed to those terms in the Mental Health and Developmental Disabilities Code.

Laws 1919, p. 946, § 5i, added by P.A. 98–403, § 5, eff. Jan. 1, 2014. Renumbered as § 5j by P.A. 98–756, § 150, eff. July 16, 2014.

[1] 405 ILCS 30/4.4 and 405 ILCS 30/4.5.

105/5k. Cash flow borrowing and general funds liquidity; FY15

§ 5k. Cash flow borrowing and general funds liquidity; FY15.

(a) In order to meet cash flow deficits and to maintain liquidity in the General Revenue Fund and the Health Insurance Reserve Fund, on and after July 1, 2014 and through June 30, 2015, the State Treasurer and the State Comptroller shall make transfers to the General Revenue Fund and the Health Insurance Reserve Fund, as directed by the Governor, out of special funds of the State, to the extent allowed by federal law. No such transfer may reduce the cumulative balance of all of the special funds of the State to an amount less than the total debt service payable during the 12 months immediately following the date of the transfer on any bonded indebtedness of the State and any certificates issued under the Short Term Borrowing Act. At no time shall the outstanding total transfers made from the special funds of the State to the General Revenue Fund and the Health Insurance Reserve Fund under this Section exceed $650,000,000; once the amount of $650,000,000 has been transferred from the special funds of the State to the General Revenue Fund and the Health Insurance Reserve Fund, additional transfers may be made from the special funds of the State to the General Revenue Fund and the Health Insurance Reserve Fund under this Section only to the extent that moneys have first been re-transferred from the General Revenue Fund and the Health Insurance Reserve Fund to those special funds of the State. Notwithstanding any other provision of this Section, no such transfer may be made from any special fund that is exclusively collected by or appropriated to any other constitutional officer without the written approval of that constitutional officer.

(b) If moneys have been transferred to the General Revenue Fund and the Health Insurance Reserve Fund pursuant to subsection (a) of this Section, this amendatory Act of the 98th General Assembly shall constitute the continuing authority for and direction to the State Treasurer and State Comptroller to reimburse the funds of origin from the General Revenue Fund by transferring to the funds of origin, at such times and in such amounts as directed by the Governor when necessary to support appropriated expenditures from the funds, an amount equal to that transferred from them plus any interest that would have accrued thereon had the transfer not occurred, except that any moneys transferred pursuant to subsection (a) of this Section shall be repaid to the fund of origin within 18 months after the date on which they were borrowed. When any of the funds from which moneys have been transferred pursuant to subsection (a) have insufficient cash from which the State Comptroller may make expenditures properly supported by appropriations from the fund, then the State Treasurer and State Comptroller shall transfer from the General Revenue Fund to the fund only such amount as is immediately necessary to satisfy outstanding expenditure obligations on a timely basis.

(c) On the first day of each quarterly period in each fiscal year, until such time as a report indicates that all moneys borrowed and interest pursuant to this Section have been repaid, the Governor's Office of Management and Budget shall provide to the President and the Minority Leader of the Senate, the Speaker and the Minority Leader of the House of Representatives, and the Commission on Government Forecasting and Accountability a report on all transfers made pursuant to this Section in the prior quarterly period. The report must be provided in electronic format. The report must include all of the following:

(1) The date each transfer was made.

(2) The amount of each transfer.

(3) In the case of a transfer from the General Revenue Fund to a fund of origin pursuant to subsection (b) of this Section, the amount of interest being paid to the fund of origin.

(4) The end of day balance of the fund of origin, the General Revenue Fund and the Health Insurance Reserve Fund on the date the transfer was made.

Laws 1919, p. 946, § 5k, added by P.A. 98–682, § 65, eff. June 30, 2014.

105/6c. Road Fund

§ 6c. All fees and other money received by the Division of Highways of the Department of Transportation shall, upon being paid into the State treasury, be placed in the road fund. After the effective date of this amendatory Act of 1980, investment income which is attributable to the investment of moneys of the road fund shall be retained in the road fund.

Laws 1919, p. 946, § 6c, added by Laws 1945, p. 1689, § 1, eff. July 1, 1945. Amended by Laws 1967, p. 2564, § 1, eff. Jan. 1, 1968; P.A. 81–840, § 54, eff. Sept. 19, 1979; P.A. 81–1487, § 1, eff. July 1, 1981; P.A. 81–1550, Art. I, § 42, eff. Jan. 8, 1981.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 142c.

105/6r. Money received from rental of highway property

§ 6r. All money received from the rental of land, buildings or improvements by the Department of Transportation under Section 4–201.16 of the Illinois Highway Code [1] shall be remitted to the State Treasurer for payment into the Road Fund in the State treasury.

Laws 1919, p. 946, § 6r, added by Laws 1967, p. 2665, § 1, eff. Aug. 3, 1967. Amended by P.A. 77–2276, § 1, eff. Aug. 8, 1972; P.A. 80–1129, § 2, eff. July 1, 1978.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 142r.

[1] 605 ILCS 5/4–201.16.

105/8.3. Appropriations made from Road Fund

§ 8.3. Money in the Road Fund shall, if and when the State of Illinois incurs any bonded indebtedness for the construction of permanent highways, be set aside and used for the purpose of paying and discharging annually the principal and interest on that bonded indebtedness then due and payable, and for no other purpose. The surplus, if any, in the Road Fund after the payment of principal and interest on that bonded indebtedness then annually due shall be used as follows:

first — to pay the cost of administration of Chapters 2 through 10 of the Illinois Vehicle Code, [1] except the cost of administration of Articles I and II of Chapter 3 of that Code; and

secondly — for expenses of the Department of Transportation for construction, reconstruction, improvement, repair, maintenance, operation, and administration of highways in accordance with the provisions of laws relating thereto, or for any purpose related or incident to and connected therewith, including the separation of grades of those highways with railroads and with highways and including the payment of awards made by the Illinois Workers' Compensation Commission under the terms of the Workers' Compensation Act [2] or Workers' Occupational Diseases Act [3] for injury or death of an employee of the Division of Highways in the Department of Transportation; or for the acquisition of land and the erection of buildings for highway purposes, including the acquisition of highway right-of-way or for investigations to determine the reason-

ably anticipated future highway needs; or for making of surveys, plans, specifications and estimates for and in the construction and maintenance of flight strips and of highways necessary to provide access to military and naval reservations, to defense industries and defense-industry sites, and to the sources of raw materials and for replacing existing highways and highway connections shut off from general public use at military and naval reservations and defense-industry sites, or for the purchase of right-of-way, except that the State shall be reimbursed in full for any expense incurred in building the flight strips; or for the operating and maintaining of highway garages; or for patrolling and policing the public highways and conserving the peace; or for the operating expenses of the Department relating to the administration of public transportation programs; or, during fiscal year 2012 only, for the purposes of a grant not to exceed $8,500,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para–transit expenses; or, during fiscal year 2013 only, for the purposes of a grant not to exceed $3,825,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para–transit expenses; or, during fiscal year 2014 only, for the purposes of a grant not to exceed $3,825,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para-transit expenses; or, during fiscal year 2015 only, for the purposes of a grant not to exceed $3,825,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para-transit expenses; or for any of those purposes or any other purpose that may be provided by law.

Appropriations for any of those purposes are payable from the Road Fund. Appropriations may also be made from the Road Fund for the administrative expenses of any State agency that are related to motor vehicles or arise from the use of motor vehicles.

Beginning with fiscal year 1980 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement;

1. Department of Public Health;

2. Department of Transportation, only with respect to subsidies for one-half fare Student Transportation and Reduced Fare for Elderly, except during fiscal year 2012 only when no more than $40,000,000 may be expended and except during fiscal year 2013 only when no more than $17,570,300 may be expended and except during fiscal year 2014 only when no more than $17,570,000 may be expended and except during fiscal year 2015 only when no more than $17,570,000 may be expended;

3. Department of Central Management Services, except for expenditures incurred for group insurance premiums of appropriate personnel;

4. Judicial Systems and Agencies.

Beginning with fiscal year 1981 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement:

1. Department of State Police, except for expenditures with respect to the Division of Operations;

2. Department of Transportation, only with respect to Intercity Rail Subsidies, except during fiscal year 2012 only when no more than $40,000,000 may be expended and except during fiscal year 2013 only when no more than $26,000,000 may be expended and except during fiscal year 2014 only when no more than $38,000,000 may be expended and except during fiscal year 2015 only when no more than $42,000,000 may be expended, and Rail Freight Services.

Beginning with fiscal year 1982 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement: Department of Central Management Services, except for awards made by the Illinois Workers' Compensation Commission under the terms of the Workers' Compensation Act or Workers' Occupational Diseases Act for injury or death of an employee of the Division of Highways in the Department of Transportation.

Beginning with fiscal year 1984 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement:

1. Department of State Police, except not more than 40% of the funds appropriated for the Division of Operations;

2. State Officers.

Beginning with fiscal year 1984 and thereafter, no Road Fund monies shall be appropriated to any Department or agency of State government for administration, grants, or operations except as provided hereafter; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement. It shall not be lawful to circumvent the above appropriation limitations by governmental reorganization or other methods. Appropriations shall be made from the Road Fund only in accordance with the provisions of this Section.

Money in the Road Fund shall, if and when the State of Illinois incurs any bonded indebtedness for the construction of permanent highways, be set aside and used for the purpose of paying and discharging during each fiscal year the principal and interest on that bonded indebtedness as it becomes due and payable as provided in the Transportation Bond Act, [4] and for no other purpose. The surplus, if any, in the Road Fund after the payment of principal and interest on that bonded indebtedness then annually due shall be used as follows:

first — to pay the cost of administration of Chapters 2 through 10 of the Illinois Vehicle Code; and

secondly — no Road Fund monies derived from fees, excises, or license taxes relating to registration, operation and use of vehicles on public highways or to fuels used for the propulsion of those vehicles, shall be appropriated or expended other than for costs of administering the laws imposing those fees, excises, and license taxes, statutory refunds and adjustments allowed thereunder, administrative costs of the Department of Transportation, including, but not limited to, the operating expenses of the Department relating to the administration of public transportation programs, payment of debts and liabilities incurred in construction and reconstruction of public highways and bridges, acquisition of rights-of-way for and the cost of construction, reconstruction, maintenance, repair, and operation of public highways and bridges under the direction and supervision of the State, political subdivision, or municipality collecting those monies, or during fiscal year

2012 only for the purposes of a grant not to exceed $8,500,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para-transit expenses, or during fiscal year 2013 only for the purposes of a grant not to exceed $3,825,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para-transit expenses, or during fiscal year 2014 only for the purposes of a grant not to exceed $3,825,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para-transit expenses, or during fiscal year 2015 only for the purposes of a grant not to exceed $3,825,000 to the Regional Transportation Authority on behalf of PACE for the purpose of ADA/Para-transit expenses, and the costs for patrolling and policing the public highways (by State, political subdivision, or municipality collecting that money) for enforcement of traffic laws. The separation of grades of such highways with railroads and costs associated with protection of at-grade highway and railroad crossing shall also be permissible.

Appropriations for any of such purposes are payable from the Road Fund or the Grade Crossing Protection Fund as provided in Section 8 of the Motor Fuel Tax Law. [5]

Except as provided in this paragraph, beginning with fiscal year 1991 and thereafter, no Road Fund monies shall be appropriated to the Department of State Police for the purposes of this Section in excess of its total fiscal year 1990 Road Fund appropriations for those purposes unless otherwise provided in Section 5g of this Act. For fiscal years 2003, 2004, 2005, 2006, and 2007 only, no Road Fund monies shall be appropriated to the Department of State Police for the purposes of this Section in excess of $97,310,000. For fiscal year 2008 only, no Road Fund monies shall be appropriated to the Department of State Police for the purposes of this Section in excess of $106,100,000. For fiscal year 2009 only, no Road Fund monies shall be appropriated to the Department of State Police for the purposes of this Section in excess of $114,700,000. Beginning in fiscal year 2010, no road fund moneys shall be appropriated to the Department of State Police. It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other methods unless otherwise provided in Section 5g of this Act.

In fiscal year 1994, no Road Fund monies shall be appropriated to the Secretary of State for the purposes of this Section in excess of the total fiscal year 1991 Road Fund appropriations to the Secretary of State for those purposes, plus $9,800,000. It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other method.

Beginning with fiscal year 1995 and thereafter, no Road Fund monies shall be appropriated to the Secretary of State for the purposes of this Section in excess of the total fiscal year 1994 Road Fund appropriations to the Secretary of State for those purposes. It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other methods.

Beginning with fiscal year 2000, total Road Fund appropriations to the Secretary of State for the purposes of this Section shall not exceed the amounts specified for the following fiscal years:

Fiscal Year 2000	$80,500,000;
Fiscal Year 2001	$80,500,000;
Fiscal Year 2002	$80,500,000;
Fiscal Year 2003	$130,500,000;
Fiscal Year 2004	$130,500,000;
Fiscal Year 2005	$130,500,000;
Fiscal Year 2006	$130,500,000;
Fiscal Year 2007	$130,500,000;
Fiscal Year 2008	$130,500,000;
Fiscal Year 2009	$130,500,000.

For fiscal year 2010, no road fund moneys shall be appropriated to the Secretary of State.

Beginning in fiscal year 2011, moneys in the Road Fund shall be appropriated to the Secretary of State for the exclusive purpose of paying refunds due to overpayment of fees related to Chapter 3 of the Illinois Vehicle Code unless otherwise provided for by law.

It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other methods.

No new program may be initiated in fiscal year 1991 and thereafter that is not consistent with the limitations imposed by this Section for fiscal year 1984 and thereafter, insofar as appropriation of Road Fund monies is concerned.

Nothing in this Section prohibits transfers from the Road Fund to the State Construction Account Fund under Section 5e of this Act; nor to the General Revenue Fund, as authorized by this amendatory Act of the 93rd General Assembly.

The additional amounts authorized for expenditure in this Section by Public Acts 92–0600, 93–0025, 93–0839, and 94–91 shall be repaid to the Road Fund from the General Revenue Fund in the next succeeding fiscal year that the General Revenue Fund has a positive budgetary balance, as determined by generally accepted accounting principles applicable to government.

The additional amounts authorized for expenditure by the Secretary of State and the Department of State Police in this Section by this amendatory Act of the 94th General Assembly shall be repaid to the Road Fund from the General Revenue Fund in the next succeeding fiscal year that the General Revenue Fund has a positive budgetary balance, as determined by generally accepted accounting principles applicable to government.

Laws 1919, p. 946, § 8, eff. July 1, 1919. Resectioned in part § 8.3 and amended by Laws 1953, p. 563, § 1, eff. July 1, 1953. Amended by Laws 1953, p. 925, § 1, eff. July 6, 1953; Laws 1953, p. 1046, § 1, eff. July 10, 1953; Laws 1953, p. 1048, § 1, eff. July 10, 1953; Laws 1959, p. 185, § 1, eff. July 1, 1959; Laws 1965, p. 2931, § 1, eff. Aug. 10, 1965; P.A. 76–2289, § 1, eff. July 1, 1970; P.A. 81–3, 2nd Sp.Sess., § 3, eff. Sept. 19, 1979; P.A. 81–840, § 54, eff. Sept. 19, 1979; P.A. 81–992, § 52, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 93, eff. Sept. 26, 1980; P.A. 82–413, § 7, eff. Sept. 4, 1981; P.A. 82–789, Art. I, § 51, eff. July 13, 1982; P.A. 82–905, § 5, eff. Aug. 16, 1982; P.A. 82–1057, Art. II, § 25, eff. Feb. 11, 1983; P.A. 84–25, Art. IV, § 45, eff. July 18, 1985; P.A. 84–431, § 1, eff. Sept. 16, 1985; P.A. 84–1308, Art. II, § 183, eff. Aug. 25, 1986; P.A. 86–16, Art. 2, § 7, eff. June 30, 1989; P.A. 86–1159, § 2, eff. Aug. 10, 1990; P.A. 87–774, § 1, eff. Oct. 10, 1991; P.A. 87–1228, § 1, eff. Dec. 22, 1992; P.A. 88–78, § 5, eff. July 9, 1993; P.A. 91–37, § 5, eff. July 1, 1999; P.A. 91–760, § 40, eff. Jan. 1, 2001; P.A. 92–600, Art. 5, § 5–10, eff. June 28, 2002; P.A. 93–25, Art. 50, § 50–10, eff. June 20, 2003; P.A. 93–721, § 25, eff. Jan. 1, 2005; P.A. 93–839, Art. 10, § 10–100, eff. July 30, 2004; P.A. 94–91, Art. 20, § 20–5, eff. July 1, 2005; P.A. 94–839, Art. 5, § 5–40, eff. June 6, 2006; P.A. 95–707, Art. 5, § 5–10, eff. Jan. 11, 2008; P.A. 95–744, § 40, eff. July 18, 2008; P.A. 96–34, § 905, eff. July 13, 2009; P.A. 96–959, § 5–20, eff. July 1, 2010; P.A. 97–72, § 5–10, eff. July 1, 2011; P.A. 97–732, Art. 5, § 5–25, eff. June 30, 2012; P.A. 98–24, § 5–25, eff. June 19, 2013; P.A. 98–674, § 20–10, eff. June 30, 2014.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 144.3.

[1] 625 ILCS 5/1–100 et seq.

[2] 820 ILCS 305/1 et seq.

[3] 820 ILCS 310/1 et seq.

[4] 30 ILCS 415/1 et seq.

[5] 35 ILCS 505/8.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–674 incorporated the amendment by P.A. 98–24.

RECEIPT, INVESTMENT, AND DISBURSEMENT

ACT 235. PUBLIC FUNDS INVESTMENT ACT

235/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Public Funds Investment Act.

Laws 1943, vol. 1, p. 951, § 0.01, added by P.A. 86–1324, § 594, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 900.

235/1. "Public funds" and "public agency" defined

§ 1. The words "public funds", as used in this Act, mean current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

The words "public agency", as used in this Act, mean the State of Illinois, the various counties, townships, cities, towns, villages, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, the Illinois Bank Examiners' Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, now or hereafter created, whether herein specifically mentioned or not. This Act does not apply to the Illinois Prepaid Tuition Trust Fund, private funds collected by the Illinois Conservation Foundation, or pension funds or retirement systems established under the Illinois Pension Code, [1] except as otherwise provided in that Code.

The words "governmental unit", as used in this Act, have the same meaning as in the Local Government Debt Reform Act.

Laws 1943, vol. 1, p. 951, § 1, eff. July 23, 1943. Amended by P.A. 84–1127, § 11, eff. June 30, 1986; P.A. 85–1411, § 2, eff. Sept. 24, 1988; P.A. 87–968, § 1, eff. Jan. 1, 1993; P.A. 90–507, § 3, eff. Aug. 22, 1997; P.A. 91–669, § 5, eff. Jan. 1, 2000; P.A. 92–797, § 10, eff. Aug. 15, 2002; P.A. 98–297, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 901, transferred from Ill.Rev.Stat.1965, ch. 102, ¶ 29.

[1] 40 ILCS 5/1–101 et seq.

235/2. Authorized investments

§ 2. Authorized investments.

(a) Any public agency may invest any public funds as follows:

(1) in bonds, notes, certificates of indebtedness, treasury bills or other securities now or hereafter issued, which are guaranteed by the full faith and credit of the United States of America as to principal and interest;

(2) in bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and its instrumentalities;

(3) in interest-bearing savings accounts, interest-bearing certificates of deposit or interest-bearing time deposits or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act; [1]

(4) in short term obligations of corporations organized in the United States with assets exceeding $500,000,000 if (i) such obligations are rated at the time of purchase at one of the 3 highest classifications established by at least 2 standard rating services and which mature not later than 270 days from the date of purchase, (ii) such purchases do not exceed 10% of the corporation's outstanding obligations and (iii) no more than one-third of the public agency's funds may be invested in short term obligations of corporations; or

(5) in money market mutual funds registered under the Investment Company Act of 1940, [2] provided that the portfolio of any such money market mutual fund is limited to obligations described in paragraph (1) or (2) of this subsection and to agreements to repurchase such obligations.

(a–1) In addition to any other investments authorized under this Act, a municipality, park district, forest preserve district, conservation district, county, or other governmental unit may invest its public funds in interest bearing bonds of any county, township, city, village, incorporated town, municipal corporation, or school district, of the State of Illinois, of any other state, or of any political subdivision or agency of the State of Illinois or of any other state, whether the interest earned thereon is taxable or tax-exempt under federal law. The bonds shall be registered in the name of the municipality, park district, forest preserve district, conservation district, county, or other governmental unit, or held under a custodial agreement at a bank. The bonds shall be rated at the time of purchase within the 4 highest general classifications established by a rating service of nationally recognized expertise in rating bonds of states and their political subdivisions.

(b) Investments may be made only in banks which are insured by the Federal Deposit Insurance Corporation. Any public agency may invest any public funds in short term discount obligations of the Federal National Mortgage Association or in shares or other forms of securities legally issuable by savings banks or savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States. Investments may be made only in those savings banks or savings and loan associations the shares, or investment certificates of which are insured by the Federal Deposit Insurance Corporation. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of such governing authority, the public funds so invested will be required for expenditure by such public agency or its governing authority. The expressed judgment of any such governing authority as to the time when any public funds will be required for expenditure or be redeemable is final and conclusive. Any public agency may invest any public funds in dividend-bearing share accounts, share certificate accounts or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principal office of any such credit

union must be located within the State of Illinois. Investments may be made only in those credit unions the accounts of which are insured by applicable law.

(c) For purposes of this Section, the term "agencies of the United States of America" includes: (i) the federal land banks, federal intermediate credit banks, banks for cooperative, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto; (ii) the federal home loan banks and the federal home loan mortgage corporation; and (iii) any other agency created by Act of Congress.

(d) Except for pecuniary interests permitted under subsection (f) of Section 3–14–4 of the Illinois Municipal Code [3] or under Section 3.2 of the Public Officer Prohibited Practices Act, [4] no person acting as treasurer or financial officer or who is employed in any similar capacity by or for a public agency may do any of the following:

(1) have any interest, directly or indirectly, in any investments in which the agency is authorized to invest.

(2) have any interest, directly or indirectly, in the sellers, sponsors, or managers of those investments.

(3) receive, in any manner, compensation of any kind from any investments in which the agency is authorized to invest.

(e) Any public agency may also invest any public funds in a Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act. [5] Any public agency may also invest any public funds in a fund managed, operated, and administered by a bank, subsidiary of a bank, or subsidiary of a bank holding company or use the services of such an entity to hold and invest or advise regarding the investment of any public funds.

(f) To the extent a public agency has custody of funds not owned by it or another public agency and does not otherwise have authority to invest such funds, the public agency may invest such funds as if they were its own. Such funds must be released to the appropriate person at the earliest reasonable time, but in no case exceeding 31 days, after the private person becomes entitled to the receipt of them. All earnings accruing on any investments or deposits made pursuant to the provisions of this Act shall be credited to the public agency by or for which such investments or deposits were made, except as provided otherwise in Section 4.1 of the State Finance Act [6] or the Local Governmental Tax Collection Act, [7] and except where by specific statutory provisions such earnings are directed to be credited to and paid to a particular fund.

(g) A public agency may purchase or invest in repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, [8] as now or hereafter amended or succeeded, subject to the provisions of said Act and the regulations issued thereunder. The government securities, unless registered or inscribed in the name of the public agency, shall be purchased through banks or trust companies authorized to do business in the State of Illinois.

(h) Except for repurchase agreements of government securities which are subject to the Government Securities Act of 1986, as now or hereafter amended or succeeded, no public agency may purchase or invest in instruments which constitute repurchase agreements, and no financial institution may enter into such an agreement with or on behalf of any public agency unless the instrument and the transaction meet the following requirements:

(1) The securities, unless registered or inscribed in the name of the public agency, are purchased through banks or trust companies authorized to do business in the State of Illinois.

(2) An authorized public officer after ascertaining which firm will give the most favorable rate of interest, directs the custodial bank to "purchase" specified securities from a designated institution. The "custodial bank" is the bank or trust company, or agency of government, which acts for the public agency in connection with repurchase agreements involving the investment of funds by the public agency. The State Treasurer may act as custodial bank for public agencies executing repurchase agreements. To the extent the Treasurer acts in this capacity, he is hereby authorized to pass through to such public agencies any charges assessed by the Federal Reserve Bank.

(3) A custodial bank must be a member bank of the Federal Reserve System or maintain accounts with member banks. All transfers of book-entry securities must be accomplished on a Reserve Bank's computer records through a member bank of the Federal Reserve System. These securities must be credited to the public agency on the records of the custodial bank and the transaction must be confirmed in writing to the public agency by the custodial bank.

(4) Trading partners shall be limited to banks or trust companies authorized to do business in the State of Illinois or to registered primary reporting dealers.

(5) The security interest must be perfected.

(6) The public agency enters into a written master repurchase agreement which outlines the basic responsibilities and liabilities of both buyer and seller.

(7) Agreements shall be for periods of 330 days or less.

(8) The authorized public officer of the public agency informs the custodial bank in writing of the maturity details of the repurchase agreement.

(9) The custodial bank must take delivery of and maintain the securities in its custody for the account of the public agency and confirm the transaction in writing to the public agency. The Custodial Undertaking shall provide that the custodian takes possession of the securities exclusively for the public agency; that the securities are free of any claims against the trading partner; and any claims by the custodian are subordinate to the public agency's claims to rights to those securities.

(10) The obligations purchased by a public agency may only be sold or presented for redemption or payment by the fiscal agent bank or trust company holding the obligations upon the written instruction of the public agency or officer authorized to make such investments.

(11) The custodial bank shall be liable to the public agency for any monetary loss suffered by the public agency due to the failure of the custodial bank to take and maintain possession of such securities.

(i) Notwithstanding the foregoing restrictions on investment in instruments constituting repurchase agreements the Illinois Housing Development Authority may invest in, and any financial institution with capital of at least $250,000,000 may act as custodian for, instruments that constitute repurchase agreements, provided that the Illinois Housing Development Authority, in making each such investment, complies with the safety and soundness guidelines for engaging in repurchase transactions applicable to federally insured banks, savings banks, savings and loan associations or other depository institutions as set forth in the Federal Financial Institutions Examination Council Policy Statement Regarding Repurchase Agreements and any regulations issued, or which may be issued by the supervisory federal authority

pertaining thereto and any amendments thereto; provided further that the securities shall be either (i) direct general obligations of, or obligations the payment of the principal of and/or interest on which are unconditionally guaranteed by, the United States of America or (ii) any obligations of any agency, corporation or subsidiary thereof controlled or supervised by and acting as an instrumentality of the United States Government pursuant to authority granted by the Congress of the United States and provided further that the security interest must be perfected by either the Illinois Housing Development Authority, its custodian or its agent receiving possession of the securities either physically or transferred through a nationally recognized book entry system.

(j) In addition to all other investments authorized under this Section, a community college district may invest public funds in any mutual funds that invest primarily in corporate investment grade or global government short term bonds. Purchases of mutual funds that invest primarily in global government short term bonds shall be limited to funds with assets of at least $100 million and that are rated at the time of purchase as one of the 10 highest classifications established by a recognized rating service. The investments shall be subject to approval by the local community college board of trustees. Each community college board of trustees shall develop a policy regarding the percentage of the college's investment portfolio that can be invested in such funds.

Nothing in this Section shall be construed to authorize an intergovernmental risk management entity to accept the deposit of public funds except for risk management purposes.

Laws 1943, vol. 1, p. 951, § 2, eff. July 23, 1943. Amended by Laws 1947, p. 1249, § 1, eff. July 30, 1947; Laws 1959, p. 108, § 2, eff. July 1, 1959; Laws 1961, p. 2548, § 1, eff. Aug. 1, 1961; Laws 1963, p. 2021, § 1, eff. July 25, 1963; P.A. 77–333, § 1, eff. July 22, 1971; P.A. 77–1609, § 1, eff. Sept. 21, 1971; P.A. 77–2289, § 1, eff. Oct. 1, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 79–1085, § 1, eff. Oct. 1, 1975; P.A. 80–1145, § 1, eff. July 1, 1978; P.A. 81–1181, § 1, eff. July 1, 1980; P.A. 83–295, § 1, eff. Sept. 14, 1983; P.A. 83–325, § 1, eff. Sept. 14, 1983; P.A. 83–534, § 1, eff. Sept. 17, 1983; P.A. 83–1362, Art. II, § 89, eff. Sept. 11, 1984; P.A. 83–1431, § 10, eff. Sept. 16, 1984; P.A. 84–927, § 1, eff. Sept. 23, 1985; P.A. 84–958, § 1, eff. July 1, 1986; P.A. 84–1308, Art. II, § 91, eff. Aug. 25, 1986; P.A. 84–1365, § 1, eff. Sept. 10, 1986; P.A. 84–1378, § 1, eff. Jan. 1, 1987; P.A. 84–1438, Art. II, § 28, eff. Dec. 22, 1986; P.A. 84–1469, § 1, eff. Jan. 16, 1987; P.A. 85–202, § 2, eff. Aug. 21, 1987; P.A. 85–1272, § 3, eff. Aug. 30, 1988; P.A. 86–426, § 2, eff. Aug. 30, 1989; P.A. 86–683, § 2, eff. Sept. 1, 1989; P.A. 86–952, § 7, eff. Nov. 30, 1989; P.A. 86–1038, § 1, eff. March 19, 1990; P.A. 86–1271, § 1, eff. Jan. 1, 1991; P.A. 87–288, § 1, eff. Sept. 4, 1991; P.A. 87–940, § 2, eff. Aug. 28, 1992; P.A. 87–1098, § 4, eff. Sept. 15, 1992; P.A. 88–45, Art. II, § 2–15, eff. July 6, 1993; P.A. 88–355, § 3, eff. Aug. 16, 1993; P.A. 88–555, § 5, eff. July 27, 1994; P.A. 90–319, § 10, eff. Aug. 1, 1997; P.A. 93–360, § 5, eff. July 24, 2003; P.A. 96–741, § 5, eff. Aug. 25, 2009; P.A. 97–129, § 5, eff. July 14, 2011; P.A. 98–297, § 5, eff. Jan. 1, 2014; P.A. 98–390, § 5, eff. Aug. 16, 2013; P.A. 98–756, § 155, eff. July 16, 2014.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 902, transferred from Ill.Rev.Stat.1965, ch. 102, ¶ 30.

[1] 205 ILCS 5/1 et seq.

[2] 15 U.S.C.A. § 80a–1 et seq.

[3] 65 ILCS 5/3–14–4.

[4] 50 ILCS 105/3.2.

[5] 15 ILCS 505/17.

[6] 30 ILCS 105/4.1.

[7] 35 ILCS 715/1 et seq.

[8] 15 U.S.C.A. § 78a et seq.

235/2.5. Investment policy

§ 2.5. Investment policy.

(a) Investment of public funds by a public agency shall be governed by a written investment policy adopted by the public agency. The level of detail and complexity of the investment policy shall be appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio. The policy shall address safety of principal, liquidity of funds, and return on investment and shall require that the investment portfolio be structured in such manner as to provide sufficient liquidity to pay obligations as they come due. In addition, the investment policy shall include or address the following:

(1) a listing of authorized investments;

(2) a rule, such as the "prudent person rule", establishing the standard of care that must be maintained by the persons investing the public funds;

(3) investment guidelines that are appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio;

(4) a policy regarding diversification of the investment portfolio that is appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio;

(5) guidelines regarding collateral requirements, if any, for the deposit of public funds in a financial institution made pursuant to this Act, and, if applicable, guidelines for contractual arrangements for the custody and safekeeping of that collateral;

(6) a policy regarding the establishment of a system of internal controls and written operational procedures designed to prevent losses of funds that might arise from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the entity;

(7) identification of the chief investment officer who is responsible for establishing the internal controls and written procedures for the operation of the investment program;

(8) performance measures that are appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio;

(9) a policy regarding appropriate periodic review of the investment portfolio, its effectiveness in meeting the public agency's needs for safety, liquidity, rate of return, and diversification, and its general performance;

(10) a policy establishing at least quarterly written reports of investment activities by the public agency's chief financial officer for submission to the governing body and chief executive officer of the public agency. The reports shall include information regarding securities in the portfolio by class or type, book value, income earned, and market value as of the report date;

(11) a policy regarding the selection of investment advisors, money managers, and financial institutions; and

(12) a policy regarding ethics and conflicts of interest.

(b) For purposes of the State or a county, the investment policy shall be adopted by the elected treasurer and presented to the chief executive officer and the governing body. For purposes of any other public agency, the investment policy shall be adopted by the governing body of the public agency.

(c) The investment policy shall be made available to the public at the main administrative office of the public agency.

(d) The written investment policy required under this Section shall be developed and implemented by January 1, 2000.

Laws 1943, vol. 1, p. 951, § 2.5, added by P.A. 90–688, § 5, eff. July 31, 1998.

235/2.10. Unit of local government; deposit at reduced rate of interest

§ 2.10. Unit of local government; deposit at reduced rate of interest. The treasurer of a unit of local government may, in his or her discretion, deposit public moneys of that unit of local government in a financial institution pursuant to an agreement that provides for a reduced rate of interest, provided that the institution agrees to expend an amount of money equal to the amount of the reduction for senior centers.

Laws 1943, vol. 1, p. 951, § 2.10, added by P.A. 93–246, § 92, eff. July 22, 2003.

235/3. Designation of payee and fund; registration

§ 3. If any securities, purchased under authority of Section 2 hereof, are issuable to a designated payee or to the order of a designated payee, then the public agency shall be so designated, and further, if such securities are purchased with money taken from a particular fund of a public agency, the name of such fund shall be added to that of such public agency. If any such securities are registerable, either as to principal or interest, or both, then such securities shall be so registered in the name of the public agency, and in the name of the fund to which they are to be credited.

Laws 1943, vol. 1, p. 951, § 3, eff. July 23, 1943.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 903, transferred from Ill.Rev.Stat.1965, ch. 102, ¶ 31.

235/4. Safekeeping and disposition of securities; payments

§ 4. All securities purchased under the authority of this Act shall be held for the benefit of the public agency which purchased them, and if purchased with money taken from a particular fund, such securities shall be credited to and deemed to be a part of such fund, and shall be held for the benefit thereof. All securities so purchased shall be deposited and held in a safe place by the person or persons having custody of the fund to which they are credited, and such person or persons are responsible upon his or their official bond or bonds for the safekeeping of all such securities. Any securities purchased by any such public agency under authority of this Act, may be sold at any time, at the then current market price thereof, by the governing authority of such public agency. Except as provided in Section 4.1 of "An Act in relation to State finance",[1] all payments received as principal or interest, or otherwise, derived from any such securities shall be credited to the public agency and to the fund by or for which such securities were purchased.

Laws 1943, vol. 1, p. 951, § 4, eff. July 23, 1943. Amended by P.A. 84–1378, § 1, eff. Jan. 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 904, transferred from Ill.Rev.Stat.1965, ch. 102, ¶ 32.

[1] 30 ILCS 105/4.1.

235/5. Construction of Act

§ 5. This Act, without reference to any other statute, shall be deemed full and complete authority for the investment of public funds, as hereinabove provided, and shall be construed as an additional and alternative method therefor.

Laws 1943, vol. 1, p. 951, § 5, eff. July 23, 1943.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 905, transferred from Ill.Rev.Stat.1965, ch. 102, ¶ 33.

235/6. Report of financial institutions

§ 6. Report of financial institutions.

(a) No bank shall receive any public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last two sworn statements of resources and liabilities which the bank is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency. Each bank designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency; provided, that if such funds or moneys are deposited in a bank, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the capital stock and surplus of such bank, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any bank in excess of such limitation.

(b) No savings bank or savings and loan association shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last 2 sworn statements of resources and liabilities which the savings bank or savings and loan association is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation. Each savings bank or savings and loan association designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation; provided, that if such funds or moneys are deposited in a savings bank or savings and loan association, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the net worth of such savings bank or savings and loan association as defined by the Federal Deposit Insurance Corporation, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any savings bank or savings and loan association in excess of such limitation.

(c) No credit union shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a share deposit with copies of the last two reports of examination prepared by or submitted to the Illinois Department of Financial Institutions or the National Credit Union Administration. Each credit union designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all reports of examination prepared by or furnished to the Illinois Department of Financial Institutions or the National Credit Union Administration; provided that if such funds or moneys are invested in a credit union account, the amount of all such investments not collateralized or insured by an agency of the federal government or other approved share insurer shall not exceed 50% of the unimpaired capital and surplus of such credit union, which shall include shares, reserves and undivided earnings and the corporate authori-

ties of a public agency making an investment shall not be discharged from responsibility for any funds or moneys invested in a credit union in excess of such limitation.

(d) Whenever a public agency deposits any public funds in a financial institution, the public agency may enter into an agreement with the financial institution requiring any funds not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer to be collateralized by any of the following classes of securities, provided there has been no default in the payment of principal or interest thereon:

(1) Bonds, notes, or other securities constituting direct and general obligations of the United States, the bonds, notes, or other securities constituting the direct and general obligation of any agency or instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States, and bonds, notes, or other securities or evidence of indebtedness constituting the obligation of a U.S. agency or instrumentality.

(2) Direct and general obligation bonds of the State of Illinois or of any other state of the United States.

(3) Revenue bonds of this State or any authority, board, commission, or similar agency thereof.

(4) Direct and general obligation bonds of any city, town, county, school district, or other taxing body of any state, the debt service of which is payable from general ad valorem taxes.

(5) Revenue bonds of any city, town, county, or school district of the State of Illinois.

(6) Obligations issued, assumed, or guaranteed by the International Finance Corporation, the principal of which is not amortized during the life of the obligation, but no such obligation shall be accepted at more than 90% of its market value.

(7) Illinois Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act.

(8) In an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer: (i) securities, (ii) mortgages, (iii) letters of credit issued by a Federal Home Loan Bank, or (iv) loans covered by a State Guarantee under the Illinois Farm Development Act, if that guarantee has been assumed by the Illinois Finance Authority under Section 845–75 of the Illinois Finance Authority Act, and loans covered by a State Guarantee under Article 830 of the Illinois Finance Authority Act.

(9) Certificates of deposit or share certificates issued to the depository institution pledging them as security. The public agency may require security in the amount of 125% of the value of the public agency deposit. Such certificate of deposit or share certificate shall:

(i) be fully insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Share Insurance Fund or issued by a depository institution which is rated within the 3 highest classifications established by at least one of the 2 standard rating services;

(ii) be issued by a financial institution having assets of $15,000,000 or more; and

(iii) be issued by either a savings and loan association having a capital to asset ratio of at least 2%, by a bank having a capital to asset ratio of at least 6% or by a credit union having a capital to asset ratio of at least 4%.

The depository institution shall effect the assignment of the certificate of deposit or share certificate to the public agency and shall agree that, in the event the issuer of the certificate fails to maintain the capital to asset ratio required by this Section, such certificate of deposit or share certificate shall be replaced by additional suitable security.

(e) The public agency may accept a system established by the State Treasurer to aggregate permissible securities received as collateral from financial institutions in a collateral pool to secure public deposits of the institutions that have pledged securities to the pool.

(f) The public agency may at any time declare any particular security ineligible to qualify as collateral when, in the public agency's judgment, it is deemed desirable to do so.

(g) Notwithstanding any other provision of this Section, as security a public agency may, at its discretion, accept a bond, executed by a company authorized to transact the kinds of business described in clause (g) of Section 4 of the Illinois Insurance Code, in an amount not less than the amount of the deposits required by this Section to be secured, payable to the public agency for the benefit of the People of the unit of government, in a form that is acceptable to the public agency.

(h) Paragraphs (a), (b), (c), (d), (e), (f), and (g) of this Section do not apply to the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Cooperative Computer Center and public community colleges.

Laws 1943, vol. 1, p. 951, § 6, added by P.A. 82–558, § 1, eff. Jan. 1, 1982. Amended by P.A. 83–534, § 1, eff. Sept. 17, 1983; P.A. 86–1213, Art. 12, § 12005, eff. Aug. 30, 1990; P.A. 87–1098, § 4, eff. Sept. 15, 1992; P.A. 89–4, Art. 50, § 50–75, eff. Jan. 1, 1996; P.A. 89–508, § 25, eff. July 3, 1996; P.A. 91–324, § 5, eff. Jan. 1, 2000; P.A. 91–773, § 5, eff. June 9, 2000; P.A. 93–205, Art. 890, 890–37, eff. Jan. 1, 2004; P.A. 93–561, § 815, eff. Jan. 1, 2004; P.A. 95–331, § 325, eff. Aug. 21, 2007.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 906.

235/6.5. Federally insured deposits at Illinois financial institutions

§ 6.5. Federally insured deposits at Illinois financial institutions.

(a) Notwithstanding any other provision of this Act or any other statute, whenever a public agency invests public funds in an interest-bearing savings account, demand deposit account, interest-bearing certificate of deposit, or interest-bearing time deposit under Section 2 of this Act, the provisions of Section 6 of this Act and any other statutory requirements pertaining to the eligibility of a bank to receive or hold public deposits or to the pledging of collateral by a bank to secure public deposits do not apply to any bank receiving or holding all or part of the invested public funds if (i) the public agency initiates the investment at or through a bank located in Illinois and (ii) the invested public funds are at all times fully insured by an agency or instrumentality of the federal government.

(b) Nothing in this Section is intended to:

(1) prohibit a public agency from requiring the bank at or through which the investment of public funds is initiated to provide the public agency with the information other-

wise required by subsection (a), (b), or (c) of Section 6 of this Act as a condition of investing the public funds at or through that bank; or

(2) permit a bank to receive or hold public deposits if that bank is prohibited from doing so by any rule, sanction, or order issued by a regulatory agency or by a court.

(c) For purposes of this Section, the term "bank" includes any person doing a banking business whether subject to the laws of this or any other jurisdiction.

Laws 1943, vol. 1, p. 951, § 6.5, added by P.A. 93–756, § 5, eff. July 16, 2004. Amended by P.A. 98–703, § 10, eff. July 7, 2014; P.A. 98–756, § 155, eff. July 16, 2014.

P.A. 98–703, § 10, in subsec. (a), inserted "demand deposit account,".

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

235/7. Investments or deposits with or in minority-owned financial institutions

§ 7. When investing or depositing public funds, each custodian shall, to the extent permitted by this Act and by the lawful and reasonable performance of his custodial duties, invest or deposit such funds with or in minority-owned financial institutions within this State.

Laws 1943, vol. 1, p. 951, § 7, added by P.A. 84–754, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 907.

235/8. Consideration of financial institution's commitment to its community

§ 8. Consideration of financial institution's commitment to its community.

(a) In addition to any other requirements of this Act, a public agency is authorized to consider the financial institution's record and current level of financial commitment to its local community when deciding whether to deposit public funds in that financial institution. The public agency may consider factors including, but not necessarily limited to:

(1) for financial institutions subject to the federal Community Reinvestment Act of 1977, the current and historical ratings that the financial institution has received, to the extent that those ratings are publicly available, under the federal Community Reinvestment Act of 1977;

(2) any changes in ownership, management, policies, or practices of the financial institution that may affect the level of the financial institution's commitment to its community;

(3) the financial impact that the withdrawal or denial of deposits of public funds might have on the financial institution;

(4) the financial impact to the public agency as a result of withdrawing public funds or refusing to deposit additional public funds in the financial institution; and

(5) any additional burden on the resources of the public agency that might result from ceasing to maintain deposits of public funds at the financial institution under consideration.

(b) Nothing in this Section shall be construed as authorizing the public agency to conduct an examination or investigation of a financial institution or to receive information that is not publicly available and the disclosure of which is otherwise prohibited by law.

Laws 1943, vol. 1, p. 951, § 8, added by P.A. 93–251, § 10, eff. July 1, 2004.

BONDS AND DEBT

ACT 305. BOND AUTHORIZATION ACT

305/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Bond Authorization Act.

P.A. 76–1971, § 0.01, added by P.A. 86–4, § 2, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 17, ¶ 6600.

305/1. Public corporations; bonds

§ 1. (a) As used in this Act "public corporations" mean any body corporate organized by or pursuant to the laws of this State to carry out a public governmental or proprietary function, including, without limitation of the foregoing, the state, any school district, park district, city, village, incorporated town, county, drainage or any other type of district, commission, authority, university, public community college or any combination thereof, acting through the corporate authorities thereof.

(b) "Bonds" or "other evidences of indebtedness" mean any instrument providing for the payment of money executed by or on behalf of a public corporation or which the public corporation has assumed or agreed to pay, including, without limitation of the foregoing, bonds, notes, contracts, leases, certificates and tax anticipation warrants.

P.A. 76–1971, § 1, eff. May 26, 1970. Amended by P.A. 82–622, § 3, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 17, ¶ 6601, transferred from Ill.Rev.Stat., ch. 74, ¶ 81.

305/2. Rate of interest

§ 2. Notwithstanding the provisions of any other law to the contrary, any public corporation may agree or contract to pay interest on bonds or other evidences of indebtedness and tax anticipation warrants issued pursuant to law at an interest rate or rates not exceeding the greater of 9% per annum or 125% of the rate for the most recent date shown in the 20 G.O. Bonds Index of average municipal bond yields as published in the most recent edition of The Bond Buyer, published in New York, New York (or any successor publication or index, or if such publication or index is no longer published, then any index of long term municipal tax-exempt bond yields then selected by a governing body), at the time the contract is made for the sale of the bonds or other evidences of indebtedness or tax anticipation warrants. A contract is made with respect to notes or bonds when the public corporation is contractually obligated to issue notes, bonds, or other evidences of indebtedness or tax anticipation warrants to a purchaser who is contractually obligated to purchase them; and, with respect to bonds or notes bearing interest at a variable rate or subject to payment upon periodic demand or put or otherwise subject to remarketing by or for the public corporation, a contract is made on each date of change in the variable rate or such demand, put or remarketing. When bonds or other evidences of indebtedness or tax antici-

pation warrants are to be issued by a public corporation on a basis which is not tax-exempt under Section 103 of the Internal Revenue Code of 1986, as now or hereafter amended,[1] or successor code or provision, then the interest rate or rates payable thereon shall be determined by substituting 13 ½% for 9% and 200% for 125% in the first sentence of this Section.

These amendatory Acts of 1971, 1972, 1973, 1975, 1979, 1982, 1983, 1987 and 1988 are not limits upon any home rule unit.

This Act is not a limit with respect to any bonds, notes and other evidences of obligation for borrowed money issued by any public corporation and purchased or otherwise acquired by the Illinois Finance Authority, pursuant to the Illinois Finance Authority Act,[2] and such bonds, notes and other evidences of obligation for borrowed money may bear interest at any rate or rates, and such rate or rates may be established by an index or formula which may be implemented or established by persons appointed or retained therefor, notwithstanding any other provision of law to the contrary.

P.A. 76–1971, § 2, eff. May 26, 1970. Amended by P.A. 77–1455, § 1, eff. Sept. 7, 1971; P.A. 77–2825, § 1, eff. Dec. 22, 1972; P.A. 78–212, § 1, eff. July 18, 1973; P.A. 79–401, § 1, eff. Aug. 14, 1978; P.A. 80–1495, § 32, eff. Jan. 8, 1979; P.A. 81–1097, § 2, eff. Nov. 8, 1979; P.A. 82–746, § 2, eff. May 12, 1982; P.A. 83–816, § 1, eff. Sept. 24, 1983; P.A. 85–659, § 1, eff. Sept. 20, 1987; P.A. 85–1154, § 1, eff. July 29, 1988; P.A. 85–1419, § 19, eff. Dec. 15, 1988; P.A. 85–1440, Art. II, § 2–4, eff. Feb. 1, 1989; P.A. 93–205, Art. 890, § 890–8, eff. Jan. 1, 2004.

Formerly Ill.Rev.Stat.1991, ch. 17, ¶ 6602, transferred from Ill.Rev.Stat., ch. 74, ¶ 82.

[1] 26 U.S.C.A. § 103.

[2] 20 ILCS 3501 – 01–1 et seq.

305/3. Construction and application

§ 3. The provisions of this Act shall be cumulative and in addition to any powers or authority granted in any other laws of the State, and shall not be deemed to have repealed any provisions of existing laws.

P.A. 76–1971, § 3, eff. May 26, 1970.

Formerly Ill.Rev.Stat.1991, ch. 17, ¶ 6603, transferred from Ill.Rev.Stat., ch. 74, ¶ 83.

305/5. Exemption of certain industrial and housing projects

§ 5. Industrial projects financed pursuant to "The Industrial Project Revenue Bond Act" under the "Illinois Municipal Code", approved May 29, 1961, as now or hereafter amended,[1] and the "Industrial Building Revenue Bond Act", approved July 26, 1967, as now or hereafter amended,[2] shall not be subject to the provisions of this Act. Obligations issued by the Illinois Housing Development Authority pursuant to any provision of the Illinois Housing Development Act, as now or hereafter amended,[3] shall be subject to the provisions of this Act only to the extent expressly set forth in Section 16 of the Illinois Housing Development Act.[4]

P.A. 76–1971, § 5, added by P.A. 80–1054, § 1, eff. Oct. 1, 1977. Amended by P.A. 81–596, § 1, eff. Jan. 1, 1980; P.A. 84–125, § 2, eff. July 30, 1985; P.A. 85–1419, § 19, eff. Dec. 15, 1988; P.A. 86–1017, Art. 4, § 5, eff. Jan. 9, 1990.

Formerly Ill.Rev.Stat.1991, ch. 17, ¶ 6605, transferred from Ill.Rev.Stat., ch. 74, ¶ 85.

[1] 65 ILCS 5/11–74–1 et seq.

[2] 50 ILCS 445/1 et seq.

[3] 20 ILCS 3805/1 et seq.

[4] 20 ILCS 3805/16.

305/6. Exemption of certain redevelopment project obligations

§ 6. Obligations issued to finance redevelopment projects pursuant to the Tax Increment Allocation Redevelopment Act[1] shall not be subject to the provisions of this Act.

P.A. 76–1971, § 6, added by P.A. 84–1418, § 1, eff. Sept. 21, 1986.

Formerly Ill.Rev.Stat.1991, ch. 17, ¶ 6606.

[1] 65 ILCS 5/11–74.4–1 et seq.

305/7. Interest rate swaps

§ 7. Interest rate swaps. For purposes of this Section, terms are as defined in the Local Government Debt Reform Act.[1] With respect to all or part of any currently outstanding or proposed issue of its bonds, a governmental unit whose aggregate principal amount of bonds outstanding or proposed exceeds $10,000,000 may, without prior appropriation, enter into agreements or contracts with any necessary or appropriate person (the counter party) that will have the benefit of providing to the governmental unit: (i) an interest rate basis, cash flow basis, or other basis different from that provided in the bonds for the payment of interest or (ii) with respect to a future delivery of bonds, one or more of a guaranteed interest rate, interest rate basis, cash flow basis, or purchase price. Such agreements or contracts include without limitation agreements or contracts commonly known as interest rate swap, collar, cap, or derivative agreements, forward payment conversion agreements, interest rate locks, forward bond purchase agreements, bond warrant agreements, or bond purchase option agreements and also include agreements or contracts providing for payments based on levels of or changes in interest rates, including a change in an interest rate index, to exchange cash flows or a series of payments, or to hedge payment, rate spread, or similar exposure (such agreements or contracts, collectively, being "swaps"). Without limiting other permitted terms which may be included in swaps, the following provisions may or, if hereinafter so required, shall apply:

(a) Payments made pursuant to a swap (the swap payments) which are to be made by the governmental unit may be paid by such governmental unit, without limitation, from proceeds of the bonds, including bonds for future delivery, identified to such swaps, or from bonds issued to refund such bonds, or from whatever enterprise revenues or revenue source, including taxes pledged or to be pledged to the payment of such bonds, which enterprise revenues or revenue source may be increased to make such swap payments, and swap payments to be received by the governmental unit, which may be periodic, up-front, or on termination, shall be used solely for and limited to any lawful corporate purpose of the governmental unit.

(b) Up-front or periodic net swap payments to be paid by the governmental unit under the swaps (the standard swap payments) shall be treated as interest for the purpose of calculating any interest rate limit applicable to the bonds, provided, however, that for purposes of making such standard swap payments only (and not with respect to the bonds so issued or to be issued), the bonds shall be deemed not exempt from income taxation under the Internal Revenue Code for purposes of State law, as contained in this Bond Authorization Act,[2] relating to the permissible rate of interest to be borne thereon, and, provided further, that if payments of any standard swap payments are to be made by the

governmental unit and the counterparty on different dates, the net effect of such payments for purposes of such interest rate limitation shall be determined using a true interest cost (yield) calculation.

(c) Any such agreement or contract and the swap payments to be made thereunder shall not be taken into account with respect to any debt limit applicable to the governmental unit.

(d) Swap payments upon the termination of any swap may be paid to a counterparty upon any terms customary for swaps, including, without limitation, provisions using market quotations available for giving the net benefit of the swap at the time of termination to the persons entitled thereto (viz., the governmental unit or the counterparty) or reasonable fair market value determinations of the value at termination made in good faith by either such persons.

(e) The term of the swap shall not exceed the term of any currently outstanding bonds identified to such swap or, for bonds to be delivered, not greater than 5 years plus the term of years proposed for such bonds to be delivered, but in no event longer than 40 years, plus, in each case, any time period necessary to cure any defaults under such swap.

(f) The choice of law for enforcement of swaps as to any counterparty may be made for any state of these United States, but the law which shall apply to the obligations of the governmental unit shall be the law of the State of Illinois, and jurisdiction to enforce the swaps as against the governmental units shall be exclusively in the courts of the State of Illinois or in the applicable federal court having jurisdiction and located within the State of Illinois.

(g) Governmental units, in entering into swaps, may not waive any sovereign immunities from time to time available under the laws of the State of Illinois as to jurisdiction, procedures, and remedies, but such swaps shall otherwise be fully enforceable as valid and binding contracts as and to the extent provided herein and by other applicable law.

P.A. 76–1976, § 7, added by P.A. 87–1176, § 1, eff. Sept. 20, 1992. Amended by P.A. 93–9, § 5, eff. June 3, 2003.

Formerly Ill.Rev.Stat., ch. 17, ¶ 6607.

[1] 30 ILCS 350/1 et seq.

[2] 30 ILCS 305/0.01 et seq.

ACT 385. MOTOR FUEL TAX FUND BOND ACT

385/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Motor Fuel Tax Fund Bond Act.

P.A. 76–374, § 0.01, added by P.A. 86–1324, § 868, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 101–90.

385/1. Definitions

§ 1. As used in this Act:

(a) "Governmental unit" means any county, township, road district, city, village or incorporated town.

(b) "Highway" means a highway as defined in the Illinois Highway Code.

(c) "Road District" means a road district as defined in the Illinois Highway Code.[1]

P.A. 76–374, § 1, eff. July 8, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 102–1.

[1] See 605 ILCS 5/1–101 et seq.

385/2. Issuance; purposes; resolutions; contents

§ 2. The governing body of a governmental unit may issue bonds of the governmental unit for the purpose of constructing or improving highways of the governmental unit. The governing body of the governmental unit, and in the case of townships and road districts only with written approval of their respective county engineers or superintendents of highways, and in the case of consolidated road districts only with written approval of their county boards, shall, before issuing such bonds, by resolution determine that it is necessary to issue bonds of the governmental unit for the purpose of constructing or improving particular highways, and specify the type of construction or improvements, the proposed width of the highways, together with an estimate of the cost of such construction or improvements and the amount of bonds to be issued.

P.A. 76–374, § 2, eff. July 8, 1969. Amended by P.A. 87–217, § 7, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 102–2.

385/3. Terms of bonds; denominations; interest rate; payment of interest; sale

§ 3. The governing body of the governmental unit shall issue the bonds of the governmental unit not exceeding the amount named in the resolution. Such bonds shall become due not more than 30 years after their date, shall be in denominations of $100 or any multiple thereof, and shall bear interest, at a rate not exceeding the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, for bonds issued before January 1, 1972 and at a rate not exceeding the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract, for bonds issued after January 1, 1972, payable semiannually, as shall be determined by the governing body. Such bonds shall be sold in competitive bids; and the governing body may, if it is of the opinion that the bids are unsatisfactory, reject the bids and re-advertise and solicit other bids.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

P.A. 76–374, § 3, eff. July 8, 1969. Amended by P.A. 76–2011, § 1, eff. July 1, 1970; P.A. 86–4, § 70, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 102–3.

[1] 30 ILCS 305/0.01 et seq.

[2] See 5 ILCS 70/8.

385/4. Use of proceeds; resolution for payment of principal and interest; approval; bond Highway Fund

§ 4. The bonds authorized by this Act shall be sold and the proceeds used solely for the specified purpose. At the time or before issuing any such bonds, the governing body

shall adopt a resolution fixing the details of such bonds and providing for the payment of the principal and interest on such bonds as the same become due out of the motor fuel tax funds allotted to such governmental unit, subject to the approval of the Department of Transportation as provided in the Illinois Highway Code.[1]

The proceeds received from the sale of the bonds shall be placed in a special fund in the governmental unit treasury to be designated as the "Bond Highway Fund" and thereafter in the annual appropriation bill appropriate from such fund such sum or sums as may be necessary to carry out the provisions of this Act.

P.A. 76–374, § 4, eff. July 8, 1969. Amended by P.A. 77–179, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 102–4.

[1] 605 ILCS 5/1–101 et seq.

ACT 415. TRANSPORTATION BOND ACT

415/1. Short title

§ 1. This Act shall be known and may be cited as the "Transportation Bond Act".

P.A. 77–150, § 1, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 701.

415/2. Authorization; amount of bonds; purposes

§ 2. The State of Illinois is authorized to issue, sell and provide for the retirement of bonds of the State of Illinois in the amount of $1,729,000,000, hereinafter called the "Bonds", for the specific purpose of promoting and assuring rapid, efficient, and safe highway, air and mass transportation for the inhabitants of the State by providing monies, including the making of grants and loans, to be used for the acquisition, construction, reconstruction, extension and improvement of the following transportation facilities and equipment and for the acquisition of real property and interests in real property required or expected to be required in connection therewith, and within the limitations set forth in Section 5.1 of this Act for the specific purpose set forth in Section 2(b)(2) and (3) of this Act:

(a)(1) the acquisition, construction, reconstruction, extension and improvement of State highways, arterial highways, freeways, roads, structures separating highways and railroads and bridges; and

(2) the repair and reconstruction of bridges on roads maintained by counties, municipalities, townships or road districts;

(b)(1) the acquisition, construction, extension, reconstruction and improvement of mass transportation facilities including rapid transit, rail, bus and other equipment used in connection therewith by the State or any unit of local government, special transportation district, municipal corporation or other corporation or public authority authorized to provide and promote public transportation within the State or two or more of the foregoing acting jointly; and

(2) for the purpose of providing immediate relief from existing or impending inability to meet principal and interest payments and thereby aiding in achieving the maximum benefit for the public from the transportation capital improvement program, to provide funds for any payments required to be made for principal of and interest on bonds, certificates, equipment trust certificates or other evidences of indebtedness issued or guaranteed prior to the passage of this Act by the State or any unit of local government, special transportation district, municipal corporation or other corporation or public authority authorized to provide public transportation within the State, or two or more of the foregoing acting jointly, pursuant to any indenture, ordinance, resolution, agreement or contract to obtain and finance transportation facilities; and,

(3) for the purpose of reimbursing the General Revenue Fund for monies paid from the General Revenue Fund after passage of this Act for the purpose described in Section 2(b)(2).

(c) the acquisition, construction, extension, reconstruction, and improvement of airport or aviation facilities and any equipment used in connection therewith, including reimbursement for certain engineering and land acquisition costs as provided in Section 34a of the "Illinois Aeronautics Act", approved July 24, 1945, as amended,[1] by the State or any unit of local government, special transportation district, municipal corporation or other corporation or public authority authorized to provide public transportation within the State or two or more of the foregoing acting jointly.

$1,326,000,000 of the Bonds will be used for State highway acquisition, construction, reconstruction, extension and improvement as specifically described herein, hereinafter called the "Transportation Bonds, Series A". $363,000,000 of the Bonds will be used for the mass transportation purposes specifically described herein and $40,000,000 of the Bonds will be used for the aviation purposes specifically described herein, such $403,000,000 of Bonds collectively hereinafter called the "Transportation Bonds, Series B".

The $75,000,000 authorized for mass transportation purposes by this amendatory Act of 1973 shall be used for the acquisition of mass transportation equipment including rail and bus, and other equipment used in connection therewith for the area comprising the counties of DuPage, Kane, Lake, McHenry and Will, and that portion of the County of Cook outside the City of Chicago, as determined by the Regional Transportation Authority established pursuant to "The Regional Transportation Authority Act", enacted by the 78th General Assembly.[2] The proceeds of the sale of such bonds shall be expended only to, or with the approval of, such Authority. Nothing in this paragraph prohibits that Authority from using or approving the use of such proceeds for purposes of acquisition of mass transportation equipment for use between such area and other areas.

Of the Bonds authorized to be used for highway purposes, the proceeds of $14,965,100 of such bonds shall be used by the Department of Transportation for the purpose of the repair and reconstruction of unsafe and substandard bridges on roads maintained by counties, municipalities, townships and road districts under the Illinois Highway Code [3] and the proceeds of $12,000,000 of such bonds shall be used by the Department of Transportation for the same purposes as provided in Sections 6–902 through 6–905 of the Illinois Highway Code.[4]

Of the Bonds authorized to be sold for highway purposes, the proceeds of $36,939,400 of the Bonds shall be used for such purposes within the City of Chicago, the proceeds of $42,457,000 of the Bonds shall be used for such purposes in the Chicago urbanized area, the proceeds of $46,359,000 of the bonds shall be used for such purposes outside the Chicago urbanized area, the proceeds of $142,105,500 of the Bonds shall be used for such purposes within the Counties of Cook, DuPage, Kane, Lake, McHenry and Will, the proceeds of $181,139,100 of the Bonds shall be used for such purposes within the Counties of the State outside the Counties of Cook, DuPage, Kane, Lake, McHenry and Will.

Of the $106,000,000 of Bonds authorized to be sold for mass transportation purposes by this amendatory Act of

1979, $98,000,000 of the Bonds shall be used for such purposes within the Counties of Cook, DuPage, Kane, Lake, McHenry and Will and the proceeds of $8,000,000 of the Bonds shall be used for such purposes within the Counties of the State outside the Counties of Cook, DuPage, Kane, Lake, McHenry and Will.

P.A. 77–150, § 2, eff. July 2, 1971. Amended by P.A. 78–17, Third Sp.Sess., § 1; P.A. 79–1470, § 1, eff. Oct. 4, 1976; P.A. 80–1032, § 1, eff. Oct. 1, 1977; P.A. 81–2, 2nd Sp.Sess., § 1, eff. Sept. 19, 1979; P.A. 82–978, § 2, eff. Sept. 8, 1982; P.A. 83–654, § 2, eff. Sept. 23, 1983; P.A. 83–1490, § 24, eff. Dec. 4, 1984; P.A. 86–453, § 2, eff. Aug. 31, 1989.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 702.

[1] 620 ILCS 5/34a.

[2] 70 ILCS 3615/1.01 et seq.

[3] 605 ILCS 5/1–101 et seq.

[4] 605 ILCS 5/6–902 through 5/6–905.

415/3. Bonds; interest rate, form, denominations, signatures

§ 3. The Bonds shall bear interest payable annually or semi-annually, from their date, at the rate of not more than 7% per annum. The Bonds shall be serial bonds and be dated, issued and sold by the Governor, from time to time, in such amounts as may be necessary to provide funds for the specific purposes contemplated by Section 2 of this Act. Each Bond shall be in the denomination of $5,000 or some multiple thereof, and shall be made payable within not more than 30 years from its date as the Governor shall determine. These Bonds shall be signed by the Governor and attested by the Secretary of State under the printed facsimile seal of the State and countersigned by the State Treasurer by his manual signature or by his duly authorized deputy. The signatures of the Governor and the Secretary of State may be printed facsimile signatures. Interest coupons with printed facsimile signatures of the Governor, Secretary of State and State Treasurer may be attached to the Bonds. The fact that an officer whose signature or facsimile thereof appears on a Bond or interest coupon no longer holds such office at the time the Bond or coupon is delivered shall not invalidate such Bond or interest coupon.

P.A. 77–150, § 3, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 703.

415/4. Sale of bonds; bids; registration of bonds; calling bonds; proceeds

§ 4. The Bonds shall be sold to the highest and best bidders, for not less than their par value, upon sealed bids, from time to time, as the Governor shall direct. The Governor may reserve the right to reject any and all bids. The Secretary of State shall, from time to time, as the Bonds are to be sold, advertise in at least two daily newspapers, one of which is published in the City of Springfield and one in the City of Chicago, for proposals to purchase the Bonds. Each of such advertisements for proposals shall be published once at least 10 days prior to the date of the opening of the bids. All or any part of the Bonds may be made registerable as to principal with the State Treasurer. The Bonds may be callable as determined by the Governor; provided however, that the State shall not pay a premium of more than 3% of the principal of any Bonds so called. The Bonds shall be deposited with the State Treasurer, and upon delivery of the Bonds to the purchaser, the proceeds of the Bonds shall be paid into the State Treasury. The proceeds of the Transportation Bonds, Series A shall be kept in a separate fund known as the "Transportation Bond, Series A Fund", which separate fund is hereby created. The proceeds of the Transportation Bonds, Series B shall be kept in a separate fund known as the "Transportation Bond, Series B Fund", which separate fund is hereby created.

P.A. 77–150, § 4, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 704.

415/5. Use of proceeds; appropriation

§ 5. Prior to January 1, 1972, the proceeds from the sale of the Bonds shall be used by and under the direction of the Department of Aeronautics, the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) and the Department of Public Works and Buildings, and thereafter such department or agency as shall be designated by law, subject to appropriation by the General Assembly, in such amounts and at such times as the respective department deems necessary or desirable for the purposes provided by Section 2 of this Act.

P.A. 77–150, § 5, eff. July 2, 1971. Amended by P.A. 81–1509, Art. IV, § 142, eff. Sept. 26, 1980; P.A. 94–793, § 393, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 705.

415/5.1. Prior obligations; use of proceeds; reimbursement of General Revenue Fund

§ 5.1. Not more than $32,000,000 of the proceeds from the sale of the Bonds shall be used for payments pursuant to any indenture, ordinance, resolution, agreement or contract adopted or entered into prior to the passage of this Act to finance transportation facilities, and to reimburse the General Revenue Fund, as provided in Section 2(b)(2) and (3). No Bond proceeds shall be subject to appropriation for such purposes by the General Assembly after June 30, 1972.

P.A. 77–150, § 5.1, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 705.1.

415/6. Investment of funds obtained by Bonds; earnings

§ 6. The State Treasurer may, with the approval of the Governor, invest and reinvest, at the existing market price and in any event not to exceed 102% of par plus accrued interest, in obligations, the principal of and interest on which is guaranteed by the United States Government, or any certificates of deposit of any savings and loan association or any State or national bank which are fully secured by obligations, the principal of and interest on which is guaranteed by the United States Government, any money in the Transportation Bond, Series A Fund or the Transportation Bond, Series B Fund in the State Treasury which, in the opinion of the Governor communicated in writing to the State Treasurer, is not needed for current expenditures due or about to become due from such funds. The cost price of all such obligations shall be considered as cash in the custody of the State Treasurer, and such obligations shall be conveyed at cost price as cash by the State Treasurer to his successor. The money in the Transportation Bond, Series A Fund and in the Transportation Bond, Series B Fund in the form of such obligations shall be set up by the State Treasurer as separate accounts and shown distinctly in every report issued by him regarding fund balances. Earnings received on investments of the Transportation Bond, Series A Fund shall be paid into the Road Fund. All other earnings received upon any such investment shall be paid into the General Revenue Fund. All of the monies other than accrued inter-

est received from the sale or redemption of such investments shall be replaced by the State Treasurer in the fund from which the money was removed for such investment.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.[1]

P.A. 77–150, § 6, eff. July 2, 1971. Amended by P.A. 81–1487, § 2, eff. July 1, 1981; P.A. 83–541, § 80, eff. Sept. 17, 1983.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 706.

[1] 30 ILCS 235/6.

415/7. Appropriation for payment of bonds and interest; failure to make appropriation; bonds as obligations of Illinois

§ 7. The Governor shall include an appropriation in each annual State budget of monies in such amount as shall be necessary and sufficient, for the period covered by such budget, to pay the interest, as it shall accrue, on all Bonds issued under this Act and also to pay and discharge the principal of such of the Bonds as shall fall due during such period. To provide for the manner of repayment of the Transportation Bonds, Series A, a separate fund in the State Treasury called the "Transportation Bond, Series A Retirement and Interest Fund" is hereby created. The General Assembly shall annually make appropriations for monies to pay the principal of and interest on the Transportation Bonds, Series A from the Transportation Bond, Series A Retirement and Interest Fund and shall direct the transfer from time to time of monies from the Road Fund to the Transportation Bond, Series A Retirement and Interest Fund, an amount which shall be sufficient to pay the principal of and interest on the Transportation Bonds, Series A as the same become due. If there are insufficient funds in the Road Fund to pay the principal of and interest on the Transportation Bonds, Series A, as the same become due, the General Assembly shall direct the transfer from time to time of monies from the General Revenue Fund to the Transportation Bond, Series A Retirement and Interest Fund to the extent such transfer of monies is necessary to pay the principal of and interest on such Transportation Bonds, Series A which could not be paid by monies transferred from the Road Fund. To provide for the manner of repayment of the Transportation Bonds, Series B a separate fund in the State Treasury called the "Transportation Bond, Series B Retirement and Interest Fund" is hereby created. The General Assembly shall make appropriations for monies to pay the principal of and interest on the Transportation Bonds, Series B from the Transportation Bond, Series B Retirement and Interest Fund and shall direct the transfer from time to time of monies from the General Revenue Fund to the Transportation Bond, Series B Retirement and Interest Fund, an amount which shall be sufficient to pay the principal of and interest on the Transportation Bonds, Series B as the same become due.

If for any reason the General Assembly fails to make appropriations for or transfers to the said Transportation Bond, Series A Retirement and Interest Fund and the Transportation Bond, Series B Retirement and Interest Fund, as the case may be, of amounts sufficient for the State to pay the principal of and interest on the Bonds as the same become due, this Act shall constitute an irrevocable and continuing appropriation of all amounts necessary for that purpose, and the irrevocable and continuing authority for and direction to the Auditor of Public Accounts, or Comptroller as his successor, and to the Treasurer of the State to make the necessary transfers out of and disbursements from the revenues and funds of the State for that purpose.

All Bonds issued in accordance with the provisions of this Act shall be direct, general obligations of the State of Illinois and shall so state on the face thereof, and the full faith and credit of the State of Illinois are hereby pledged for the punctual payment of the interest thereon as the same shall become due and for the punctual payment of the principal thereof at maturity, and the provisions of this Section shall be irrepealable until all such Bonds are paid in full as to both principal and interest.

P.A. 77–150, § 7, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 707.

415/8. Actions to compel payment of bonds

§ 8. If the State fails to pay the principal of or interest on the Bonds as the same become due, a civil action to compel payment may be instituted in the Supreme Court of Illinois as a court of original jurisdiction by the holder or holders of the Bonds in respect of which such failure exists. Delivery of the summons and a copy of the complaint to the Attorney General or leaving them at his office in the capital with his assistant or clerk shall constitute good and sufficient service to give the Supreme Court of Illinois jurisdiction of the subject matter of such a suit of the State and its officer or officers named as defendants for the purpose of compelling such payment. Any case or cause of action concerning the validity of this Act relates to the revenue of the State of Illinois.

P.A. 77–150, § 8, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 708.

415/9. Computation of principal and interest on bonds; transfer of funds for payment

§ 9. Upon each delivery of the Bonds authorized to be issued under this Act, the Comptroller shall compute and certify to the State Treasurer the total amount of principal of and interest on the Bonds issued that will be payable in order to retire such Bonds and the amount of principal of and interest on such Bonds that will be payable on each payment date according to the tenor of such Bonds during the then current and each succeeding fiscal year.

On the last day of each month, commencing with the month in which the Transportation Bonds, Series A are issued and delivered, the State Treasurer and the Auditor of Public Accounts, or Comptroller as his successor, shall transfer from the Road Fund in the State Treasury, or the General Revenue Fund as provided in Section 7 of this Act, to the Transportation Bond, Series A Retirement and Interest Fund a sum of money, appropriated for such purpose, equal to the result of the amount of principal of and interest on the Transportation Bonds, Series A payable on the next payment date divided by the number of full calendar months between the date of such Transportation Bonds, Series A and the first such payment date, and thereafter divided by the number of months between each succeeding payment date after the first. On the last day of each month, commencing with the month in which the Transportation Bonds, Series B are issued and delivered, the State Treasurer and the Auditor of Public Accounts, or Comptroller as his successor, shall transfer from the General Revenue Fund in the State Treasury to the Transportation Bond, Series B Retirement and Interest Fund in the State Treasury a sum of money, appropriated for such purpose, equal to the result of the

amount of principal of and interest on the Transportation Bonds, Series B payable on the next payment date divided by the number of full calendar months between the date of such Transportation Bonds, Series B and the first such payment date, and thereafter divided by the number of months between each succeeding payment date after the first.

Such computations and transfers shall be made when a series of such Bonds is issued and delivered.

The transfer of monies hereinabove directed is not required if monies in the Transportation Bond, Series A Retirement and Interest Fund, or the Transportation Bond, Series B Retirement and Interest Fund, as the case may be, are more than the amount otherwise to be transferred as hereinabove provided, and if the Governor notifies the Auditor of Public Accounts, or Comptroller as his successor, and the State Treasurer of such fact.

P.A. 77–150, § 9, eff. July 2, 1971. Amended by P.A. 83–1280, § 6, eff. Aug. 31, 1984.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 709.

415/10. Refunding bonds

§ 10. The State of Illinois is authorized from time to time to issue, sell and provide for the retirement of bonds of the State of Illinois for the sole purpose of refunding all or any portion of the principal of the Bonds; provided that such refunding bonds shall mature within the terms of the Bonds. Such refunding bonds shall in all other respects be subject to the terms and conditions of Sections 3, 4, 6, 7, 8 and 9 of this Act. The principal amount of any such refunding bonds shall not exceed 103% of the principal amount of the Bonds refunded with the proceeds of such refunding bonds.

P.A. 77–150, § 10, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 710.

415/11. Severability of invalid provisions

§ 11. If any section, sentence, or clause of this Act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

P.A. 77–150, § 11, eff. July 2, 1971.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 711.

415/11.1. Issuance of bonds under General Obligation Bond Act

§ 11.1. After December 1, 1984, no additional bonds shall be issued or sold pursuant to this Act; instead all State of Illinois general obligation bonds shall be issued and sold pursuant to the "General Obligation Bond Act".[1]

P.A. 77–150, § 11.1, added by P.A. 83–1490, § 24, eff. Dec. 4, 1984.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 712.

[1] 30 ILCS 330/1 et seq.

PURCHASES AND CONTRACTS

ACT 500. ILLINOIS PROCUREMENT CODE

ARTICLE 1. GENERAL PROVISIONS

500/1–1. Short title

§ 1–1. Short title. This Act may be cited as the Illinois Procurement Code.

P.A. 90–572, Art. 1, § 1–1, eff. July 1, 1998.

500/1–5. Public policy

§ 1–5. Public policy. It is the purpose of this Code and is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts by or for any State agency.

P.A. 90–572, Art. 1, § 1–5, eff. July 1, 1998.

500/1–10. Application

§ 1–10. Application.

(a) This Code applies only to procurements for which bidders, offerors, potential contractors, or contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20–80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than $25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.

(11) Public-private agreements entered into according to the procurement requirements of Section 20 of the Public–Private Partnerships for Transportation Act and design-build agreements entered into according to the procurement requirements of Section 25 of the Public–Private Partnerships for Transportation Act.

(12) Contracts for legal, financial, and other professional and artistic services entered into on or before December 31, 2018 by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the Board of the Illinois Finance Authority and are subject to Sections 5–30, 20–160, 50–13, 50–20, 50–35, and 50–37 of this Code, as well as the final approval by the Board of the Illinois Finance Authority of the terms of the contract.

Notwithstanding any other provision of law, contracts entered into under item (12) of this subsection (b) shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The chief procurement officer shall prescribe the form and content of the notice. The Illinois Finance Authority shall provide the chief procurement officer, on a monthly basis, in the form and content prescribed by the chief procurement officer, a report of contracts that are related to the procurement of goods and services identified in item (12) of this subsection (b). At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of each of these contracts shall be made available to the chief procurement officer immediately upon request. The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

(c) This Code does not apply to the electric power procurement process provided for under Section 1–75 of the Illinois Power Agency Act and Section 16–111.5 of the Public Utilities Act.

(d) Except for Section 20–160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to the determination of costs of a clean coal SNG brownfield facility, as defined by Section 1–10 of the Illinois Power Agency Act, as required in subsection (h–3) of Section 9–220 of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.

(f) This Code does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between gas utilities and the clean coal SNG brownfield facility, as defined in Section 1–10 of the Illinois Power Agency Act, as required under subsection (h–1) of Section 9–220 of the Public Utilities Act.

(g) This Code does not apply to the processes used by the Illinois Power Agency to retain a mediator to mediate contract disputes between gas utilities and the clean coal SNG facility and to retain an expert to assist in the review of contracts under subsection (h) of Section 9–220 of the Public Utilities Act. This Code does not apply to the process used by the Illinois Commerce Commission to retain an expert to assist in determining the actual incurred costs of the clean coal SNG facility and the reasonableness of those costs as required under subsection (h) of Section 9–220 of the Public Utilities Act.

(h) This Code does not apply to the process to procure or contracts entered into in accordance with Sections 11–5.2 and 11–5.3 of the Illinois Public Aid Code.

(i) Each chief procurement officer may access records necessary to review whether a contract, purchase, or other expenditure is or is not subject to the provisions of this Code, unless such records would be subject to attorney-client privilege.

(j) This Code does not apply to the process used by the Capital Development Board to retain an artist or work or works of art as required in Section 14 of the Capital Development Board Act. [1]

(k) This Code does not apply to the process to procure contracts, or contracts entered into, by the State Board of Elections or the State Electoral Board for hearing officers appointed pursuant to the Election Code.

P.A. 90–572, Art. 1, § 1–10, eff. July 1, 1998. Amended by P.A. 91–627, § 5, eff. Aug. 19, 1999; P.A. 91–904, § 5, eff. July 6, 2000; P.A. 92–797, § 15, eff. Aug. 15, 2002; P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007; P.A. 95–615, § 5, eff. Sept. 11, 2007; P.A. 95–876, § 105, eff. Aug. 21, 2008; P.A. 96–840, § 10, eff. Dec. 23, 2009; P.A. 96–1331, § 910, eff. July 27, 2010; P.A. 97–96, § 7, eff. July 13, 2011; P.A. 97–239, § 10, eff. Aug. 2, 2011; P.A. 97–502, § 915, eff. Aug. 23, 2011; P.A. 97–689, § 25, eff. June 14, 2012; P.A. 97–813, § 140, eff. July 13, 2012; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–90, § 15, eff. July 15, 2013; P.A. 98–463, § 140, eff. Aug. 16, 2013; P.A. 98–572, § 10, eff. Jan. 1, 2014; P.A. 98–756, § 160, eff. July 16, 2014; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 20 ILCS 3105/14.

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–1076, § 5, added subsec. (k).

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

500/1–11. Applicability of certain Public Acts

§ 1–11. Applicability of certain Public Acts. The changes made to this Code by Public Act 96–793, Public Act 96–795, and this amendatory Act of the 96th General Assembly apply to those procurements for which bidders, offerors, vendors, potential contractors, or contractors were first solicited on or after July 1, 2010.

P.A. 90–572, Art. 1, § 1–11 added by P.A. 96–920, § 5, eff. July 1, 2010. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15. Definitions

§ 1–15. Definitions. For the purposes of this Code, the words set forth in the following Sections of this Article have the meanings set forth in those Sections.

P.A. 90–572, Art. 1, § 1–15, eff. Feb. 6, 1998.

500/1–15.01. Bid

§ 1–15.01. Bid. "Bid" means the response submitted by a bidder in a competitive sealed bidding process, to an invitation for bid, or to a multi-step sealed bidding process.

P.A. 90–572, Art. 1, § 1–15.01, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.02. Bidder

§ 1–15.02. Bidder. "Bidder" means one who submits a response in a competitive sealed bidding process, to an invitation for bid, or to a multi-step sealed bidding process.

P.A. 90–572, Art. 1, § 1–15.02, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.03. § 1–15.03. Repealed by P.A. 96–795, § 95–36, eff. July 1, 2010

500/1–15.05. Board

§ 1–15.05. Board. "Board" means the Procurement Policy Board.

P.A. 90–572, Art. 1, § 1–15.05, eff. Feb. 6, 1998.

500/1–15.10. Business

§ 1–15.10. Business. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.

P.A. 90–572, Art. 1, § 1–15.10, eff. Feb. 6, 1998.

500/1–15.12. Change order

§ 1–15.12. Change order. "Change order" means a change in a contract term, other than as specifically provided for in the contract, which authorizes or necessitates any increase or decrease in the cost of the contract or the time for completion for procurements subject to the jurisdiction of the chief procurement officers appointed pursuant to Section 10–20.

P.A. 90–572, Art. 1, § 1–15.12, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.13. Chief Procurement Office

§ 1–15.13. Chief Procurement Office. "Chief Procurement Office" means the offices to which the chief procurement officers are appointed pursuant to Section 10–20.

P.A. 90–572, Art. 1, § 1–15.13, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.15. Chief Procurement Officer

§ 1–15.15. Chief Procurement Officer. "Chief Procurement Officer" means any of the 4 persons appointed or approved by a majority of the members of the Executive Ethics Commission :

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any construction or construction-related service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, the independent chief procurement officer appointed by the Secretary of Transportation with the consent of the majority of the members of the Executive Ethics Commission.

(3) for all procurements made by a public institution of higher education, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

(4) (Blank).

(5) for all other procurements, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

P.A. 90–572, Art. 1, § 1–15.15, eff. Feb. 6, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–920, § 5, eff. July 1, 2010.

P.A. 96–920 incorporated the amendments by P.A. 96–795.

500/1–15.17. Contractor

§ 1–15.17. Contractor. "Contractor" means any person having a contract with a State agency as defined in Section 1–15.30.

P.A. 90–572, Art. 1, § 1–15.17, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.20. Construction and construction-related services

§ 1–15.20. Construction and construction-related services. "Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Construction-related services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction.

P.A. 90–572, Art. 1, § 1–15.20, eff. Feb. 6, 1998.

500/1–15.25. Construction agency

§ 1–15.25. Construction agency. "Construction agency" means the Capital Development Board for construction or remodeling of State-owned facilities; the Illinois Department of Transportation for construction or maintenance of roads, highways, bridges, and airports; the Illinois Toll Highway Authority for construction or maintenance of toll highways; the Illinois Power Agency for construction, maintenance, and expansion of Agency-owned facilities, as defined in Section 1–10 of the Illinois Power Agency Act; and any other State agency entering into construction contracts as authorized by law or by delegation from the chief procurement officer.

P.A. 90–572, Art. 1, § 1–15.25, eff. Feb. 6, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007.

500/1–15.30. Contract

§ 1–15.30. Contract. "Contract" means all types of State agreements, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property where the State is the lessee, or capital improvements, and including renewals, master contracts, contracts for financing through use of installment or lease-purchase

arrangements, renegotiated contracts, amendments to contracts, and change orders.

P.A. 90–572, Art. 1, § 1–15.30, eff. Feb. 6, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.35. Cost-reimbursement contract

§ 1–15.35. Cost-reimbursement contract. "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this Code, and a fee, if any.

P.A. 90–572, Art. 1, § 1–15.35, eff. Feb. 6, 1998.

500/1–15.42. Grant

§ 1–15.42. Grant. "Grant" means the furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to this Code.

P.A. 90–572, Art. 1, § 1–15.42, eff. Feb. 6, 1998.

500/1–15.45. Invitation for bids

§ 1–15.45. Invitation for bids. "Invitation for bids" means the process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

P.A. 90–572, Art. 1, § 1–15.45, eff. Feb. 6, 1998.

500/1–15.50. Negotiation

§ 1–15.50. Negotiation. "Negotiation" means the process of selecting a contractor other than by competitive sealed bids, multi-step sealed bidding, or competitive sealed proposals, whereby a purchasing agency can establish any and all terms and conditions of a procurement contract by discussion with one or more potential contractors.

P.A. 90–572, Art. 1, § 1–15.50, eff. Feb. 6, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.51. Offer

§ 1–15.51. Offer. "Offer" means a response submitted by an offeror in a competitive sealed proposal process or to a request for proposal.

P.A. 90–572, Art. 1, § 1–15.51, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.52. Offeror

§ 1–15.52. Offeror. "Offeror" means any person who submits a proposal in response to a competitive sealed proposal process or a request for proposals.

P.A. 90–572, Art. 1, § 1–15.52, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.55. Person

§ 1–15.55. Person. "Person" means any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.

P.A. 90–572, Art. 1, § 1–15.55, eff. Feb. 6, 1998.

500/1–15.60. Professional and artistic services

§ 1–15.60. Professional and artistic services. "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.

P.A. 90–572, Art. 1, § 1–15.60, eff. Feb. 6, 1998.

500/1–15.65. Purchase description

§ 1–15.65. Purchase description. "Purchase description" means the words used in a solicitation to describe the supplies, services, professional or artistic services, or construction to be procured or real property or capital improvements to be leased and includes specifications attached to or made a part of the solicitation.

P.A. 90–572, Art. 1, § 1–15.65, eff. Feb. 6, 1998.

500/1–15.68. Purchase of care

§ 1–15.68. Purchase of care. "Purchase of care" means a contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitative, social, or human services directly to a recipient of a State aid program.

P.A. 90–572, Art. 1, § 1–15.68, eff. Feb. 6, 1998.

500/1–15.70. Purchasing agency

§ 1–15.70. Purchasing agency. "Purchasing agency" means a State agency that enters into a contract at the direction of a State purchasing officer authorized by a chief procurement officer or a chief procurement officer.

P.A. 90–572, Art. 1, § 1–15.70, eff. Feb. 6, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/1–15.75. Request for proposals

§ 1–15.75. Request for proposals. "Request for proposals" means the process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

P.A. 90–572, Art. 1, § 1–15.75, eff. Feb. 6, 1998.

500/1–15.80. Responsible bidder, potential contractor, or offeror

§ 1–15.80. Responsible bidder, potential contractor, or offeror. "Responsible bidder, potential contractor, or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or offer is submitted for a State contract.

P.A. 90–572, Art. 1, § 1–15.80, eff. Feb. 6, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.85. Responsive bidder

§ 1–15.85. Responsive bidder. "Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation for bids.

P.A. 90–572, Art. 1, § 1–15.85, eff. Feb. 6, 1998.

500/1–15.86. Responsive offeror

§ 1–15.86. Responsive offeror. "Responsive offeror" means a person who has submitted an offer that conforms in all material respects to the request for proposals.

P.A. 90–572, Art. 1, § 1–15.86, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.90. Services

§ 1–15.90. Services. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

P.A. 90–572, Art. 1, § 1–15.90, eff. Feb. 6, 1998.

500/1–15.95. Specifications

§ 1–15.95. Specifications. "Specifications" means any description, provision, or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service, or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, professional or artistic service, construction, or other item for delivery.

P.A. 90–572, Art. 1, § 1–15.95, eff. Feb. 6, 1998.

500/1–15.100. State agency

§ 1–15.100. State agency. "State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code [1] or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act,[2] and the Illinois Comprehensive Health Insurance Board.

P.A. 90–572, Art. 1, § 1–15.100, eff. Feb. 6, 1998.

[1] 40 ILCS 5/1–101 et seq.

[2] 110 ILCS 805/1–1 et seq.

500/1–15.105. State purchasing officer

§ 1–15.105. State purchasing officer. "State purchasing officer" means a person appointed by any of the chief procurement officers to exercise the procurement authority created by this Code or by rule.

P.A. 90–572, Art. 1, § 1–15.105, eff. Feb. 6, 1998.

500/1–15.107. Subcontract

§ 1–15.107. Subcontract. "Subcontract" means a contract between a person and a person who has a contract subject to this Code, pursuant to which the subcontractor provides to the contractor, or, if the contract price exceeds $50,000, another subcontractor, some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency. For purposes of this Code, a "subcontract" does not include purchases of goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to this Code.

P.A. 90–572, Art. 1, § 1–15.107, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.108. Subcontractor

§ 1–15.108. Subcontractor. "Subcontractor" means a person or entity that enters into a contractual agreement with a total value of $50,000 or more with a person or entity who has a contract subject to this Code pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract. For purposes of this Code, a person or entity is not a "subcontractor" if that person only provides goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to this Code.

P.A. 90–572, Art. 1, § 1–15.108, added by P.A. 96–920, § 5, eff. July 1, 2010. Amended by P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.110. Supplies

§ 1–15.110. Supplies. "Supplies" means all personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies that can be procured regularly or are available on the commercial market.

P.A. 90–572, Art. 1, § 1–15.110, eff. Feb. 6, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.111. Supplier

§ 1–15.111. Supplier. "Supplier" means any person or entity providing supplies, including, but not limited to, equipment, materials, printing, and insurance, and the financing of those supplies that can be procured regularly or are available on the commercial market.

P.A. 90–572, Art. 1, § 1–15.111, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/1–15.115. Using agency

§ 1–15.115. Using agency. "Using agency" means a State agency that uses items procured under this Code.

P.A. 90–572, Art. 1, § 1–15.115, eff. Feb. 6, 1998.

500/1–25. Property rights

§ 1–25. Property rights. No person shall have any right to a specific contract with the State unless that person has a contract that has been signed by an officer or employee of the purchasing agency with appropriate signature authority. The State shall be under no obligation to issue an award or execute a contract.

P.A. 90–572, Art. 1, § 1–25, eff. July 1, 1998.

500/1–30. Applicability to Constitutional Officers and the Legislative and Judicial Branches

§ 1–30. Applicability to Constitutional Officers and the Legislative and Judicial Branches.

(a) The constitutional officers shall procure their needs in a manner substantially in accordance with the requirements of this Code and shall promulgate rules no less restrictive than the requirements of this Code.

(b) The legislative and judicial branches are exempt from this Code. The legislative and judicial branches shall make procurements in accordance with rules promulgated to meet their needs. Procurement rules promulgated by the legislative and judicial branches may incorporate provisions of this Code.

P.A. 90–572, Art. 1, § 1–30, eff. July 1, 1998.

ARTICLE 5. POLICY ORGANIZATION

500/5–5. Procurement Policy Board

§ 5–5. Procurement Policy Board.

(a) Creation. There is created a Procurement Policy Board, an agency of the State of Illinois.

(b) Authority and duties. The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases procured by the State. The Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to chief procurement officers and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.

Upon a three-fifths vote of its members, the Board may review a contract. Upon a three-fifths vote of its members, the Board may propose procurement rules for consideration by chief procurement officers. These proposals shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Board shall act upon the vote of a majority of its members who have been appointed and are serving.

(b–5) Reviews, studies, and hearings. The Board may review, study, and hold public hearings concerning the implementation and administration of this Code. Each chief procurement officer, State purchasing officer, procurement compliance monitor, and State agency shall cooperate with the Board, provide information to the Board, and be responsive to the Board in the Board's conduct of its reviews, studies, and hearings.

(c) Members. The Board shall consist of 5 members appointed one each by the 4 legislative leaders and the Governor. Each member shall have demonstrated sufficient business or professional experience in the area of procurement to perform the functions of the Board. No member may be a member of the General Assembly.

(d) Terms. Of the initial appointees, the Governor shall designate one member, as Chairman, to serve a one-year term, the President of the Senate and the Speaker of the House shall each appoint one member to serve 3–year terms, and the Minority Leader of the House and the Minority Leader of the Senate shall each appoint one member to serve 2–year terms. Subsequent terms shall be 4 years. Members may be reappointed for succeeding terms.

(e) Reimbursement. Members shall receive no compensation but shall be reimbursed for any expenses reasonably incurred in the performance of their duties.

(f) Staff support. Upon a three-fifths vote of its members, the Board may employ an executive director. Subject to appropriation, the Board also may employ a reasonable and necessary number of staff persons.

(g) Meetings. Meetings of the Board may be conducted telephonically, electronically, or through the use of other telecommunications. Written minutes of such meetings shall be created and available for public inspection and copying.

(h) Procurement recommendations. Upon a three-fifths vote of its members, the Board may review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of this Code or the existence of a conflict of interest as described in subsections (b) and (d) of Section 50–35. A chief procurement officer or State purchasing officer shall notify the Board if an alleged conflict of interest or violation of the Code is identified, discovered, or reasonably suspected to exist. Any person or entity may notify the Board of an alleged conflict of interest or violation of the Code. A recommendation of the Board shall be delivered to the appropriate chief procurement officer and Executive Ethics Commission within 7 calendar days and must be published in the next volume of the Procurement Bulletin. In the event that an alleged conflict of interest or violation of the Code that was not originally disclosed with the bid, offer, or proposal is identified and filed with the Board, the Board shall provide written notice of the alleged conflict of interest or violation to the bidder, offeror, potential contractor, contractor, or subcontractor on that contract. If the alleged conflict of interest or violation is by the subcontractor, written notice shall also be provided to the bidder, offeror, potential contractor, or contractor. The bidder, offeror, potential contractor, contractor, or subcontractor shall have 15 calendar days to provide a written response to the notice, and a hearing before the Board on the alleged conflict of interest or violation shall be held upon request by the bidder, offeror, potential contractor, contractor, or subcontractor. The requested hearing date and time shall be determined by the Board, but in no event shall the hearing occur later than 15 calendar days after the date of the request.

(i) After providing notice and a hearing as required by subsection (h), the Board shall refer any alleged violations of this Code to the Executive Inspector General in addition to or instead of issuing a recommendation to void a contract.

P.A. 90–572, Art. 5, § 5–5, eff. July 1, 1998. Amended by P.A. 93–839, Art. 10, § 10–130, eff. July 30, 2004; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/5–23. Interests of Board members

§ 5–23. Interests of Board members. Members of the Procurement Policy Board employed by or holding an interest in an entity doing business with or attempting to do business with the State of Illinois do not, by their service on the Board, preclude that entity from doing business with or attempting to do business with the State.

P.A. 90–572, Art. 5, § 5–23, eff. July 1, 1998.

500/5–25. Rulemaking authority; agency policy; agency response

§ 5–25. Rulemaking authority; agency policy; agency response.

(a) Rulemaking. A chief procurement officer authorized to make procurements under this Code shall have the authority to promulgate rules to carry out that authority. The rulemaking on specific procurement topics mentioned in specific Sections of this Code shall not be construed as prohibiting or limiting rulemaking on other procurement topics.

All rules shall be promulgated in accordance with the Illinois Administrative Procedure Act.[1] Contractual provisions, specifications, and procurement descriptions are not rules and are not subject to the Illinois Administrative Procedure Act. All rules other than those promulgated by the Board shall be presented in writing to the Board for review and comment. The Board shall express their opinions and recommendations in writing. The proposed rules and recommendations shall be made available for public review. The rules shall also be approved by the Joint Committee on Administrative Rules.

(b) Policy. Each chief procurement officer shall promptly notify the Procurement Policy Board in writing of any proposed new procurement rule or policy or any proposed change in an existing procurement rule or policy.

(c) Response. Each State agency must respond promptly in writing to all inquiries and comments of the Procurement Policy Board.

P.A. 90–572, Art. 5, § 5–25, eff. July 1, 1998. Amended by P.A. 93–839, Art. 10, § 10–130, eff. July 30, 2004; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 5 ILCS 100/1–1 et seq.

500/5–30. Proposed contracts; Procurement Policy Board

§ 5–30. Proposed contracts; Procurement Policy Board.

(a) Except as provided in subsection (c), within 30 calendar days after notice of the awarding or letting of a contract has appeared in the Procurement Bulletin in accordance with subsection (b) of Section 15–25, the Board may request in writing from the contracting agency and the contracting agency shall promptly, but in no event later than 7 calendar days after receipt of the request, provide to the Board, by electronic or other means satisfactory to the Board, documentation in the possession of the contracting agency concerning the proposed contract. Nothing in this subsection is intended to waive or abrogate any privilege or right of confidentiality authorized by law.

(b) No contract subject to this Section may be entered into until the 30–day period described in subsection (a) has expired, unless the contracting agency requests in writing that the Board waive the period and the Board grants the waiver in writing.

(c) This Section does not apply to (i) contracts entered into under this Code for small and emergency procurements as those procurements are defined in Article 20 and (ii) contracts for professional and artistic services that are nonrenewable, one year or less in duration, and have a value of less than $20,000. If requested in writing by the Board, however, the contracting agency must promptly, but in no event later than 10 calendar days after receipt of the request, transmit to the Board a copy of the contract for an emergency procurement and documentation in the possession of the contracting agency concerning the contract.

P.A. 90–572, Art. 5, § 5–30, added by P.A. 93–839, Art. 10, § 10–130, eff. July 30, 2004. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

ARTICLE 10. APPOINTMENTS

500/10–5. Exercise of procurement authority

§ 10–5. Exercise of procurement authority. The chief procurement officer shall exercise all procurement authority created by this Code. The State purchasing officers appointed under this Code shall exercise procurement authority at the direction of their respective chief procurement officer. Decisions of a State purchasing officer are subject to review by the respective chief procurement officer.

P.A. 90–572, Art. 10, § 10–5, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/10–10. Independent State purchasing officers

§ 10–10. Independent State purchasing officers.

(a) The chief procurement officer shall appoint a State purchasing officer for each agency that the chief procurement officer is responsible for under Section 1–15.15. A State purchasing officer shall be located in the State agency that the officer serves but shall report to his or her respective chief procurement officer. The State purchasing officer shall have direct communication with agency staff assigned to assist with any procurement process. At the direction of his or her respective chief procurement officer, a State purchasing officer shall have the authority to approve or reject contracts for a purchasing agency. If the State purchasing officer provides written approval of the contract, the head of the applicable State agency shall have the authority to sign and enter into that contract. All actions of a State purchasing officer are subject to review by a chief procurement officer in accordance with procedures and policies established by the chief procurement officer.

(b) In addition to any other requirement or qualification required by State law, within 30 months after appointment, a State purchasing officer must be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council. A State purchasing officer shall serve a term of 5 years beginning on the date of the officer's appointment. A State purchasing officer shall have an office located in the State agency that the officer serves but shall report to the chief procurement officer. A State purchasing officer may be removed by a chief procurement officer for cause after a hearing by the Executive Ethics Commission. The chief procurement officer or executive officer of the State agency housing the State purchasing officer may institute a complaint against the State purchasing officer by filing such a complaint with the Commission and the Commission shall have a public hearing based on the complaint. The State purchasing officer, chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a non-binding recommendation on whether the State purchasing officer shall be removed. The salary of a State purchasing officer shall be established by the chief procurement officer and may not be diminished during the officer's term. In the absence of an appointed State purchasing officer, the applicable chief procurement officer shall exercise the procurement authority created by this Code and may appoint a temporary acting State purchasing officer.

P.A. 90–572, Art. 10, § 10–10, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012.

500/10–15. Procurement compliance monitors

§ 10–15. Procurement compliance monitors.

(a) The Executive Ethics Commission shall appoint procurement compliance monitors to oversee and review the procurement processes. Each procurement compliance monitor shall serve a term of 5 years beginning on the date of the officer's appointment. Each procurement compliance monitor shall have an office located in the State agency that the

monitor serves but shall report to the appropriate chief procurement officer. The compliance monitor shall have direct communications with the executive officer of a State agency in exercising duties. A procurement compliance monitor may be removed only for cause after a hearing by the Executive Ethics Commission. The appropriate chief procurement officer or executive officer of the State agency housing the procurement compliance monitor may institute a complaint against the procurement compliance monitor with the Commission and the Commission shall hold a public hearing based on the complaint. The procurement compliance monitor, State purchasing officer, appropriate chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall determine whether the procurement compliance monitor shall be removed. The salary of a procurement compliance monitor shall be established by the Executive Ethics Commission and may not be diminished during the officer's term.

(b) The procurement compliance monitor shall: (i) review any procurement, contract, or contract amendment as directed by the Executive Ethics Commission or a chief procurement officer; and (ii) report any findings of the review, in writing, to the Commission, the affected agency, the chief procurement officer responsible for the affected agency, and any entity requesting the review. The procurement compliance monitor may: (i) review each contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed; (ii) attend any procurement meetings; (iii) access any records or files related to procurement; (iv) issue reports to the chief procurement officer on procurement issues that present issues or that have not been corrected after consultation with appropriate State officials; (v) ensure the State agency is maintaining appropriate records; and (vi) ensure transparency of the procurement process.

(c) If the procurement compliance monitor is aware of misconduct, waste, or inefficiency with respect to State procurement, the procurement compliance monitor shall advise the State agency of the issue in writing. If the State agency does not correct the issue, the monitor shall report the problem, in writing, to the chief procurement officer and Inspector General.

P.A. 90–572, Art. 10, § 10–15, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012.

500/10–20. Independent chief procurement officers

§ 10–20. Independent chief procurement officers.

(a) Appointment. Within 60 calendar days after the effective date of this amendatory Act of the 96th General Assembly, the Executive Ethics Commission, with the advice and consent of the Senate shall appoint or approve 4 chief procurement officers, one for each of the following categories:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board;

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, the chief procurement officer recommended for approval under this item appointed by the Secretary of Transportation after consent by the Executive Ethics Commission;

(3) for all procurements made by a public institution of higher education; and

(4) for all other procurement needs of State agencies.

A chief procurement officer shall be responsible to the Executive Ethics Commission but must be located within the agency that the officer provides with procurement services. The chief procurement officer for higher education shall have an office located within the Board of Higher Education, unless otherwise designated by the Executive Ethics Commission. The chief procurement officer for all other procurement needs of the State shall have an office located within the Department of Central Management Services, unless otherwise designated by the Executive Ethics Commission.

(b) Terms and independence. Each chief procurement officer appointed under this Section shall serve for a term of 5 years beginning on the date of the officer's appointment. The chief procurement officer may be removed for cause after a hearing by the Executive Ethics Commission. The Governor or the director of a State agency directly responsible to the Governor may institute a complaint against the officer by filing such complaint with the Commission. The Commission shall have a hearing based on the complaint. The officer and the complainant shall receive reasonable notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a finding on the complaint and may take disciplinary action, including but not limited to removal of the officer.

The salary of a chief procurement officer shall be established by the Executive Ethics Commission and may not be diminished during the officer's term. The salary may not exceed the salary of the director of a State agency for which the officer serves as chief procurement officer.

(c) Qualifications. In addition to any other requirement or qualification required by State law, each chief procurement officer must within 12 months of employment be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council, and must reside in Illinois.

(d) Fiduciary duty. Each chief procurement officer owes a fiduciary duty to the State.

(e) Vacancy. In case of a vacancy in one or more of the offices of a chief procurement officer under this Section during the recess of the Senate, the Executive Ethics Commission shall make a temporary appointment until the next meeting of the Senate, when the Executive Ethics Commission shall nominate some person to fill the office, and any person so nominated who is confirmed by the Senate shall hold office during the remainder of the term and until his or her successor is appointed and qualified. If the Senate is not in session at the time this amendatory Act of the 96th General Assembly takes effect, the Executive Ethics Commission shall make a temporary appointment as in the case of a vacancy.

(f) (Blank).

(g) (Blank).

P.A. 90–572, Art. 10, § 10–20, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 96–920, § 5, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/10–25. § 10–25. Repealed by its own terms, eff. January 10, 2011

ARTICLE 15. PROCUREMENT INFORMATION

500/15–1. Publisher

§ 15–1. Publisher. Each chief procurement officer, in consultation with the agencies under his or her jurisdiction, possesses the rights to and is the authority responsible for publishing its volume of the Illinois Procurement Bulletin.

Each volume of the Illinois Procurement Bulletin shall be available electronically and may be available in print. References in this Code to the publication and distribution of the Illinois Procurement Bulletin include both its print and electronic formats.

P.A. 90–572, Art. 15, § 15–1, eff. July 1, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007; P.A. 97–895, § 15, eff. Aug. 3, 2012.

500/15–10. Contents

§ 15–10. Contents. The Illinois Procurement Bulletin shall contain notices and other information required by this Code or by rules promulgated under this Code to be published in the Illinois Procurement Bulletin. Each volume shall include a comprehensive index of its contents.

P.A. 90–572, Art. 15, § 15–10, eff. July 1, 1998.

500/15–15. Publication

§ 15–15. Publication. All volumes of the Illinois Procurement Bulletin shall be published at least once per month. Any volume, including volumes available in print format, shall be available through subscription for a minimal fee not exceeding publication and distribution costs. The Illinois Procurement Bulletin shall be distributed free to public libraries within Illinois and electronically to any entity that has subscribed on the publishing entity's website.

P.A. 90–572, Art. 15, § 15–15, eff. July 1, 1998. Amended by P.A. 96–1444, § 3, eff. Aug. 20, 2010.

500/15–20. Qualified bidders or offerors

§ 15–20. Qualified bidders or offerors. Subscription to the Illinois Procurement Bulletin shall not be required to qualify as a bidder or offeror under this Code.

P.A. 90–572, Art. 15, § 15–20, eff. July 1, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/15–25. Bulletin content

§ 15–25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. All businesses listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program, and the Chief Procurement Office's Small Business Vendors Directory shall be furnished written instructions and information on how to register on each Procurement Bulletin maintained by the State. Such information shall be provided to each business within 30 calendar days after the business' notice of certification. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to potential contractors to hire qualified veterans, as defined by Section 45–67 of this Code, and qualified Illinois minorities, women, persons with disabilities, and residents discharged from any Illinois adult correctional center.

(b) Contracts let. Notice of each and every contract that is let, including renegotiated contracts and change orders, shall be issued electronically to those bidders submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let. Failure of any chief procurement officer to give such notice shall result in tolling the time for filing a bid protest up to 7 calendar days.

For purposes of this subsection (b), "contracts let" means a construction agency's act of advertising an invitation for bids for one or more construction projects.

(b–5) Contracts awarded. Notice of each and every contract that is awarded, including renegotiated contracts and change orders, shall be issued electronically to the successful responsible bidder, offeror, or contractor and published in the next available subsequent Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder, offeror, the contract price, the number of unsuccessful bidders or offerors and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin prior to execution of the contract.

For purposes of this subsection (b–5), "contract award" means the determination that a particular bidder or offeror has been selected from among other bidders or offerors to receive a contract, subject to the successful completion of final negotiations. "Contract award" is evidenced by the posting of a Notice of Award or a Notice of Intent to Award to the respective volume of the Illinois Procurement Bulletin.

(c) Emergency purchase disclosure. Any chief procurement officer or State purchasing officer exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin. This notice must be posted in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of a hearing to extend an emergency contract must be posted in the online electronic Procurement Bulletin no later than 14 calendar days prior to the hearing.

(c–5) Business Enterprise Program report. Each purchasing agency shall, with the assistance of the applicable chief procurement officer, post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, females, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Females, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act within 10 calendar days after its submission of its report to the Council.

(c–10) Renewals. Notice of each contract renewal shall be posted in the online electronic Bulletin within 14 calendar days of the determination to renew the contract and the next available subsequent Bulletin. The notice shall include at least all of the information required in subsection (b).

(c–15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole

source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 calendar days before the hearing required by Section 20–25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c–5), (c–10), and (c–15) of this Section made by this amendatory Act of the 96th General Assembly apply to reports submitted, offers made, and notices on contracts executed on or after its effective date.

(f) Each chief procurement officer shall, in consultation with the agencies under his or her jurisdiction, provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of this amendatory Act of the 96th General Assembly.

P.A. 90–572, Art. 15, § 15–25, eff. July 1, 1998. Amended by P.A. 94–1067, § 5, eff. Aug. 1, 2006; P.A. 95–536, § 5, eff. Jan. 1, 2008; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–1444, § 3, eff. Aug. 20, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1038, § 5, eff. Aug. 25, 2014; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

P.A. 98–1038, § 5, in subsec. (b–5), deleted "responsive" preceding "bidders,".

P.A. 98–1076, § 5, rewrote subsecs. (a), (b) and (b–5); in subsec. (c), substituted "electronic Bulletin no later than 5 calendar days" for "electronic Bulletin no later than 3 business days" and "Procurement Bulletin no later than 14 calendar days" for "Procurement Bulletin no later than 5 business days"; in subsec. (c–5), substituted "10 calendar days" for "10 business days"; in subsec. (c–10), substituted "14 calendar days" for "10 business days"; and in subsec. (c–15), inserted "calendar". Prior thereto, subsecs. (a), (b) and (b–5) read:

"(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin, and all businesses listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program and Small Business Vendors Directory, and the Capital Development Board's Directory of Certified Minority and Female Business Enterprises shall be furnished written instructions and information on how to register on each Procurement Bulletin maintained by the State. Such information shall be provided to each business within 30 days after the business' notice of certification. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to prospective vendors to hire qualified veterans, as defined by Section 45-67 of this Code, and qualified Illinois minorities, women, persons with disabilities, and residents discharged from any Illinois adult correctional center.

"(b) Contracts let. Notice of each and every contract that is let, including renegotiated contracts and change orders, shall be issued electronically to those bidders or offerors submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let. Failure of any chief procurement officer to give such notice shall result in tolling the time for filing a bid protest up to 5 business days. The apparent low bidder's award and all other bids from bidders responding to solicitations shall be posted on the agency's website the next business day.

"(b-5) Contracts awarded. Notice of each and every contract that is awarded, including renegotiated contracts and change orders, shall be issued electronically to the successful responsible bidder or offeror, posted on the agency's website the next business day, and published in the next available subsequent Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin prior to execution of the contract.

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

500/15–30. Electronic Bulletin clearinghouse

§ 15–30. Electronic Bulletin clearinghouse.

(a) The Procurement Policy Board shall maintain on its official website a searchable database containing all information required to be included in the Illinois Procurement Bulletin under subsections (b), (c), (c–10), and (c–15) of Section 15–25 and all information required to be disclosed under Section 50–41. The posting of procurement information on the website is subject to the same posting requirements as the online electronic Bulletin.

(b) For the purposes of this Section, searchable means searchable and sortable by successful responsible bidder, offeror, potential contractor, or contractor, for emergency purchases, business or person contracted with; the contract price or total cost; the service or good; the purchasing State agency; and the date first offered or announced.

(c) The applicable chief procurement officer shall provide the Procurement Policy Board the information and resources necessary, and in a manner, to effectuate the purpose of this Section.

P.A. 90–572, Art. 15, § 15–30, added by P.A. 95–536, § 5, eff. Jan. 1, 2008. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/15–35. Vendor portal

§ 15–35. Vendor portal. Each chief procurement officer may, in consultation with the agencies under his or her jurisdiction and the Procurement Policy Board, establish a vendor portal. The vendor portal shall allow a potential vendor to provide certifications, disclosures, registrations, and other documentation needed to do business with a State agency in advance of any particular procurement. A potential vendor who registers with the vendor portal and provides this information may submit its registration number, with a confirmation that the portal information remains current, as part of its response to a competitive selection or a contracting process, rather than submit the same information in full. One or more chief procurement officers may jointly operate a vendor portal if a single portal would better serve the needs of the State agencies and the vendor community. A chief procurement officer may accept, for use on procurements and contracts under his or her jurisdiction, the registration from another chief procurement officer's vendor portal. This Section applies notwithstanding any laws to the contrary except for later enacted laws that specifically refer to this Section.

Nothing in this Section shall preclude a State agency from implementing its own pre-qualification, certification, disclosure, and registration requirements necessary to conduct and manage its program operation.

This Section does not apply to any contract for any project as to which federal funds are available for expenditure when

its provisions may be in conflict with federal law or federal regulation.

P.A. 90–572, Art. 15, § 15–35, added by P.A. 97–895, § 15, eff. Aug. 3, 2012. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/15–40. Method of notices and reports

§ 15–40. Method of notices and reports. Notices and reports required by any Section of this Code may be made by either paper or electronic means.

P.A. 90–572, Art. 15, § 15–40, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/15–45. Computation of days

§ 15–45. Computation of days. The time within which any act provided in this Code is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday, and then it shall also be excluded. If the day succeeding a Saturday, Sunday, or holiday is also a holiday, a Saturday, or a Sunday, then that succeeding day shall also be excluded. For the purposes of this Code, "holiday" means: New Year's Day; Dr. Martin Luther King, Jr.'s Birthday; Lincoln's Birthday; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day; Christmas Day; and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public shall be closed for business.

P.A. 90–572, Art. 15, § 15–45, added by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

ARTICLE 20. SOURCE SELECTION AND CONTRACT FORMATION

500/20–5. Method of source selection

§ 20–5. Method of source selection. Unless otherwise authorized by law, all State contracts shall be awarded by competitive sealed bidding, in accordance with Section 20–10, except as provided in Sections 20–15, 20–20, 20–25, 20–30, 20–35, 30–15, and 40–20. The chief procurement officers appointed pursuant to Section 10–20 may determine the method of solicitation and contract for all procurements pursuant to this Code.

P.A. 90–572, Art. 20, § 20–5, eff. July 1, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–10. Competitive sealed bidding; reverse auction

Text of section as amended by P.A. 96–159, P.A. 96–588, P.A. 97–96, P.A. 97–895, and P.A. 98–1076. See, also, other § 20–10.

§ 20–10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20–5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

(1) a description of the agency's needs;

(2) a determination that the anticipated cost will be fair and reasonable;

(3) a listing of all responsible and responsive bidders; and

(4) the name of the bidder selected, the total contract price, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 calendar days after the agency's decision to award the contract.

(h) Multi–step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1–75 and subsection (d) of Section 1–78 of the Illinois Power Agency Act and Section 16–

111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1–56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 calendar days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects, including design professional services.

P.A. 90–572, Art. 20, § 20–10, eff. July 1, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007; P.A. 96–159, § 15, eff. Aug. 10, 2009; P.A. 96–588, § 95, eff. Aug. 18, 2009; P.A. 97–96, § 7, eff. July 13, 2011; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

P.A. 96–159, § 15, in subsec. (i), inserted "and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act".

P.A. 96–588, § 95, in the name line inserted "reverse auction"; and added subsec. (j).

P.A. 97–96, § 7, in subsec. (i), inserted "subsection (a) of" and substituted "1–75 and subsection (d) of Section 1–78" for "1–75(a)".

P.A. 97–895, § 15, in the first paragraph of subsec. (g), added "The written explanation must include:"; added subds. (g)(1), (g)(2), (g)(3), and (g)(4); rewrote the first and last paragraphs of subsec. (j), which prior thereto read:

"Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the Director of Central Management Services as chief procurement officer, a State purchasing officer under that chief procurement officer's jurisdiction may procure supplies or services through a competitive electronic auction bidding process after the purchasing officer explains in writing to the chief procurement officer his or her determination that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

'This subsection does not apply to (i) procurements of professional and artistic services, including but not limited to telecommunications services, communications services, Internet services, and information services, and (ii) contracts for construction projects."

P.A. 98–1076, § 5, in subsecs. (c), (g) and (j), inserted "calendar".

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

500/20–10. Competitive sealed bidding; reverse auction

Text of section as amended by P.A. 96–159, P.A. 96–795, P.A. 97–96, P.A. 97–895, and P.A. 98–1076. See, also, other § 20–10.

§ 20–10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20–5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

(1) a description of the agency's needs;

(2) a determination that the anticipated cost will be fair and reasonable;

(3) a listing of all responsible and responsive bidders; and

(4) the name of the bidder selected, the total contract price, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 days after the agency's decision to award the contract.

(h) Multi–step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1–75 and subsection (d) of Section 1–78 of the Illinois Power Agency Act and Section 16–111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1–56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 calendar days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects, including design professional services.

P.A. 90–572, Art. 20, § 20–10, eff. July 1, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007; P.A. 96–159, § 15, eff. Aug. 10, 2009; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–96, § 7, eff. July 13, 2011; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

P.A. 96–159, § 15, in subsec. (i), inserted "and to procure renewable energy resources under Section 1–56 of the Illinois Power Agency Act".

P.A. 96–795, § 95–35, in subsec. (g), inserted "The written explanation must include:"

"(1) a description of the agency's needs;

"(2) a determination that the anticipated cost will be fair and reasonable;

"(3) a listing of all responsible and responsive bidders; and

"(4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

"Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

"The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract."; and added subsec. (j).

P.A. 97–96, § 7, in subsec. (i), inserted "subsection (a) of" and substituted "1–75 and subsection (d) of Section 1–78" for "1–75(a)"..

P.A. 97–895, § 15, in subd. (g)(4), substituted "the total contract price" for "pricing"; in the last paragraph of subsec. (j), added "including design professional services"; and made other nonsubstantive changes.

P.A. 98–1076, § 5, in subsecs. (c) and (j), inserted "calendar".

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

500/20–15. Competitive sealed proposals

§ 20–15. Competitive sealed proposals.

(a) Conditions for use. When provided under this Code or under rules, or when the purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Public notice of the request for proposals shall be published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the invitation for the opening of proposals.

(d) Receipt of proposals. Proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(e) Evaluation factors. The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first, covering items except price; and the second, covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals.

(f) Discussion with responsible offerors and revisions of offers or proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit offers or proposals determined to be reasonably susceptible of being selected for award for the

purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(g) Award. Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

P.A. 90–572, Art. 20, § 20–15, eff. July 1, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–20. Small purchases

§ 20–20. Small purchases.

(a) Amount. Any individual procurement of supplies or services other than professional or artistic services, not exceeding $10,000 and any procurement of construction not exceeding $30,000 may be made without competitive sealed bidding. Procurements shall not be artificially divided so as to constitute a small purchase under this Section.

(b) Adjustment. Each July 1, the small purchase maximum established in subsection (a) shall be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest $100.

(c) Based upon rules proposed by the Board and rules promulgated by the chief procurement officers, the small purchase maximum established in subsection (a) may be modified.

P.A. 90–572, Art. 20, § 20–20, eff. July 1, 1998.

500/20–25. Sole source procurements

§ 20–25. Sole source procurements.

(a) In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source for the item. A State contract may be awarded as a sole source procurement unless an interested party submits a written request for a public hearing at which the chief procurement officer and purchasing agency present written justification for the procurement method. Any interested party may present testimony. A sole source contract where a hearing was requested by an interested party may be awarded after the hearing is conducted with the approval of the chief procurement officer.

(b) This Section may not be used as a basis for amending a contract for professional or artistic services if the amendment would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed 2 months.

(c) Notice of intent to enter into a sole source contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 calendar days before the public hearing required in subsection (a). The notice shall include the sole source procurement justification form prescribed by the Board, a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.

(d) By August 1 each year, each chief procurement officer shall file a report with the General Assembly identifying each contract the officer sought under the sole source procurement method and providing the justification given for seeking sole source as the procurement method for each of those contracts.

P.A. 90–572, Art. 20, § 20–25, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–920, § 5, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–30. Emergency purchases

§ 20–30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however, that the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 calendar days. A contract may be extended beyond 90 calendar days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 calendar days before the public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor, and if applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Affidavits. A chief procurement officer making a procurement under this Section shall file affidavits with the Procurement Policy Board and the Auditor General within 10 calendar days after the procurement setting forth the amount expended, the name of the contractor involved, and

the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 calendar days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

P.A. 90–572, Art. 20, § 20–30, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–35. Competitive selection procedures

§ 20–35. Competitive selection procedures.

(a) Conditions for use. The services specified in Article 35 [1] shall be procured in accordance with this Section, except as authorized under Sections 20–25 and 20–30 of this Article.

(b) Statement of qualifications. Respondents shall submit statements of qualifications and expressions of interest. The chief procurement officer shall specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

(c) Public announcement and form of request for proposals. Public notice of the need for the procurement shall be given in the form of a request for proposals and published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the request for proposals for the opening of proposals. The request for proposals shall describe the services required, list the type of information and data required of each respondent, and state the relative importance of particular qualifications.

(d) Discussions. The purchasing agency may conduct discussions with any respondent who has submitted a response to determine the respondent's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other respondents.

(e) Award. Award shall be made to the respondent determined in writing by the purchasing agency to be best qualified based on the evaluation factors set forth in the request for proposals and negotiation of compensation determined to be fair and reasonable.

P.A. 90–572, Art. 20, § 20–35, eff. July 1, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 30 ILCS 500/35–5 et seq.

500/20–40. Cancellation of invitations for bids or requests for proposals

§ 20–40. Cancellation of invitations for bids or requests for proposals. An invitation for bids, a request for proposals, or any other solicitation may be cancelled without penalty, or any and all bids, offers, proposals, or any other solicitation may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the State in accordance with rules. The reasons for cancellation or rejection shall be made part of the contract file.

P.A. 90–572, Art. 20, § 20–40, eff. July 1, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–43. Bidder or offeror authorized to do business in Illinois

§ 20–43. Bidder or offeror authorized to do business in Illinois. In addition to meeting any other requirement of law or rule, a person (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror under this Code only if the person is a legal entity authorized to transact business or conduct affairs in Illinois prior to submitting the bid, offer, or proposal.

P.A. 90–572, Art. 20, § 20–43, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–45. Prequalification of suppliers

§ 20–45. Prequalification of suppliers. The chief procurement officer shall promulgate rules for the development of prequalified supplier lists for appropriate categories of purchases and the annual updating of those lists.

P.A. 90–572, Art. 20, § 20–45, eff. July 1, 1998.

500/20–50. Specifications

§ 20–50. Specifications. Specifications shall be prepared in accordance with consistent standards that are promulgated by the chief procurement officer and reviewed by the Board and the Joint Committee on Administrative Rules. Those standards shall include a prohibition against the use of brand-name only products, except for products intended for retail sale or as specified by rule. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive.

A solicitation or specification for a contract or a contract, including but not limited to of a college, university, or institution under the jurisdiction of a governing board listed in Section 1–15.100, may not require, stipulate, suggest, or encourage a monetary or other financial contribution or donation, cash bonus or incentive, economic investment, or other prohibited conduct as an explicit or implied term or condition for awarding or completing the contract. The contract, solicitation, or specification also may not include a requirement that an individual or individuals employed by such a college, university, or institution receive a consulting contract for professional services.

As used in this Section, "prohibited conduct" includes requested payments or other consideration by a third party to the university or State agency that is not part of the solicitation or that is unrelated to the subject matter or purpose of the solicitation. "Prohibited conduct" does not include a payment from the vendor that is supported by additional consideration (such as exclusive rights to sell items or rights to advertise), other than the consideration of the State's awarding a contract to purchase of goods and services.

P.A. 90–572, Art. 20, § 20–50, eff. July 1, 1998. Amended by P.A. 91–627, § 5, eff. Aug. 19, 1999; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–55. Types of contracts

§ 20–55. Types of contracts. Subject to the limitations of this Section and unless otherwise authorized by law, any type

of contract that will promote the best interests of the State may be used, except that cost-plus-a-percentage-of-cost contracts are prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that a cost-reimbursement contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the item required except under that type of contract. The general form of contracts shall be determined by the chief procurement officer.

P.A. 90–572, Art. 20, § 20–55, eff. July 1, 1998.

500/20–60. Duration of contracts

§ 20–60. Duration of contracts.

(a) Maximum duration. A contract, other than a contract entered into pursuant to the State University Certificates of Participation Act, may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40–25. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(c) The chief procurement officer shall file a proposed extension or renewal of a contract with the Procurement Policy Board prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds $249,999. The Procurement Policy Board may object to the proposed extension or renewal within 30 calendar days and require a hearing before the Board prior to entering into the extension or renewal. If the Procurement Policy Board does not object within 30 calendar days or takes affirmative action to recommend the extension or renewal, the chief procurement officer may enter into the extension or renewal of a contract. This subsection does not apply to any emergency procurement, any procurement under Article 40, or any procurement exempted by Section 1–10(b) of this Code. If any State agency contract is paid for in whole or in part with federal-aid funds, grants, or loans and the provisions of this subsection would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this subsection in order to remain eligible for those federal-aid funds, grants, or loans, and the State agency shall file notice of this exemption with the Procurement Policy Board prior to entering into the proposed extension or renewal. Nothing in this subsection permits a chief procurement officer to enter into an extension or renewal in violation of subsection (a). By August 1 each year, the Procurement Policy Board shall file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were filed with the Board and whether the Board objected and (ii) the contracts exempt from this subsection.

P.A. 90–572, Art. 20, § 20–60, eff. July 1, 1998. Amended by P.A. 95–344, § 5, eff. Aug. 21, 2007; P.A. 96–15, § 97, eff. June 22, 2009; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–920, § 5, eff. July 1, 2010; P.A. 96–1478, § 5, eff. Aug. 23, 2010.

The amendments by P.A. 96–920 and P.A. 96–1478 were identical.

500/20–65. Right to audit records

§ 20–65. Right to audit records.

(a) Maintenance of books and records. Every contract and subcontract shall require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records shall be maintained by the contractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. However, the 3–year period shall be extended for the duration of any audit in progress at the time of that period's expiration.

(b) Audit. Every contract and subcontract shall provide that all books and records required to be maintained under subsection (a) shall be available for review and audit by the Auditor General, chief procurement officer, internal auditor, and the purchasing agency. Every contract and subcontract shall require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

(c) Failure to maintain books and records. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.

P.A. 90–572, Art. 20, § 20–65, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/20–70. Finality of determinations

§ 20–70. Finality of determinations. Except as otherwise provided in this Code, determinations made by a chief procurement officer, State purchasing officer, or a purchasing agency under this Code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

P.A. 90–572, Art. 20, § 20–70, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/20–75. Disputes and protests

§ 20–75. Disputes and protests. The chief procurement officers shall by rule establish procedures to be followed in resolving protested solicitations and awards and contract controversies, for debarment or suspension of contractors, and for resolving other procurement-related disputes.

P.A. 90–572, Art. 20, § 20–75, eff. July 1, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/20–80. Contract files

§ 20–80. Contract files.

(a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, [1] exceeding $20,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptrol-

ler within 30 calendar days thereafter. Beginning January 1, 2013, the Comptroller may require that contracts and grants required to be filed with the Comptroller under this Section shall be filed electronically, unless the agency is incapable of filing the contract or grant electronically because it does not possess the necessary technology or equipment. Any agency that is incapable of electronically filing its contracts or grants shall submit a written statement to the Governor and to the Comptroller attesting to the reasons for its inability to comply. This statement shall include a discussion of what the agency needs in order to effectively comply with this Section. Prior to requiring electronic filing, the Comptroller shall consult with the Governor as to the feasibility of establishing mutually agreeable technical standards for the electronic document imaging, storage, and transfer of contracts and grants, taking into consideration the technology available to that agency, best practices, and the technological capabilities of State agencies. Nothing in this amendatory Act of the 97th General Assembly shall be construed to impede the implementation of an Enterprise Resource Planning (ERP) system. For each State contract for goods, supplies, or services awarded on or after July 1, 2010, the contracting agency shall provide the applicable rate and unit of measurement of the goods, supplies, or services on the contract obligation document as required by the Comptroller. If the contract obligation document that is submitted to the Comptroller contains the rate and unit of measurement of the goods, supplies, or services, the Comptroller shall provide that information on his or her official website. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 30 calendar days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 calendar days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 calendar days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Timely execution of contracts. No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract unless the contract is reduced to writing before the services are performed and filed with the Comptroller. Vendors shall not be paid for any goods that were received or services that were rendered before the contract was reduced to writing and signed by all necessary parties. A chief procurement officer may request an exception to this subsection by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this subsection must be approved by the Comptroller and Treasurer. This Section shall not apply to emergency purchases if notice of the emergency purchase is filed with the Procurement Policy Board and published in the Bulletin as required by this Code.

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

P.A. 90–572, Art. 20, § 20–80, eff. July 1, 1998. Amended by P.A. 91–904, § 5, eff. July 6, 2000; P.A. 96–794, § 5, eff. Jan. 1, 2010; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–1000, § 155, eff. July 2, 2010; P.A. 97–932, § 20, eff. Aug. 10, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 40 ILCS 5/24–101 et seq.

500/20–85. Federal requirements

§ 20–85. Federal requirements. A State agency receiving federal-aid funds, grants, or loans shall have authority to adopt its procedures, rules, project statements, drawings, maps, surveys, plans, specifications, contract terms, estimates, bid forms, bond forms, and other documents or practices to comply with the regulations, policies, and procedures of the designated authority, administration, or department of the United States, in order to remain eligible for such federal-aid funds, grants, or loans.

P.A. 90–572, Art. 20, § 20–85, eff. July 1, 1998.

500/20–90. Foreign country procurements

§ 20–90. Foreign country procurements. Procurements to meet the needs of State offices located in foreign countries shall comply with the provisions of this Code to the extent practical.

P.A. 90–572, Art. 20, § 20–90, eff. July 1, 1998.

500/20–95. Donations

§ 20–95. Donations. Nothing in this Code or in the rules promulgated under this Code shall prevent any State agency from complying with the terms and conditions of any grant, gift, or bequest that calls for the procurement of a particular good or service or the use of a particular vendor, provided that the grant, gift, or bequest provides majority funding for the contract.

P.A. 90–572, Art. 20, § 20–95, eff. July 1, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–105. State agency printing

§ 20–105. State agency printing. All books, pamphlets, documents, and reports published through or by the State of Illinois or any State agency, board, or commission shall have printed thereon "Printed by authority of the State of Illinois", the date of each publication, the number of copies printed, and the printing order number. Each using agency shall be responsible for ascertaining the compliance of printing materials procured by or for it with this Section. No printing or reproduction contract shall be let and no printing or reproduction shall be accomplished when that wording does not appear on the material to be printed or reproduced. No publication may have written, stamped, or printed on it, or attached to it, "Compliments of ..... (naming a person)" or any words of similar import.

This Section does not apply to the printing by a public institution of higher education of material not paid for in any portion from funds appropriated by the General Assembly, printing that is performed by a university unit, or printing that is performed in conjunction with contracts referenced in subsection (b)(1) of Section 1–10.

P.A. 90–572, Art. 20, § 20–105, eff. July 1, 1998. Amended by P.A. 95–75, § 5, eff. Aug. 13, 2007.

500/20–110. Printing cost offsets

§ 20–110. Printing cost offsets. The chief procurement officer may promulgate rules permitting the exchange of advertising rights in or receipt of free copies of printed products procured under this Article as a means of reducing printing costs. The rules shall specify the appropriate method of source selection to be used to competitively acquire printing cost offsets.

P.A. 90–572, Art. 20, § 20–110, eff. July 1, 1998.

500/20–120. Subcontractors

§ 20–120. Subcontractors.

(a) Any contract granted under this Code shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all known subcontractors with subcontracts with an annual value of more than $50,000, the general type of work to be performed by these subcontractors, and the expected amount of money each will receive under the contract. Upon the request of the chief procurement officer appointed pursuant to paragraph (2) of subsection (a) of Section 10–20, the contractor shall provide the chief procurement officer a copy of a subcontract so identified within 15 calendar days after the request is made. A subcontractor, or contractor on behalf of a subcontractor, may identify information that is deemed proprietary or confidential. If the chief procurement officer determines the information is not relevant to the primary contract, the chief procurement officer may excuse the inclusion of the information. If the chief procurement officer determines the information is proprietary or could harm the business interest of the subcontractor, the chief procurement officer may, in his or her discretion, redact the information. Redacted information shall not become part of the public record.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the chief procurement officer, State purchasing officer, or their designee of the names and addresses of each new or replaced subcontractor and the general type of work to be performed. Upon the request of the chief procurement officer appointed pursuant to paragraph (2) of subsection (a) of Section 10–20, the contractor shall provide the chief procurement officer a copy of any new or amended subcontract so identified within 15 calendar days after the request is made.

(c) In addition to any other requirements of this Code, a subcontract subject to this Section must include all of the subcontractor's certifications required by Article 50 of the Code.

(d) This Section applies to procurements solicited on or after the effective date of this amendatory Act of the 96th General Assembly. The changes made to this Section by this amendatory Act of the 97th General Assembly apply to procurements solicited on or after the effective date of this amendatory Act of the 97th General Assembly.

P.A. 90–572, Art. 20, § 20–120, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 96–920, § 5, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–150. Proposed contracts; Procurement Policy Board

§ 20–150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5–30 of this Code.

P.A. 90–572, Art. 20, § 20–150, added by P.A. 93–839, Art. 10, § 10–130, eff. July 30, 2004.

500/20–155. Solicitation and contract documents

§ 20–155. Solicitation and contract documents.

(a) Each chief procurement officer appointed pursuant to Section 10–20 shall have the sole authority in their respective jurisdiction to develop and distribute uniform documents for the solicitation, review, and acceptance of all bids, offers, and responses and the award of contracts pursuant to this Code. If a chief procurement officer appointed pursuant to Section 10–20 exercises the authority to develop and distribute uniform documents for the solicitation, review and acceptance of all bids, offers and responses and the award of contracts, then the State agency shall use the uniform documents.

(b) After award of a contract and subject to provisions of the Freedom of Information Act, the procuring agency shall make available for public inspection and copying all pre-award, post-award, administration, and close-out documents relating to that particular contract.

(c) A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement file shall contain a written determination, signed by the chief procurement officer or State purchasing officer, setting forth the reasoning for the contract award decision. The procurement file shall not include trade secrets or other competitively sensitive, confidential, or proprietary information. The procurement file shall be open to public inspection within 7 calendar days following award of the contract.

P.A. 90–572, Art. 20, § 20–155, added by P.A. 94–978, § 5, eff. June 30, 2006. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–160. Business entities; certification; registration with the State Board of Elections

§ 20–160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50–37.

(b) Every bid and offer submitted to and every contract executed by the State on or after January 1, 2009 (the effective date of Public Act 95–971) and every submission to a vendor portal shall contain (1) a certification by the bidder, offeror, vendor, or contractor that either (i) the bidder, offeror, vendor, or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder, offeror, vendor, or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50–60 for the bidder's, offeror's, vendor's, or contractor's failure to comply with this Section.

(c) Each business entity (i) whose aggregate bids and proposals on State contracts annually total more than $50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than $50,000 shall register with the State

Board of Elections in accordance with Section 9–35 of the Election Code. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier. A business entity required to register under this subsection due to item (iii) has a continuing duty to ensure that the registration is accurate in accordance with subsection (e).

(d) Any business entity, not required under subsection (c) to register, whose aggregate bids and proposals on State contracts annually total more than $50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, shall register with the State Board of Elections in accordance with Section 9–35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(e) A business entity whose contracts with State agencies, in the aggregate, annually total more than $50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. A business entity, required to register under this subsection, has a continuing duty to report any changes on a quarterly basis to the State Board of Elections within 14 calendar days following the last day of January, April, July, and October of each year. Any update pursuant to this paragraph that is received beyond that date is presumed late and the civil penalty authorized by subsection (e) of Section 9–35 of the Election Code (10 ILCS 5/9–35) may be assessed.

Also, if a business entity required to register under this subsection has a pending bid or offer, any change in information shall be reported to the State Board of Elections within 7 calendar days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) For any bid or offer for a contract with a State agency by a business entity required to register under this Section, the chief procurement officer shall verify that the business entity is required to register under this Section and is in compliance with the registration requirements on the date the bid or offer is due. A chief procurement officer shall not accept a bid or offer if the business entity is not in compliance with the registration requirements as of the date bids or offers are due.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9–35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, offer, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract.

P.A. 90–572, Art. 20, § 20–160, added by P.A. 95–971, § 10, eff. Jan. 1, 2009. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–848, § 10, eff. Jan. 1, 2010; P.A. 97–333, § 110, eff. Aug. 12, 2011; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/20–165. Compliance with Transportation Sustainability Procurement Program Act

§ 20–165. Compliance with Transportation Sustainability Procurement Program Act. When procuring freight, small package delivery, and other forms of cargo shipping and transportation services, appropriate weight shall be given to the requirements of the Transportation Sustainability Procurement Program Act.

P.A. 90–572, Art. 20, § 20–165, added by P.A. 98–348, § 90, eff. Aug. 14, 2013.

ARTICLE 25. SUPPLIES AND SERVICES (EXCLUDING PROFESSIONAL OR ARTISTIC)

500/25–80. Successor contractor

§ 25–80. Successor contractor. All service contracts shall include a clause requiring the bidder or offeror, in order to be considered a responsible bidder or offeror for the purposes of this Code, to certify to the purchasing agency (i) that it shall offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or offer, and (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit performing substantially similar work that will be performed by the successor vendor.

This Section does not apply to heating and air conditioning service contracts, plumbing service contracts, and electrical service contracts.

P.A. 90–572, Art. 25, § 25–80, added by P.A. 95–314, § 5, eff. Jan. 1, 2008. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

ARTICLE 30. CONSTRUCTION AND CONSTRUCTION–RELATED PROFESSIONAL SERVICES

500/30–5. Applicability

§ 30–5. Applicability. Construction and construction-related professional services shall be procured in accordance with this Article.

P.A. 90–572, Art. 30, § 30–5, eff. July 1, 1998.

500/30–10. Authority

§ 30–10. Authority. Construction agencies shall have the authority to procure construction and construction-related professional services.

P.A. 90–572, Art. 30, § 30–10, eff. July 1, 1998.

500/30–15. Method of source selection

§ 30–15. Method of source selection.

(a) Competitive sealed bidding. Except as provided in subsections (b), (c), and (d) and Sections 20–20, 20–25, and 20–30, all State construction contracts shall be procured by competitive sealed bidding in accordance with Section 20–10.

(b) Other methods. The Capital Development Board shall establish by rule construction purchases that may be made without competitive sealed bidding and the most competitive alternate method of source selection that shall be used.

(c) Construction-related professional services. All construction-related professional services contracts shall be awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.[1] "Professional services" means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

(d) Correctional facilities. Remodeling and rehabilitation projects at correctional facilities under $25,000 funded from the General Revenue Fund are exempt from the provisions of this Article. The Department of Corrections may use inmate labor for the remodeling or rehabilitation of correctional facilities on those projects under $25,000 funded from the General Revenue Fund.

P.A. 90–572, Art. 30, § 30–15, eff. July 1, 1998.

[1] 30 ILCS 535/1 et seq.

500/30–20. Prequalification

§ 30–20. Prequalification.

(a) The Capital Development Board shall promulgate rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. Construction and construction-related professional services contracts over $25,000 may be awarded to any qualified suppliers.

(b) The Illinois Power Agency shall promulgate rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. Construction and construction related professional services contracts over $25,000 may be awarded to any qualified suppliers, pursuant to a competitive bidding process.

P.A. 90–572, Art. 30, § 30–20, eff. July 1, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007.

500/30–22. Construction contracts; responsible bidder requirements

§ 30–22. Construction contracts; responsible bidder requirements. To be considered a responsible bidder on a construction contract for purposes of this Code, a bidder must comply with all of the following requirements and must present satisfactory evidence of that compliance to the appropriate construction agency:

(1) The bidder must comply with all applicable laws concerning the bidder's entitlement to conduct business in Illinois.

(2) The bidder must comply with all applicable provisions of the Prevailing Wage Act.

(3) The bidder must comply with Subchapter VI ("Equal Employment Opportunities") of Chapter 21 of Title 42 of the United States Code (42 U.S.C. 2000e and following) and with Federal Executive Order No. 11246 as amended by Executive Order No. 11375.

(4) The bidder must have a valid Federal Employer Identification Number or, if an individual, a valid Social Security Number.

(5) The bidder must have a valid certificate of insurance showing the following coverages: general liability, professional liability, product liability, workers' compensation, completed operations, hazardous occupation, and automobile.

(6) The bidder and all bidder's subcontractors must participate in applicable apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

(7) For contracts with the Illinois Power Agency, the Director of the Illinois Power Agency may establish additional requirements for responsible bidders. These additional requirements, if established, shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(8) The bidder must certify that the bidder will maintain an Illinois office as the primary place of employment for persons employed in the construction authorized by the contract.

The provisions of this Section shall not apply to federally funded construction projects if such application would jeopardize the receipt or use of federal funds in support of such a project.

P.A. 90–572, Art. 30, § 30–22, added by P.A. 93–642, § 5, eff. June 1, 2004. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007; P.A. 97–369, § 5, eff. Aug. 15, 2011; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/30–25. Retention of a percentage of contract price

§ 30–25. Retention of a percentage of contract price. Whenever any contract entered into by a construction agency for the repair, remodeling, renovation, or construction of a building or structure, for the construction or maintenance of a highway, as those terms are defined in Article 2 of the Illinois Highway Code,[1] for the construction or maintenance of facilities as that term is defined under Section 1–10 of the Illinois Power Agency Act, or for the reclamation of abandoned lands as those terms are defined in Article I of the Abandoned Mined Lands and Water Reclamation Act[2] provides for the retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the construction agency the amount so retained may be deposited under a trust agreement with an Illinois bank or financial institution of the contractor's choice and subject to the approval of the construction agency. The contractor shall receive any interest on the deposited amount. Upon application by the contractor, the trust agreement must contain, at a minimum, the following provisions:

(1) the amount to be deposited subject to the trust;

(2) the terms and conditions of payment in case of default by the contractor;

(3) the termination of the trust agreement upon completion of the contract; and

(4) the contractor shall be responsible for obtaining the written consent of the bank trustee and for any costs or service fees.

The trust agreement may, at the discretion of the construction agency and upon request of the contractor, become effective at the time of the first partial payment in accordance with existing statutes and rules.

P.A. 90–572, Art. 30, § 30–25, eff. July 1, 1998. Amended by P.A. 95–481, Art. 5, § 5–925, eff. Aug. 28, 2007.

[1] 605 ILCS 5/2–101 et seq.

[2] 20 ILCS 1920/1.01 et seq.

500/30–30. Contracts in excess of $250,000

§ 30–30. Contracts in excess of $250,000. For building construction contracts in excess of $250,000, separate specifications shall be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications must be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof shall award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract.

Until a date 4 years after July 1, 2011, the requirements of this Section do not apply to a construction project for which the Capital Development Board is the construction agency if: (i) the project budget is at least $15,000,000; (ii) the Capital Development Board has submitted to the Procurement Policy Board a written request for a public hearing on waiver of the application of the requirements of this Section to that project, including its reasons for seeking the waiver and why the waiver is in the best interest of the State; (iii) the Capital Development Board has posted notice of the waiver hearing on its procurement web page and on the online Procurement Bulletin at least 15 calendar days before the hearing; (iv) the Procurement Policy Board, after conducting the public hearing on the waiver request, reviews and approves the request in writing before the award of the contract; (v) the successful low bidder has prequalified with the Capital Development Board; (vi) the bid of the successful low bidder identifies the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in this Section; and (vii) the contract entered into with the successful bidder provides that no identified subcontractor may be terminated without the written consent of the Capital Development Board. With respect to any construction project described in this paragraph, the Capital Development Board shall: (i) provide to the Auditor General an affidavit that the waiver of the application of the requirements of this Section is in the best interest of the State; (ii) specify in writing as a public record that the project shall comply with the disadvantaged business practices of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and the equal employment practices of Section 2–105 of the Illinois Human Rights Act; and (iii) report annually to the Governor and the General Assembly on the bidding, award, and performance. On and after January 1, 2009 (the effective date of Public Act 95–758), the Capital Development Board may award in each year contracts with an aggregate total value of no more than $200,000,000 with respect to construction projects described in this paragraph.

Until a date 11 years after November 29, 2005 (the effective date of Public Act 94–699), the requirements of this Section do not apply to the Capitol Building HVAC upgrade project if (i) the bid of the successful bidder identifies the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in this Section, and (ii) the contract entered into with the successful bidder provides that no identified subcontractor may be terminated without the written consent of the Capital Development Board.

P.A. 90–572, Art. 30, § 30–30, eff. July 1, 1998. Amended by P.A. 93–1035, § 10, eff. Sept. 10, 2004; P.A. 94–699, § 5, eff. Nov. 29, 2005; P.A. 95–758, § 5, eff. Jan. 1, 2009; P.A. 96–1204, § 5, eff. July 22, 2010; P.A. 96–1486, § 5, eff. Dec. 30, 2010; P.A. 97–182, § 5, eff. July 22, 2011; P.A. 98–431, § 5, eff. Aug. 16, 2013; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

P.A. 98–1076 incorporated the amendment by P.A. 98–431.

500/30–35. Expenditure in excess of contract price

§ 30–35. Expenditure in excess of contract price.

(a) Germaneness. No funds in excess of the contract price may be obligated or expended unless the additional work to be performed or materials to be furnished is germane to the original contract. Even if germane to the original contract, no additional expenditures or obligations may, in their total combined amounts, be in excess of the percentages of the original contract amount set forth in subsection (b) unless they have received the prior written approval of the construction agency. In the event that the total of the combined additional expenditures or obligations exceeds the percentages of the original contract amount set forth in subsection (b), the construction agency shall investigate all the additional expenditures or obligations in excess of the original contract amount and shall in writing approve or disapprove subsequent expenditures or obligations and state in detail the reasons for the approval or disapproval.

(b) Written determination required. When the contract amount is no more than $75,000, the percentage shall be 9% (maximum $6,750). When the contract amount is between $75,001 and $200,000, the percentage shall be 7% of the amount above $75,000 plus $6,750, but not to exceed 7% of $200,000 (maximum $14,000). When the contract amount is between $200,001 and $500,000, the percentage shall be 5% of the amount above $200,000 plus $14,000, but not to exceed 5% of $500,000 (maximum $25,000). When the contract amount is in excess of $500,000, the percentage shall be 3% of the amount above $500,000 plus $25,000.

P.A. 90–572, Art. 30, § 30–35, eff. July 1, 1998.

500/30–43. § 30–43. Repealed by P.A. 93–632, § 80, eff. Feb. 1, 2004

500/30–45. Other Acts

§ 30–45. Other Acts. This Article is subject to applicable provisions of the following Acts:

(1) the Prevailing Wage Act; [1]

(2) the Public Construction Bond Act; [2]

(3) the Public Works Employment Discrimination Act; [3]

(4) the Public Works Preference Act (repealed on June 16, 2010 by Public Act 96–929); [4]

(5) the Employment of Illinois Workers on Public Works Act; [5]

(6) the Public Contract Fraud Act; [6]

(7) the Illinois Construction Evaluation Act; [7] and

(8) the Project Labor Agreements Act. [8]

P.A. 90–572, Art. 30, § 30–45, eff. July 1, 1998. Amended by P.A. 97–199, § 45, eff. July 27, 2011; P.A. 97–333, § 110, eff. Aug. 12, 2011.

[1] 820 ILCS 130/0.01 et seq.

[2] 30 ILCS 550/0.01 et seq.

[3] 775 ILCS 10/0.01 et seq.

[4] 30 ILCS 560/0.01 et seq.

[5] 30 ILCS 570/0.01 et seq.

[6] 30 ILCS 545/0.01 et seq.

[7] 20 ILCS 3015/1 et seq.

[8] 30 ILCS 571/1 et seq.

P.A. 97–199, § 45, in subd. (4), inserted "(repealed on June 16, 2010 by Public Act 96–929)"; added subd. (8); and made nonsubstantive changes.

P.A. 97–333, the First 2011 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, and to resolve multiple actions. Public Acts 96–857 through P.A. 96–1479 were considered in the preparation of the combining revisories included in this Act.

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

500/30–150. Proposed contracts; Procurement Policy Board

§ 30–150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5–30 of this Code.

P.A. 90–572, Art. 30, § 30–150, added by P.A. 93–839, Art. 10, § 10–130, eff. July 30, 2004.

ARTICLE 50. PROCUREMENT ETHICS AND DISCLOSURE

500/50–1. Purpose

§ 50–1. Purpose. It is the express duty of all chief procurement officers, State purchasing officers, and their designees to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the State of Illinois and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the State of Illinois.

P.A. 90–572, Art. 50, § 50–1, eff. Feb. 6, 1998.

500/50–2. Continuing disclosure; false certification

§ 50–2. Continuing disclosure; false certification. Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible chief procurement officer whether it continues to satisfy the requirements of this Article pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under this Article is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act for submission of a false claim.

P.A. 90–572, Art. 50, § 50–2, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 96–1304, § 5, eff. July 27, 2010.

500/50–5. Bribery

§ 50–5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

(1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

(2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract or which is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5–4 of the Criminal Code of 2012. [1]

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid or offer submitted to every contract executed by the State, every subcontract subject to Section 20–120 of this Code, and every vendor's submission to a vendor portal shall contain a certification by the bidder, offeror, potential contractor, contractor, or the subcontractor, respectively, that the bidder, offeror, potential contractor, contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any certifications required by this

Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false. A bidder, offeror, potential contractor, contractor, or subcontractor who makes a false statement, material to the certification, commits a Class 3 felony.

P.A. 90–572, Art. 50, § 50–5, eff. Feb. 6, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 97–1150, § 110, eff. Jan. 25, 2013; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 720 ILCS 5/5–4.

500/50–10. Felons

§ 50–10. Felons.

(a) Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

(b) Every bid or offer submitted to the State, every contract executed by the State, every subcontract subject to Section 20–120 of this Code, and every vendor's submission to a vendor portal shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications required by this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

P.A. 90–572, Art. 50, § 50–10, eff. Feb. 6, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–10.5. Prohibited bidders, offerors, potential contractors, and contractors

§ 50–10.5. Prohibited bidders, offerors, potential contractors, and contractors.

(a) Unless otherwise provided, no business shall bid, offer, enter into a contract or subcontract under this Code, or make a submission to a vendor portal if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes–Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

(b) Every bid and offer submitted to the State, every contract executed by the State, every vendor's submission to a vendor portal, and every subcontract subject to Section 20–120 of this Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer shall declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

(c) If a business is not a natural person, the prohibition in subsection (a) applies only if:

(1) the business itself is convicted of a felony referenced in subsection (a); or

(2) the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).

(d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50–10.

(e) No person or business shall bid, offer, make a submission to a vendor portal, or enter into a contract under this Code if the person or business assisted an employee of the State of Illinois, who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract, by reviewing, drafting, directing, or preparing any invitation for bids, a request for proposal, or request for information or provided similar assistance except as part of a publicly issued opportunity to review drafts of all or part of these documents.

This subsection does not prohibit a person or business from submitting a bid or offer or entering into a contract if the person or business: (i) initiates a communication with an employee to provide general information about products, services, or industry best practices and, if applicable, that communication is documented in accordance with Section 50–39 or (ii) responds to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies.

Nothing in this Section prohibits a vendor developing technology, goods, or services from bidding or offering to supply that technology or those goods or services if the subject demonstrated to the State represents industry trends and innovation and is not specifically designed to meet the State's needs.

For purposes of this subsection (e), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, or manager of a business.

No person or business shall submit specifications to a State agency unless requested to do so by an employee of the State. No person or business who contracts with a State agency to write specifications for a particular procurement need shall submit a bid or proposal or receive a contract for that procurement need.

P.A. 90–572, Art. 50, § 50–10.5, added by P.A. 93–600, § 5, eff. Jan. 1, 2004. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–920, § 5, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–11. Debt delinquency

§ 50–11. Debt delinquency.

(a) No person shall submit a bid or offer for, enter into a contract or subcontract under this Code, or make a submission to a vendor portal if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has

entered into a deferred payment plan to pay off the debt. For purposes of this Section, the phrase "delinquent in the payment of any debt" shall be determined by the Debt Collection Bureau. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), a person controls an entity if the person owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid and offer submitted to the State, every vendor's submission to a vendor portal, every contract executed by the State and every subcontract subject to Section 20–120 of this Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, respondent, potential contractor, contractor or the subcontractor and its affiliate is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

P.A. 90–572, Art. 50, § 50–11, added by P.A. 92–404, § 10, eff. July 1, 2002. Amended by P.A. 93–25, Art. 30, § 30–5, eff. June 20, 2003; P.A. 96–493, § 15, eff. Jan. 1, 2010; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–1000, § 155, eff. July 2, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–12. Collection and remittance of Illinois Use Tax

§ 50–12. Collection and remittance of Illinois Use Tax.

(a) No person shall enter into a contract with a State agency or enter into a subcontract under this Code unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act [1] regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. [2] For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid and offer submitted to the State, every submission to a vendor portal, every contract executed by the State and every subcontract subject to Section 20–120 of this Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, respondent, potential contractor, contractor, or subcontractor is not barred from bidding for or entering into a contract under subsection (a) of this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

P.A. 90–572, Art. 50, § 50–12, added by P.A. 93–25, Art. 30, § 30–5, eff. June 20, 2003. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 35 ILCS 105/1 et seq.

[2] 35 ILCS 105/2.

500/50–13. Conflicts of interest

§ 50–13. Conflicts of interest.

(a) Prohibition. It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

(b) Interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c) Combined interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c–5) Appointees and firms. In addition to any provisions of this Code, the interests of certain appointees and their firms are subject to Section 3A–35 of the Illinois Governmental Ethics Act.

(d) Securities. Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois.

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child, or other immediate family member living in his or her residence or any combination of

those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 calendar days after the officer, member, or employee takes office or is employed.

(f) Exceptions.

(1) Public aid payments. This Section does not apply to payments made for a public aid recipient.

(2) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, or Northeastern Illinois University.

(3) Ministerial duties. This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly.

(4) Child and family services. This Section does not apply to payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.

(5) Licensed professionals. Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the Department of Children and Family Services, the Department of Human Services, the Department of Healthcare and Family Services, the Department of Public Health, or the Department on Aging.

(g) Penalty. A person convicted of a violation of this Section is guilty of a business offense and shall be fined not less than $1,000 nor more than $5,000.

P.A. 90–572, Art. 50, § 50–13, eff. Feb. 6, 1998. Amended by P.A. 93–615, Art. 90, § 90–35, eff. Nov. 19, 2003; P.A. 95–331, § 350, eff. Aug. 21, 2007; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–14. Environmental Protection Act violations

§ 50–14. Environmental Protection Act violations.

(a) Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act shall do business with the State of Illinois or any State agency or enter into a subcontract that is subject to this Code from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved in the violation continues to have any involvement with the business.

(b) A person or business otherwise barred from doing business with the State of Illinois or any State agency or subcontracting under this Code by subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to contracting with that person or business.

(c) Every bid or offer submitted to the State, every contract executed by the State, every submission to a vendor portal, and every subcontract subject to Section 20–120 of this Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the contracting State agency may declare the related contract void if any of the certifications completed pursuant to this subsection (c) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

P.A. 90–572, Art. 50, § 50–12, added by P.A. 93–575, § 5, eff. Jan. 1, 2004. Renumbered as § 50–14 and amended by P.A. 93–826, § 5, eff. July 28, 2004. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–14.5. Lead Poisoning Prevention Act violations

§ 50–14.5. Lead Poisoning Prevention Act violations. Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act are prohibited from doing business with the State of Illinois or any State agency, or subcontracting under this Code, until the violation is mitigated.

P.A. 90–572, Art. 50, § 50–14.5, added by P.A. 94–879, § 5, eff. June 20, 2006. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/50–15. Negotiations

§ 50–15. Negotiations.

(a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.

(b) Any person convicted of a violation of this Section is guilty of a business offense and shall be fined not less than $1,000 nor more than $5,000.

P.A. 90–572, Art. 50, § 50–15, eff. Feb. 6, 1998.

500/50–20. Exemptions

§ 50–20. Exemptions. The appropriate chief procurement officer may file a request with the Executive Ethics Commission to exempt named individuals from the prohibitions of Section 50–13 when, in his or her judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. The Executive Ethics Commission may grant an exemption after a public hearing at which any person may present testimony. The chief procurement officer shall publish notice of the date, time, and location of the hearing in the online electronic Bulletin at least 14 calendar days prior to the hearing and provide notice to the individual subject to the waiver and the Procurement Policy Board. The Executive Ethics Commission shall also provide public notice of the date, time, and location of the hearing on its website. If the Commission grants an exemption, the exemption is effective only if it is filed with the Secretary of State and the

Comptroller prior to the execution of any contract and includes a statement setting forth the name of the individual and all the pertinent facts that would make that Section applicable, setting forth the reason for the exemption, and declaring the individual exempted from that Section. Notice of each exemption shall be published in the Illinois Procurement Bulletin. A contract for which a waiver has been issued but has not been filed in accordance with this Section is voidable by the State. The changes to this Section made by this amendatory Act of the 96th General Assembly shall apply to exemptions granted on or after its effective date.

P.A. 90–572, Art. 50, § 50–20, eff. Feb. 6, 1998. Amended by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–21. Bond issuances

§ 50–21. Bond issuances.

(a) A State agency shall not enter into a contract with respect to the issuance of bonds or other securities by the State or a State agency with any entity that uses an independent consultant.

As used in this subsection, "independent consultant" means a person used by the entity to obtain or retain securities business through direct or indirect communication by the person with a State official or employee on behalf of the entity when the communication is undertaken by the person in exchange for or with the understanding of receiving payment from the entity or another person. "Independent consultant" does not include (i) a finance professional employed by the entity or (ii) a person whose sole basis of compensation from the entity is the actual provision of legal, accounting, or engineering advice, services, or assistance in connection with the securities business that the entity seeks to obtain or retain.

(b) Prior to entering into a contract with a State agency with respect to the issuance of bonds or other securities by the State or a State agency, a contracting party subject to the Municipal Securities Rulemaking Board's Rule G–37, or a successor rule, shall include a certification that the contracting entity is and shall remain for the duration of the contract in compliance with the Rule's requirements for reporting political contributions. Subsequent failure to remain in compliance shall make the contract voidable by the State.

(c) If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G–37 (or any successor rule) with respect to the making of prohibited political contributions or payments, then the chief procurement officer shall impose a penalty that is at least twice the fine assessed against that entity by the federal agency. The chief procurement officer shall also bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G–38 (or any successor rule) with respect to the prohibition on obtaining or retaining municipal securities business, then the chief procurement officer shall bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

(d) Nothing in this Section shall be construed to apply retroactively, but shall apply prospectively on and after the effective date of this amendatory Act of the 96th General Assembly.

P.A. 90–572, Art. 50, § 50–21, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/50–25. Inducement

§ 50–25. Inducement. Any person who offers or pays any money or other valuable thing to any person to induce him or her not to provide a submission to a vendor portal, bid, or submit an offer for a State contract or as recompense for not having bid on or submitted an offer for a State contract or provided a submission to a vendor portal is guilty of a Class 4 felony. Any person who accepts any money or other valuable thing for not bidding or submitting an offer for a State contract, not making a submission to a vendor portal, or who withholds a bid, offer, or submission to vendor portal in consideration of the promise for the payment of money or other valuable thing is guilty of a Class 4 felony.

P.A. 90–572, Art. 50, § 50–25, eff. Feb. 6, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–30. Revolving door prohibition

§ 50–30. Revolving door prohibition.

(a) Chief procurement officers, State purchasing officers, procurement compliance monitors, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes but is not limited to: lobbying the procurement process; specifying; bidding; proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This subsection applies only to persons who terminate an affected position on or after January 15, 1999.

(b) In addition to any other provisions of this Code, employment of former State employees is subject to the State Officials and Employees Ethics Act.

P.A. 90–572, Art. 50, § 50–30, eff. Feb. 6, 1998. Amended by P.A. 93–615, Art. 90, § 90–35, eff. Nov. 19, 2003; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/50–35. Financial disclosure and potential conflicts of interest

§ 50–35. Financial disclosure and potential conflicts of interest.

(a) All bids and offers from responsive bidders, offerors, vendors, or contractors with an annual value of more than $50,000, and all submissions to a vendor portal, shall be accompanied by disclosure of the financial interests of the bidder, offeror, potential contractor, or contractor and each subcontractor to be used. In addition, all subcontracts identified as provided by Section 20–120 of this Code with an annual value of more than $50,000 shall be accompanied by disclosure of the financial interests of each subcontractor. The financial disclosure of each successful bidder, offeror, potential contractor, or contractor and its subcontractors shall be incorporated as a material term of the contract and

shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer. Each disclosure under this Section shall be signed and made under penalty of perjury by an authorized officer or employee on behalf of the bidder, offeror, potential contractor, contractor, or subcontractor, and must be filed with the Procurement Policy Board.

(b) Disclosure shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the disclosing entity or its parent entity, whichever is less, unless the bidder, offeror, potential contractor, contractor, or subcontractor (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 100 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each individual identified in this Section having in addition any of the following relationships:

(1) State employment, currently or in the previous 3 years, including contractual employment of services.

(2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years.

(3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.

(4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.

(6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.

(8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter.

(9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(b–1) The disclosure required under this Section must also include the name and address of each lobbyist required to register under the Lobbyist Registration Act and other agent of the bidder, offeror, potential contractor, contractor, or subcontractor who is not identified under subsections (a) and (b) and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(b–2) The disclosure required under this Section must also include, for each of the persons identified in subsection (b) or (b–1), each of the following that occurred within the previous 10 years: suspension or debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the chief procurement officers, State purchasing officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

(d) When a potential for a conflict of interest is identified, discovered, or reasonably suspected, the chief procurement officer or State procurement officer shall send the contract to the Procurement Policy Board. In accordance with the objectives of subsection (c), if the Procurement Policy Board finds evidence of a potential conflict of interest not originally disclosed by the bidder, offeror, potential contractor, contractor, or subcontractor, the Board shall provide written notice to the bidder, offeror, potential contractor, contractor, or subcontractor that is identified, discovered, or reasonably suspected of having a potential conflict of interest. The bidder, offeror, potential contractor, contractor, or subcontractor shall have 15 calendar days to respond in writing to the Board, and a hearing before the Board will be granted upon request by the bidder, offeror, potential contractor, contractor, or subcontractor, at a date and time to be determined by the Board, but which in no event shall occur later than 15 calendar days after the date of the request. Upon consideration, the Board shall recommend, in writing, whether to allow or void the contract, bid, offer, or subcontract weighing the best interest of the State of Illinois. All recommendations shall be submitted to the Executive Ethics Commission. The Executive Ethics Commission must hold a public hearing within 30 calendar days after receiving the Board's recommendation if the Procurement Policy Board makes a recommendation to (i) void a contract or (ii) void a bid or offer and the chief procurement officer selected or intends to award the contract to the bidder, offeror, or potential contractor. A chief procurement officer is prohibited from awarding a contract before a hearing if the Board recommendation does not support a bid or offer. The recommendation and proceedings of any hearing, if applicable, shall be available to the public.

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or their

designees from reasonable care and diligence for any contract, bid, offer, or submission to a vendor portal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

(f) Inadvertent or accidental failure to fully disclose shall render the contract, bid, offer, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, offers, proposals, subcontracts, or relationships with the State for a period of up to 2 years.

(g) Intentional, willful, or material failure to disclose shall render the contract, bid, offer, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, offers, proposals, subcontracts, or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether and when to reinstate.

(h) In addition, all disclosures shall note any other current or pending contracts, bids, offers, proposals, subcontracts, leases, or other ongoing procurement relationships the bidder, offeror, potential contractor, contractor, or subcontractor has with any other unit of State government and shall clearly identify the unit and the contract, offer, proposal, lease, or other relationship.

(i) The bidder, offeror, potential contractor, or contractor has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process during the term of any contract, and during the vendor portal registration process.

P.A. 90–572, Art. 50, § 50–35, eff. Feb. 6, 1998. Amended by P.A. 91–146, § 5, eff. July 16, 1999; P.A. 95–331, § 350, eff. Aug. 21, 2007; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–920, § 5, eff. July 1, 2010; P.A. 97–490, § 5, eff. Aug. 22, 2011; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–36. Disclosure of business in Iran

§ 50–36. Disclosure of business in Iran.

(a) As used in this Section:

"Business operations" means engaging in commerce in any form in Iran, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

"Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exists for the purpose of making profit.

"Mineral-extraction activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

"Oil-related activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; and constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure. The mere retail sale of gasoline and related consumer products is not considered an oil-related activity.

"Petroleum resources" means petroleum, petroleum byproducts, or natural gas.

"Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations.

(b) Each bid or offer submitted for a State contract, other than a small purchase defined in Section 20–20, shall include a disclosure of whether or not the bidder, offeror, or any of its corporate parents or subsidiaries, within the 24 months before submission of the bid or offer had business operations that involved contracts with or provision of supplies or services to the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran, or companies involved in consortiums or projects commissioned by the Government of Iran and:

(1) more than 10% of the company's revenues produced in or assets located in Iran involve oil-related activities or mineral-extraction activities; less than 75% of the company's revenues produced in or assets located in Iran involve contracts with or provision of oil-related or mineral-extraction products or services to the Government of Iran or a project or consortium created exclusively by that government; and the company has failed to take substantial action; or

(2) the company has, on or after August 5, 1996, made an investment of $20 million or more, or any combination of investments of at least $10 million each that in the aggregate equals or exceeds $20 million in any 12–month period, that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran.

(c) A bid or offer that does not include the disclosure required by subsection (b) may be given a period after the bid or offer is submitted to cure non-disclosure. A chief procurement officer may consider the disclosure when evaluating the bid or offer or awarding the contract.

(d) Each chief procurement officer shall provide the State Comptroller with the name of each entity disclosed under subsection (b) as doing business or having done business in Iran. The State Comptroller shall post that information on his or her official website.

P.A. 90–572, Art. 50, § 50–36, added by P.A. 95–616, § 5, eff. Jan. 1, 2008. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–37. Prohibition of political contributions

§ 50–37. Prohibition of political contributions.

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care

agreements as defined in Section 1–15.68 of this Code; contracts for projects eligible for full or partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9–1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and potential contractors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9–3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse of any such persons. "Affiliated person" does not include a person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Affiliated entity" means (i) any corporate parent and each operating subsidiary of the bidding or contracting business entity, (ii) each operating subsidiary of the corporate parent of the bidding or contracting business entity, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity. "Affiliated entity" does not include an entity prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under item (ii) of this definition. "Executive employee" does not include any person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

(b) Any business entity whose contracts with State agencies, in the aggregate, annually total more than $50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and offers on State contracts total more than $50,000, or whose aggregate pending bids and offers on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or offer during the period beginning on the date the invitation for bids, request for proposals, or any other procurement opportunity is issued and ending on the day after the date the contract is awarded.

(c–5) For the purposes of the prohibitions under subsections (b) and (c) of this Section, (i) any contribution made to a political committee established to promote the candidacy of the Governor or a declared candidate for the office of Governor shall also be considered as having been made to a political committee established to promote the candidacy of the Lieutenant Governor, in the case of the Governor, or the declared candidate for Lieutenant Governor having filed a joint petition, or write-in declaration of intent, with the declared candidate for Governor, as applicable, and (ii) any contribution made to a political committee established to promote the candidacy of the Lieutenant Governor or a declared candidate for the office of Lieutenant Governor shall also be considered as having been made to a political committee established to promote the candidacy of the Governor, in the case of the Lieutenant Governor, or the declared candidate for Governor having filed a joint petition, or write-in declaration of intent, with the declared candidate for Lieutenant Governor, as applicable.

(d) All contracts between State agencies and a business entity that violate subsection (b) or (c) shall be voidable under Section 50–60. If a business entity violates subsection (b) 3 or more times within a 36–month period, then all contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed

shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b) or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 calendar days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

P.A. 90–572, Art. 50, § 50–37, added by P.A. 95–971, § 10, eff. Jan. 1, 2009. Amended by P.A. 95–1038, § 10, eff. March 11, 2009; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–848, § 10, eff. Jan. 1, 2010; P.A. 96–848, § 15, eff. July 1, 2010; P.A. 97–411, § 5, eff. Aug. 16, 2011; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–38. Lobbying restrictions

§ 50–38. Lobbying restrictions.

(a) A person or business that is let or awarded a contract is not entitled to receive any payment, compensation, or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder.

(b) Any bidder, offeror, potential contractor, or contractor on a State contract that hires a person required to register under the Lobbyist Registration Act to assist in obtaining a contract shall (i) disclose all costs, fees, compensation, reimbursements, and other remunerations paid or to be paid to the lobbyist related to the contract, (ii) not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration, and (iii) sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration were billed to the State. This information, along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The chief procurement officer shall post this information, together with the contract award notice, in the online Procurement Bulletin.

(c) Ban on contingency fee. No person or entity shall retain a person or entity required to register under the Lobbyist Registration Act to attempt to influence the outcome of a procurement decision made under this Code for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection is guilty of a business offense and shall be fined not more than $10,000.

P.A. 90–572, Art. 50, § 50–38, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 96–920, § 5, eff. July 1, 2010; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–39. Procurement communications reporting requirement

§ 50–39. Procurement communications reporting requirement.

(a) Any written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board, and, with respect to the Illinois Power Agency, by the initiator of the communication, and may be reported also by the recipient.

Any person communicating orally, in writing, electronically, or otherwise with the Director or any person employed by, or associated with, the Illinois Power Agency to impart, solicit, or transfer any information related to the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers must disclose to the Procurement Policy Board the full nature, content, and extent of any such communication in writing by submitting a report with the following information:

(1) The names of any party to the communication.

(2) The date on which the communication occurred.

(3) The time at which the communication occurred.

(4) The duration of the communication.

(5) The method (written, oral, etc.) of the communication.

(6) A summary of the substantive content of the communication.

These communications do not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; (iii) statements made by a State employee of the agency to the agency head or other employees of that agency, to the employees of the Executive Ethics Commission, or to an employee of another State agency who, through the communication, is either (a) exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State purchasing officer, or (b) exercising oversight, supervisory, or management authority over the procurement in the normal course of business and as part of official responsibilities; (iv) unsolicited communications providing general information about products, services, or industry best practices before those products or services become involved in a procurement matter; (v) communications received in response to procurement solicitations, including, but not limited to, vendor responses to a request for information, request for proposal, request for qualifications, invitation for bid, or a small purchase, sole source, or emergency solicitation, or questions and answers posted to the Illinois Procurement Bulletin to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures, or guidelines; (vi) communications that are privileged, protected, or confidential under law; and (vii) communications that are part of a formal procurement process as set out by statute, rule, or the solicitation, guidelines, or procedures, including, but not limited to, the posting of procurement opportunities, the process for approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes. The provisions of this Section shall not apply to communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of a contract.

(b) The report required by subsection (a) shall be submitted monthly and include at least the following: (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was

received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information. No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.

(c) Additionally, when an oral communication made by a person required to register under the Lobbyist Registration Act is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in subsection (b).

(d) The Procurement Policy Board shall make each report submitted pursuant to this Section available on its website within 7 calendar days after its receipt of the report. The Procurement Policy Board may promulgate rules to ensure compliance with this Section.

(e) The reporting requirements shall also be conveyed through ethics training under the State Officials and Employees Ethics Act. An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge. The Executive Ethics Commission shall promulgate rules, including emergency rules, to implement this Section.

(f) This Section becomes operative on January 1, 2011.

(g) For purposes of this Section:

"Active procurement matter" means a procurement process beginning with requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or Procurement Policy Board review period, if applicable. "Active procurement matter" also includes communications relating to change orders, renewals, or extensions.

"Material information" means information that a reasonable person would deem important in determining his or her course of action and pertains to significant issues, including, but not limited to, price, quantity, and terms of payment or performance.

"Material argument" means a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. "Material argument" does not include general information about products, services, or industry best practices or a response to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies.

P.A. 90–572, Art. 50, § 50–39, added by P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010. Amended by P.A. 96–920, § 5, eff. July 1, 2010; P.A. 97–333, § 110, eff. Aug. 12, 2011; P.A. 97–618, § 880, eff. Oct. 26, 2011; P.A. 97–895, § 15, eff. Aug. 3, 2012; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–40. Reporting anticompetitive practices

§ 50–40. Reporting anticompetitive practices. When, for any reason, any vendor, bidder, offeror, potential contractor, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, potential contractors, contractors, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer.

P.A. 90–572, Art. 50, § 50–40, eff. Feb. 6, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–45. Confidentiality

§ 50–45. Confidentiality. Any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive solicitation documents, proprietary competitive information, contracts, or selection information to compromise the fairness or integrity of the procurement or contract process shall be subject to immediate dismissal, regardless of the Personnel Code, [1] any contract, or any collective bargaining agreement, and may in addition be subject to criminal prosecution.

P.A. 90–572, Art. 50, § 50–45, eff. Feb. 6, 1998. Amended by P.A. 98–1076, § 5, eff. Jan. 1, 2015.

[1] 20 ILCS 415/1 et seq.

500/50–50. Insider information

§ 50–50. Insider information. It is unlawful for any current or former elected or appointed State official or State employee to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

P.A. 90–572, Art. 50, § 50–50, eff. Feb. 6, 1998.

500/50–55. Supply inventory

§ 50–55. Supply inventory. Every State agency shall inventory or stock no more than a 12–month need of equipment, supplies, commodities, articles, and other items, except as otherwise authorized by the State agency's regulations. Every State agency shall periodically review its inventory to ensure compliance with this Section. If, upon review, an agency determines it has more than a 12–month supply of any equipment, supplies, commodities, or other items, the agency shall undertake transfers of the oversupplied items or other action necessary to maintain compliance with this Section. This Section shall not apply to lifesaving medications, mechanical spare parts, and items for which the supplier requires a minimum order stipulation.

P.A. 90–572, Art. 50, § 50–55, eff. Feb. 6, 1998.

500/50–60. Voidable contracts

§ 50–60. Voidable contracts.

(a) If any contract or amendment thereto is entered into or purchase or expenditure of funds is made at any time in violation of this Code or any other law, the contract or amendment thereto may be declared void by the chief procurement officer or may be ratified and affirmed, provided the chief procurement officer determines that ratification is in the best interests of the State. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.

(b) If, during the term of a contract, the chief procurement officer determines that the contractor is delinquent in the payment of debt as set forth in Section 50–11 of this Code,

the chief procurement officer may declare the contract void if it determines that voiding the contract is in the best interests of the State. The Debt Collection Bureau shall adopt rules for the implementation of this subsection (b).

(c) If, during the term of a contract, the chief procurement officer determines that the contractor is in violation of Section 50–10.5 of this Code, the chief procurement officer shall declare the contract void.

(d) If, during the term of a contract, the contracting agency learns from an annual certification or otherwise determines that the contractor no longer qualifies to enter into State contracts by reason of Section 50–5, 50–10, 50–12, 50–14, or 50–14.5 of this Article, the chief procurement officer may declare the contract void if it determines that voiding the contract is in the best interests of the State.

(e) If, during the term of a contract, the chief procurement officer learns from an annual certification or otherwise determines that a subcontractor subject to Section 20–120 no longer qualifies to enter into State contracts by reason of Section 50–5, 50–10, 50–10.5, 50–11, 50–12, 50–14, or 50–14.5 of this Article, the chief procurement officer may declare the related contract void if it determines that voiding the contract is in the best interests of the State. However, the related contract shall not be declared void unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor no longer qualifies to enter into State contracts by reason of one of the Sections listed in this subsection.

(f) The changes to this Section made by Public Act 96–795 apply to actions taken by the chief procurement officer on or after July 1, 2010.

P.A. 90–572, Art. 50, § 50–60, eff. Feb. 6, 1998. Amended by P.A. 92–404, § 10, eff. July 1, 2002; P.A. 93–600, § 5, eff. Jan. 1, 2004; P.A. 96–493, § 15, eff. Jan. 1, 2010; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 96–1000, § 155, eff. July 2, 2010; P.A. 97–895, § 15, eff. Aug. 3, 2012.

500/50–65. Suspension

§ 50–65. Suspension. Any contractor or subcontractor may be suspended for violation of this Code or for failure to conform to specifications or terms of delivery. Suspension shall be for cause and may be for a period of up to 10 years at the discretion of the applicable chief procurement officer. Contractors or subcontractors may be debarred in accordance with rules promulgated by the chief procurement officer or as otherwise provided by law.

P.A. 90–572, Art. 50, § 50–65, eff. Feb. 6, 1998. Amended by P.A. 93–77, § 5, eff. July 2, 2003; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010.

500/50–70. Additional provisions

§ 50–70. Additional provisions. This Code is subject to applicable provisions of the following Acts:

(1) Article 33E of the Criminal Code of 2012;

(2) the Illinois Human Rights Act;

(3) the Discriminatory Club Act;

(4) the Illinois Governmental Ethics Act;

(5) the State Prompt Payment Act;

(6) the Public Officer Prohibited Activities Act;

(7) the Drug Free Workplace Act;

(8) the Illinois Power Agency Act;

(9) the Employee Classification Act;

(10) the State Officials and Employees Ethics Act; and

(11) the Department of Employment Security Law.

P.A. 90–572, Art. 50, § 50–70, eff. Feb. 6, 1998. Amended by P.A. 95–26, § 920, eff. Jan. 1, 2008; P.A. 95–481, Art. 5 § 5–925, eff. Aug. 28, 2007; P.A. 95–876, § 105, eff. Aug. 21, 2008; P.A. 96–795, Art. 95, § 95–35, eff. July 1, 2010; P.A. 97–1150, § 110, eff. Jan. 25, 2013; P.A. 98–1076, § 5, eff. Jan. 1, 2015.

500/50–75. Other violations

§ 50–75. Other violations.

(a) Any chief procurement officer, State purchasing officer, or designee who willfully violates or allows the violation of this Code shall be subject to immediate dismissal, regardless of the Personnel Code,[1] any contract, or any collective bargaining agreement.

(b) Except as otherwise provided in this Code, whoever violates this Code or the rules promulgated under it is guilty of a Class A misdemeanor.

P.A. 90–572, Art. 50, § 50–75, eff. Feb. 6, 1998.

[1] 20 ILCS 415/1 et seq.

ACT 505. ILLINOIS PURCHASING ACT

Effectiveness of Repeal

Section 99–5 of P.A. 90–572, Article 99, approved Feb. 6, 1998, provides:

"Effective date and transition. This Article, Sections 1–15 through 1–15.115 of Article 1, and Article 50 take effect upon becoming law. Articles 1 through 45 and 53 through 95 take effect January 1, 1998, solely for the purpose of allowing the promulgation of rules to implement the Illinois Procurement Code. The Procurement Policy Board established in Article 5 may be appointed as of January 1, 1998, and until July 1, 1998, shall act only to review proposed purchasing rules. Articles 1 through 45 and 53 through 95 for all other purposes take effect on July 1, 1998."

For applicable effective date of laws provisions in Illinois governing § 99–5 of P.A. 90–572, Art. 99, see 5 ILCS 75/0.01 et seq.

505/1 to 505/6–4. §§ 1 to 6–4. Repealed by P.A. 90–572, Art. 95, § 95–25, eff. July 1, 1998

505/6.5. § 6.5. Repealed by P.A. 88–535, § 8.5, eff. Jan. 26, 1994

505/7. § 7. Repealed by P.A. 87–860, § 93, eff. July 1, 1992

505/7–1, 505/7–2. §§ 7–1, 7–2. Repealed by P.A. 90–572, Art. 95, § 95–25, eff. July 1, 1998

505/8. § 8. Repealed by P.A. 87–860, § 93, eff. July 1, 1992

505/8.5 to 505/10.3. §§ 8.5 to 10.3. Repealed by P.A. 90–572, Art. 95, § 95–25, eff. July 1, 1998

505/11. § 11. Repealed by P.A. 82–905, § 3, eff. Aug. 16, 1982; P.A. 82–1057, Art. II, § 24, eff. Feb. 11, 1983

505/11.1 to 505/13. §§ 11.1 to 13. Repealed by P.A. 90–572, Art. 95, § 95–25, eff. July 1, 1998

ACT 535. ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING QUALIFICATIONS BASED SELECTION ACT

535/1. Short title

§ 1. Short title. This Act may be cited as the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

P.A. 87–673, § 1, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–1.

535/5. State policy on procurement of architectural, engineering, and land surveying services

§ 5. State policy on procurement of architectural, engineering, and land surveying services. It is the policy of State agencies of this State to publicly announce all requirements for architectural, engineering, and land surveying services, to procure these services on the basis of demonstrated competence and qualifications, to negotiate contracts at fair and reasonable prices, and to authorize the Department of Professional Regulation to enforce the provisions of Section 65 of this Act.

P.A. 87–673, § 5, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–5.

535/10. Federal requirements

§ 10. Federal requirements. In the procurement of architectural, engineering, and land surveying services and in the awarding of contracts, a State agency may comply with federal law and regulations including, but not limited to, Public Law 92–582 (Federal Architect–Engineer Selection Law, Brooks Law, 40 U.S.C. 541) and take all necessary steps to adapt its rules, specifications, policies, and procedures accordingly to remain eligible for federal aid.

P.A. 87–673, § 10, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–10.

535/15. Definitions

§ 15. Definitions. As used in this Act:

"Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.[1]

"Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act[2] of 1989 or Section 5 of the Structural Engineering Practice Act of 1989.[3]

"Firm" means any individual, sole proprietorship, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying and provide those services.

"Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.[4]

"Project" means any capital improvement project or any design, study, plan, survey, or new or existing program activity of a State agency, including development of new or existing programs that require architectural, engineering, or land surveying services.

"State agency" means any department, commission, council, board, bureau, committee, institution, agency, university, government corporation, authority, or other establishment or official of this State.

P.A. 87–673, § 15, eff. Jan. 1, 1992. Amended by P.A. 91–91, § 10, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–15.

[1] 225 ILCS 305/5.

[2] 225 ILCS 325/4.

[3] 225 ILCS 340/5.

[4] 225 ILCS 330/5.

535/20. Prequalification

§ 20. Prequalification. A State agency shall establish procedures to prequalify firms seeking to provide architectural, engineering, and land surveying services or may use prequalification lists from other State agencies to meet the requirements of this Section.

P.A. 87–673, § 20, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–20.

535/25. Public notice

§ 25. Public notice. Whenever a project requiring architectural, engineering, or land surveying services is proposed for a State agency, the State agency shall provide no less than a 14 day advance notice published in a professional services bulletin or advertised within the official State newspaper setting forth the projects and services to be procured. The professional services bulletin shall be available electronically and may be available in print. The professional services bulletin shall include a description of each project and shall state the time and place for interested firms to submit a letter of interest and, if required by the public notice, a statement of qualifications.

P.A. 87–673, § 25, eff. Jan. 1, 1992. Amended by P.A. 92–345, § 5, eff. Aug. 10, 2001.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–25.

535/30. Evaluation procedure

§ 30. Evaluation procedure. A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.

A State agency shall establish a committee to select firms to provide architectural, engineering, and land surveying services. A selection committee may include at least one public member nominated by a statewide association of the profession affected. The public member may not be employed or associated with any firm holding a contract with the State agency nor may the public member's firm be considered for a contract with that State agency while he or she is serving as a public member of the committee.

In addition, the Department of Transportation may appoint public members to selection committees that represent the geographic, ethnic, and cultural diversity of the population of the State, including persons nominated by associations

representing minority and female-owned business associations. Public members shall be licensed in or have received a degree from an accredited college or university in one of the professions affected and shall not be employed by, associated with, or have an ownership interest in any firm holding or seeking to hold a contract while serving as a public member of the committee.

In no case shall a State agency, prior to selecting a firm for negotiation under Section 40, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

P.A. 87–673, § 30, eff. Jan. 1, 1992. Amended by P.A. 91–357, § 52, eff. July 29, 1999; P.A. 96–37, § 55–10, eff. July 13, 2009; P.A. 96–849, § 5, eff. Dec. 23, 2009.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–30.

Validity

Provisions added by P.A. 96-35, P.A. 96-37, and P.A. 96-38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96-34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 96–849 incorporated the section as enacted by P.A. 96–37.

535/35. Selection procedure

§ 35. Selection procedure. On the basis of evaluations, discussions, and any presentations, the State agency shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The State agency shall then contact the firm ranked most preferred to negotiate a contract at a fair and reasonable compensation. If fewer than 3 firms submit letters of interest and the State agency determines that one or both of those firms are so qualified, the State agency may proceed to negotiate a contract under Section 40. The decision of the State agency shall be final and binding.

P.A. 87–673, § 35, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–35.

535/40. Contract negotiation

§ 40. Contract negotiation.

(a) The State agency shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the State agency determines in writing to be fair and reasonable. In making this decision, the State agency shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered. In no case may a State agency establish a maximum overhead rate or other payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees.

(b) If the State agency is unable to negotiate a satisfactory contract with the firm that is most preferred, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred. If the State agency is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred.

(c) If the State agency is unable to negotiate a satisfactory contract with any of the selected firms, the State agency shall re-evaluate the architectural, engineering, or land surveying services requested, including the estimated value, scope, complexity, and fee requirements. The State agency shall then compile a second list of not less than 3 qualified firms and proceed in accordance with the provisions of this Act.

(d) A firm negotiating a contract with a State agency shall negotiate subcontracts for architectural, engineering, and land surveying services at compensation that the firm determines in writing to be fair and reasonable based upon a written description of the scope of the proposed services.

P.A. 87–673, § 40, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–40.

535/45. Small contracts

§ 45. Small contracts. The provisions of Sections 25, 30, and 35 do not apply to architectural, engineering, and land surveying contracts with an estimated basic professional services fee of less than $25,000.

P.A. 87–673, § 45, eff. Jan. 1, 1992. Amended by P.A. 92–861, § 5, eff. Jan. 3, 2003.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–45.

535/50. Emergency services

§ 50. Emergency services. Sections 25, 30, and 35 do not apply in the procurement of architectural, engineering, and land surveying services by State agencies (i) when an agency determines in writing that it is in the best interest of the State to proceed with the immediate selection of a firm or (ii) in emergencies when immediate services are necessary to protect the public health and safety, including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.

P.A. 87–673, § 50, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–50.

535/55. Firm performance evaluation

§ 55. Firm performance evaluation. Each State agency shall evaluate the performance of each firm upon completion of a contract. That evaluation shall be made available to the firm who may submit a written response, with the evaluation and response retained solely by the agency. The evaluation and response shall not be made available to any other person or firm and is exempt from disclosure under the Freedom of Information Act.[1]

P.A. 87–673, § 55, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–55.

[1] 5 ILCS 140/1 et seq.

535/60. Certificate of compliance

§ 60. Certificate of compliance. Each contract for architectural, engineering, and land surveying services by a State agency shall contain a certificate signed by a representative of the State agency and the firm that the provisions of this Act were complied with.

P.A. 87–673, § 60, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–60.

535/65. Scope

§ 65. Scope. No person, corporation, or partnership licensed or registered under the Illinois Architecture Prac-

tice Act of 1989,[1] the Professional Engineering Practice Act of 1989,[2] the Structural Engineering Practice Act of 1989,[3] or the Illinois Professional Land Surveyor Act of 1989[4] shall engage in any act or conduct, or be a party to any contract, or agreement, in violation of the provisions of this Act.

P.A. 87–673, § 65, eff. Jan. 1, 1992. Amended by P.A. 91–91, § 10, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–65.

[1] 225 ILCS 305/1 et seq.

[2] 225 ILCS 325/1 et seq.

[3] 225 ILCS 340/1 et seq.

[4] 225 ILCS 330/1 et seq.

535/70. Enforcement

§ 70. Enforcement. Any contract or agreement made in violation of this Act after the effective date of this Act, except a supplement or extension of an existing contract, is void and unenforceable, and the Comptroller and Treasurer of the State of Illinois shall not process any payment claims or checks for any contract or agreement made in violation of this Act.

P.A. 87–673, § 70, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–70.

535/75. Design/build project; contracting

§ 75. Nothing in this Act shall be deemed to prohibit a State agency from contracting for a design/build project.

P.A. 87–673, § 75, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–75.

535/80. Affirmative action

§ 80. Affirmative action. Nothing in this Act shall be deemed to prohibit or restrict agencies from establishing or maintaining affirmative action contracting goals for minorities or women, or small business setaside programs, now or hereafter established by law, rules and regulations, or executive order.

P.A. 87–673, § 80, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 4151–80.

ACT 540. STATE PROMPT PAYMENT ACT

540/1. Application of Act

§ 1. This Act applies to any State official or agency authorized to provide for payment from State funds, by virtue of any appropriation of the General Assembly, for goods or services furnished to the State.

For purposes of this Act, "goods or services furnished to the State" include but are not limited to (i) covered health care provided to eligible members and their covered dependents in accordance with the State Employees Group Insurance Act of 1971,[1] including coverage through a physician-owned health maintenance organization under Section 6.1 of that Act,[2] and (ii) prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental health services, alcohol and substance abuse services, rehabilitation services, and early intervention services provided by a vendor. For the purposes of item (ii), a vendor includes but is not limited to sellers of goods and services, including community-based organizations that are licensed to provide prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental illness, and substance abuse problems.

For the purposes of this Act, "appropriate State official or agency" is defined as the Director or Chief Executive or his designee of that State agency or department or facility of such agency or department. With respect to covered health care provided to eligible members and their dependents in accordance with the State Employees Group Insurance Act of 1971, "appropriate State official or agency" also includes an administrator of a program of health benefits under that Act.

As used in this Act, "eligible member" means a member who is eligible for health benefits under the State Employees Group Insurance Act of 1971, and "member" and "dependent" have the meanings ascribed to those terms in that Act.

As used in this Act, "a proper bill or invoice" means a bill or invoice that includes the information necessary for processing the payment as may be specified by a State agency and in rules adopted in accordance with this Act.

P.A. 79–1182, § 1, eff. July 1, 1976. Amended by P.A. 82–916, § 2, eff. Aug. 16, 1982; P.A. 85–1159, § 2–5, eff. Aug. 4, 1988; P.A. 86–1383, § 1, eff. Sept. 10, 1990; P.A. 87–14, Art. 2, § 2–17, eff. July 24, 1991; P.A. 87–860, § 94, eff. July 1, 1992; P.A. 87–1010, § 1, eff. Sept. 3, 1992; P.A. 88–45, Art. II, § 2–17, eff. July 6, 1993; P.A. 88–554, § 94, eff. July 26, 1994; P.A. 89–21, Art. 5, § 5–35, eff. July 1, 1995; P.A. 91–266, § 10, eff. July 23, 1999; P.A. 92–384, § 5, eff. July 1, 2002; P.A. 96–802, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.401.

[1] 5 ILCS 375/1 et seq.

[2] 5 ILCS 375/6.1.

540/6. Vendor's waiver of penalty for late payment

§ 6. A State official or agency may not request any vendor or contractor to waive his rights, under this Act, to recover a penalty for late payment as a condition of, or inducement to enter into, any contract for goods or services.

P.A. 79–1182, § 6, added by P.A. 85–1159, § 2–5, eff. Aug. 4, 1988. Amended by P.A. 87–773, § 3, eff. Oct. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.406.

540/7. Payments to subcontractors and material suppliers

§ 7. Payments to subcontractors and material suppliers.

(a) When a State official or agency responsible for administering a contract submits a voucher to the Comptroller for payment to a contractor, that State official or agency shall promptly make available electronically the voucher number, the date of the voucher, and the amount of the voucher. The State official or agency responsible for administering the contract shall provide subcontractors and material suppliers, known to the State official or agency, with instructions on how to access the electronic information. When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier their application, plus interest received under this Act, less any retention. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, plus interest received under this Act, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment. When, however, the public owner does not release the full payment due under the contract because there are

specific areas of work or materials the contractor is rejecting or because the contractor has otherwise determined such areas are not suitable for payment, then those specific subcontractors or suppliers involved shall not be paid for that portion of work rejected or deemed not suitable for payment and all other subcontractors and suppliers shall be paid in full, plus interest received under this Act.

(b) If the contractor, without reasonable cause, fails to make full payment of amounts due under subsection (a) to his subcontractors and material suppliers within 15 days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15–day period until fully paid. This subsection shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

(1) If a contractor, without reasonable cause, fails to make payment in full as provided in subsection (a) within 15 days after receipt of payment under the public construction contract, any subcontractor or material supplier to whom payments are owed may file a written notice with the State official or agency setting forth the amount owed by the contractor and the contractor's failure to timely pay the amount owed.

(2) The State official or agency, within 15 days after receipt of a subcontractor's or material supplier's written notice of the failure to receive payment from the contractor, shall hold a hearing convened by an administrative law judge to determine whether the contractor withheld payment, without reasonable cause, from the subcontractors and material suppliers and what amount, if any, is due to the subcontractors and material suppliers. The State official or agency shall provide appropriate notice to the parties of the date, time, and location of the hearing. Each contractor, subcontractor, and material supplier has the right to be represented by counsel at the hearing and to cross-examine witnesses and challenge documents.

(3) If there is a finding by the administrative law judge that the contractor failed to make payment in full, without reasonable cause, as provided in subsection (a), then the administrative law judge shall, in writing, direct the contractor to pay the amount owed to the subcontractors and material suppliers plus interest within 15 days after the finding.

(4) If a contractor fails to make full payment within 15 days after the administrative law judge's finding, then the contractor shall be barred from entering into a State public construction contract for a period of one year beginning on the date of the administrative law judge's finding.

P.A. 79–1182, § 7, added by P.A. 87–773, § 3, eff. Oct. 10, 1991. Amended by P.A. 94–672, § 5, eff. Jan. 1, 2006; P.A. 94–972, § 5, eff. July 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.407.

P.A. 94–972 incorporated the amendments by P.A. 94–672.

ACT 545. PUBLIC CONTRACT FRAUD ACT

545/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Public Contract Fraud Act.

Laws 1877, p. 92, § 0.01, added by P.A. 86–1324, § 991, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.50.

545/1. Change or alteration in public work or improvement increasing cost and expense; punishment

§ 1. Whenever the General Assembly shall pass any enactment for the construction or repair or any public work or improvement, of the state, of any character or name whatsoever, and the said enactment, shall have become a law, and plans, specifications and estimates for the construction or repair of said public work or improvement have been submitted to and approved by the authorities designated in said law, and an appropriation has been made to defray the estimated expense thereof; any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the execution of said public work or improvement, who shall so change, alter or modify, or permit or connive at such change, alteration or modification by any person or persons under his or their direction or control, directly or indirectly, so as to incur a greater cost and expense in the construction or repair of such public work or improvement, than was specified by the law authorizing it, and the appropriation made in pursuance thereof, shall be deemed guilty of a Class A misdemeanor.

Laws 1877, p. 92, § 1, eff. July 1, 1877. Amended by P.A. 77–2596, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.51, transferred from Ill.Rev.Stat.1959, ch. 38, ¶ 450.

545/2. Spending money without obtaining title to land; approval of title by Attorney General

§ 2. Spending money without obtaining title to land; approval of title by Attorney General.

(a) Except as otherwise provided in Section 2 of the Superconducting Super Collider Act [1] or for projects constructed under the Bikeway Act,[2] any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the construction or repair of any public work or improvement, as set forth in Section 1, who shall expend or cause to be expended upon such public work or improvement, the whole or any part of the moneys appropriated therefor, or who shall commence work, or in any way authorize work to be commenced, thereon, without first having obtained a title, by purchase, donation, condemnation or otherwise, to all lands needed for such public work or improvement, running to the People of the State of Illinois; such title to be approved by the Attorney General, and his approval certified by the Secretary of State and placed on record in his office, shall be deemed guilty of a Class A misdemeanor.

(b) Approval of title by the Attorney General for all lands needed for a public work or improvement shall not be required as established under subsection (a) of this Section and the State comptroller may draw warrant in payment of consideration for all such lands without requiring approval of title by the Attorney General if consideration to be paid does not exceed $10,000 and the title acquired for such lands is for:

(1) a fee simple title or easement acquired by the State for highway right-of-way; or

(2) an acquisition of rights or easements of access, crossing, light, air or view to, from or over a freeway vested in abutting property; or

(3) a fee simple title or easement used to place utility lines and connect a permanent public work or improvement owned by the State to main utility lines; or

(4) for the purpose of flood relief or other water resource projects.

(c) This Section does not apply to any otherwise lawful expenditures for the construction, completion, remodeling, maintenance and equipment of buildings and other facilities made in connection with and upon premises owned by the Illinois Building Authority, nor shall this Section apply to improvements to real estate leased by any State agency as defined in the Illinois State Auditing Act,[3] provided the leasehold improvements were contracted for by an agency with leasing authority and in compliance with the rules and regulations promulgated by such agency for that purpose.

Laws 1877, p. 92, § 2, eff. July 1, 1877. Amended by Laws 1953, p. 158, § 1, eff. May 25, 1953; Laws 1961, p. 2711, § 1, eff. Aug. 3, 1961; Laws 1965, p. 245, § 1, eff. March 31, 1965; P.A. 77–2596, § 1, eff. Jan. 1, 1973; P.A. 78–592, § 52, eff. Oct. 1, 1973; P.A. 83–74, § 1, eff. Aug. 17, 1983; P.A. 84–434, § 1, eff. Jan. 1, 1986; P.A. 84–900, § 3, eff. Jan. 1, 1986; P.A. 84–1308, Art. II, § 181, eff. Aug. 25, 1986; P.A. 85–226, § 1, eff. Sept. 1, 1987; P.A. 88–676, § 30, eff. Dec. 14, 1994; P.A. 89–78, Art. 1, § 1–90, eff. June 30, 1995.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.52, transferred from Ill.Rev.Stat.1959, ch. 38, ¶ 451.

[1] 20 ILCS 1135/2 (repealed).

[2] 605 ILCS 30/0.01 et seq.

[3] 30 ILCS 5/1–1 et seq.

545/3. Prosecution; complaint; affidavit

§ 3. Any person or persons, commissioner or commissioners, or other officer or officers, as aforesaid, may be prosecuted in any circuit court of this state, on complaint of 2 or more reputable citizens being filed in the office of the clerk of said court; such complaint to be verified by affidavits.

Laws 1877, p. 92, § 3, eff. July 1, 1877. Amended by Laws 1965, p. 3749, § 1, eff. Aug. 24, 1965.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.53, transferred from Ill.Rev.Stat.1959, ch. 38, ¶ 452.

545/4. State's attorney to prosecute; indictment

§ 4. It shall be the duty of the State's attorney of the county in which such complaint and affidavits are filed, to present the same to the grand jury, next constituted for such court after the filing thereof, and if said grand jury shall indict the person or persons so complained of it shall further be the duty of said State's attorney to prosecute and try the alleged offender or offenders.

Laws 1877, p. 92, § 4, eff. July 1, 1877. Amended by Laws 1933, p. 475, § 1, eff. Jan. 1, 1934.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 132.54, transferred from Ill.Rev.Stat.1959, ch. 38, ¶ 453.

ACT 550. PUBLIC CONSTRUCTION BOND ACT

550/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Public Construction Bond Act.

Laws 1931, p. 385, § 0.01, added by P.A. 86–1324, § 242, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 14.9.

550/1. Bond required; emergency repairs exception; provisions required in bond

§ 1. Except as otherwise provided by this Act, all officials, boards, commissions, or agents of this State, or of any political subdivision thereof, in making contracts for public work of any kind costing over $50,000 to be performed for the State, or of any political subdivision thereof, shall require every contractor for the work to furnish, supply and deliver a bond to the State, or to the political subdivision thereof entering into the contract, as the case may be, with good and sufficient sureties. The surety on the bond shall be a company that is licensed by the Department of Insurance authorizing it to execute surety bonds and the company shall have a financial strength rating of at least A- as rated by A.M. Best Company, Inc., Moody's Investors Service, Standard & Poor's Corporation, or a similar rating agency. The amount of the bond shall be fixed by the officials, boards, commissions, commissioners or agents, and the bond, among other conditions, shall be conditioned for the completion of the contract, for the payment of material used in the work and for all labor performed in the work, whether by subcontractor or otherwise.

If the contract is for emergency repairs as provided in the Illinois Procurement Code,[1] proof of payment for all labor, materials, apparatus, fixtures, and machinery may be furnished in lieu of the bond required by this Section.

Each such bond is deemed to contain the following provisions whether such provisions are inserted in such bond or not:

"The principal and sureties on this bond agree that all the undertakings, covenants, terms, conditions and agreements of the contract or contracts entered into between the principal and the State or any political subdivision thereof will be performed and fulfilled and to pay all persons, firms and corporations having contracts with the principal or with subcontractors, all just claims due them under the provisions of such contracts for labor performed or materials furnished in the performance of the contract on account of which this bond is given, when such claims are not satisfied out of the contract price of the contract on account of which this bond is given, after final settlement between the officer, board, commission or agent of the State or of any political subdivision thereof and the principal has been made.".

Each bond securing contracts between the Capital Development Board or any board of a public institution of higher education and a contractor shall contain the following provisions, whether the provisions are inserted in the bond or not:

"Upon the default of the principal with respect to undertakings, covenants, terms, conditions, and agreements, the termination of the contractor's right to proceed with the work, and written notice of that default and termination by the State or any political subdivision to the surety ("Notice"), the surety shall promptly remedy the default by taking one of the following actions:

(1) The surety shall complete the work pursuant to a written takeover agreement, using a completing contractor jointly selected by the surety and the State or any political subdivision; or

(2) The surety shall pay a sum of money to the obligee, up to the penal sum of the bond, that represents the reasonable cost to complete the work that exceeds the unpaid balance of the contract sum.

The surety shall respond to the Notice within 15 working days of receipt indicating the course of action that it intends to take or advising that it requires more time to investigate the default and select a course of action. If the surety

requires more than 15 working days to investigate the default and select a course of action or if the surety elects to complete the work with a completing contractor that is not prepared to commence performance within 15 working days after receipt of Notice, and if the State or any political subdivision determines it is in the best interest of the State to maintain the progress of the work, the State or any political subdivision may continue to work until the completing contractor is prepared to commence performance. Unless otherwise agreed to by the procuring agency, in no case may the surety take longer than 30 working days to advise the State or political subdivision on the course of action it intends to take. The surety shall be liable for reasonable costs incurred by the State or any political subdivision to maintain the progress to the extent the costs exceed the unpaid balance of the contract sum, subject to the penal sum of the bond.".

The surety bond required by this Section may be acquired from the company, agent or broker of the contractor's choice. The bond and sureties shall be subject to the right of reasonable approval or disapproval, including suspension, by the State or political subdivision thereof concerned. In the case of State construction contracts, a contractor shall not be required to post a cash bond or letter of credit in addition to or as a substitute for the surety bond required by this Section.

When other than motor fuel tax funds, federal-aid funds, or other funds received from the State are used, a political subdivision may allow the contractor to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond required by this Section, on contracts under $100,000 to comply with the requirements of this Section. Any such bank letter of credit shall contain all provisions required for bonds by this Section.

Laws 1931, p. 385, § 1. Amended by Laws 1941, vol. 1, p. 407, § 1; Laws 1957, p. 2188, § 1; Laws 1967, p. 2675, § 1; P.A. 84–424, § 1, eff. Jan. 1, 1986; P.A. 86–333, § 1, eff. Jan. 1, 1990; P.A. 89–518, § 3, eff. Jan. 1, 1997; P.A. 91–456, § 5, eff. Aug. 6, 1999; P.A. 93–221, § 5, eff. Jan. 1, 2004; P.A. 95–1011, § 5, eff. Dec. 15, 2008; P.A. 96–1000, § 165, eff. July 2, 2010; P.A. 98–216, § 5, eff. Aug. 9, 2013; P.A. 98–1018, § 5, eff. Aug. 22, 2014.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 15.

[1] 30 ILCS 500/1–1 et seq.

P.A. 98–1017 incorporated the amendment by P.A. 98–216.

550/1.5. Public private agreements

§ 1.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act or the Public–Private Agreements for the South Suburban Airport Act.

Laws 1931, p. 385, § 1.5, added by P.A. 96–913, § 920, eff. June 9, 2010. Amended by P.A. 98–109, § 4–30, eff. July 25, 2013.

550/1.7. Public-private agreements

§ 1.7. Public-private agreements. This Act applies to any public-private agreement entered into under the Public–Private Partnerships for Transportation Act.

Laws 1931, p. 385, § 1.7, added by P.A. 97–502, § 920, eff. Aug. 23, 2011.

550/2. Recovery on bond or letter of credit; notice of claim; limitation

§ 2. Every person furnishing material or performing labor, either as an individual or as a sub-contractor, hereinafter referred to as Claimant, for any contractor, with the State, or a political subdivision thereof where bond or letter of credit shall be executed as provided in this Act, shall have the right to sue on such bond or letter of credit in the name of the State, or the political subdivision thereof entering into such contract, as the case may be, for his use and benefit, and in such suit the plaintiff shall file a copy of such bond or letter of credit, certified by the party or parties in whose charge such bond or letter of credit shall be, which copy shall, unless execution thereof be denied under oath, be prima facie evidence of the execution and delivery of the original; provided, however, that this Act shall not be taken to in any way make the State, or the political subdivision thereof entering into such contract, as the case may be, liable to such sub-contractor, materialman or laborer to any greater extent than it was liable under the law as it stood before the adoption of this Act.

Provided, however, that any Claimant having a claim for labor and material furnished to the State shall have no such right of action unless it shall have filed a verified notice of said claim with the officer, board, bureau or department awarding the contract, within 180 days after the date of the last item of work or the furnishing of the last item of materials, and shall have furnished a copy of such verified notice to the contractor within 10 days of the filing of the notice with the agency awarding the contract.

When any Claimant has a claim for labor and material furnished to a political subdivision, the Claimant shall have no right of action unless it shall have filed a verified notice of that claim with the Clerk or Secretary of the political subdivision within 180 days after the date of the last item of work or furnishing of the last item of materials, and shall have filed a copy of that verified notice upon the contractor in a like manner as provided herein within 10 days after the filing of the notice with the Clerk or Secretary.

The Claimant may file said verified notice by using personal service or by depositing the verified notice in the United States Mail, postage prepaid, certified or restricted delivery return receipt requested limited to addressee only.

The claim shall be verified and shall contain (1) the name and address of the claimant; the business address of the Claimant within this State and if the Claimant shall be a foreign corporation having no place of business within the State, the notice shall state the principal place of business of said corporation and in the case of a partnership, the notice shall state the names and residences of each of the partners; (2) the name of the contractor for the government; (3) the name of the person, firm or corporation by whom the Claimant was employed or to whom he or it furnished materials; (4) a brief description of the public improvement; (5) a description of the Claimant's contract as it pertains to the public improvement, describing the work done by the Claimant and stating the total amount due and unpaid as of the date of verified notice.

No defect in the notice herein provided for shall deprive the Claimant of his right of action under this article unless it shall affirmatively appear that such defect has prejudiced the rights of an interested party asserting the same.

Provided, further, that no action shall be brought later than one year after the date of the furnishing of the last item of work or materials by the Claimant. Such action shall be

brought only in the circuit court of this State in the judicial circuit in which the contract is to be performed.

The remedy provided in this Section is in addition to and independent of any other rights and remedies provided at law or in equity. A waiver of rights under the Mechanics Lien Act shall not constitute a waiver of rights under this Section unless specifically stated in the waiver.

Laws 1931, p. 385, § 2. Amended by Laws 1949, p. 596, § 1; P.A. 81–594, § 1, eff. Jan. 1, 1980; P.A. 84–551, § 14, eff. Sept. 18, 1985; P.A. 86–333, § 1, eff. Jan. 1, 1990; P.A. 93–562, § 5, eff. Aug. 20, 2003; P.A. 97–487, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 16.

550/3. Builder or developer cash bond or other surety

§ 3. Builder or developer cash bond or other surety.

(a) A county or municipality may not require a cash bond, irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company from a builder or developer to guarantee completion of a project improvement when the builder or developer has filed with the county or municipal clerk a current, irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company, deemed good and sufficient by the county or municipality accepting such security, in an amount equal to or greater than 110% of the amount of the bid on each project improvement. A builder or developer has the option to utilize a cash bond, irrevocable letter of credit, surety bond, or letter of commitment, issued by a bank, savings and loan association, surety, or insurance company, deemed good and sufficient by the county or municipality, to satisfy any cash bond requirement established by a county or municipality. Except for a municipality or county with a population of 1,000,000 or more, the county or municipality must approve and deem a surety or insurance company good and sufficient for the purposes set forth in this Section if the surety or insurance company is authorized by the Illinois Department of Insurance to sell and issue sureties in the State of Illinois.

(b) If a county or municipality receives a cash bond, irrevocable letter of credit, or surety bond from a builder or developer to guarantee completion of a project improvement, the county or municipality shall (i) register the bond under the address of the project and the construction permit number and (ii) give the builder or developer a receipt for the bond. The county or municipality shall establish and maintain a separate account for all cash bonds received from builders and developers to guarantee completion of a project improvement.

(c) The county or municipality shall refund a cash bond to a builder or developer, or release the irrevocable letter of credit or surety bond, within 60 days after the builder or developer notifies the county or municipality in writing of the completion of the project improvement for which the bond was required. For these purposes, "completion" means that the county or municipality has determined that the project improvement for which the bond was required is complete or a licensed engineer or licensed architect has certified to the builder or developer and the county or municipality that the project improvement has been completed to the applicable codes and ordinances. The county or municipality shall pay interest to the builder or developer, beginning 60 days after the builder or developer notifies the county or municipality in writing of the completion of the project improvement, on any bond not refunded to a builder or developer, at the rate of 1% per month.

(d) A home rule county or municipality may not require or maintain cash bonds, irrevocable letters of credit, surety bonds, or letters of commitment issued by a bank, savings and loan association, surety, or insurance company from builders or developers in a manner inconsistent with this Section. This Section supersedes and controls over other provisions of the Counties Code [1] or Illinois Municipal Code [2] as they apply to and guarantee completion of a project improvement that is required by the county or municipality, regardless of whether the project improvement is a condition of annexation agreements. This Section is a denial and limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by a home rule county or municipality of powers and functions exercised by the State.

Laws 1931, p. 385, § 3, added by P.A. 89–518, § 3, eff. Jan. 1, 1997. Amended by P.A. 90–558, § 1, eff. Dec. 12, 1997; P.A. 92–479, § 5, eff. Jan. 1, 2002; P.A. 96–1000, § 165, eff. July 2, 2010.

[1] 55 ILCS 5/1–1001 et seq.

[2] 65 ILCS 5/1–1–1 et seq.

ACT 557. PUBLIC CONSTRUCTION CONTRACT ACT

557/1. Short title

§ 1. Short title. This Act may be cited as the Public Construction Contract Act.

P.A. 91–647, § 1, eff. Nov. 30, 1999.

557/5. Definitions

§ 5. Definitions. As used in this Act:

"Contractor" means a person who contracts with a governmental entity to improve real property or to perform or manage construction. "Contractor" does not mean a person licensed under the Illinois Architecture Practice Act of 1989, [1] the Illinois Professional Land Surveyor Act of 1989, [2] or the Professional Engineering Practice Act of 1989. [3]

"Governmental entity" means a county, a municipality, a township, a public educational institution, a special district, or any political subdivision thereof. "Governmental entity" does not include the Metropolitan Water Reclamation District.

"Improve" means to build, alter, repair, or demolish an improvement on, connected with, or beneath the surface of any real property; to excavate, clear, grade, fill, or landscape any real property; to construct driveways or roadways; or to perform labor on improvements.

"Improvement" includes, but is not limited to, all or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, landscaping, trees, shrubbery, driveways, or roadways on real property.

"Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

"Real property" means the real estate that is improved, including, but not limited to, lands, leaseholds, tenements, hereditaments, and improvements placed on the real estate.

P.A. 91–647, § 5, eff. Nov. 30, 1999.

[1] 225 ILCS 305/1 et seq.

[2] 225 ILCS 330/1 et seq.

[3] 225 ILCS 325/1 et seq.

557/10. Contract requirements

§ 10. Contract requirements. If a contract between a contractor and a governmental entity for an improvement exceeds $75,000, all of the following provisions apply to that contract:

(1) If a contractor discovers one or both of the following physical conditions at the surface or subsurface of the site, the contractor must notify the governmental entity of the condition, in writing, before disturbing the condition:

(A) A subsurface or latent physical condition at the site differing materially from conditions indicated in the contract.

(B) An unknown physical condition at the site of an unusual nature differing materially from the conditions ordinarily encountered and generally recognized as inhering in work of the kind provided for in the contract.

(2) If the governmental entity receives notice from the contractor under subdivision (1), the governmental entity must promptly investigate the physical condition.

(3) If the governmental entity determines that the physical condition (i) does materially differ from the conditions indicated in the contract or ordinarily encountered in the work of the kind provided for in the contract and (ii) will cause an increase or decrease in the costs or time needed to perform the contract, the governmental entity must make an equitable adjustment to and modify the contract in writing.

(4) The contractor may not make a claim for additional costs or time because of a physical condition at the site, unless the contractor has provided notice to the governmental entity under subdivision (1).

(5) The contractor may not make a claim for an adjustment after the contractor has received a final payment under the contract.

P.A. 91–647, § 10, eff. Nov. 30, 1999.

557/15. Arbitration

§ 15. Arbitration. A contractor and governmental entity may, by mutual agreement, arbitrate the contractor's entitlement to recover the actual increase in contract time or costs incurred because of a physical condition at the site. The judgment rendered may be entered in any court having jurisdiction over the matter.

P.A. 91–647, § 15, eff. Nov. 30, 1999.

557/20. Incorporation into contract

§ 20. Incorporation into contract. The provisions of Section 10 of this Act are incorporated into and considered a part of every contract for improvements between a contractor and governmental entity.

P.A. 91–647, § 20, eff. Nov. 30, 1999.

557/25. Limitation

§ 25. Limitation. Nothing in this Act limits the rights or remedies otherwise available to a contractor or governmental entity under any other law or under the Constitution of the State of Illinois.

P.A. 91–647, § 25, eff. Nov. 30, 1999.

557/99. Effective date

§ 99. Effective date. This Act takes effect upon becoming law.

P.A. 91–647, § 99, eff. Nov. 30, 1999.

ACT 565. STEEL PRODUCTS PROCUREMENT ACT

565/1. Short title

§ 1. This Act shall be known and may be cited as the "Steel Products Procurement Act".

P.A. 83–1030, § 1, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1801.

565/2. Legislative findings

§ 2. It is hereby found and declared by the Illinois General Assembly that

(1) The production of steel products provides the jobs and family incomes of hundreds of thousands of people in this State and, in turn, the jobs and family incomes of millions of persons in the United States;

(2) The taxes paid to the State and its political subdivisions by employers and employees engaged in the production and sale of steel products are a large source of public revenues in the State;

(3) The economy and general welfare of this State and its people, as well as the economy and general welfare of the United States, are inseparably related to the preservation and development of industry in this State, as well as all the other states of this nation.

The General Assembly therefore declares it to be the policy of the State of Illinois that all public officers and agencies should aid and promote the economy of the State and the United States by specifying steel products produced in the United States in all contracts for construction, reconstruction, repair, improvement or maintenance of public works.

P.A. 83–1030, § 2, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1802.

565/3. Definitions

§ 3. For the purposes of this Act, the following words have the meanings ascribed to them in this Section unless the context clearly requires otherwise.

(a) "Public agency" means the State of Illinois, its departments, agencies, boards, commissions and institutions, and all units of local government, including school districts.

(b) "United States" means the United States and any place subject to the jurisdiction thereof.

(c) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.

P.A. 83–1030, § 3, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1803.

565/4. Contracts for public works; use of United States produced steel products

§ 4. Each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public agency shall contain a provision that steel products used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States.

The provisions of this Section shall not apply:

(1) Where the contract involves an expenditure of less than $500.

(2) Where the executive head of the public agency certifies in writing that (a) the specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency's requirements, or (b) obtaining the specified products, manufactured or produced in the United States would increase the cost of the contract by more than 10%.

(3) When its application is not in the public interest.

P.A. 83–1030, § 4, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1804.

565/5. Contracts in violation of Act prohibited; penalties

§ 5. No public agency may authorize, provide for or make any payment to any vendor or contractor upon any contract in violation of Section 4. It shall be a business offense for any vendor or contractor to knowingly enter into any contract in violation of Section 4 or to knowingly violate contract provisions required by Section 4. Each such violation shall subject the violator to a fine of the greater of $5,000 or the payment price received by him as a result of such violation. The Attorney General is authorized to file and prosecute a complaint in the circuit court of any county in which the contract was in whole or in part executed or performed.

P.A. 83–1030, § 5, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1805.

565/6. Application of Act to contracts

§ 6. This Act shall apply only to contracts and subcontracts entered into after the effective date of this Act, and shall not limit the use or supply of steel products purchased or leased prior to the effective date of this Act.

P.A. 83–1030, § 6, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1806.

565/7. Federal law or treaty not contravened

§ 7. Nothing in this Act is intended to contravene any existing treaty, law, agreement or regulation of the United States. Contracts entered into in accordance with an existing treaty, law, agreement or regulation of the United States shall not be in violation of this Act to the extent of such accordance.

P.A. 83–1030, § 7, eff. Jan. 5, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 1807.

ACT 570. EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT

570/0.01. Short title

§ 0.01. Short title. This Article 2 may be cited as the Employment of Illinois Workers on Public Works Act. In this Article 2, references to this Act mean this Article 2.

P.A. 83–1472, Art. 2, § 0.01, added by P.A. 86–1324, § 473, eff. Sept. 6, 1990. Amended by P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2200.

570/1. Definitions

§ 1. Definitions. For the purposes of this Act, the following words have the meanings ascribed to them in this Section.

(1) "Illinois laborer" refers to any person who has resided in Illinois for at least 30 days and intends to become or remain an Illinois resident.

(2) "A period of excessive unemployment" means any month immediately following 2 consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures.

(3) "Hazardous waste" has the definition ascribed to it in Section 3.220 of the Illinois Environmental Protection Act, approved June 29, 1970, as amended. [1]

(4) "Interested party" means a person or entity with an interest in compliance with this Act.

(5) "Entity" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other business enterprise; however, the term "entity" does not include (i) the State of Illinois or its officers, agencies, or political subdivisions or (ii) the federal government.

(6) "Public works" means any fixed work construction or improvement for the State of Illinois or any political subdivision of the State if that fixed work construction or improvement is funded or financed in whole or in part with State funds or funds administered by the State of Illinois.

P.A. 83–1472, Art. 2, § 1, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 92–574, § 15, eff. June 26, 2002; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2201.

[1] 415 ILCS 5/3.220.

570/1.1. Findings

§ 1.1. Findings. The General Assembly finds and declares that unemployment in the Illinois construction industry has traditionally tended to be higher in those counties which border upon other states. Further, the General Assembly finds and declares that the over-utilization of out-of-state laborers on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof is a contributing factor to higher levels of unemployment both in the border counties and throughout Illinois. It is the public policy of this State and the objective of this Act to promote the general welfare of the people of this State by ensuring that Illinois laborers are utilized to the greatest extent possible on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof. To this end, this Act shall be liberally construed to effectuate its purpose.

P.A. 83–1472, Art. 2, § 1.1, added by P.A. 87–377, § 1, eff. Jan. 1, 1992. Amended by P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2201.1.

570/2. Applicability

§ 2. Applicability. This Act applies to all labor on public works projects or improvements, including projects involving the clean-up and on-site disposal of hazardous waste, but excluding emergency response or immediate removal activi-

ties, whether skilled, semi-skilled or unskilled, whether manual or non-manual.

P.A. 83–1472, Art. 2, § 2, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2202.

570/2.5. Public private agreements

§ 2.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act and the Public–Private Agreements for the South Suburban Airport Act.

P.A. 83–1472, Art. 2, § 2.5, added by P.A. 96–913, § 925, eff. June 9, 2010. Amended by P.A. 98–109, § 4–35, eff. July 25, 2013.

570/2.7. Public-private agreements

§ 2.7. Public-private agreements. This Act applies to any public-private agreement entered into under the Public–Private Partnerships for Transportation Act.

P.A. 83–1472, Art. 2, § 2.7, added by P.A. 97–502, § 925, eff. Aug. 23, 2011.

570/3. Employment of Illinois laborers

§ 3. Employment of Illinois laborers. Whenever there is a period of excessive unemployment in Illinois, if a person or entity is charged with the duty, either by law or contract, of (1) constructing or building any public works, as defined in this Act, or (2) the clean-up and on-site disposal of hazardous waste for the State of Illinois or any political subdivision of the State, and that clean-up or on-site disposal is funded or financed in whole or in part with State funds or funds administered by the State of Illinois, then that person or entity shall employ at least 90% Illinois laborers on such project. Any public works project financed in whole or in part by federal funds administered by the State of Illinois is covered under the provisions of this Act, to the extent permitted by any applicable federal law or regulation. Every public works contract let by any such person shall contain a provision requiring that such labor be used: Provided, that other laborers may be used when Illinois laborers as defined in this Act are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.

P.A. 83–1472, Art. 2, § 3, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2203.

570/4. Non-resident executive and technical experts

§ 4. Non-resident executive and technical experts. Every contractor on a public works project or improvement or hazardous waste clean-up and on-site disposal project in this State may place on such work no more than 3, or 6 in the case of a hazardous waste clean-up and on-site disposal project, of his regularly employed non-resident executive and technical experts, even though they do not qualify as Illinois laborers as defined in Section 1 of this Act.

P.A. 83–1472, Art. 2, § 4, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2204.

570/5. Expenditure of federal funds

§ 5. Expenditure of federal funds.

(a) In all contracts involving the expenditure of federal aid funds in relation to a public works project or improvement, this Act shall not be enforced in such manner as to conflict with any federal statutes or rules and regulations.

(b) When federal expenditures are used in combination with State expenditures for clean-up and on-site disposal of hazardous waste, it shall be the responsibility of the Illinois Environmental Protection Agency to notify, with respect to such project, any Illinois hazardous waste cleanup contractor who has requested such notification of the date when bids will be accepted for such projects and the requirements necessary to successfully compete for such projects.

P.A. 83–1472, Art. 2, § 5, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2205.

570/6. Penalties

§ 6. Penalties. Any person or entity that violates the provisions of this Act is subject to a civil penalty in an amount not to exceed $1,000 for each violation found in the first investigation by the Department, not to exceed $5,000 for each violation found in the second investigation by the Department, and not to exceed $15,000 for a third or subsequent violation found in any subsequent investigation by the Department. Each violation of this Act for each worker and for each day the violation continues constitutes a separate and distinct violation. In determining the amount of the penalty, the Department shall consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violations. The collection of these penalties shall be enforced in a civil action brought by the Attorney General on behalf of the Department.

P.A. 83–1472, Art. 2, § 6, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2206.

570/7. Enforcement

§ 7. Enforcement. It is the duty of the Department of Labor to enforce the provisions of this Act. The Department has the power to conduct investigations in connection with the administration and enforcement of this Act, and any investigator with the Department is authorized to visit and inspect, at all reasonable times, any places covered by this Act and is authorized to inspect, at all reasonable times, documents related to the determination of whether a violation of the Act exists. The Department may compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in any investigation and may administer oaths to witnesses. The Department of Labor, as represented by the Attorney General, is empowered to: (i) issue and cause to be served on any person or entity an order to cease and desist from further violation of this Act, (ii) take affirmative or other action as deemed reasonable to eliminate the effect of the violation, (iii) collect any civil penalties assessed by the Department pursuant to Section 6 of this Act, and (iv) sue for injunctive relief against the awarding of any contract or the continuation of any work under any contract for public works or improvements or for the clean-up and on-site disposal of

hazardous waste at a time when the provisions of this Act are not being met.

P.A. 83–1472, Art. 2, § 7, eff. Sept. 20, 1984. Amended by P.A. 86–1015, § 17, eff. Jan. 3, 1990; P.A. 96–929, § 5, eff. June 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 2207.

570/7.05. Review

§ 7.05. Review. Any party seeking review of the Department's determination may file a written request for an informal conference. The request must be received by the Department within 15 calendar days after the date of issuance of the Department's determination. During the conference, the party seeking review may present written or oral information and arguments as to why the Department's determination should be amended or vacated. The Department shall consider the information and arguments presented and issue a written decision advising all parties of the outcome of the conference.

P.A. 83–1472, Art. 2, § 7.05, added by P.A. 96–929, § 5, eff. June 16, 2010.

570/7.10. Employment of Illinois Workers on Public Works Projects Fund

§ 7.10. Employment of Illinois Workers on Public Works Projects Fund. All moneys received by the Department as civil penalties under this Act shall be deposited into the Employment of Illinois Workers on Public Works Projects Fund and shall be used, subject to appropriation by the General Assembly, by the Department for administration, investigation, and other expenses incurred in carrying out its powers and duties under this Act. The Department shall hire as many investigators and other personnel as may be necessary to carry out the purposes of this Act. Any moneys in the Fund at the end of a fiscal year in excess of those moneys necessary for the Department to carry out its powers and duties under this Act shall be available for appropriation to the Department for the next fiscal year for any of the Department's duties.

P.A. 83–1472, Art. 2, § 7.10, added by P.A. 96–929, § 5, eff. June 16, 2010.

570/7.15. Private right of action

§ 7.15. Private right of action.

(a) Any interested party or person aggrieved by a violation of this Act or any rule adopted under this Act may file suit in circuit court, in the county where the alleged offense occurred or where any party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this Act. Actions may only be brought (i) 30 days or more after a complaint has been filed with the Department of Labor by any interested party or person aggrieved by a violation of this Act or (ii) any time after the filing of a complaint if the Department of Labor notifies any interested party or person aggrieved by a violation of this Act that the Department will not proceed with the complaint. Actions may be brought by one or more persons or entities for and on behalf of themselves and other persons or entities similarly situated. A person or entity whose rights have been violated under this Act is entitled to collect:

(1) attorney's fees and costs; and

(2) compensatory damages in an amount not to exceed $500 for each violation of this Act or any rule adopted under this Act. Each violation of this Act for each worker and for each day the violation continues constitutes a separate and distinct violation.

(b) The right of an interested party or aggrieved person to bring an action under this Section terminates upon the passing of 3 years from the date of completion and acceptance of the public works project in question.

P.A. 83–1472, Art. 2, § 7.15, added by P.A. 96–929, § 5, eff. June 16, 2010.

570/7.20. Rulemaking

§ 7.20. Rulemaking. The Department may adopt reasonable rules to implement and administer this Act. For purposes of this Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary for the public interest and welfare.

P.A. 83–1472, Art. 2, § 7.20, added by P.A. 96–929, § 5, eff. June 16, 2010.

MANDATES

ACT 805. STATE MANDATES ACT

805/8.30. Exempt mandate

Text of section as added by P.A. 94–750. See, also, other § 8.30.

§ 8.30. Exempt mandate.

(a) Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by Public Act 94–750, 94–792, 94–794, 94–806, 94–823, 94–834, 94–856, 94–875, 94–933, 94–1055, 94–1074, or 94–1111.

(b) Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by the Volunteer Emergency Worker Higher Education Protection Act.

P.A. 81–1114; P.A. 81–1115, § 8.30, added by P.A. 94–750, § 915, eff. May 9, 2006; P.A. 94–792, § 90, eff. May 19, 2006; P.A. 94–794, § 90, eff. May 22, 2006; P.A. 94–806, § 90, eff. Jan. 1, 2007; P.A. 94–823, § 90, eff. Jan. 1, 2007; P.A. 94–834, § 90, eff. June 6, 2006; P.A. 94–856, § 90, eff. June 15, 2006; P.A. 94–875, § 90, eff. July 1, 2006; P.A. 94–933, § 90, eff. June 26, 2006; P.A. 94–957, § 90, eff. July 1, 2006; P.A. 94–1055, Art. 95, § 95–1–10, eff. Jan. 1, 2007; P.A. 94–1074, § 90, eff. Dec. 26, 2006; P.A. 94–1111, § 90, eff. Feb. 27, 2007. Amended by P.A. 95–331, § 375, eff. Aug. 21, 2007; P.A. 95–876, § 110, eff. Aug. 21, 2008.

805/8.30. Exempt mandate

Text of section as added by P.A. 94–957. See, also, other § 8.30

§ 8.30. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by the Volunteer Emergency Worker Higher Education Protection Act. P.A. 81–1114; P.A. 81–1115, § 8.30, added by P.A. 94–957, § 90, eff. July 1, 2006.

CHAPTER 35

REVENUE

USE AND OCCUPATION TAXES

ACT 105. USE TAX ACT

Section

105/9. Due date; payment by electronic funds transfer; discount; deposits; conditional sales; returns; fund.

ACT 110. SERVICE USE TAX ACT

110/9. Payment; electronic funds transfer; returns; refunds; disposition of funds.

ACT 115. SERVICE OCCUPATION TAX ACT

115/9. Payment; electronic funds transfer; conditional sales; returns; refunds; disposition of funds.

ACT 120. RETAILERS' OCCUPATION TAX ACT

120/3. Returns; payment; electronic funds transfer; deductions; discounts; disposition of proceeds; accounts.

PROPERTY TAXES

ACT 200. PROPERTY TAX CODE

TITLE 6. LEVY AND EXTENSION

ARTICLE 18. LEVY AND EXTENSION PROCESS

DIVISION 2. TRUTH IN TAXATION

200/18–55. Short title and definitions.

200/18–56. Legislative Purpose.

200/18–60. Estimate of taxes to be levied.

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200/18–72. Notice and hearing; certificate of tax levy amendments.

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DIVISION 5. PROPERTY TAX EXTENSION LIMITATION LAW

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ACT 215. TRUTH IN TAXATION ACT

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USE AND OCCUPATION TAXES

ACT 105. USE TAX ACT

105/9. Due date; payment by electronic funds transfer; discount; deposits; conditional sales; returns; fund

§ 9. Except as to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, each retailer required or authorized to collect the tax imposed by this Act shall pay to the Department the amount of such tax (except as otherwise provided) at the time when he is required to file his return for the period during which such tax was collected, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or $5 per calendar year, whichever is greater, which is allowed to reimburse the retailer for expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. In the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return. The Department may disallow the discount for retailers whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final. A retailer need not remit that part of any tax collected by him to the extent that he is required to remit and does remit the tax imposed by the Retailers' Occupation Tax Act,[1] with respect to the sale of the same property.

Where such tangible personal property is sold under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the period for which the return is filed, the retailer, in collecting the tax (except as to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State), may collect for each tax return period, only the tax applicable to that part of the selling price actually received during such tax return period.

Except as provided in this Section, on or before the twentieth day of each calendar month, such retailer shall file a return for the preceding calendar month. Such return shall be filed on forms prescribed by the Department and shall furnish such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;

2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;

3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

4. The amount of credit provided in Section 2d of this Act;

5. The amount of tax due;

5–5. The signature of the taxpayer; and

6. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of $150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of $100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of $50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of $200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505–210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act,[2] the Service Use Tax Act[3] was $10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act was $20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month

next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985, and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987, and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than $9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than $10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the $10,000 threshold stated above, then such taxpayer may petition the Department for change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than $19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than $20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the $20,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. The Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for taxpayers who file on other than a calendar monthly basis.

If any such payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown by an original monthly return, the Department shall issue to the taxpayer a credit memorandum no later than 30 days after the date of payment, which memorandum may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department, except that if such excess payment is shown on an original monthly return and is made after December 31, 1986, no credit memorandum shall be issued, unless requested by the taxpayer. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted by the taxpayer to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and the taxpayer shall be liable for penalties and interest on such difference.

If the retailer is otherwise required to file a monthly return and if the retailer's average monthly tax liability to the Department does not exceed $200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February, and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the retailer is otherwise required to file a monthly or quarterly return and if the retailer's average monthly tax liability to the Department does not exceed $50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such retailer shall file a final return under

this Act with the Department not more than one month after discontinuing such business.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 3–55 of this Act, then that seller may report the transfer of all the aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3–2 of the Boat Registration and Safety Act, [4] a personal watercraft, or any boat equipped with an inboard motor.

The transaction reporting return in the case of motor vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5–402 of the Illinois Vehicle Code [5] and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5–402 of the Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft and aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 20 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption from the tax that is imposed by this Act may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

No retailer's failure or refusal to remit tax under this Act precludes a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration (if titling or registration is required) upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer. The Department shall adopt appropriate rules to carry out the mandate of this paragraph.

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer, and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

Where a retailer collects the tax with respect to the selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal property and the retailer refunds the selling price thereof to the purchaser, such retailer shall also refund, to the purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the retailer may deduct the amount of the tax so refunded by him to the purchaser from any other use tax which such retailer may be required to pay or remit to the Department, as shown by such return, if the amount of the tax to be deducted was previously remitted to the Department by such retailer. If the retailer has not previously remitted the amount of such tax to the Department, he is entitled to no deduction under this Act upon refunding such tax to the purchaser.

Any retailer filing a return under this Section shall also include (for the purpose of paying tax thereon) the total tax covered by such return upon the selling price of tangible

personal property purchased by him at retail from a retailer, but as to which the tax imposed by this Act was not collected from the retailer filing such return, and such retailer shall remit the amount of such tax to the Department when filing such return.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable retailers, who are required to file returns hereunder and also under the Retailers' Occupation Tax Act, to furnish all the return information required by both Acts on the one form.

Where the retailer has more than one business registered with the Department under separate registration under this Act, such retailer may not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury which is hereby created, the net revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury, 20% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property, other than tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning August 1, 2000, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that are now taxed at 6.25%.

Beginning July 1, 2011, each month the Department shall pay into the Clean Air Act (CAA) Permit Fund 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of sorbents used in Illinois in the process of sorbent injection as used to comply with the Environmental Protection Act or the federal Clean Air Act, but the total payment into the Clean Air Act (CAA) Permit Fund under this Act and the Retailers' Occupation Tax Act shall not exceed $2,000,000 in any fiscal year.

Beginning July 1, 2013, each month the Department shall pay into the Underground Storage Tank Fund from the proceeds collected under this Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act an amount equal to the average monthly deficit in the Underground Storage Tank Fund during the prior year, as certified annually by the Illinois Environmental Protection Agency, but the total payment into the Underground Storage Tank Fund under this Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act shall not exceed $18,000,000 in any State fiscal year. As used in this paragraph, the "average monthly deficit" shall be equal to the difference between the average monthly claims for payment by the fund and the average monthly revenues deposited into the fund, excluding payments made pursuant to this paragraph.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, [6] Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, [7] and Section 9 of the Service Occupation Tax Act, [8] such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act [9] is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds

secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, [10] an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act. [11]

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032 and each fiscal year thereafter that bonds are outstanding under Section 13.2. of the Metropolitan Pier and Exposition Authority Act, but not after fiscal year 2060.	350,000,000

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993 and ending on September 30, 2013, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25–year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605–332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration

Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% thereof shall be paid into the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

For greater simplicity of administration, manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, and who wish to do so, may assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the retailers who are affected do not make written objection to the Department to this arrangement.

Laws 1955, p. 2027, § 9, eff. July 14, 1955. Amended by Laws 1957, p. 2024, § 1, eff. July 1, 1959; Laws 1959, p. 395, § 1, eff. July 1, 1959; Laws 1959, p. 412, § 1, eff. July 1, 1959; Laws 1959, p. 654, § 1, eff. July 8, 1959; Laws 1961, p. 1559, § 1, eff. July 1, 1961; Laws 1963, p. 119, § 1, eff. March 8, 1963; Laws 1963, p. 123, § 1, eff. March 8, 1963; Laws 1963, p. 1200, § 1, eff. July 1, 1963; Laws 1963, p. 1787, § 1, eff. July 16, 1963; Laws 1965, p. 167, § 1, eff. July 1, 1965; Laws 1965, p. 1186, § 1, eff. July 1, 1965; Laws 1965, p. 2820, § 1, eff. Jan. 1, 1966; Laws 1967, p. 1072, § 1, eff. July 1, 1967; Laws 1967, p. 1134, § 1, eff. July 1, 1967; Laws 1968, p. 381, § 1, eff. July 1, 1969; P.A. 76–249, § 1, eff. July 1, 1969; P.A. 76–365, § 1, eff. July 1, 1969; P.A. 76–2249, § 1, eff. July 1, 1970; P.A. 77–1081, § 1, eff. Aug. 17, 1971; P.A. 78–736, § 2, eff. Sept. 10, 1973; P.A. 79–839, § 2, eff. Sept. 8, 1975; P.A. 79–5, 6th Sp.Sess., § 2, eff. Nov. 1, 1976; P.A. 80–473, § 1, eff. Oct. 1, 1977; P.A. 80–474, § 1, eff. Sept. 3, 1977; P.A. 80–1364, § 55, eff. Aug. 13, 1978; P.A. 81–3, 2nd Sp.Sess., § 7, eff. Sept. 19, 1979; P.A. 81–1086, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 76, eff. Sept. 26, 1980; P.A. 83–14, Art. III, § 3–1, eff. July 2, 1983; P.A. 83–1129, § 6, eff. Sept. 1, 1984; P.A. 83–1416, § 3, eff. Jan. 1, 1985; P.A. 83–1528, Art. II, § 40, eff. Jan. 17, 1985; P.A. 83–1537, § 1, eff. Jan. 29, 1985; P.A. 84–111, Art. I, § 20, eff. July 25, 1985; P.A. 84–1027, Art. I, § 2, Art. VI, § 3, eff. Nov. 15, 1985; P.A. 84–1112, Art. I, § 2, eff. Feb. 28, 1986; P.A. 84–1307, § 2, eff. Aug. 22, 1986; P.A. 84–1308, Art. II, § 156, eff. Aug. 25, 1986; P.A. 85–977, § 2, eff. July 1, 1988; P.A. 85–1135, Art. II, § 7, eff. Jan. 1, 1990; P.A. 85–1135, Art. III, § 2, eff. Sept. 1, 1988; P.A. 85–1209, Art. III, § 3–129, eff. Aug. 30, 1988; P.A. 85–1222, § 11, eff. Aug. 30, 1988; P.A. 85–1372, § 1, eff. Sept. 1, 1988; P.A. 86–16, Art. 2, § 3, eff. June 30, 1989; P.A. 86–17, § 2, eff. July 2, 1989; P.A. 86–44, Art. 2, § 2–1, eff. July 13, 1989; P.A. 86–820, Art. II, § 2–10, eff. Sept. 7, 1989; P.A. 86–928, Art. 1, § 1, eff. Sept. 18, 1989; P.A. 86–928, Art. 3, § 6, eff. Jan. 1, 1990; P.A. 86–953, § 5, eff. Nov. 30, 1989; P.A. 87–14, Art. 3, § 3–1, eff. Oct. 1, 1991; P.A. 87–733, § 1–4, eff. July 1, 1992; P.A. 87–838, § 245, eff. Jan. 24, 1992; P.A. 87–876, § 3, eff. Jan. 1, 1993; P.A. 87–895, Art. 4, § 4–12, eff. Aug. 14, 1992; P.A. 87–1246, § 2, eff. Dec. 24, 1992; P.A. 87–1258, § 2, eff. Jan. 7, 1993; P.A. 88–45, Art. II, § 2–20, eff. July 6, 1993; P.A. 88–116, Art. 2, § 2–5, eff. July 23, 1993; P.A. 88–194, § 5, eff. Jan. 1, 1994; P.A. 88–660, § 25, eff. Sept. 16, 1994; P.A. 88–669, Art. 90, § 90–1.7, eff. Nov. 29, 1994; P.A. 88–670, Art. 2, § 2–20, eff. Dec. 2, 1994; P.A. 89–379, § 5, eff. Jan. 1, 1996; P.A. 89–626, Art. 3, § 3–13, eff. Aug. 9, 1996; P.A. 90–491, § 20, eff. Jan. 1, 1999; P.A. 90–612, § 10, eff. July 8, 1998; P.A. 91–37, § 10, eff. July 1, 1999. Re-enacted by P.A. 91–51, § 115, eff. June 30, 1999. Amended by P.A. 91–101, § 10, eff. July 12, 1999; P.A. 91–541, § 10, eff. Aug. 13, 1999; P.A. 91–872, Fourth Sp. Sess., § 5, eff. July 1, 2000; P.A. 91–901, § 10, eff. Jan. 1, 2001; P.A. 92–12, § 920, eff. July 1, 2001; P.A. 92–16, § 33, eff. June 28, 2001; P.A. 92–208, § 15, eff. Aug. 2, 2001; P.A. 92–492, § 15, eff. Jan. 1, 2002; P.A. 92–600, Art. 5, § 5–21, eff. June 28, 2002; P.A. 92–651, § 25, eff. July 11, 2002; P.A. 94–793, § 475, eff. May 19, 2006. Reenacted and amended by P.A. 94–1074, § 10, eff. Dec. 26, 2006. Amended by P.A. 96–34, § 910, eff. July 13, 2009; P.A. 96–38, § 5, eff. July 13, 2009; P.A. 96–898, § 10, eff. May 28, 2010; P.A. 96–1012, § 10, eff. July 7, 2010; 97–95, § 10, eff. July 12, 2011; P.A. 97–333, § 125, eff. Aug. 12, 2011; P.A. 98–24, § 5–40, eff. June 19, 2013; P.A. 98–109, § 5–33, eff. July 25, 2013; P.A. 98–496, § 25, eff. Jan. 1, 2014; P.A. 98–756, § 175, eff. July 16, 2014; P.A. 98–1098, § 20, eff. Aug. 26, 2014.

[1] 35 ILCS 120/1 et seq.

[2] 35 ILCS 115/1 et seq.

[3] 35 ILCS 110/1 et seq.

[4] 625 ILCS 45/3–2.

[5] 625 ILCS 5/5–402.

[6] 35 ILCS 120/3.

[7] 35 ILCS 110/9.

[8] 35 ILCS 115/9.

[9] 30 ILCS 425/1 et seq.

[10] 30 ILCS 425/13.

[11] 30 ILCS 425/12.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–1098, § 20, made one nonsubstantive change.

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

ACT 110. SERVICE USE TAX ACT

110/9. Payment; electronic funds transfer; returns; refunds; disposition of funds

§ 9. Each serviceman required or authorized to collect the tax herein imposed shall pay to the Department the amount of such tax (except as otherwise provided) at the time when he is required to file his return for the period during which such tax was collected, less a discount of 2.1% prior to January 1, 1990 and 1.75% on and after January 1, 1990, or $5 per calendar year, whichever is greater, which is allowed to reimburse the serviceman for expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The Department may disallow the discount for servicemen whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final. A serviceman need not remit that part of any tax collected by him to the extent that he is required to pay and does pay the tax imposed by the Service Occupation Tax Act [1] with respect to his sale of service involving the incidental transfer by him of the same property.

Except as provided hereinafter in this Section, on or before the twentieth day of each calendar month, such serviceman shall file a return for the preceding calendar month in accordance with reasonable Rules and Regulations to be promulgated by the Department. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;

2. The address of the principal place of business from which he engages in business as a serviceman in this State;

3. The total amount of taxable receipts received by him during the preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

4. The amount of credit provided in Section 2d of this Act;

5. The amount of tax due;

5–5. The signature of the taxpayer; and

6. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of $150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of $100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of $50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of $200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505–210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

If the serviceman is otherwise required to file a monthly return and if the serviceman's average monthly tax liability to the Department does not exceed $200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the serviceman is otherwise required to file a monthly or quarterly return and if the serviceman's average monthly tax liability to the Department does not exceed $50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a serviceman may file his return, in the case of any serviceman who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such serviceman shall file a final return under this Act with the Department not more than 1 month after discontinuing such business.

Where a serviceman collects the tax with respect to the selling price of property which he sells and the purchaser thereafter returns such property and the serviceman refunds the selling price thereof to the purchaser, such serviceman shall also refund, to the purchaser, the tax so collected from

the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the serviceman may deduct the amount of the tax so refunded by him to the purchaser from any other Service Use Tax, Service Occupation Tax, retailers' occupation tax or use tax which such serviceman may be required to pay or remit to the Department, as shown by such return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such serviceman. If the serviceman shall not previously have remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax to the purchaser.

Any serviceman filing a return hereunder shall also include the total tax upon the selling price of tangible personal property purchased for use by him as an incident to a sale of service, and such serviceman shall remit the amount of such tax to the Department when filing such return.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable servicemen, who are required to file returns hereunder and also under the Service Occupation Tax Act, to furnish all the return information required by both Acts on the one form.

Where the serviceman has more than one business registered with the Department under separate registration hereunder, such serviceman shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Tax Reform Fund, a special fund in the State Treasury, the net revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund 20% of the net revenue realized for the preceding month from the 6.25% general rate on transfers of tangible personal property, other than tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning August 1, 2000, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that are now taxed at 6.25%.

Beginning July 1, 2013, each month the Department shall pay into the Underground Storage Tank Fund from the proceeds collected under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act an amount equal to the average monthly deficit in the Underground Storage Tank Fund during the prior year, as certified annually by the Illinois Environmental Protection Agency, but the total payment into the Underground Storage Tank Fund under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act shall not exceed $18,000,000 in any State fiscal year. As used in this paragraph, the "average monthly deficit" shall be equal to the difference between the average monthly claims for payment by the fund and the average monthly revenues deposited into the fund, excluding payments made pursuant to this paragraph.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, [2] Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, [3] and Section 9 of the Service Occupation Tax Act, [4] such Acts being hereinafter called the "Tax Acts" [5] and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act [6] is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, [7] an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursu-

ant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act. [8]

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, [9] but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032 and each fiscal year thereafter that bonds are outstanding under Section 13.2. of the Metropolitan Pier and Exposition Authority Act, [10] but not after fiscal year 2060.	350,000,000

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, [11] plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993 and ending on September 30, 2013, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25–year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605–332 of the Department of Commerce and Economic Opportunity Law [12] of the Civil Administrative Code of Illinois.

Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% thereof shall be paid into the General Revenue Fund of the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller

shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

Laws 1961, p. 1757, § 9, eff. July 10, 1961. Amended by Laws 1963, p. 114, § 1, eff. March 8, 1963; P.A. 81–3, 2nd Sp.Sess., § 8, eff. Sept. 19, 1979; P.A. 83–14, Art. III, § 3–2, eff. July 2, 1983; P.A. 83–1129, § 7, eff. Sept. 1, 1984; P.A. 84–111, Art. I, § 21, eff. July 25, 1985; P.A. 84–1027, Art. I, § 3, eff. Nov. 15, 1985; P.A. 84–1027, Art. VI, § 4, eff. Nov. 15, 1985; P.A. 84–1112, Art. I, § 3, eff. Feb. 28, 1986; P.A. 84–1308, Art. II, § 157, eff. Aug. 25, 1986; P.A. 85–1135, Art. II, § 8, eff. Jan. 1, 1990; P.A. 85–1135, Art. III, § 3, eff. Sept. 1, 1988; P.A. 85–1222, § 12, eff. Aug. 30, 1988; P.A. 86–16, Art. 2, § 4, eff. June 30, 1989; P.A. 86–17, § 3, eff. July 2, 1989; P.A. 86–44, Art. 2, § 2–2, eff. July 13, 1989; P.A. 86–820, Art. II, § 2–11, eff. Sept. 7, 1989; P.A. 86–928, Art. 1, § 2, eff. Sept. 18, 1989; P.A. 86–928, Art. 3, § 7, eff. Jan. 1, 1990; P.A. 86–953, § 6, eff. Nov. 30, 1989; P.A. 87–14, Art. 3, § 3–2, eff. Oct. 1, 1991; P.A. 87–733, § 1–5, eff. July 1, 1992; P.A. 87–838, § 246, eff. Jan. 24, 1992; P.A. 87–1246, § 3, eff. Dec. 24, 1992; P.A. 87–1258, § 3, eff. Jan. 7, 1993; P.A. 88–45, Art. II, § 2–21, eff. July 6, 1993; P.A. 88–116, Art. 2, § 2–10, eff. July 23, 1993; P.A. 88–669, Art. 90, § 90–2, eff. Nov. 29, 1994; P.A. 89–379, § 10, eff. Jan. 1, 1996; P.A. 90–612, § 15, eff. July 8, 1998; P.A. 91–37, § 15, eff. July 1, 1999. Re-enacted by P.A. 91–51, § 120, eff. June 30, 1999. Amended by P.A. 91–101, § 15, eff. July 12, 1999; P.A. 91–541, § 15, eff. Aug. 13, 1999; P.A. 91–872, Fourth Sp. Sess., § 10, eff. July 1, 2000; P.A. 92–12, § 925, eff. July 1, 2001; P.A. 92–208, § 20, eff. Aug. 2, 2001; P.A. 92–492, § 20, eff. Jan. 1, 2002; P.A. 92–600, Art. 5, § 5–22, eff. June 28, 2002; P.A. 92–651, § 26, eff. July 11, 2002; P.A. 94–793, § 480, eff. May 19, 2006. Reenacted and amended by P.A. 94–1074, § 15, eff. Dec. 26, 2006. Amended by P.A. 96–34, § 915, eff. July 13, 2009; P.A. 96–38, § 10, eff. July 13, 2009; P.A. 96–898, § 15, eff. May 28, 2010; P.A. 98–24, § 5–45, eff. June 19, 2013; P.A. 98–109, § 5–35, eff. July 25, 2013; P.A. 98–298, § 5, eff. Aug. 9, 2013; P.A. 98–496, § 26, eff. Jan. 1, 2014; P.A. 98–756, § 180, eff. July 16, 2014; P.A. 98–1098, § 25, eff. Aug. 26, 2014.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 439.39.

[1] 35 ILCS 115/1 et seq.

[2] 35 ILCS 120/3.

[3] 35 ILCS 105/9.

[4] 35 ILCS 115/9.

[5] 35 ILCS 120/1 et seq., 35 ILCS 105/1 et seq., 35 ILCS 110/1 et seq. (this Act), 35 ILCS 115/1 et seq.

[6] 30 ILCS 425/1 et seq.

[7] 30 ILCS 425/13.

[8] 30 ILCS 425/12.

[9] 30 ILCS 105/8.25f.

[10] 70 ILCS 210/13.2.

[11] 70 ILCS 210/13.

[12] 20 ILCS 605/605–332.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–1098, § 25, made one nonsubstantive change, and inserted the following paragraph:

"Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department."

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

ACT 115. SERVICE OCCUPATION TAX ACT

115/9. Payment; electronic funds transfer; conditional sales; returns; refunds; disposition of funds

§ 9. Each serviceman required or authorized to collect the tax herein imposed shall pay to the Department the amount of such tax at the time when he is required to file his return for the period during which such tax was collectible, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or $5 per calendar year, whichever is greater, which is allowed to reimburse the serviceman for expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The Department may disallow the discount for servicemen whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final.

Where such tangible personal property is sold under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the period for which the return is filed, the serviceman, in collecting the tax may collect, for each tax return period, only the tax applicable to the part of the selling price actually received during such tax return period.

Except as provided hereinafter in this Section, on or before the twentieth day of each calendar month, such serviceman shall file a return for the preceding calendar month in accordance with reasonable rules and regulations to be promulgated by the Department of Revenue. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;

2. The address of the principal place of business from which he engages in business as a serviceman in this State;

3. The total amount of taxable receipts received by him during the preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

4. The amount of credit provided in Section 2d of this Act

5. The amount of tax due;

5–5. The signature of the taxpayer; and

6. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Prior to October 1, 2003, and on and after September 1, 2004 a serviceman may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Service Use Tax as provided in Section 3–70 of the Service Use Tax Act [1] if the purchaser provides the appropriate documentation as required by Section 3–70 of the Service Use Tax Act. A Manufacturer's Purchase Credit certification, accepted prior to October 1, 2003 or on or after September 1, 2004 by a serviceman as provided in Section 3–70 of the Service Use Tax Act, may be used by that serviceman to satisfy Service Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchase Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

If the serviceman's average monthly tax liability to the Department does not exceed $200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the serviceman's average monthly tax liability to the Department does not exceed $50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a serviceman may file his return, in the case of any serviceman who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such serviceman shall file a final return under this Act with the Department not more than 1 month after discontinuing such business.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of $150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of $100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of $50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of $200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505–210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

Where a serviceman collects the tax with respect to the selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal property and the serviceman refunds the selling price thereof to the purchaser, such serviceman shall also refund, to the purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the serviceman may deduct the amount of the tax so refunded by him to the purchaser from any other

Service Occupation Tax, Service Use Tax, Retailers' Occupation Tax or Use Tax which such serviceman may be required to pay or remit to the Department, as shown by such return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such serviceman. If the serviceman shall not previously have remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax to the purchaser.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable servicemen, who are required to file returns hereunder and also under the Retailers' Occupation Tax Act, [2] the Use Tax Act [3] or the Service Use Tax Act [4], to furnish all the return information required by all said Acts on the one form.

Where the serviceman has more than one business registered with the Department under separate registrations hereunder, such serviceman shall file separate returns for each registered business.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund the revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the revenue realized for the preceding month from the 6.25% general rate.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the revenue realized for the preceding month from the 6.25% general rate on transfers of tangible personal property.

Beginning August 1, 2000, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that are now taxed at 6.25%.

Beginning July 1, 2013, each month the Department shall pay into the Underground Storage Tank Fund from the proceeds collected under this Act, the Use Tax Act, the Service Use Tax Act, and the Retailers' Occupation Tax Act an amount equal to the average monthly deficit in the Underground Storage Tank Fund during the prior year, as certified annually by the Illinois Environmental Protection Agency, but the total payment into the Underground Storage Tank Fund under this Act, the Use Tax Act, the Service Use Tax Act, and the Retailers' Occupation Tax Act shall not exceed $18,000,000 in any State fiscal year. As used in this paragraph, the "average monthly deficit" shall be equal to the difference between the average monthly claims for payment by the fund and the average monthly revenues deposited into the fund, excluding payments made pursuant to this paragraph.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, [5] Section 9 of the Use Tax Act, [6] Section 9 of the Service Use Tax Act, [7] and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act [8] is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, [9] an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the

pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act. [10]

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, [11] but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032 and each fiscal year thereafter that bonds are outstanding under Section 13.2. of the Metropolitan Pier and Exposition Authority Act, but not after fiscal year 2060.	350,000,000

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, [12] plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993 and ending on September 30, 2013, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25–year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605–332 of the Department of Commerce and Economic Opportunity Law [13] of the Civil Administrative Code of Illinois. [14]

Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% shall be paid into the General Revenue Fund of the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the Department shall include a statement of gross receipts as shown by the taxpayer's last Federal income tax return. If the total receipts of the

business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the taxpayer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The taxpayer's annual return to the Department shall also disclose the cost of goods sold by the taxpayer during the year covered by such return, opening and closing inventories of such goods for such year, cost of goods used from stock or taken from stock and given away by the taxpayer during such year, pay roll information of the taxpayer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such taxpayer as hereinbefore provided for in this Section.

If the annual information return required by this Section is not filed when and as required, the taxpayer shall be liable as follows:

(i) Until January 1, 1994, the taxpayer shall be liable for a penalty equal to 1/6 of 1% of the tax due from such taxpayer under this Act during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required, the penalty to be assessed and collected in the same manner as any other penalty provided for in this Act.

(ii) On and after January 1, 1994, the taxpayer shall be liable for a penalty as described in Section 3–4 of the Uniform Penalty and Interest Act. [15]

The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the Department shall include a warning that the person signing the return may be liable for perjury.

The foregoing portion of this Section concerning the filing of an annual information return shall not apply to a serviceman who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

For greater simplicity of administration, it shall be permissible for manufacturers, importers and wholesalers whose products are sold by numerous servicemen in Illinois, and who wish to do so, to assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the servicemen who are affected do not make written objection to the Department to this arrangement.

Laws 1961, p. 1745, § 9, eff. July 10, 1961. Amended by Laws 1963, p. 106, § 1, eff. March 8, 1963; Laws 1963, p. 1774, § 1, eff. July 16, 1963; Laws 1965, p. 3725, § 1, eff. July 24, 1965; Laws 1967, p. 383, § 1, eff. July 1, 1967; Laws 1967, p. 1862, § 1, eff. July 20, 1967; P.A. 79–1339, § 1, eff. Oct. 1, 1976; P.A. 81–3, 2nd Sp.Sess., § 9, eff. Sept. 19, 1979; P.A. 81–390, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 78, eff. Sept. 26, 1980; P.A. 83–14, Art. III, § 3–3, eff. July 2, 1983; P.A. 83–1129, § 8, eff. Sept. 1, 1984; P.A. 84–111, Art. 1, § 22, eff. July 25, 1985; P.A. 84–1027, Art. I, § 4, eff. Nov. 15, 1985; P.A. 84–1027, Art. VI, § 5, eff. Nov. 15, 1985; P.A. 84–1112, Art. I, § 4, eff. Feb. 28, 1986; P.A. 84–1308, Art. II, § 158, eff. Aug. 25, 1986; P.A. 85–1135, Art. II, § 9, eff. Jan. 1, 1990; P.A. 85–1135, Art. III, § 4, eff. Sept. 1, 1988; P.A. 85–1222, § 13, eff. Aug. 30, 1988; P.A. 86–16, Art. 2, § 5, eff. June 30, 1989; P.A. 86–17, § 4, eff. July 2, 1989; P.A. 86–44, Art. 2, § 2–3, eff. July 13, 1989; P.A. 86–820, Art. II, § 2–12, eff. Sept. 7, 1989; P.A. 86–928, Art. 1, § 3, eff. Sept. 18, 1989; P.A. 86–928, Art. 3, § 8, eff. Jan. 1, 1990; P.A. 86–953, § 7, eff. Nov. 30, 1989; P.A. 87–14, Art. 3, § 3–3, eff. Oct. 1, 1991; P.A. 87–205, Art. 4, § 4–12, eff. Jan. 1, 1994; P.A. 87–733, § 1–6, eff. July 1, 1992; P.A. 87–838, § 247, eff. Jan. 24, 1992; P.A. 87–1132, § 2, eff. Sept. 16, 1992; P.A. 87–1246, § 4, eff. Dec. 24, 1992; P.A. 87–1258, § 4, eff. Jan. 7, 1993; P.A. 88–45, Art. II, § 2–22, eff. July 6, 1993; P.A. 88–116, Art. 2, § 2–15, eff. July 23, 1993; P.A. 88–547, § 8, eff. June 30, 1994; P.A. 88–669, Art. 90, § 90–2.3, eff. Nov. 29, 1994; P.A. 89–89, § 25, eff. June 30, 1995; P.A. 89–235, Art. 2, § 2–50, eff. Aug. 4, 1995; P.A. 89–379, § 15, eff. Jan. 1, 1996; P.A. 89–626, Art. 2, § 2–23, eff. Aug. 9, 1996; P.A. 90–612, § 20, eff. July 8, 1998; P.A. 91–37, § 20, eff. July 1, 1999. Re-enacted by P.A. 91–51, § 125, eff. June 30, 1999. Amended by P.A. 91–101, § 20, eff. July 12, 1999; P.A. 91–541, § 20, eff. Aug. 13, 1999; P.A. 91–872, Fourth Sp. Sess., § 15, eff. July 1, 2000; P.A. 92–12, § 930, eff. July 1, 2001; P.A. 92–208, § 30, eff. Aug. 2, 2001; P.A. 92–492, § 25, eff. Jan. 1, 2002; P.A. 92–600, Art. 5, § 5–23, eff. June 28, 2002; P.A. 92–651, § 27, eff. July 11, 2002; P.A. 93–24, Art. 50, § 50–24, eff. June 20, 2003; P.A. 93–840, Art. 20, § 20–20, eff. July 30, 2004. Reenacted by P.A. 94–1074, § 20, eff. Dec. 26, 2006. Amended by P.A. 96–34, § 920, eff. July 13, 2009; P.A. 96–38, § 15, eff. July 13, 2009; P.A. 96–898, § 20, eff. May 28, 2010; P.A. 98–24, § 5–50, eff. June 19, 2013; P.A. 98–109, § 5–37, eff. July 25, 2013; P.A. 98–298, § 10, eff. Aug. 9, 2013; P.A. 98–496, § 27, eff. Jan. 1, 2014; P.A. 98–756, § 185, eff. July 16, 2014; P.A. 98–1098, § 30, eff. Aug. 26, 2014.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 439.109.

[1] 35 ILCS 110/3–70.
[2] 35 ILCS 120/1 et seq.
[3] 35 ILCS 105/1 et seq.
[4] 35 ILCS 110/1 et seq.
[5] 35 ILCS 120/3.
[6] 35 ILCS 105/9.
[7] 35 ILCS 110/9.
[8] 30 ILCS 425/1 et seq.
[9] 30 ILCS 425/13.
[10] 30 ILCS 425/12.
[11] 30 ILCS 105/8.25f.
[12] 70 ILCS 210/13.
[13] 20 ILCS 605/605–332.
[14] 20 ILCS 5/1–1 et seq.
[15] 35 ILCS 735/3–4.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public

Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–1098, § 30, inserted the following paragraph:

"Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department."

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

ACT 120. RETAILERS' OCCUPATION TAX ACT

120/3. Returns; payment; electronic funds transfer; deductions; discounts; disposition of proceeds; accounts

§ 3. Except as provided in this Section, on or before the twentieth day of each calendar month, every person engaged in the business of selling tangible personal property at retail in this State during the preceding calendar month shall file a return with the Department, stating:

1. The name of the seller;

2. His residence address and the address of his principal place of business and the address of the principal place of business (if that is a different address) from which he engages in the business of selling tangible personal property at retail in this State;

3. Total amount of receipts received by him during the preceding calendar month or quarter, as the case may be, from sales of tangible personal property, and from services furnished, by him during such preceding calendar month or quarter;

4. Total amount received by him during the preceding calendar month or quarter on charge and time sales of tangible personal property, and from services furnished, by him prior to the month or quarter for which the return is filed;

5. Deductions allowed by law;

6. Gross receipts which were received by him during the preceding calendar month or quarter and upon the basis of which the tax is imposed;

7. The amount of credit provided in Section 2d of this Act;

8. The amount of tax due;

9. The signature of the taxpayer; and

10. Such other reasonable information as the Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Each return shall be accompanied by the statement of prepaid tax issued pursuant to Section 2e for which credit is claimed.

Prior to October 1, 2003, and on and after September 1, 2004 a retailer may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Use Tax as provided in Section 3–85 of the Use Tax Act [1] if the purchaser provides the appropriate documentation as required by Section 3–85 of the Use Tax Act. A Manufacturer's Purchase Credit certification, accepted by a retailer prior to October 1, 2003 and on and after September 1, 2004 as provided in Section 3–85 of the Use Tax Act, may be used by that retailer to satisfy Retailers' Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchaser Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;

2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;

3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

4. The amount of credit provided in Section 2d of this Act;

5. The amount of tax due; and

6. Such other reasonable information as the Department may require.

Beginning on October 1, 2003, any person who is not a licensed distributor, importing distributor, or manufacturer, as defined in the Liquor Control Act of 1934, but is engaged in the business of selling, at retail, alcoholic liquor shall file a statement with the Department of Revenue, in a format and at a time prescribed by the Department, showing the total amount paid for alcoholic liquor purchased during the preceding month and such other information as is reasonably required by the Department. The Department may adopt rules to require that this statement be filed in an electronic or telephonic format. Such rules may provide for exceptions from the filing requirements of this paragraph. For the

purposes of this paragraph, the term "alcoholic liquor" shall have the meaning prescribed in the Liquor Control Act of 1934.

Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor as defined in the Liquor Control Act of 1934, shall file a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred, by electronic means, showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. A distributor, importing distributor, or manufacturer of alcoholic liquor must personally deliver, mail, or provide by electronic means to each retailer listed on the monthly statement a report containing a cumulative total of that distributor's, importing distributor's, or manufacturer's total sales of alcoholic liquor to that retailer no later than the 10th day of the month for the preceding month during which the transaction occurred. The distributor, importing distributor, or manufacturer shall notify the retailer as to the method by which the distributor, importing distributor, or manufacturer will provide the sales information. If the retailer is unable to receive the sales information by electronic means, the distributor, importing distributor, or manufacturer shall furnish the sales information by personal delivery or by mail. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.

If a total amount of less than $1 is payable, refundable or creditable, such amount shall be disregarded if it is less than 50 cents and shall be increased to $1 if it is 50 cents or more.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of $150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of $100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of $50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of $200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505–210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

Any amount which is required to be shown or reported on any return or other document under this Act shall, if such amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount in any case where the fractional part of a dollar is 50 cents or more, and decreased to the nearest whole-dollar amount where the fractional part of a dollar is less than 50 cents.

If the retailer is otherwise required to file a monthly return and if the retailer's average monthly tax liability to the Department does not exceed $200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the retailer is otherwise required to file a monthly or quarterly return and if the retailer's average monthly tax liability with the Department does not exceed $50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such retailer shall file a final return under this Act with the Department not more than one month after discontinuing such business.

Where the same person has more than one business registered with the Department under separate registrations under this Act, such person may not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle retailer or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 2–5 of this Act, then that seller may report the transfer of all aircraft, watercraft, motor vehicles or trailers involved in that trans-

action to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3–2 of the Boat Registration and Safety Act, [2] a personal watercraft, or any boat equipped with an inboard motor.

Any retailer who sells only motor vehicles, watercraft, aircraft, or trailers that are required to be registered with an agency of this State, so that all retailers' occupation tax liability is required to be reported, and is reported, on such transaction reporting returns and who is not otherwise required to file monthly or quarterly returns, need not file monthly or quarterly returns. However, those retailers shall be required to file returns on an annual basis.

The transaction reporting return, in the case of motor vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5–402 of The Illinois Vehicle Code [3] and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5–402 of The Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft or aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 20 days after the day of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption from the Illinois use tax may be transmitted to the Department by way of the State agency with which, or State officer with whom the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a use tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

No retailer's failure or refusal to remit tax under this Act precludes a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration (if titling or registration is required) upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer. The Department shall adopt appropriate rules to carry out the mandate of this paragraph.

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of the tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

Refunds made by the seller during the preceding return period to purchasers, on account of tangible personal property returned to the seller, shall be allowed as a deduction under subdivision 5 of his monthly or quarterly return, as the case may be, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return filed by him and had paid the tax imposed by this Act with respect to such receipts.

Where the seller is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

Where the seller is a limited liability company, the return filed on behalf of the limited liability company shall be signed by a manager, member, or properly accredited agent of the limited liability company.

Except as provided in this Section, the retailer filing the return under this Section shall, at the time of filing such return, pay to the Department the amount of tax imposed by this Act less a discount of 2.1% prior to January 1, 1990 and 1.75% on and after January 1, 1990, or $5 per calendar year, whichever is greater, which is allowed to reimburse the retailer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. Any prepayment made pursuant to Section 2d of this Act shall be included in the amount on which such 2.1% or 1.75% discount is computed. In the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance

instead of when such retailer files his periodic return. The Department may disallow the discount for retailers whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final.

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, [4] the Service Occupation Tax Act, [5] and the Service Use Tax Act, [6] excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was $10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was $20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985 and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987 and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of $10,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than $9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than $10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the $10,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of $20,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than $19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than $20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the $20,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. The Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for taxpayers who file on other than a calendar monthly basis.

The provisions of this paragraph apply before October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of $25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to the effective date of this amendatory Act of 1985, each payment shall be in an amount not less than 22.5% of the taxpayer's actual liability under Section 2d. If the month during which such tax liability is incurred begins on or after January 1, 1986, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding calendar year. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once

applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is $25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

The provisions of this paragraph apply on and after October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes that average in excess of $20,000 per month during the preceding 4 complete calendar quarters shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which the liability is incurred. Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of the quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until the taxpayer's average monthly prepaid tax collections during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than $19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarters is less than $20,000. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determined that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

If a retailer of motor fuel is entitled to a credit under Section 2d of this Act which exceeds the taxpayer's liability to the Department under this Act for the month which the taxpayer is filing a return, the Department shall issue the taxpayer a credit memorandum for the excess.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund, a special fund in the State treasury which is hereby created, the net revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund, a special fund in the State treasury which is hereby created, 4% of the net revenue realized for the preceding month from the 6.25% general rate.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Beginning August 1, 2000, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that are now taxed at 6.25%.

Beginning July 1, 2011, each month the Department shall pay into the Clean Air Act (CAA) Permit Fund 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of sorbents used in Illinois in the process of sorbent injection as used to comply with the Environmental Protection Act or the federal Clean Air Act, but the total payment into the Clean Air Act (CAA) Permit Fund under this Act and the Use Tax Act shall not exceed $2,000,000 in any fiscal year.

Beginning July 1, 2013, each month the Department shall pay into the Underground Storage Tank Fund from the proceeds collected under this Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act an amount equal to the average monthly deficit in the Underground Storage Tank Fund during the prior year, as certified annually by the Illinois Environmental Protection Agency, but the total payment into the Underground Storage Tank Fund under this Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act shall not exceed $18,000,000 in any State fiscal year. As used in this para-

graph, the "average monthly deficit" shall be equal to the difference between the average monthly claims for payment by the fund and the average monthly revenues deposited into the fund, excluding payments made pursuant to this paragraph.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to this Act, Section 9 of the Use Tax Act, [7] Section 9 of the Service Use Tax Act, [8] and Section 9 of the Service Occupation Tax Act, [9] such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as hereinafter defined), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; the "Annual Specified Amount" means the amounts specified below for fiscal years 1986 through 1993:

Fiscal Year	Annual Specified Amount
1986	$54,800,000
1987	$76,650,000
1988	$80,480,000
1989	$88,510,000
1990	$115,330,000
1991	$145,470,000
1992	$182,730,000
1993	$206,520,000;

and means the Certified Annual Debt Service Requirement (as defined in Section 13 of the Build Illinois Bond Act) or the Tax Act Amount, whichever is greater, for fiscal year 1994 and each fiscal year thereafter; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year. The amounts payable into the Build Illinois Fund under clause (b) of the first sentence in this paragraph shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the first sentence of this paragraph and shall reduce the amount otherwise payable for such fiscal year pursuant to that clause (b). The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000

Fiscal Year	Total Deposit
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000
and each fiscal year thereafter that bonds are outstanding under Section 13.2. of the Metropolitan Pier and Exposition Authority Act, but not after fiscal year 2060.	

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993 and ending on September 30, 2013, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25–year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605–332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% thereof shall be paid into the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the Department shall include a statement of gross receipts as shown by the retailer's last Federal income tax return. If the total receipts of the business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the retailer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The retailer's annual return to the Department shall also disclose the cost of goods sold by the retailer during the year covered by such return, opening and closing inventories of such goods for such year, costs of goods used from stock or taken from stock and given away by the retailer during such year, payroll information of the retailer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such retailer as provided for in this Section.

If the annual information return required by this Section is not filed when and as required, the taxpayer shall be liable as follows:

(i) Until January 1, 1994, the taxpayer shall be liable for a penalty equal to 1/6 of 1% of the tax due from such taxpayer under this Act during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required, the penalty to be assessed and collected in the same manner as any other penalty provided for in this Act.

(ii) On and after January 1, 1994, the taxpayer shall be liable for a penalty as described in Section 3–4 of the Uniform Penalty and Interest Act.

The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the Department shall include a warning that the person signing the return may be liable for perjury.

The provisions of this Section concerning the filing of an annual information return do not apply to a retailer who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning

April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

For greater simplicity of administration, manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, and who wish to do so, may assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the retailers who are affected do not make written objection to the Department to this arrangement.

Any person who promotes, organizes, provides retail selling space for concessionaires or other types of sellers at the Illinois State Fair, DuQuoin State Fair, county fairs, local fairs, art shows, flea markets and similar exhibitions or events, including any transient merchant as defined by Section 2 of the Transient Merchant Act of 1987, is required to file a report with the Department providing the name of the merchant's business, the name of the person or persons engaged in merchant's business, the permanent address and Illinois Retailers Occupation Tax Registration Number of the merchant, the dates and location of the event and other reasonable information that the Department may require. The report must be filed not later than the 20th day of the month next following the month during which the event with retail sales was held. Any person who fails to file a report required by this Section commits a business offense and is subject to a fine not to exceed $250.

Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants, as defined by Section 2 of the Transient Merchant Act of 1987, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section.

Laws 1933, p. 924, § 3, eff. July 1, 1933. Amended by Laws 1933–34, 4th Sp.Sess., p. 3, § 1, eff. July 1, 1935; Laws 1935, p. 1200, § 1, eff. July 1, 1935; Laws 1935–36, 2nd Sp.Sess., p. 82, § 1, eff. Dec. 11, 1936; Laws 1937, p. 1023, § 1, eff. July 1, 1937; Laws 1937, p. 1058, § 1, eff. April 11, 1937; Laws 1939, p. 1005, § 1, eff. July 1, 1939; Laws 1939, p. 1013, § 1, eff. Jan. 31, 1939; Laws 1943, vol. 1, p. 1121, § 1, eff. July 1, 1943; Laws 1947, p. 1458, § 1, eff. July 21, 1947; Laws 1949, p. 1321, § 1, eff. July 1, 1949; Laws 1951, p. 2035, § 1, eff. Aug. 3, 1951; Laws 1955, p. 2037, § 1, eff. July 14, 1955; Laws 1957, p. 2022, § 1, eff. July 14, 1957; Laws 1959, p. 398, § 1, eff. July 1, 1959; Laws 1959, p. 415, § 1, eff. July 1, 1959; Laws 1961, p. 1557, § 1, eff. July 1, 1961; Laws 1963, p. 78, § 1, eff. March 8, 1963; Laws 1963, p. 88, § 1, eff. March 8, 1963; Laws 1963, p. 1191, § 1, eff. July 1, 1963; Laws 1963, p. 1743, § 1, eff. July 10, 1963; Laws 1963, p. 1749, § 1, eff. July 16, 1963; Laws 1965, p. 137, § 1, eff. July 1, 1965; Laws 1965, p. 1193, § 1, eff. July 1, 1965; Laws 1965, p. 2816, § 1, eff. Jan. 1, 1966; Laws 1967, p. 376, § 1, eff. July 1, 1967; Laws 1967, p. 1067, § 1, eff. July 1, 1967; Laws 1967, p. 1124, § 1, eff. July 1, 1967; Laws 1968, p. 387, § 1, eff. July 1, 1969; P.A. 76–248, § 1, eff. July 1, 1969; P.A. 76–364, § 1, eff. July 1, 1969; P.A. 76–2250, § 1, eff. July 1, 1970; P.A. 77–1082, § 1, eff. Aug. 17, 1971; P.A. 78–736, § 1, eff. Sept. 10, 1973; P.A. 79–839, § 1, eff. Sept. 8, 1975; P.A. 79–1339, § 2, eff. Oct. 1, 1976; P.A. 79–5, 6th Sp.Sess., § 1, eff. Nov. 1, 1976; P.A. 80–473, § 2, eff. Sept. 3, 1977; P.A. 80–474, § 2, eff. Sept. 3, 1977; P.A. 80–1364, § 56, eff. Aug. 13, 1978; P.A. 81–3, 2nd Sp.Sess., § 6, eff. Sept. 19, 1979; P.A. 81–390, § 2, eff. Jan. 1, 1980; P.A. 81–606, § 1, eff. Sept. 14, 1979; P.A. 81–1086, § 2, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 79, eff. Sept. 26, 1980; P.A. 83–14, Art. III, §§ 3–4, eff. July 2, 1983; P.A. 83–195, § 1, eff. Jan. 1, 1984; P.A. 83–1080, § 1, eff. March 1, 1984; P.A. 83–1129, § 9, eff. Sept. 1, 1984; P.A. 83–1362, Art. II, § 138, eff. Sept. 11, 1984; P.A. 83–1416, § 6, eff. Jan. 1, 1985; P.A. 83–1528, Art. II, § 43, eff. Jan. 17, 1985; P.A. 83–1537, § 4, eff. Jan. 29, 1985; P.A. 84–111, Art. I, § 23, eff. July 25, 1985; P.A. 84–221, Art. I, § 8, eff. Sept. 1, 1985; P.A. 84–1012, § 1, eff. Jan. 1, 1986; P.A. 84–1027, Art. I, § 5, eff. Nov. 15, 1985; P.A. 84–1027, Art. VI, § 6, eff. Nov. 15, 1985; P.A. 84–1112, Art. I, § 5, eff. Feb. 28, 1986; P.A. 84–1307, § 3, eff. Aug. 22, 1986; P.A. 84–1308, Art. II, § 159, eff. Aug. 25, 1986; P.A. 85–977, § 1, eff. July 1, 1988; P.A. 85–1135, Art. II, § 11, eff. Jan. 1, 1990; P.A. 85–1135, Art. III, § 5, eff. Sept. 1, 1988; P.A. 85–1222, § 14, eff. Aug. 30, 1988; P.A. 85–1372, § 2, eff. Sept. 1, 1988; P.A. 86–16, Art. 2, § 6, eff. June 30, 1989; P.A. 86–17, § 5, eff. July 2, 1989; P.A. 86–44, Art. 2, § 2–4, eff. July 13, 1989; P.A. 86–820, Art. II, § 2–13, eff. Sept. 7, 1989; P.A. 86–905, Art. 1, § 1, eff. Jan. 1, 1990; P.A. 86–928, Art. 1, § 4, eff. Sept. 18, 1989; P.A. 86–928, Art. 3, § 9, eff. Jan. 1, 1990; P.A. 86–953, § 8, eff. Nov. 30, 1989; P.A. 87–14, Art. 3, § 3–4, eff. Oct. 1, 1991; P.A. 87–205, Art. 4, § 4–14, eff. Jan. 1, 1994; P.A. 87–733, § 1–7, eff. July 1, 1992; P.A. 87–838, § 248, eff. Jan. 24, 1992; P.A. 87–876, § 6, eff. Jan. 1, 1993; P.A. 87–895, Art. 4, § 4–15, eff. Aug. 14, 1992; P.A. 87–1132, § 3, eff. Sept. 16, 1992; P.A. 87–1246, § 5, eff. Dec. 24, 1992; P.A. 87–1258, § 5, eff. Jan. 3, 1993; P.A. 88–45, Art. II, § 2–23, eff. July 6, 1993; P.A. 88–116, Art. 2, § 2–20, eff. July 23, 1993; P.A. 88–194, § 10, eff. Jan. 1, 1994; P.A. 88–480, § 30, eff. Jan. 1, 1994; P.A. 88–547, § 10, eff. June 30, 1994; P.A. 88–660, § 40, eff. Sept. 16, 1994; P.A. 88–669, Art. 90, § 90–2.7, eff. Nov. 29, 1994; P.A. 88–670, Art. 2, § 2–23, eff. Dec. 2, 1994; P.A. 89–89, § 30, eff. June 30, 1995; P.A. 89–235, Art. 2, § 2–55, eff. Aug. 4, 1995; P.A. 89–379, § 20, eff. Jan. 1, 1996; P.A. 89–626, Art. 2, § 2–24, eff. Aug. 9, 1996; P.A. 90–491, § 35, eff. Jan. 1, 1999; P.A. 90–612, § 25, eff. July 8, 1998; P.A. 91–37, § 25, eff. July 1, 1999. Re-enacted by P.A. 91–51, § 135, eff. June 30, 1999. Amended by P.A. 91–101, § 25, eff. July 12, 1999; P.A. 91–541, § 25, eff. Aug. 13, 1999; P.A. 91–872, Fourth Sp. Sess., § 20, eff. July 1, 2000; P.A. 91–901, § 25, eff. Jan. 1, 2001; P.A. 92–12, § 935, eff. July 1, 2001; P.A. 92–16, § 36, eff. June 28, 2001; P.A. 92–208, § 30, eff. Aug. 2, 2001; P.A. 92–484, § 15, eff. Aug. 23, 2001; P.A. 92–492, § 30, eff. Jan. 1, 2002; P.A. 92–600, Art. 5, § 5–24, eff. June 28, 2002; P.A. 92–651, § 28, eff. July 11, 2002; P.A. 93–22, § 5, eff. June 20, 2003; P.A. 93–24, Art. 50, § 50–25, eff. June 20, 2003; P.A. 93–840, Art. 20, § 20–25, eff. July 30, 2004; P.A. 93–926, § 5, eff. Aug. 12, 2004; P.A. 93–1057, § 5, eff. Dec. 2, 2004. Reenacted by P.A. 94–1074, § 25, eff. Dec. 26, 2006. Amended by P.A. 95–331, § 400, eff. Aug. 21, 2007; P.A. 96–34, § 925, eff. July 13, 2009; P.A. 96–38, § 20, eff. July 13, 2009; P.A. 96–898, § 25, eff. May 28, 2010; P.A. 96–1012, § 15, eff. July 7, 2010; P.A. 97–95, § 15, eff. July 12,

2011; P.A. 97–333, § 130, eff. Aug. 12, 2011; P.A. 98–24, § 5–55, eff. June 19, 2013; P.A. 98–109, § 5–40, eff. July 25, 2013; P.A. 98–496, § 30, eff. Jan. 1, 2014; P.A. 98–756, § 190, eff. July 16, 2014; P.A. 98–1098, § 35, eff. Aug. 26, 2014.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 442.

[1] 35 ILCS 105/3–85.
[2] 625 ILCS 45/3–2.
[3] 625 ILCS 5/5–402.
[4] 35 ILCS 105/1 et seq.
[5] 35 ILCS 115/1 et seq.
[6] 35 ILCS 110/1 et seq.
[7] 35 ILCS 105/9.
[8] 35 ILCS 110/9.
[9] 35 ILCS 115/9.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–1098, § 35, inserted the following paragraph:

"Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department."

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

PROPERTY TAXES

ACT 200. PROPERTY TAX CODE

TITLE 6. LEVY AND EXTENSION

ARTICLE 18. LEVY AND EXTENSION PROCESS

DIVISION 2. TRUTH IN TAXATION

200/18–55. Short title and definitions

§ 18–55. Short title and definitions. This Division 2 may be cited as the Truth in Taxation Law. As used in this Division 2:

(a) "Taxing district" has the meaning specified in Section 1–150 and includes home rule units, but from January 1, 2000 through December 31, 2002 does not include taxing districts that have territory in Cook County.

(b) "Aggregate levy" means the annual corporate levy of the taxing district and those special purpose levies which are made annually (other than debt service levies and levies made for the purpose of paying amounts due under public building commission leases).

(c) "Special purpose levies" include, but are not limited to, levies made on an annual basis for contributions to pension plans, unemployment and worker's compensation, or self-insurance.

(d) "Debt service" means levies made by any taxing district pursuant to home rule authority, statute, referendum, ordinance, resolution, indenture, agreement, or contract to retire the principal or pay interest on bonds, notes, debentures or other financial instruments which evidence indebtedness.

P.A. 88–455, Art. 18, § 18–55, eff. Jan. 1, 1994. Amended by P.A. 91–357, § 61, eff. July 29, 1999; P.A. 91–523, § 5, eff. Jan. 1, 2000.

P.A. 91–523 included the amendment by P.A. 91–357.

200/18–56. Legislative Purpose

§ 18–56. Legislative Purpose. The purpose of this Law is to require taxing districts to disclose by publication and to hold a public hearing on their intention to adopt an aggregate levy in amounts more than 105% of the amount of property taxes extended or estimated to be extended, including any amount abated by the taxing district prior to such extension, upon the final aggregate levy of the preceding year.

P.A. 88–455, Art. 18, § 18–56, added by P.A. 88–660, § 64, eff. Sept. 16, 1994.

200/18–60. Estimate of taxes to be levied

§ 18–60. Estimate of taxes to be levied. Not less than 20 days prior to the adoption of its aggregate levy, hereafter referred to as "levy", the corporate authority of each taxing district shall determine the amounts of money, exclusive of any portion of that levy attributable to the cost of conducting an election required by the general election law, hereafter referred to as "election costs", estimated to be necessary to be raised by taxation for that year upon the taxable property in its district.

P.A. 88–455, Art. 18, § 18–60, eff. Jan. 1, 1994.

200/18–65. Restriction on extension

§ 18–65. Restriction on extension. Until it has complied with the notice and hearing provisions of this Article, no taxing district shall levy an amount of ad valorem tax which is more than 105% of the amount, exclusive of election costs, which has been extended or is estimated will be extended, plus any amount abated by the taxing district before extension, upon the final aggregate levy of the preceding year.

P.A. 88–455, Art. 18, § 18–65, eff. Jan. 1, 1994.

200/18–70. More than 5% increase; notice and hearing required

§ 18–70. More than 5% increase; notice and hearing required. If the estimate of the corporate authority made as provided in Section 18–60 is more than 105% of the amount extended or estimated to be extended, plus any amount abated by the corporate authority prior to extension, upon

the final aggregate levy of the preceding year, exclusive of election costs, the corporate authority shall give public notice of and hold a public hearing on its intent to adopt an aggregate levy in an amount which is more than 105% of the amount extended or estimated to be extended upon the final aggregate levy extensions, plus any amount abated, exclusive of election costs, for the preceding year. The hearing shall not coincide with the hearing on the proposed budget of the taxing district.

P.A. 88–455, Art. 18, § 18–70, eff. Jan. 1, 1994.

200/18–72. Notice and hearing; certificate of tax levy amendments

§ 18–72. A school board shall give public notice of and hold a public hearing on its intent to amend a certificate of tax levy under Section 17–11.1 of the School Code. [1]

P.A. 88–455, Art. 18, § 18–72, added by P.A. 91–850, § 3, eff. June 22, 2000.

[1] 105 ILCS 5/17–11.1.

200/18–75. Notice; place of publication

§ 18–75. Notice; place of publication. If the taxing district is located entirely in one county, the notice shall be published in an English language newspaper of general circulation published in the taxing district, or if there is no such newspaper, in an English language newspaper of general circulation published in the county and having circulation in the taxing district.

If the taxing district is located primarily in one county but extends into smaller portions of adjoining counties, the notice shall be published in a newspaper of general circulation published in the taxing district, or if there is no such newspaper, in a newspaper of general circulation published in each county in which any part of the district is located.

If the taxing district includes all or a large portion of 2 or more counties, the notice shall be published in a newspaper of general circulation published in each county in which any part of the district is located.

P.A. 88–455, Art. 18, § 18–75, eff. Jan. 1, 1994.

200/18–80. Time and form of notice

§ 18–80. Time and form of notice. The notice shall appear not more than 14 days nor less than 7 days prior to the date of the public hearing. The notice shall be no less than ⅛ page in size, and the smallest type used shall be 12 point and shall be enclosed in a black border no less than ¼ inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The notice shall be published in substantially the following form:

Notice of Proposed Property Tax Increase for ___ (commonly known name of taxing district).

I. A public hearing to approve a proposed property tax levy increase for ____ (legal name of the taxing district)____ for ____ (year) ___ will be held on ___ (date) ___ at ___ (time) ___ at ___ (location).

Any person desiring to appear at the public hearing and present testimony to the taxing district may contact ___ (name, title, address and telephone number of an appropriate official).

II. The corporate and special purpose property taxes extended or abated for ____ (preceding year) ____ were ____ (dollar amount of the final aggregate levy as extended, plus the amount abated by the taxing district prior to extension).

The proposed corporate and special purpose property taxes to be levied for ____ (current year) ____ are ____ (dollar amount of the proposed aggregate levy). This represents a ____ (percentage) ____ increase over the previous year.

III. The property taxes extended for debt service and public building commission leases for ____ (preceding year) ____ were ____ (dollar amount).

The estimated property taxes to be levied for debt service and public building commission leases for ____ (current year) ____ are ____ (dollar amount). This represents a ____ (percentage increase or decrease) ____ over the previous year.

IV. The total property taxes extended or abated for ____ (preceding year) ____ were ____ (dollar amount).

The estimated total property taxes to be levied for ____ (current year) are ____ (dollar amount). This represents a ____ (percentage increase or decrease) ____ over the previous year.

Any notice which includes any information not specified and required by this Article shall be an invalid notice.

All hearings shall be open to the public. The corporate authority of the taxing district shall explain the reasons for the proposed increase and shall permit persons desiring to be heard an opportunity to present testimony within reasonable time limits as it determines.

P.A. 88–455, Art. 18, § 18–80, eff. Jan. 1, 1994. Amended by P.A. 92–382, § 5, eff. Aug. 16, 2001.

200/18–85. Notice if adopted levy exceeds proposed levy

§ 18–85. Notice if adopted levy exceeds proposed levy. If the final aggregate tax levy resolution or ordinance adopted is more than 105% of the amount, exclusive of election costs, which was extended or is estimated to be extended, plus any amount abated by the taxing district prior to extension, upon the final aggregate levy of the preceding year and is in excess of the amount of the proposed levy stated in the notice published under Section 18–70, or is more than 105% of that amount and no notice was required under Section 18–70, the corporate authority shall give public notice of its action within 15 days of the adoption of the levy in the following form:

Notice of Adopted Property Tax Increase for ... (commonly known name of taxing district).

I. The corporate and special purpose property taxes extended or abated for ... (preceding year) ... were ... (dollar amount of the final aggregate levy as extended).

The adopted corporate and special purpose property taxes to be levied for ... (current year) ... are ... (dollar amount of the proposed aggregate levy). This represents a ... (percentage) ... increase over the previous year.

II. The property taxes extended for debt service and public building commission leases for ... (preceding year) ... were ... (dollar amount).

The estimated property taxes to be levied for debt service and public building commission leases for ... (current year) ... are ... (dollar amount). This represents a ... (percentage increase or decrease) ... over the previous year.

III. The total property taxes extended or abated for ... (preceding year) ... were ... (dollar amount).

IV. The estimated total property taxes to be levied for ... (current year) ... are ... (dollar amount). This represents a ... (percentage increase or decrease) ... over the previous year.

A taxing district may, in its discretion and if applicable, include the following in the notice:

V. The taxing district has estimated its equalized assessed valuation to secure new growth revenue and must adhere to the Property Tax Extension Limitation Law (PTELL or "tax cap" law). PTELL limits the increase over the prior year in the property tax extension of this taxing district to the lesser of 5% or the percentage increase in the Consumer Price Index (CPI), which is (insert applicable CPI percentage increase).

P.A. 88–455, Art. 18, § 18–85, eff. Jan. 1, 1994. Amended by P.A. 96–504, § 5, eff. Aug. 14, 2009.

200/18–90. Limitation on extension of county clerk

§ 18–90. Limitation on extension of county clerk. The tax levy resolution or ordinance approved in the manner provided for in this Article shall be filed with the county clerk in the manner and at the time otherwise provided by law. No amount more than 105% of the amount, exclusive of election costs, which has been extended or is estimated to be extended, plus any amount abated by the taxing district prior to extension, upon the final aggregate levy of the preceding year shall be extended unless the tax levy ordinance or resolution is accompanied by a certification by the presiding officer of the corporate authority certifying compliance with or inapplicability of the provisions of Sections 18–60 through 18–85. An amount extended under Section 18–107 in 1994 for a multi-township assessment district that did not file a certification of compliance with the Truth in Taxation Law may not exceed 105% of the amount, exclusive of election costs, that was extended in 1993, plus a proportional amount abated before extension, upon the levy or portion of a levy that is allocable to assessment purposes in each township that is a member of that multi-township assessment district.

P.A. 88–455, Art. 18, § 18–90, eff. Jan. 1, 1994. Amended by P.A. 88–660, § 64, eff. Sept. 16, 1994.

200/18–92. Downstate School Finance Authority for Elementary Districts Law and Financial Oversight Panel Law

§ 18–92. Downstate School Finance Authority for Elementary Districts Law and Financial Oversight Panel Law.

(a) The provisions of the Truth in Taxation Law are subject to the Downstate School Finance Authority for Elementary Districts Law.

(b) A Financial Oversight Panel created under Article 1H of the School Code is subject to the provisions of the Truth in Taxation Law with respect to tax levies filed by it on behalf of a school district, as well as with respect to any tax levies it may file on its own behalf.

P.A. 88–455, Art. 18, § 18–92, added by P.A. 92–855, § 5, eff. Dec. 6, 2002. Amended by P.A. 95–331, § 410, eff. Aug. 21, 2007; P.A. 97–429, § 5, eff. Aug. 16, 2011.

200/18–95. Effect of Truth in Taxation Law

§ 18–95. Effect of Truth in Taxation Law. Nothing contained in Sections 18–55 through 18–90 shall serve to extend or authorize any tax rate in excess of the maximum permitted by law nor prevent the reduction of any tax rate.

P.A. 88–455, Art. 18, § 18–95, eff. Jan. 1, 1994.

200/18–100. Defective publication

§ 18–100. Defective publication. A levy of a taxing district shall not be invalidated for failure to comply with the provisions of this Article if the failure is attributable to the newspaper's failure to reproduce the information in the notice accurately or to publish the notice as directed by the taxing district.

P.A. 88–455, Art. 18, § 18–100, eff. Jan. 1, 1994.

DIVISION 5. PROPERTY TAX EXTENSION LIMITATION LAW

200/18–185. Short title; definitions

§ 18–185. Short title; definitions. This Division 5 may be cited as the Property Tax Extension Limitation Law. As used in this Division 5:

"Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Extension limitation" means (a) the lesser of 5% or the percentage increase in the Consumer Price Index during the 12–month calendar year preceding the levy year or (b) the rate of increase approved by voters under Section 18–205.

"Affected county" means a county of 3,000,000 or more inhabitants or a county contiguous to a county of 3,000,000 or more inhabitants.

"Taxing district" has the same meaning provided in Section 1–150, except as otherwise provided in this Section. For the 1991 through 1994 levy years only, "taxing district" includes only each non-home rule taxing district having the majority of its 1990 equalized assessed value within any county or counties contiguous to a county with 3,000,000 or more inhabitants. Beginning with the 1995 levy year, "taxing district" includes only each non-home rule taxing district subject to this Law before the 1995 levy year and each non-home rule taxing district not subject to this Law before the 1995 levy year having the majority of its 1994 equalized assessed value in an affected county or counties. Beginning with the levy year in which this Law becomes applicable to a taxing district as provided in Section 18–213, "taxing district" also includes those taxing districts made subject to this Law as provided in Section 18–213.

"Aggregate extension" for taxing districts to which this Law applied before the 1995 levy year means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before October 1, 1991; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before October 1, 1991; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after October 1, 1991 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before October 1, 1991 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before October 1, 1991, to pay for the building project; (g) made for payments due under installment contracts entered into before October 1,

1991; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), (e), and (h) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made by a school district that participates in the Special Education District of Lake County, created by special education joint agreement under Section 10–22.31 of the School Code, for payment of the school district's share of the amounts required to be contributed by the Special Education District of Lake County to the Illinois Municipal Retirement Fund under Article 7 of the Illinois Pension Code; the amount of any extension under this item (k) shall be certified by the school district to the county clerk; (*l*) made to fund expenses of providing joint recreational programs for the handicapped under Section 5–8 of the Park District Code or Section 11–95–14 of the Illinois Municipal Code; (m) made for temporary relocation loan repayment purposes pursuant to Sections 2–3.77 and 17–2.2d of the School Code; (n) made for payment of principal and interest on any bonds issued under the authority of Section 17–2.2d of the School Code; (*o*) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4–134 of the Illinois Pension Code; and (p) made for road purposes in the first year after a township assumes the rights, powers, duties, assets, property, liabilities, obligations, and responsibilities of a road district abolished under the provisions of Section 6–133 of the Illinois Highway Code.

"Aggregate extension" for the taxing districts to which this Law did not apply before the 1995 levy year (except taxing districts subject to this Law in accordance with Section 18–213) means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before March 1, 1995; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before March 1, 1995; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after March 1, 1995 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before March 1, 1995 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before March 1, 1995 to pay for the building project; (g) made for payments due under installment contracts entered into before March 1, 1995; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (h–4) made for stormwater management purposes by the Metropolitan Water Reclamation District of Greater Chicago under Section 12 of the Metropolitan Water Reclamation District Act; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum and bonds described in subsection (h) of this definition; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made for payments of principal and interest on bonds authorized by Public Act 88–503 and issued under Section 20a of the Chicago Park District Act for aquarium or museum projects; (*l*) made for payments of principal and interest on bonds authorized by Public Act 87–1191 or 93–601 and (i) issued pursuant to Section 21.2 of the Cook County Forest Preserve District Act, (ii) issued under Section 42 of the Cook County Forest Preserve District Act for zoological park projects, or (iii) issued under Section 44.1 of the Cook County Forest Preserve District Act for botanical gardens projects; (m) made pursuant to Section 34–53.5 of the School Code, whether levied annually or not; (n) made to fund expenses of providing joint recreational programs for the handicapped under Section 5–8 of the Park District Code or Section 11–95–14 of the Illinois Municipal Code; (*o*) made by the Chicago Park District for recreational programs for the handicapped under subsection (c) of Section 7.06 of the Chicago Park District Act; (p) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4–134 of the Illinois Pension Code; and (q) made by Ford Heights School District 169 under Section 17–9.02 of the School Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with Section 18–213, except for those taxing districts subject to paragraph (2) of subsection (e) of Section 18–213, means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the date on which the referendum making this Law applicable to the taxing district is held if the bonds were approved by referendum after the date on which the referendum making this Law applicable to the taxing district is held; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the date on which the referendum making this Law applicable to the taxing district is held for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the date on which the referendum making this Law applicable to the taxing district is held to pay for the building

project; (g) made for payments due under installment contracts entered into before the date on which the referendum making this Law applicable to the taxing district is held; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5–8 of the Park District Code or Section 11–95–14 of the Illinois Municipal Code; (*l*) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4–134 of the Illinois Pension Code; and (m) made for the taxing district to pay interest or principal on general obligation bonds issued pursuant to Section 19–3.10 of the School Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with paragraph (2) of subsection (e) of Section 18–213 means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the effective date of this amendatory Act of 1997; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the effective date of this amendatory Act of 1997; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the effective date of this amendatory Act of 1997 if the bonds were approved by referendum after the effective date of this amendatory Act of 1997; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the effective date of this amendatory Act of 1997 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the effective date of this amendatory Act of 1997 to pay for the building project; (g) made for payments due under installment contracts entered into before the effective date of this amendatory Act of 1997; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5–8 of the Park District Code or Section 11–95–14 of the Illinois Municipal Code; and (*l*) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4–134 of the Illinois Pension Code.

"Debt service extension base" means an amount equal to that portion of the extension for a taxing district for the 1994 levy year, or for those taxing districts subject to this Law in accordance with Section 18–213, except for those subject to paragraph (2) of subsection (e) of Section 18–213, for the levy year in which the referendum making this Law applicable to the taxing district is held, or for those taxing districts subject to this Law in accordance with paragraph (2) of subsection (e) of Section 18–213 for the 1996 levy year, constituting an extension for payment of principal and interest on bonds issued by the taxing district without referendum, but not including excluded non-referendum bonds. For park districts (i) that were first subject to this Law in 1991 or 1995 and (ii) whose extension for the 1994 levy year for the payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds) was less than 51% of the amount for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds), "debt service extension base" means an amount equal to that portion of the extension for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds). A debt service extension base established or increased at any time pursuant to any provision of this Law, except Section 18–212, shall be increased each year commencing with the later of (i) the 2009 levy year or (ii) the first levy year in which this Law becomes applicable to the taxing district, by the lesser of 5% or the percentage increase in the Consumer Price Index during the 12–month calendar year preceding the levy year. The debt service extension base may be established or increased as provided under Section 18–212. "Excluded non-referendum bonds" means (i) bonds authorized by Public Act 88–503 and issued under Section 20a of the Chicago Park District Act for aquarium and museum projects; (ii) bonds issued under Section 15 of the Local Government Debt Reform Act; or (iii) refunding obligations issued to refund or to continue to refund obligations initially issued pursuant to referendum.

"Special purpose extensions" include, but are not limited to, extensions for levies made on an annual basis for unemployment and workers' compensation, self-insurance, contributions to pension plans, and extensions made pursuant to Section 6–601 of the Illinois Highway Code for a road district's permanent road fund whether levied annually or not. The extension for a special service area is not included in the aggregate extension.

"Aggregate extension base" means the taxing district's last preceding aggregate extension as adjusted under Sections 18–135, 18–215, and 18–230. An adjustment under Section 18–135 shall be made for the 2007 levy year and all subsequent levy years whenever one or more counties within which a taxing district is located (i) used estimated valuations

or rates when extending taxes in the taxing district for the last preceding levy year that resulted in the over or under extension of taxes, or (ii) increased or decreased the tax extension for the last preceding levy year as required by Section 18–135(c). Whenever an adjustment is required under Section 18–135, the aggregate extension base of the taxing district shall be equal to the amount that the aggregate extension of the taxing district would have been for the last preceding levy year if either or both (i) actual, rather than estimated, valuations or rates had been used to calculate the extension of taxes for the last levy year, or (ii) the tax extension for the last preceding levy year had not been adjusted as required by subsection (c) of Section 18–135.

Notwithstanding any other provision of law, for levy year 2012, the aggregate extension base for West Northfield School District No. 31 in Cook County shall be $12,654,592.

"Levy year" has the same meaning as "year" under Section 1–155.

"New property" means (i) the assessed value, after final board of review or board of appeals action, of new improvements or additions to existing improvements on any parcel of real property that increase the assessed value of that real property during the levy year multiplied by the equalization factor issued by the Department under Section 17–30, (ii) the assessed value, after final board of review or board of appeals action, of real property not exempt from real estate taxation, which real property was exempt from real estate taxation for any portion of the immediately preceding levy year, multiplied by the equalization factor issued by the Department under Section 17–30, including the assessed value, upon final stabilization of occupancy after new construction is complete, of any real property located within the boundaries of an otherwise or previously exempt military reservation that is intended for residential use and owned by or leased to a private corporation or other entity, (iii) in counties that classify in accordance with Section 4 of Article IX of the Illinois Constitution, an incentive property's additional assessed value resulting from a scheduled increase in the level of assessment as applied to the first year final board of review market value, and (iv) any increase in assessed value due to oil or gas production from an oil or gas well required to be permitted under the Hydraulic Fracturing Regulatory Act that was not produced in or accounted for during the previous levy year. In addition, the county clerk in a county containing a population of 3,000,000 or more shall include in the 1997 recovered tax increment value for any school district, any recovered tax increment value that was applicable to the 1995 tax year calculations.

"Qualified airport authority" means an airport authority organized under the Airport Authorities Act and located in a county bordering on the State of Wisconsin and having a population in excess of 200,000 and not greater than 500,000.

"Recovered tax increment value" means, except as otherwise provided in this paragraph, the amount of the current year's equalized assessed value, in the first year after a municipality terminates the designation of an area as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, previously established under the Economic Development Project Area Tax Increment Act of 1995, or previously established under the Economic Development Area Tax Increment Allocation Act, of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. For the taxes which are extended for the 1997 levy year, the recovered tax increment value for a non-home rule taxing district that first became subject to this Law for the 1995 levy year because a majority of its 1994 equalized assessed value was in an affected county or counties shall be increased if a municipality terminated the designation of an area in 1993 as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, or previously established under the Economic Development Area Tax Increment Allocation Act, by an amount equal to the 1994 equalized assessed value of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. In the first year after a municipality removes a taxable lot, block, tract, or parcel of real property from a redevelopment project area established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, the Industrial Jobs Recovery Law in the Illinois Municipal Code, or the Economic Development Area Tax Increment Allocation Act, "recovered tax increment value" means the amount of the current year's equalized assessed value of each taxable lot, block, tract, or parcel of real property removed from the redevelopment project area over and above the initial equalized assessed value of that real property before removal from the redevelopment project area.

Except as otherwise provided in this Section, "limiting rate" means a fraction the numerator of which is the last preceding aggregate extension base times an amount equal to one plus the extension limitation defined in this Section and the denominator of which is the current year's equalized assessed value of all real property in the territory under the jurisdiction of the taxing district during the prior levy year. For those taxing districts that reduced their aggregate extension for the last preceding levy year, the highest aggregate extension in any of the last 3 preceding levy years shall be used for the purpose of computing the limiting rate. The denominator shall not include new property or the recovered tax increment value. If a new rate, a rate decrease, or a limiting rate increase has been approved at an election held after March 21, 2006, then (i) the otherwise applicable limiting rate shall be increased by the amount of the new rate or shall be reduced by the amount of the rate decrease, as the case may be, or (ii) in the case of a limiting rate increase, the limiting rate shall be equal to the rate set forth in the proposition approved by the voters for each of the years specified in the proposition, after which the limiting rate of the taxing district shall be calculated as otherwise provided. In the case of a taxing district that obtained referendum approval for an increased limiting rate on March 20, 2012, the limiting rate for tax year 2012 shall be the rate that generates the approximate total amount of taxes extendable for that tax year, as set forth in the proposition approved by the voters; this rate shall be the final rate applied by the county clerk for the aggregate of all capped funds of the district for tax year 2012.

P.A. 88–455, Art. 18, § 18–185, eff. Jan. 1, 1994. Amended by P.A. 89–1, § 10, eff. Feb. 12, 1995; P.A. 89–138, § 5, eff. July 14, 1995; P.A. 89–385, § 15, eff. Aug. 18, 1995; P.A. 89–436, § 5, eff. Jan. 1, 1996; P.A. 89–449, § 5, eff. June 1, 1996; P.A. 89–510, § 10, eff. July 11, 1996; P.A. 89–718, § 5, eff. March 7, 1997; P.A. 90–485, § 10, eff. Jan. 1, 1998; P.A. 90–511, § 1.5, eff. Aug. 22, 1997; P.A. 90–568, § 10, eff. Jan. 1, 1999; P.A. 90–616, § 5, eff. July 10, 1998; P.A. 90–655, § 43, eff. July 30, 1998; P.A. 91–357, § 61, eff. July 29, 1999; P.A. 91–478, § 5, eff. Nov. 1, 1999; P.A. 92–547, § 5, eff. June 13,

2002; P.A. 93–601, § 5, eff. Jan. 1, 2004; P.A. 93–606, § 5, eff. Nov. 18, 2003; P.A. 93–612, § 5, eff. Nov. 18, 2003; P.A. 93–689, § 5, eff. July 1, 2004; P.A. 93–690, § 5, eff. July 1, 2004; P.A. 93–1049, § 5, eff. Nov. 17, 2004; P.A. 94–974, § 5, eff. June 30, 2006; P.A. 94–976, § 5, eff. June 30, 2006; P.A. 94–1078, § 5, eff. Jan. 9, 2007; P.A. 95–90, § 5, eff. Jan. 1, 2008; P.A. 95–331, § 410, eff. Aug. 21, 2007; P.A. 95–404, § 5, eff. Jan. 1, 2008; P.A. 95–876, § 140, eff. Aug. 21, 2008; P.A. 96–501, § 5, eff. Aug. 14, 2009; P.A. 96–517, § 3, eff. Aug. 14, 2009; P.A. 96–1000, § 215, eff. July 2, 2010; P.A. 96–1202, § 5, eff. July 22, 2010; P.A. 97–611, § 5, eff. Jan. 1, 2012; P.A. 97–1154, § 15, eff. Jan. 25, 2013; P.A. 98–6, § 5, eff. March 29, 2013; P.A. 98–23, § 10, eff. June 17, 2013.

P.A. 98–23 incorporated the amendment by P.A. 98–6.

200/18–190. Direct referendum; new rate or increased limiting rate

§ 18–190. Direct referendum; new rate or increased limiting rate.

(a) If a new rate is authorized by statute to be imposed without referendum or is subject to a backdoor referendum, as defined in Section 28–2 of the Election Code,[1] the governing body of the affected taxing district before levying the new rate shall submit the new rate to direct referendum under the provisions of this Section and of Article 28 of the Election Code.[2] Notwithstanding any other provision of law, the levies authorized by Sections 21–110 and 21–110.1 of the Illinois Pension Code shall not be considered new rates; however, nothing in this amendatory Act of the 98th General Assembly authorizes a taxing district to increase its limiting rate or its aggregate extension without first obtaining referendum approval as provided in this Section. Notwithstanding the provisions, requirements, or limitations of any other law, any tax levied for the 2005 levy year and all subsequent levy years by any taxing district subject to this Law may be extended at a rate exceeding the rate established for that tax by referendum or statute, provided that the rate does not exceed the statutory ceiling above which the tax is not authorized to be further increased either by referendum or in any other manner. Notwithstanding the provisions, requirements, or limitations of any other law, all taxing districts subject to this Law shall follow the provisions of this Section whenever seeking referenda approval after March 21, 2006 to (i) levy a new tax rate authorized by statute or (ii) increase the limiting rate applicable to the taxing district. All taxing districts subject to this Law are authorized to seek referendum approval of each proposition described and set forth in this Section.

The proposition seeking to obtain referendum approval to levy a new tax rate as authorized in clause (i) shall be in substantially the following form:

> Shall . . . (insert legal name, number, if any, and county or counties of taxing district and geographic or other common name by which a school or community college district is known and referred to), Illinois, be authorized to levy a new tax for . . . purposes and have an additional tax of . . .% of the equalized assessed value of the taxable property therein extended for such purposes?

The votes must be recorded as "Yes" or "No".

The proposition seeking to obtain referendum approval to increase the limiting rate as authorized in clause (ii) shall be in substantially the following form:

> Shall the limiting rate under the Property Tax Extension Limitation Law for . . . (insert legal name, number, if any, and county or counties of taxing district and geographic or other common name by which a school or community college district is known and referred to), Illinois, be increased by an additional amount equal to . . .% above the limiting rate for the purpose of. . .(insert purpose) for levy year . . . (insert the most recent levy year for which the limiting rate of the taxing district is known at the time the submission of the proposition is initiated by the taxing district) and be equal to . . .% of the equalized assessed value of the taxable property therein for levy year(s) (insert each levy year for which the increase will be applicable, which years must be consecutive and may not exceed 4)?

The votes must be recorded as "Yes" or "No".

The ballot for any proposition submitted pursuant to this Section shall have printed thereon, but not as a part of the proposition submitted, only the following supplemental information (which shall be supplied to the election authority by the taxing district) in substantially the following form:

> (1) The approximate amount of taxes extendable at the most recently extended limiting rate is $. . ., and the approximate amount of taxes extendable if the proposition is approved is $. . . .
>
> (2) For the . . . (insert the first levy year for which the new rate or increased limiting rate will be applicable) levy year the approximate amount of the additional tax extendable against property containing a single family residence and having a fair market value at the time of the referendum of $100,000 is estimated to be $. . . .
>
> (3) Based upon an average annual percentage increase (or decrease) in the market value of such property of %. . . (insert percentage equal to the average annual percentage increase or decrease for the prior 3 levy years, at the time the submission of the proposition is initiated by the taxing district, in the amount of (A) the equalized assessed value of the taxable property in the taxing district less (B) the new property included in the equalized assessed value), the approximate amount of the additional tax extendable against such property for the . . . levy year is estimated to be $. . . and for the . . . levy year is estimated to be $ . . . .
>
> (4) If the proposition is approved, the aggregate extension for . . . (insert each levy year for which the increase will apply) will be determined by the limiting rate set forth in the proposition, rather than the otherwise applicable limiting rate calculated under the provisions of the Property Tax Extension Limitation Law (commonly known as the Property Tax Cap Law).

The approximate amount of taxes extendable shown in paragraph (1) shall be computed upon the last known equalized assessed value of taxable property in the taxing district (at the time the submission of the proposition is initiated by the taxing district). Paragraph (3) shall be included only if the increased limiting rate will be applicable for more than one levy year and shall list each levy year for which the increased limiting rate will be applicable. The additional tax shown for each levy year shall be the approximate dollar amount of the increase over the amount of the most recently completed extension at the time the submission of the proposition is initiated by the taxing district. The approximate amount of the additional taxes extendable shown in paragraphs (2) and (3) shall be calculated by multiplying $100,000 (the fair market value of the property without regard to any property tax exemptions) by (i) the percentage level of assessment prescribed for that property by statute, or by ordinance of the county board in counties that classify property for purposes of taxation in accordance with Section 4 of Article IX of the Illinois Constitution; (ii) the most recent final equalization factor certified to the county clerk by the Department

of Revenue at the time the taxing district initiates the submission of the proposition to the electors; and (iii) either the new rate or the amount by which the limiting rate is to be increased. This amendatory Act of the 97th General Assembly is intended to clarify the existing requirements of this Section, and shall not be construed to validate any prior non-compliant referendum language. Paragraph (4) shall be included if the proposition concerns a limiting rate increase but shall not be included if the proposition concerns a new rate. Any notice required to be published in connection with the submission of the proposition shall also contain this supplemental information and shall not contain any other supplemental information regarding the proposition. Any error, miscalculation, or inaccuracy in computing any amount set forth on the ballot and in the notice that is not deliberate shall not invalidate or affect the validity of any proposition approved. Notice of the referendum shall be published and posted as otherwise required by law, and the submission of the proposition shall be initiated as provided by law.

If a majority of all ballots cast on the proposition are in favor of the proposition, the following provisions shall be applicable to the extension of taxes for the taxing district:

(A) a new tax rate shall be first effective for the levy year in which the new rate is approved;

(B) if the proposition provides for a new tax rate, the taxing district is authorized to levy a tax after the canvass of the results of the referendum by the election authority for the purposes for which the tax is authorized;

(C) a limiting rate increase shall be first effective for the levy year in which the limiting rate increase is approved, provided that the taxing district may elect to have a limiting rate increase be effective for the levy year prior to the levy year in which the limiting rate increase is approved unless the extension of taxes for the prior levy year occurs 30 days or less after the canvass of the results of the referendum by the election authority in any county in which the taxing district is located;

(D) in order for the limiting rate increase to be first effective for the levy year prior to the levy year of the referendum, the taxing district must certify its election to have the limiting rate increase be effective for the prior levy year to the clerk of each county in which the taxing district is located not more than 2 days after the date the results of the referendum are canvassed by the election authority; and

(E) if the proposition provides for a limiting rate increase, the increase may be effective regardless of whether the proposition is approved before or after the taxing district adopts or files its levy for any levy year.

Rates required to extend taxes on levies subject to a backdoor referendum in each year there is a levy are not new rates or rate increases under this Section if a levy has been made for the fund in one or more of the preceding 3 levy years. Changes made by this amendatory Act of 1997 to this Section in reference to rates required to extend taxes on levies subject to a backdoor referendum in each year there is a levy are declarative of existing law and not a new enactment.

(b) Whenever other applicable law authorizes a taxing district subject to the limitation with respect to its aggregate extension provided for in this Law to issue bonds or other obligations either without referendum or subject to backdoor referendum, the taxing district may elect for each separate bond issuance to submit the question of the issuance of the bonds or obligations directly to the voters of the taxing district, and if the referendum passes the taxing district is not required to comply with any backdoor referendum procedures or requirements set forth in the other applicable law. The direct referendum shall be initiated by ordinance or resolution of the governing body of the taxing district, and the question shall be certified to the proper election authorities in accordance with the provisions of the Election Code.[3]

P.A. 88–455, Art. 18, § 18–190, eff. Jan. 1, 1994. Amended by P.A. 88–670, Art. 3, § 3–16, eff. Dec. 2, 1994; P.A. 89–385, § 15, eff. Aug. 18, 1995; P.A. 89–718, § 5, eff. March 7, 1997; P.A. 94–976, § 5, eff. June 30, 2006; P.A. 96–764, § 5, eff. Aug. 25, 2009; P.A. 97–1087, § 5, eff. Aug. 24, 2012; P.A. 98–1088, § 5, eff. Aug. 26, 2014.

[1] 10 ILCS 5/28–2.

[2] 10 ILCS 5/28–1 et seq.

[3] 10 ILCS 5/1–1 et seq.

200/18–190.5. School districts

§ 18–190.5. School districts. The requirements of Section 18–190 of this Code for a direct referendum on the imposition of a new or increased tax rate do not apply to tax levies that are not included in the aggregate extension for those taxing districts to which this Law did not apply before the 1995 levy year (except taxing districts subject to this Law in accordance with Section 18–213 of this Code) pursuant to clauses (m) and (q) of Section 18–185 of this Code.

P.A. 88–455, Art. 18, § 18–190.5, added by P.A. 92–547, § 5, eff. June 13, 2002. Amended by P.A. 94–1078, § 5, eff. Jan. 9, 2007.

200/18–195. Limitation

§ 18–195. Limitation. Tax extensions made under Sections 18–45 and 18–105 are further limited by the provisions of this Law.

For those taxing districts that have levied in any previous levy year for any funds included in the aggregate extension, the county clerk shall extend a rate for the sum of these funds that is no greater than the limiting rate.

For those taxing districts that have never levied for any funds included in the aggregate extension, the county clerk shall extend an amount no greater than the amount approved by the voters in a referendum under Section 18–210.

If the county clerk is required to reduce the aggregate extension of a taxing district by provisions of this Law, the county clerk shall proportionally reduce the extension for each fund unless otherwise requested by the taxing district.

Upon written request of the corporate authority of a village, the county clerk shall calculate separate limiting rates for the library funds and for the aggregate of the other village funds in order to reduce the funds as may be required under provisions of this Law. In calculating the limiting rate for the library, the county clerk shall use only the part of the aggregate extension base applicable to the library, and for any rate increase or decrease factor under Section 18–230 the county clerk shall use only any new rate or rate increase applicable to the library funds and the part of the rate applicable to the library in determining factors under that Section. The county clerk shall calculate the limiting rate for all other village funds using only the part of the aggregate extension base not applicable to the library, and for any rate increase or decrease factor under Section 18–230 the county clerk shall use only any new rate or rate increase not applicable to the library funds and the part of the rate not applicable to the library in determining factors under that Section. If the county clerk is required to reduce the aggregate extension of the library portion of the levy, the county clerk shall proportionally reduce the extension for

each library fund unless otherwise requested by the library board. If the county clerk is required to reduce the aggregate extension of the portion of the levy not applicable to the library, the county clerk shall proportionally reduce the extension for each fund not applicable to the library unless otherwise requested by the village.

Beginning with the 1998 levy year upon written direction of a county or township community mental health board, the county clerk shall calculate separate limiting rates for the community mental health funds and for the aggregate of the other county or township funds in order to reduce the funds as may be required under provisions of this Law. In calculating the limiting rate for the community mental health funds, the county clerk shall use only the part of the aggregate extension base applicable to the community mental health funds; and for any rate increase or decrease factor under Section 18–230, the county clerk shall use only any new rate or rate increase applicable to the community mental health funds and the part of the rate applicable to the community mental health board in determining factors under that Section. The county clerk shall calculate the limiting rate for all other county or township funds using only the part of the aggregate extension base not applicable to community mental health funds; and for any rate increase or decrease factor under Section 18–230, the county clerk shall use only any new rate or rate increase not applicable to the community mental health funds and the part of the rate not applicable to the community mental health board in determining factors under that Section. If the county clerk is required to reduce the aggregate extension of the community mental health board portion of the levy, the county clerk shall proportionally reduce the extension for each community mental health fund unless otherwise directed by the community mental health board. If the county clerk is required to reduce the aggregate extension of the portion of the levy not applicable to the community mental health board, the county clerk shall proportionally reduce the extension for each fund not applicable to the community mental health board unless otherwise directed by the county or township.

If the county is not subject to Section 1.1 or 1.2 of the County Care for Persons with Developmental Disabilities Act, then, beginning with the 2001 levy year, upon written direction of a county or township board for care and treatment of persons with a developmental disability, the county clerk shall calculate separate limiting rates for the funds for persons with a developmental disability and for the aggregate of the other county or township funds in order to reduce the funds as may be required under provisions of this Law. If the county is subject to Section 1.1 or 1.2 of the County Care for Persons with Developmental Disabilities Act, then, beginning with the levy year in which the voters approve the tax under Section 1.1 or 1.2 of that Act, the county clerk shall calculate separate limiting rates for the funds for persons with a developmental disability and for the aggregate of the other county or township funds in order to reduce the funds as may be required under provisions of this Law. In calculating the limiting rate for the funds for persons with a developmental disability, the county clerk shall use only the part of the aggregate extension base applicable to the funds for persons with a developmental disability; and for any rate increase or decrease factor under Section 18–230, the county clerk shall use only any new rate or rate increase applicable to the funds for persons with a developmental disability and the part of the rate applicable to the board for care and treatment of persons with a developmental disability in determining factors under that Section. The county clerk shall calculate the limiting rate for all other county or township funds using only the part of the aggregate extension base not applicable to funds for persons with a developmental disability; and for any rate increase or decrease factor under Section 18–230, the county clerk shall use only any new rate or rate increase not applicable to the funds for persons with a developmental disability and the part of the rate not applicable to the board for care and treatment of persons with a developmental disability in determining factors under that Section. If the county clerk is required to reduce the aggregate extension of the board for care and treatment of persons with a developmental disability portion of the levy, the county clerk shall proportionally reduce the extension for each fund for persons with a developmental disability unless otherwise directed by the board for care and treatment of persons with a developmental disability. If the county clerk is required to reduce the aggregate extension of the portion of the levy not applicable to the board for care and treatment of persons with a developmental disability, the county clerk shall proportionally reduce the extension for each fund not applicable to the board for care and treatment of persons with a developmental disability unless otherwise directed by the county or township.

P.A. 88–455, Art. 18, § 18–195, eff. Jan. 1, 1994. Amended by P.A. 90–339, § 5, eff. Aug. 8, 1997; P.A. 90–652, § 5, eff. July 28, 1998; P.A. 91–859, § 5, eff. June 22, 2000; P.A. 96–1350, § 5, eff. July 28, 2010.

200/18–198. Summit Park District Tax Levy Validation (2010) Act

§ 18–198. Summit Park District Tax Levy Validation (2010) Act. The provisions of the Property Tax Extension Limitation Law are subject to the Summit Park District Tax Levy Validation (2010) Act.

P.A. 88–455, Art. 18, § 18-198, added by P.A. 96–1205, § 90, eff. July 22, 2010.

200/18–200. School Code

§ 18–200. School Code. A school district's State aid shall not be reduced under the computation under subsections 5(a) through 5(h) of Part A of Section 18–8 of the School Code [1] due to the operating tax rate falling from above the minimum requirement of that Section of the School Code to below the minimum requirement of that Section of the School Code due to the operation of this Law.

P.A. 88–455, Art. 18, § 18–200, eff. Jan. 1, 1994.

[1] 105 ILCS 5/18–8 (Repealed).

200/18–205. Referendum to increase the extension limitation

§ 18–205. Referendum to increase the extension limitation. A taxing district is limited to an extension limitation of 5% or the percentage increase in the Consumer Price Index during the 12–month calendar year preceding the levy year, whichever is less. A taxing district may increase its extension limitation for one or more levy years if that taxing district holds a referendum before the levy date for the first levy year at which a majority of voters voting on the issue approves adoption of a higher extension limitation. Referenda shall be conducted at a regularly scheduled election in accordance with the Election Code. The question shall be presented in substantially the following manner for all elections held after March 21, 2006:

> Shall the extension limitation under the Property Tax Extension Limitation Law for (insert the legal name, number, if any, and county or counties of the taxing district and geographic or other common name by which a

school or community college district is known and referred to), Illinois, be increased from the lesser of 5% or the percentage increase in the Consumer Price Index over the prior levy year to (insert the percentage of the proposed increase)% per year for (insert each levy year for which the increased extension limitation will apply)?

The votes must be recorded as "Yes" or "No".

If a majority of voters voting on the issue approves the adoption of the increase, the increase shall be applicable for each levy year specified.

The ballot for any question submitted pursuant to this Section shall have printed thereon, but not as a part of the question submitted, only the following supplemental information (which shall be supplied to the election authority by the taxing district) in substantially the following form:

(1) For the (insert the first levy year for which the increased extension limitation will be applicable) levy year the approximate amount of the additional tax extendable against property containing a single family residence and having a fair market value at the time of the referendum of $ 100,000 is estimated to be $. . . .

(2) Based upon an average annual percentage increase (or decrease) in the market value of such property of . . . % (insert percentage equal to the average annual percentage increase or decrease for the prior 3 levy years, at the time the submission of the question is initiated by the taxing district, in the amount of (A) the equalized assessed value of the taxable property in the taxing district less (B) the new property included in the equalized assessed value), the approximate amount of the additional tax extendable against such property for the . . . levy year is estimated to be $. . . and for the . . . levy year is estimated to be $. . . .

Paragraph (2) shall be included only if the increased extension limitation will be applicable for more than one year and shall list each levy year for which the increased extension limitation will be applicable. The additional tax shown for each levy year shall be the approximate dollar amount of the increase over the amount of the most recently completed extension at the time the submission of the question is initiated by the taxing district. The approximate amount of the additional tax extendable shown in paragraphs (1) and (2) shall be calculated by multiplying $100, 000 (the fair market value of the property without regard to any property tax exemptions) by (i) the percentage level of assessment prescribed for that property by statute, or by ordinance of the county board in counties that classify property for purposes of taxation in accordance with Section 4 of Article IX of the Illinois Constitution; (ii) the most recent final equalization factor certified to the county clerk by the Department of Revenue at the time the taxing district initiates the submission of the proposition to the electors; (iii) the last known aggregate extension base of the taxing district at the time the submission of the question is initiated by the taxing district; and (iv) the difference between the percentage increase proposed in the question and the lesser of 5% or the percentage increase in the Consumer Price Index for the prior levy year (or an estimate of the percentage increase for the prior levy year if the increase is unavailable at the time the submission of the question is initiated by the taxing district); and dividing the result by the last known equalized assessed value of the taxing district at the time the submission of the question is initiated by the taxing district. This amendatory Act of the 97th General Assembly is intended to clarify the existing requirements of this Section, and shall not be construed to validate any prior non-compliant referendum language. Any notice required to be published in connection with the submission of the question shall also contain this supplemental information and shall not contain any other supplemental information. Any error, miscalculation, or inaccuracy in computing any amount set forth on the ballot or in the notice that is not deliberate shall not invalidate or affect the validity of any proposition approved. Notice of the referendum shall be published and posted as otherwise required by law, and the submission of the question shall be initiated as provided by law.

P.A. 88–455, Art. 18, § 18–205, eff. Jan. 1, 1994. Amended by P.A. 90–812, § 10, eff. Jan. 26, 1999; P.A. 91–57, § 20, eff. June 30, 1999; P.A. 94–976, § 5, eff. June 30, 2006; P.A. 97–1087, § 5, eff. Aug. 24, 2012.

200/18–210. Establishing a new levy

§ 18–210. Establishing a new levy. Except as provided in Section 18–215, as it relates to a transfer of a service, before a county clerk may extend taxes for funds subject to the limitations of this Law, a new taxing district or a taxing district with an aggregate extension base of zero shall hold a referendum establishing a maximum aggregate extension for the levy year. The maximum aggregate extension is established for the current levy year if a taxing district has held a referendum before the levy date at which the majority voting on the issue approves its adoption. The referendum under this Section may be held at the same time as the referendum on creating a new taxing district. The question shall be submitted to the voters at a regularly scheduled election in accordance with the Election Code [1] provided that notice of referendum, if held before July 1, 1999, has been given in accordance with the provisions of Section 12–5 of the Election Code [2] in effect at the time of the bond referendum, at least 10 and not more than 45 days before the date of the election, notwithstanding the time for publication otherwise imposed by Section 12–5. Notices required in connection with the submission of public questions on or after July 1, 1999 shall be as set forth in Section 12–5 of the Election Code. The question shall be submitted in substantially the following form:

Under the Property Tax Extension Limitation Law,[3] may an aggregate extension not to exceed . . . (aggregate extension amount) . . . be made for the . . . (taxing district name) . . . for the . . . (levy year) . . . levy year?	YES	
	NO	

If a majority of voters voting on the increase approves the adoption of the aggregate extension, the extension shall be effective for the levy year specified.

The question of establishing a maximum aggregate extension may be combined with the question of forming or establishing a new taxing district, in which case the question shall be submitted in substantially the following form:

Shall the (taxing district) be formed (or established) and have an aggregate extension under the Property Tax Extension Limitation Law not to exceed (aggregate extension amount) for the (levy year)?

The votes must be recorded as "Yes" or "No".

If a majority of voters voting on the proposition approves it, then the taxing district shall be formed (or established) with the aggregate extension amount for the designated levy year.

P.A. 88–455, Art. 18, § 18–210, eff. Jan. 1, 1994. Amended by P.A. 90–812, § 10, eff. Jan. 26, 1999; P.A. 91–57, § 20, eff. June 30, 1999; P.A. 97–1149, § 5, eff. June 1, 2013.

[1] 10 ILCS 5/1–1 et seq.

[2] 10 ILCS 5/12–5.

200/18–212. Referendum on debt service extension base

§ 18–212. Referendum on debt service extension base. A taxing district may establish or increase its debt service extension base if (i) that taxing district holds a referendum before the date on which the levy must be filed with the county clerk of the county or counties in which the taxing district is situated and (ii) a majority of voters voting on the issue approves the establishment of or increase in the debt service extension base. A debt service extension base established or increased by a referendum held pursuant to this Section after February 2, 2010, shall be increased each year, commencing with the first levy year beginning after the date of the referendum, by the lesser of 5% or the percentage increase in the Consumer Price Index during the 12–month calendar year preceding the levy year if the optional language concerning the annual increase is included in the question submitted to the electors of the taxing district. Referenda under this Section shall be conducted at a regularly scheduled election in accordance with the Election Code.[1] The governing body of the taxing district shall certify the question to the proper election authorities who shall submit the question to the electors of the taxing district in substantially the following form:

"Shall the debt service extension base under the Property Tax Extension Limitation Law[2] for . . . (taxing district name) . . . for payment of principal and interest on limited bonds be . . . . ((established at $ . . . .) . (or) (increased from $ . . . . to $ . . . .)) . . for the . . . . . levy year and all subsequent levy years (optional language: , such debt service extension base to be increased each year by the lesser of 5% or the percentage increase in the Consumer Price Index during the 12–month calendar year preceding the levy year)?"

Votes on the question shall be recorded as "Yes" or "No".

If a majority of voters voting on the issue approves the establishment of or increase in the debt service extension base, the establishment of or increase in the debt service extension base shall be applicable for the levy years specified.

P.A. 88–455, Art. 18, § 18–212, added by P.A. 89–385, § 15, eff. Aug. 18, 1995. Amended by P.A. 96–1202, § 5, eff. July 22, 2010.

[1] 10 ILCS 5/1–1 et seq.

[2] 35 ILCS 200/18–185 et seq.

200/18–213. Referenda on applicability of the Property Tax Extension Limitation Law

§ 18–213. Referenda on applicability of the Property Tax Extension Limitation Law.[1]

(a) The provisions of this Section do not apply to a taxing district subject to this Law because a majority of its 1990 equalized assessed value is in a county or counties contiguous to a county of 3,000,000 or more inhabitants, or because a majority of its 1994 equalized assessed value is in an affected county and the taxing district was not subject to this Law before the 1995 levy year.

(b) The county board of a county that is not subject to this Law may, by ordinance or resolution, submit to the voters of the county the question of whether to make all non-home rule taxing districts that have all or a portion of their equalized assessed valuation situated in the county subject to this Law in the manner set forth in this Section.

For purposes of this Section only:

"Taxing district" has the same meaning provided in Section 1–150.

"Equalized assessed valuation" means the equalized assessed valuation for a taxing district for the immediately preceding levy year.

(c) The ordinance or resolution shall request the submission of the proposition at any election, except a consolidated primary election, for the purpose of voting for or against making the Property Tax Extension Limitation Law applicable to all non-home rule taxing districts that have all or a portion of their equalized assessed valuation situated in the county.

The question shall be placed on a separate ballot and shall be in substantially the following form:

Shall the Property Tax Extension Limitation Law (35 ILCS 200/18–185 through 18–245), which limits annual property tax extension increases, apply to non-home rule taxing districts with all or a portion of their equalized assessed valuation located in (name of county)?

Votes on the question shall be recorded as "yes" or "no".

(d) The county clerk shall order the proposition submitted to the electors of the county at the election specified in the ordinance or resolution. If part of the county is under the jurisdiction of a board or boards of election commissioners, the county clerk shall submit a certified copy of the ordinance or resolution to each board of election commissioners, which shall order the proposition submitted to the electors of the taxing district within its jurisdiction at the election specified in the ordinance or resolution.

(e)(1) With respect to taxing districts having all of their equalized assessed valuation located in the county, if a majority of the votes cast on the proposition are in favor of the proposition, then this Law becomes applicable to the taxing district beginning on January 1 of the year following the date of the referendum.

(2) With respect to taxing districts that meet all the following conditions this Law shall become applicable to the taxing district beginning on January 1, 1997. The districts to which this paragraph (2) is applicable

(A) do not have all of their equalized assessed valuation located in a single county,

(B) have equalized assessed valuation in an affected county,

(C) meet the condition that each county, other than an affected county, in which any of the equalized assessed valuation of the taxing district is located has held a referendum under this Section at any election, except a consolidated primary election, held prior to the effective date of this amendatory Act of 1997, and

(D) have a majority of the district's equalized assessed valuation located in one or more counties in each of which the voters have approved a referendum under this Section prior to the effective date of this amendatory Act of 1997. For purposes of this Section, in determining whether a majority of the equalized assessed valuation of the taxing district is located in one or more counties in which the voters have approved a referendum under this Section, the equalized assessed valuation of the taxing district in any affected county shall be included with the equalized assessed value of the taxing district in counties in which the voters have approved the referendum.

(3) With respect to taxing districts that do not have all of their equalized assessed valuation located in a single county and to which paragraph (2) of subsection (e) is not applicable, if each county other than an affected county in which any of the equalized assessed valuation of the taxing district is located has held a referendum under this Section at any election, except a consolidated primary election, held in any year and if a majority of the equalized assessed valuation of the taxing district is located in one or more counties that have each approved a referendum under this Section, then this Law shall become applicable to the taxing district on January 1 of the year following the year in which the last referendum in a county in which the taxing district has any equalized assessed valuation is held. For the purposes of this Law, the last referendum shall be deemed to be the referendum making this Law applicable to the taxing district. For purposes of this Section, in determining whether a majority of the equalized assessed valuation of the taxing district is located in one or more counties that have approved a referendum under this Section, the equalized assessed valuation of the taxing district in any affected county shall be included with the equalized assessed value of the taxing district in counties that have approved the referendum.

(f) Immediately after a referendum is held under this Section, the county clerk of the county holding the referendum shall give notice of the referendum having been held and its results to all taxing districts that have all or a portion of their equalized assessed valuation located in the county, the county clerk of any other county in which any of the equalized assessed valuation of any taxing district is located, and the Department of Revenue. After the last referendum affecting a multi-county taxing district is held, the Department of Revenue shall determine whether the taxing district is subject to this Law and, if so, shall notify the taxing district and the county clerks of all of the counties in which a portion of the equalized assessed valuation of the taxing district is located that, beginning the following January 1, the taxing district is subject to this Law. For each taxing district subject to paragraph (2) of subsection (e) of this Section, the Department of Revenue shall notify the taxing district and the county clerks of all of the counties in which a portion of the equalized assessed valuation of the taxing district is located that, beginning January 1, 1997, the taxing district is subject to this Law.

(g) Referenda held under this Section shall be conducted in accordance with the Election Code.[2]

P.A. 88–455, Art. 18, § 18–213, added by P.A. 89–510, § 10, eff. July 11, 1996. Amended by P.A. 89–718, § 5, eff. March 7, 1997.

[1] 35 ILCS 200/18–185 et seq.

[2] 10 ILCS 5/1–1 et seq.

200/18–214. Referenda on removal of the applicability of the Property Tax Extension Limitation Law to non-home rule taxing districts

§ 18–214. Referenda on removal of the applicability of the Property Tax Extension Limitation Law to non-home rule taxing districts.

(a) The provisions of this Section do not apply to a taxing district that is subject to this Law because a majority of its 1990 equalized assessed value is in a county or counties contiguous to a county of 3,000,000 or more inhabitants, or because a majority of its 1994 equalized assessed value is in an affected county and the taxing district was not subject to this Law before the 1995 levy year.

(b) For purposes of this Section only:

"Taxing district" means any non-home rule taxing district that became subject to this Law under Section 18–213 of this Law.

"Equalized assessed valuation" means the equalized assessed valuation for a taxing district for the immediately preceding levy year.

(c) The county board of a county that became subject to this Law by a referendum approved by the voters of the county under Section 18–213 may, by ordinance or resolution, in the manner set forth in this Section, submit to the voters of the county the question of whether this Law applies to all non-home rule taxing districts that have all or a portion of their equalized assessed valuation situated in the county in the manner set forth in this Section.

(d) The ordinance or resolution shall request the submission of the proposition at any election, except a consolidated primary election, for the purpose of voting for or against the continued application of the Property Tax Extension Limitation Law to all non-home rule taxing districts that have all or a portion of their equalized assessed valuation situated in the county.

The question shall be placed on a separate ballot and shall be in substantially the following form:

Shall the Property Tax Extension Limitation Law (35 ILCS 200/18–185 through 35 ILCS 200/18–245), which limits annual property tax extension increases, apply to non-home rule taxing districts with all or a portion of their equalized assessed valuation located in (name of county)?

Votes on the question shall be recorded as "yes" or "no".

(e) The county clerk shall order the proposition submitted to the electors of the county at the election specified in the ordinance or resolution. If part of the county is under the jurisdiction of a board or boards of election commissioners, the county clerk shall submit a certified copy of the ordinance or resolution to each board of election commissioners, which shall order the proposition submitted to the electors of the taxing district within its jurisdiction at the election specified in the ordinance or resolution.

(f) With respect to taxing districts having all of their equalized assessed valuation located in one county, if a majority of the votes cast on the proposition are against the proposition, then this Law shall not apply to the taxing district beginning on January 1 of the year following the date of the referendum.

(g) With respect to taxing districts that do not have all of their equalized assessed valuation located in a single county, if both of the following conditions are met, then this Law shall no longer apply to the taxing district beginning on January 1 of the year following the date of the referendum.

(1) Each county in which the district has any equalized assessed valuation must either, (i) have held a referendum under this Section, (ii) be an affected county, or (iii) have held a referendum under Section 18–213 at which the voters rejected the proposition at the most recent election at which the question was on the ballot in the county.

(2) The majority of the equalized assessed valuation of the taxing district, other than any equalized assessed valuation in an affected county, is in one or more counties in which the voters rejected the proposition. For purposes of this Section, in determining whether a majority of the equalized assessed valuation of the taxing district is located in one or more counties in which the voters have

rejected the proposition under this Section, the equalized assessed valuation of any taxing district in a county which has held a referendum under Section 18–213 at which the voters rejected that proposition, at the most recent election at which the question was on the ballot in the county, will be included with the equalized assessed value of the taxing district in counties in which the voters have rejected the referendum held under this Section.

(h) Immediately after a referendum is held under this Section, the county clerk of the county holding the referendum shall give notice of the referendum having been held and its results to all taxing districts that have all or a portion of their equalized assessed valuation located in the county, the county clerk of any other county in which any of the equalized assessed valuation of any such taxing district is located, and the Department of Revenue. After the last referendum affecting a multi-county taxing district is held, the Department of Revenue shall determine whether the taxing district is no longer subject to this Law and, if the taxing district is no longer subject to this Law, the Department of Revenue shall notify the taxing district and the county clerks of all of the counties in which a portion of the equalized assessed valuation of the taxing district is located that, beginning on January 1 of the year following the date of the last referendum, the taxing district is no longer subject to this Law.

P.A. 88–455, Art. 18, § 18–214, added by P.A. 89–718, § 5, eff. March 7, 1997.

200/18–215. Merging and consolidating taxing districts; transfer of service

§ 18–215. Merging and consolidating taxing districts; transfer of service. For purposes of this Law, when 2 or more taxing districts merge or consolidate, the sum of the last preceding aggregate extensions for each taxing district shall be combined for the resulting merged or consolidated taxing district. When a service performed by one taxing district is transferred to another taxing district, that part of the aggregate extension base for that purpose shall be transferred and added to the aggregate extension base of the transferee taxing district for purposes of this Law and shall be deducted from the aggregate extension base of the transferor taxing district. If the service and corresponding portion of the aggregate extension base transferred to the taxing district are for a service that the transferee district does not currently levy for, the provisions of Section 18–190 of this Law requiring a referendum to establish a new levy shall not apply.

P.A. 88–455, Art. 18, § 18–215, eff. Jan. 1, 1994. Amended by P.A. 90–719, § 5, eff. Aug. 7, 1998.

200/18–220. § 18–220. Repealed by P.A. 89–1, § 95, eff. Feb. 12, 1995

200/18–225. Annexed or disconnected property

§ 18–225. Annexed or disconnected property. If property is annexed into the taxing district or is disconnected from a taxing district during the current levy year, the calculation of the limiting rate under Section 18–185 is not affected. The rates as limited under this Law are applied to all property in the district for the current levy year, excluding property that was annexed after the adoption of the levy for the current levy year.

P.A. 88–455, Art. 18, § 18–225, eff. Jan. 1, 1994. Amended by P.A. 89–1, § 10, eff. Feb. 12, 1995.

200/18–230. Rate increase or decrease factor

§ 18–230. Rate increase or decrease factor. Only when a new rate or a rate increase or decrease has been approved by referendum held prior to March 22, 2006, the aggregate extension base, as adjusted in Section 18–215, shall be multiplied by a rate increase (or decrease) factor. The numerator of the rate increase (or decrease) factor is the total combined rate for the funds that made up the aggregate extension for the taxing district for the prior year plus the rate increase approved or minus the rate decrease approved. The denominator of the rate increase or decrease factor is the total combined rate for the funds that made up the aggregate extension for the prior year. For those taxing districts for which a new rate or a rate increase has been approved by referendum held after December 31, 1988 and prior to March 22, 2006, and that did not increase their rate to the new maximum rate for that fund, the rate increase factor shall be adjusted for 4 levy years after the year of the referendum (unless the governing body of a taxing district to which this Law applied before the 1995 levy year that approved a tax rate increase at a general election held after 2002 directs the county clerk or clerks by resolution to make such adjustment for a lesser number of years) by a factor the numerator of which is the portion of the new or increased rate for which taxes were not extended plus the aggregate rate in effect for the levy year prior to the levy year in which the referendum was passed and the denominator of which is the aggregate rate in effect for the levy year prior to the levy year in which the referendum was passed.

P.A. 88–455, Art. 18, § 18–230, eff. Jan. 1, 1994. Amended by P.A. 94–976, § 5, eff. June 30, 2006.

200/18–235. Tax increment financing districts

§ 18–235. Tax increment financing districts. Extensions allocable to a special tax allocation fund and the amount of taxes abated under Sections 18–165 and 18–170 are not included in the aggregate extension base when computing the limiting rate.

P.A. 88–455, Art. 18, § 18–235, eff. Jan. 1, 1994.

200/18–240. Certification of new property

§ 18–240. Certification of new property.

(a) The township assessor, the multi-township assessor, the chief county assessment officer, the board of review, and the board of appeals shall cause the assessed value attributable to new property to be entered and certified in the assessment books under rules promulgated by the Department.

(b) For the levy year in which this Law first becomes applicable to a county pursuant to Section 18–213, the chief county assessment officer shall certify to the county clerk, after all changes by the board of review or board of appeals, as the case may be, the assessed value of new property by taxing districts for that levy year under rules promulgated by the Department.

P.A. 88–455, Art. 18, § 18–240, eff. Jan. 1, 1994. Amended by P.A. 89–510, § 10, eff. July 11, 1996.

200/18–241. School Finance Authority and Financial Oversight Panel

§ 18–241. School Finance Authority and Financial Oversight Panel.

(a) A School Finance Authority established under Article 1E or 1F of the School Code [1] shall not be a taxing district for purposes of this Law. A Financial Oversight Panel

established under Article 1H of the School Code shall not be a taxing district for purposes of this Law.

(b) This Law shall not apply to the extension of taxes for a school district for the levy year in which a School Finance Authority for the district is created pursuant to Article 1E or 1F of the School Code. This Law shall not apply to the extension of taxes for the purpose of repaying an emergency financial assistance loan levied pursuant to Section 1H–65 of the School Code.

P.A. 88–455, Art. 18, § 18–241, added by P.A. 92–547, § 5, eff. June 13, 2002. Amended by P.A. 93–501, § 3, eff. Aug. 11, 2003; P.A. 97–429, § 5, eff. Aug. 16, 2011.

[1] 105 ILCS 5/1E–1 et seq. or 105 ILCS 5/1F–1 et seq.

200/18–243. Severability

§ 18–243. Severability. The provisions of the Property Tax Extension Limitation Law [1] are severable under Section 1.31 of the Statute on Statutes.[2]

P.A. 88–455, Art. 18, § 18–243, added by P.A. 89–1, § 10, eff. Feb. 12, 1995.

[1] 35 ILCS 245/1–1 et seq. (repealed; see, now, 35 ILCS 200/18–185 et seq.).

[2] 5 ILCS 70/1.31.

200/18–245. Rules

§ 18–245. Rules. The Department shall make and promulgate reasonable rules relating to the administration of the purposes and provisions of Sections 18–185 through 18–240 as may be necessary or appropriate.

P.A. 88–455, Art. 18, § 18–245, eff. Jan. 1, 1994.

ACT 215. TRUTH IN TAXATION ACT

215/1 to 215/9.2. §§ 1 to 9.2. Repealed by P.A. 88–455, Art. 32, § 32–20, eff. Jan. 1, 1994

EXCISE TAXES

ACT 505. MOTOR FUEL TAX LAW

505/1. Terms defined

§ 1. For the purposes of this Act the terms set out in the Sections following this Section and preceding Section 2 have the meanings ascribed to them in those Sections.

Laws 1929, p. 625, § 1, eff. July 1, 1929. Amended by Laws 1933–34, First Sp.Sess., p. 36, § 1, eff. Nov. 10, 1933; Laws 1935, p. 1184, § 1, eff. July 1, 1935; Laws 1937, p. 1047, § 1, eff. July 1, 1937; Laws 1937, p. 1033, § 1, eff. July 2, 1937; Laws 1939, p. 860, § 1, eff. July 19, 1939; Laws 1943, vol. 1, p. 1095, § 1, eff. July 1, 1943; Laws 1945, p. 1252, § 1, eff. July 25, 1945; Laws 1953, p. 1624, § 1, eff. July 15, 1953; Laws 1955, p. 2046, § 1, eff. July 14, 1955; Laws 1959, p. 179, § 1, eff. July 1, 1959. Resectioned §§ 1 to 1.12 by Laws 1961, p. 3653, § 1, eff. Aug. 19, 1961. Amended by Laws 1963, p. 1557, § 1, eff. July 15, 1963; P.A. 85–1209, Art. III, § 3–128, eff. Aug. 30, 1988; P.A. 86–16, Art. I, § 1, eff. Aug. 1, 1989; P.A. 86–1028, Art. III, § 3–42, eff. Feb. 5, 1990; P.A. 98–756, § 205, eff. July 16, 2014.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.

505/1.1. Motor fuel

§ 1.1. "Motor Fuel" means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. Among other things, "Motor Fuel" includes "Special Fuel" as defined in Section 1.13 of this Act.

Formerly § 1. Resectioned in part § 1.1 by Laws 1961, p. 3653, § 1, eff. Aug. 19, 1961. Amended by Laws 1963, p. 1557, § 1, eff. July 15, 1963.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.1.

505/1.3. Motor vehicles

§ 1.3. "Motor Vehicles" means motor vehicles as defined by The Illinois Vehicle Code [1] and watercraft propelled by an internal combustion engine.

Formerly § 1. Resectioned in part § 1.3 by Laws 1961, p. 3653, § 1, eff. Aug. 19, 1961. Amended by Laws 1963, p. 2599, § 1, eff. Aug. 8, 1963; P.A. 77–1079, § 1, eff. Aug. 17, 1971.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.3.

[1] 625 ILCS 5/1–100 et seq.

505/1.4. Municipality

§ 1.4. "Municipality" means city, village or incorporated town.

Formerly § 1. Resectioned in part § 1.4 by Laws 1961, p. 3653, § 1, eff. Aug. 19, 1961.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.4.

505/1.13. Special Fuel

§ 1.13. "Special Fuel" means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5, example (A), of this Act, or combustible gases as defined in Section 5, example (B), of this Act. "Special Fuel" includes diesel fuel as defined in paragraph (b) of Section 2 of this Act.

Laws 1929, p. 625, § 1.13, added by Laws 1963, p. 1557, § 1, eff. July 15, 1963. Amended by P.A. 83–12, § 2, eff. Aug. 1, 1983; P.A. 83–1362, Art. IV, § 28, eff. Sept. 11, 1984.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.13.

505/1.19. Fuel

§ 1.19. "Fuel" means all liquids defined as "Motor Fuel" in Section 1.1 of this Act and aviation fuels and kerosene, but excluding liquified petroleum gases.

Laws 1929, p. 625, § 1.19, added by P.A. 86–125, § 2, eff. July 28, 1989.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.19.

505/1.20. Receiver

§ 1.20. "Receiver" means a person who either produces, refines, blends, compounds or manufactures fuel in this State, or transports fuel into this State or receives fuel transported to him from without the State or exports fuel out of this State, or who is engaged in distribution of fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active fuel bulk storage capacity of not less than 30,000 gallons.

Laws 1929, p. 625, § 1.20, added by P.A. 86–125, § 2, eff. July 28, 1989. Amended by P.A. 86–958, § 2, eff. Dec. 5, 1989.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 417.20.

505/2. Tax on motor vehicles and recreational-type watercraft; exceptions

§ 2. A tax is imposed on the privilege of operating motor vehicles upon the public highways and recreational-type watercraft upon the waters of this State.

(a) Prior to August 1, 1989, the tax is imposed at the rate of 13 cents per gallon on all motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State. Beginning on August 1, 1989 and until January 1, 1990, the rate of the tax imposed in this paragraph shall be 16 cents per gallon. Beginning January 1, 1990, the rate of tax imposed in this paragraph shall be 19 cents per gallon.

(b) The tax on the privilege of operating motor vehicles which use diesel fuel shall be the rate according to paragraph (a) plus an additional 2 ½ cents per gallon. "Diesel fuel" is defined as any product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.

(c) A tax is imposed upon the privilege of engaging in the business of selling motor fuel as a retailer or reseller on all motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State: (1) at the rate of 3 cents per gallon on motor fuel owned or possessed by such retailer or reseller at 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per gallon on motor fuel owned or possessed by such retailer or reseller at 12:01 A.M. on January 1, 1990.

Retailers and resellers who are subject to this additional tax shall be required to inventory such motor fuel and pay this additional tax in a manner prescribed by the Department of Revenue.

The tax imposed in this paragraph (c) shall be in addition to all other taxes imposed by the State of Illinois or any unit of local government in this State.

(d) Except as provided in Section 2a, the collection of a tax based on gallonage of gasoline used for the propulsion of any aircraft is prohibited on and after October 1, 1979.

(e) The collection of a tax, based on gallonage of all products commonly or commercially known or sold as 1–K kerosene, regardless of its classification or uses, is prohibited (i) on and after July 1, 1992 until December 31, 1999, except when the 1–K kerosene is either: (1) delivered into bulk storage facilities of a bulk user, or (2) delivered directly into the fuel supply tanks of motor vehicles and (ii) on and after January 1, 2000. Beginning on January 1, 2000, the collection of a tax, based on gallonage of all products commonly or commercially known or sold as 1–K kerosene, regardless of its classification or uses, is prohibited except when the 1–K kerosene is delivered directly into a storage tank that is located at a facility that has withdrawal facilities that are readily accessible to and are capable of dispensing 1–K kerosene into the fuel supply tanks of motor vehicles. For purposes of this subsection (e), a facility is considered to have withdrawal facilities that are not "readily accessible to and capable of dispensing 1–K kerosene into the fuel supply tanks of motor vehicles" only if the 1–K kerosene is delivered from: (i) a dispenser hose that is short enough so that it will not reach the fuel supply tank of a motor vehicle or (ii) a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling.

Any person who sells or uses 1–K kerosene for use in motor vehicles upon which the tax imposed by this Law has not been paid shall be liable for any tax due on the sales or use of 1–K kerosene.

Laws 1929, p. 625, § 2, eff. July 1, 1929. Amended by Laws 1935, p. 1184, § 1, eff. July 1, 1935; Laws 1951, p. 1817, § 1, eff. July 25, 1951; Laws 1963, p. 2599, § 1, eff. Aug. 8, 1963; Laws 1967, p. 1850, § 1, eff. Aug. 1, 1967; P.A. 76–369, § 1, eff. Aug. 1, 1969; P.A. 78–849, § 1, eff. Oct. 1, 1973; P.A. 81–471, § 1, eff. Oct. 1, 1979; P.A. 83–12, § 2, eff. Aug. 1, 1983; P.A. 83–1362, Art. IV, § 28, eff. Sept. 11, 1984; P.A. 86–16, Art. I, § 1, eff. Aug. 1, 1989; P.A. 86–125, § 2, eff. July 28, 1989; P.A. 86–1028, Art. II, § 2–75, eff. Feb. 5, 1990; P.A. 87–149, § 1, eff. July 1, 1992; P.A. 91–173, § 5, eff. Jan. 1, 2000; P.A. 93–17, § 25, eff. June 11, 2003; P.A. 96–1384, § 5, eff. July 29, 2010.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 418.

505/2a. Tax on receivers of fuel for sale or use; imposition

§ 2a. Except as hereinafter provided, on and after January 1, 1990 and before January 1, 2025, a tax of three-tenths of a cent per gallon is imposed upon the privilege of being a receiver in this State of fuel for sale or use.

The tax shall be paid by the receiver in this State who first sells or uses fuel. In the case of a sale, the tax shall be stated as a separate item on the invoice.

For the purpose of the tax imposed by this Section, being a receiver of "motor fuel" as defined by Section 1.1 of this Act, and aviation fuels, home heating oil and kerosene, but excluding liquified petroleum gases, is subject to tax without regard to whether the fuel is intended to be used for operation of motor vehicles on the public highways and waters. However, no such tax shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 300,000 operations per year, for years prior to 1991, and over 170,000 operations per year beginning in 1991, located in a city of more than 1,000,000 inhabitants for sale to or use by holders of certificates of public convenience and necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no such tax shall be imposed upon the importation or receipt of diesel fuel sold to or used by a rail carrier registered pursuant to Section 18c–7201 of the Illinois Vehicle Code [1] or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no such tax shall be imposed when the sale is made with delivery to a purchaser outside this State or when the sale is made to a person holding a valid license as a receiver. In addition, no tax shall be imposed upon diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale.

Laws 1929, p. 625, § 2a, added by P.A. 86–125, § 2, eff. July 28, 1989. Amended by P.A. 86–958, § 2, eff. Dec. 5, 1989; P.A. 87–251, § 2, eff. Jan. 1, 1992; P.A. 88–496, § 10, eff. Sept. 13, 1993; P.A. 89–428, Art. 3, § 392, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 392, eff. May 22, 1996; P.A. 89–468, § 5, eff. Jan. 1, 1997; P.A. 92–232, § 5, eff. Aug. 2, 2001; P.A. 96–161, § 5, eff. Aug. 10, 2009.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 418a.

[1] 625 ILCS 5/18c–7201.

505/2b. Tax on receivers of fuel for sale or use; collection and reporting

§ 2b. In addition to the tax collection and reporting responsibilities imposed elsewhere in this Act, a person who is required to pay the tax imposed by Section 2a of this Act shall pay the tax to the Department by return showing all fuel purchased, acquired or received and sold, distributed or used during the preceding calendar month including losses of fuel as the result of evaporation or shrinkage due to temperature variations, and such other reasonable information as the Department may require. Losses of fuel as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2a of this Law. On and after July 1, 2001, for each 6-month period January through June, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2a of this Law. For purposes of this Section, "net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6–month periods.

The return shall be prescribed by the Department and shall be filed between the 1st and 20th days of each calendar month. The Department may, in its discretion, combine the returns filed under this Section, Section 5, and Section 5a of this Act. The return must be accompanied by appropriate computer-generated magnetic media supporting schedule data in the format required by the Department, unless, as provided by rule, the Department grants an exception upon petition of a taxpayer. If the return is filed timely, the seller shall take a discount of 2% through June 30, 2003 and 1.75% thereafter which is allowed to reimburse the seller for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request. The discount, however, shall be applicable only to the amount of payment which accompanies a return that is filed timely in accordance with this Section.

Laws 1929, p. 625, § 2b, added by P.A. 86–125, § 2, eff. July 28, 1989. Amended by P.A. 86–958, § 2, eff. Dec. 5, 1989; P.A. 88–194, § 20, eff. July 1, 1994; P.A. 91–173, § 5, eff. Jan. 1, 2000; P.A. 92–30, § 5, eff. July 1, 2001; P.A. 93–32, Art. 50, § 50–35, eff. June 20, 2003.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 418b.

505/8. Distribution of proceeds of tax

§ 8. Except as provided in Section 8a, subdivision (h)(1) of Section 12a, Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all money received by the Department under this Act, including payments made to the Department by member jurisdictions participating in the International Fuel Tax Agreement, shall be deposited in a special fund in the State treasury, to be known as the "Motor Fuel Tax Fund", and shall be used as follows:

(a) 2 1/2 cents per gallon of the tax collected on special fuel under paragraph (b) of Section 2 and Section 13a of this Act shall be transferred to the State Construction Account Fund in the State Treasury;

(b) $420,000 shall be transferred each month to the State Boating Act Fund to be used by the Department of Natural Resources for the purposes specified in Article X of the Boat Registration and Safety Act; [1]

(c) $3,500,000 shall be transferred each month to the Grade Crossing Protection Fund to be used as follows: not less than $12,000,000 each fiscal year shall be used for the construction or reconstruction of rail highway grade separation structures; $2,250,000 in fiscal years 2004 through 2009 and $3,000,000 in fiscal year 2010 and each fiscal year thereafter shall be transferred to the Transportation Regulatory Fund and shall be accounted for as part of the rail carrier portion of such funds and shall be used to pay the cost of administration of the Illinois Commerce Commission's railroad safety program in connection with its duties under subsection (3) of Section 18c–7401 of the Illinois Vehicle Code, [2] with the remainder to be used by the Department of Transportation upon order of the Illinois Commerce Commission, to pay that part of the cost apportioned by such Commission to the State to cover the interest of the public in the use of highways, roads, streets, or pedestrian walkways in the county highway system, township and district road system, or municipal street system as defined in the Illinois Highway Code, [3] as the same may from time to time be amended, for separation of grades, for installation, construction or reconstruction of crossing protection or reconstruction, alteration, relocation including construction or improvement of any existing highway necessary for access to property or improvement of any grade crossing and grade crossing surface including the necessary highway approaches thereto of any railroad across the highway or public road, or for the installation, construction, reconstruction, or maintenance of a pedestrian walkway over or under a railroad right-of-way, as provided for in and in accordance with Section 18c–7401 of the Illinois Vehicle Code. The Commission may order up to $2,000,000 per year in Grade Crossing Protection Fund moneys for the improvement of grade crossing surfaces and up to $300,000 per year for the maintenance and renewal of 4–quadrant gate vehicle detection systems located at non-high speed rail grade crossings. The Commission shall not order more than $2,000,000 per year in Grade Crossing Protection Fund moneys for pedestrian walkways. In entering orders for projects for which payments from the Grade Crossing Protection Fund will be made, the Commission shall account for expenditures authorized by the orders on a cash rather than an accrual basis. For purposes of this requirement an "accrual basis" assumes that the total cost of the project is expended in the fiscal year in which the order is entered, while a "cash basis" allocates the cost of the project among fiscal years as expenditures are actually made. To meet the requirements of this subsection, the Illinois Commerce Commission shall develop annual and 5–year project plans of rail crossing capital improvements that will be paid for with moneys from the

Grade Crossing Protection Fund. The annual project plan shall identify projects for the succeeding fiscal year and the 5–year project plan shall identify projects for the 5 directly succeeding fiscal years. The Commission shall submit the annual and 5–year project plans for this Fund to the Governor, the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the first Wednesday in April of each year;

(d) of the amount remaining after allocations provided for in subsections (a), (b) and (c), a sufficient amount shall be reserved to pay all of the following:

(1) the costs of the Department of Revenue in administering this Act;

(2) the costs of the Department of Transportation in performing its duties imposed by the Illinois Highway Code for supervising the use of motor fuel tax funds apportioned to municipalities, counties and road districts;

(3) refunds provided for in Section 13, refunds for overpayment of decal fees paid under Section 13a.4 of this Act, and refunds provided for under the terms of the International Fuel Tax Agreement referenced in Section 14a;

(4) from October 1, 1985 until June 30, 1994, the administration of the Vehicle Emissions Inspection Law, [4] which amount shall be certified monthly by the Environmental Protection Agency to the State Comptroller and shall promptly be transferred by the State Comptroller and Treasurer from the Motor Fuel Tax Fund to the Vehicle Inspection Fund, and for the period July 1, 1994 through June 30, 2000, one-twelfth of $25,000,000 each month, for the period July 1, 2000 through June 30, 2003, one-twelfth of $30,000,000 each month, and $15,000,000 on July 1, 2003, and $15,000,000 on January 1, 2004, and $15,000,000 on each July 1 and October 1, or as soon thereafter as may be practical, during the period July 1, 2004 through June 30, 2012, and $30,000,000 on June 1, 2013, or as soon thereafter as may be practical, and $15,000,000 on July 1 and October 1, or as soon thereafter as may be practical, during the period of July 1, 2013 through June 30, 2015, for the administration of the Vehicle Emissions Inspection Law of 2005, to be transferred by the State Comptroller and Treasurer from the Motor Fuel Tax Fund into the Vehicle Inspection Fund;

(5) amounts ordered paid by the Court of Claims; and

(6) payment of motor fuel use taxes due to member jurisdictions under the terms of the International Fuel Tax Agreement. The Department shall certify these amounts to the Comptroller by the 15th day of each month; the Comptroller shall cause orders to be drawn for such amounts, and the Treasurer shall administer those amounts on or before the last day of each month;

(e) after allocations for the purposes set forth in subsections (a), (b), (c) and (d), the remaining amount shall be apportioned as follows:

(1) Until January 1, 2000, 58.4%, and beginning January 1, 2000, 45.6% shall be deposited as follows:

(A) 37% into the State Construction Account Fund, and

(B) 63% into the Road Fund, $1,250,000 of which shall be reserved each month for the Department of Transportation to be used in accordance with the provisions of Sections 6–901 through 6–906 of the Illinois Highway Code; [5]

(2) Until January 1, 2000, 41.6%, and beginning January 1, 2000, 54.4% shall be transferred to the Department of Transportation to be distributed as follows:

(A) 49.10% to the municipalities of the State,

(B) 16.74% to the counties of the State having 1,000,000 or more inhabitants,

(C) 18.27% to the counties of the State having less than 1,000,000 inhabitants,

(D) 15.89% to the road districts of the State.

As soon as may be after the first day of each month the Department of Transportation shall allot to each municipality its share of the amount apportioned to the several municipalities which shall be in proportion to the population of such municipalities as determined by the last preceding municipal census if conducted by the Federal Government or Federal census. If territory is annexed to any municipality subsequent to the time of the last preceding census the corporate authorities of such municipality may cause a census to be taken of such annexed territory and the population so ascertained for such territory shall be added to the population of the municipality as determined by the last preceding census for the purpose of determining the allotment for that municipality. If the population of any municipality was not determined by the last Federal census preceding any apportionment, the apportionment to such municipality shall be in accordance with any census taken by such municipality. Any municipal census used in accordance with this Section shall be certified to the Department of Transportation by the clerk of such municipality, and the accuracy thereof shall be subject to approval of the Department which may make such corrections as it ascertains to be necessary.

As soon as may be after the first day of each month the Department of Transportation shall allot to each county its share of the amount apportioned to the several counties of the State as herein provided. Each allotment to the several counties having less than 1,000,000 inhabitants shall be in proportion to the amount of motor vehicle license fees received from the residents of such counties, respectively, during the preceding calendar year. The Secretary of State shall, on or before April 15 of each year, transmit to the Department of Transportation a full and complete report showing the amount of motor vehicle license fees received from the residents of each county, respectively, during the preceding calendar year. The Department of Transportation shall, each month, use for allotment purposes the last such report received from the Secretary of State.

As soon as may be after the first day of each month, the Department of Transportation shall allot to the several counties their share of the amount apportioned for the use of road districts. The allotment shall be apportioned among the several counties in the State in the proportion which the total mileage of township or district roads in the respective counties bears to the total mileage of all township and district roads in the State. Funds allotted to the respective counties for the use of road districts therein shall be allocated to the several road districts in the county in the proportion which the total mileage of such township or district roads in the respective road districts bears to the total mileage of all such township or district roads in the county. After July 1 of any year prior to 2011, no allocation shall be made for any road district unless it levied a tax for road and bridge purposes in an amount which will require the extension of such tax against the taxable property in any such road district at a rate of not less than either .08% of the value thereof, based upon the assessment for the year immediately prior to the year in which such tax was levied and as equalized by the Department of Revenue or, in DuPage County, an amount

equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less. Beginning July 1, 2011 and each July 1 thereafter, an allocation shall be made for any road district if it levied a tax for road and bridge purposes. In counties other than DuPage County, if the amount of the tax levy requires the extension of the tax against the taxable property in the road district at a rate that is less than 0.08% of the value thereof, based upon the assessment for the year immediately prior to the year in which the tax was levied and as equalized by the Department of Revenue, then the amount of the allocation for that road district shall be a percentage of the maximum allocation equal to the percentage obtained by dividing the rate extended by the district by 0.08%. In DuPage County, if the amount of the tax levy requires the extension of the tax against the taxable property in the road district at a rate that is less than the lesser of (i) 0.08% of the value of the taxable property in the road district, based upon the assessment for the year immediately prior to the year in which such tax was levied and as equalized by the Department of Revenue, or (ii) a rate that will yield an amount equal to $12,000 per mile of road under the jurisdiction of the road district, then the amount of the allocation for the road district shall be a percentage of the maximum allocation equal to the percentage obtained by dividing the rate extended by the district by the lesser of (i) 0.08% or (ii) the rate that will yield an amount equal to $12,000 per mile of road under the jurisdiction of the road district.

Prior to 2011, if any road district has levied a special tax for road purposes pursuant to Sections 6–601, 6–602 and 6–603 of the Illinois Highway Code, and such tax was levied in an amount which would require extension at a rate of not less than .08% of the value of the taxable property thereof, as equalized or assessed by the Department of Revenue, or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, such levy shall, however, be deemed a proper compliance with this Section and shall qualify such road district for an allotment under this Section. Beginning in 2011 and thereafter, if any road district has levied a special tax for road purposes under Sections 6–601, 6–602, and 6–603 of the Illinois Highway Code, [6] and the tax was levied in an amount that would require extension at a rate of not less than 0.08% of the value of the taxable property of that road district, as equalized or assessed by the Department of Revenue or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, that levy shall be deemed a proper compliance with this Section and shall qualify such road district for a full, rather than proportionate, allotment under this Section. If the levy for the special tax is less than 0.08% of the value of the taxable property, or, in DuPage County if the levy for the special tax is less than the lesser of (i) 0.08% or (ii) $12,000 per mile of road under the jurisdiction of the road district, and if the levy for the special tax is more than any other levy for road and bridge purposes, then the levy for the special tax qualifies the road district for a proportionate, rather than full, allotment under this Section. If the levy for the special tax is equal to or less than any other levy for road and bridge purposes, then any allotment under this Section shall be determined by the other levy for road and bridge purposes.

Prior to 2011, if a township has transferred to the road and bridge fund money which, when added to the amount of any tax levy of the road district would be the equivalent of a tax levy requiring extension at a rate of at least .08%, or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, such transfer, together with any such tax levy, shall be deemed a proper compliance with this Section and shall qualify the road district for an allotment under this Section.

In counties in which a property tax extension limitation is imposed under the Property Tax Extension Limitation Law, [7] road districts may retain their entitlement to a motor fuel tax allotment or, beginning in 2011, their entitlement to a full allotment if, at the time the property tax extension limitation was imposed, the road district was levying a road and bridge tax at a rate sufficient to entitle it to a motor fuel tax allotment and continues to levy the maximum allowable amount after the imposition of the property tax extension limitation. Any road district may in all circumstances retain its entitlement to a motor fuel tax allotment or, beginning in 2011, its entitlement to a full allotment if it levied a road and bridge tax in an amount that will require the extension of the tax against the taxable property in the road district at a rate of not less than 0.08% of the assessed value of the property, based upon the assessment for the year immediately preceding the year in which the tax was levied and as equalized by the Department of Revenue or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less.

As used in this Section the term "road district" means any road district, including a county unit road district, provided for by the Illinois Highway Code; and the term "township or district road" means any road in the township and district road system as defined in the Illinois Highway Code. For the purposes of this Section, "township or district road" also includes such roads as are maintained by park districts, forest preserve districts and conservation districts. The Department of Transportation shall determine the mileage of all township and district roads for the purposes of making allotments and allocations of motor fuel tax funds for use in road districts.

Payment of motor fuel tax moneys to municipalities and counties shall be made as soon as possible after the allotment is made. The treasurer of the municipality or county may invest these funds until their use is required and the interest earned by these investments shall be limited to the same uses as the principal funds.

Laws 1929, p. 625, § 8, eff. July 1, 1929. Amended by Laws 1931, p. 770, § 1, eff. July 1, 1931; Laws 1932, Fourth Sp.Sess., p. 26, § 1, eff. Oct. 17, 1932; Laws 1933, p. 906, § 1, eff. July 1, 1933; Laws 1933–34, Third Sp.Sess., p. 227, § 1, eff. July 1, 1934; Laws 1937, p. 1040, § 1, eff. July 8, 1937; Laws 1937, p. 1046, § 1, eff. July 1, 1937; Laws 1943, vol. 1, p. 1087, § 1, eff. July 1, 1943; Laws 1945, p. 1250, § 1, eff. July 1, 1945; Laws 1949, p. 1298, § 1, eff. July 1, 1949; Laws 1951, p. 291, § 1, eff. July 1, 1951; Laws 1951, p. 1817, § 1, eff. July 25, 1951; Laws 1953, p. 249, § 1, eff. June 8, 1953; Laws 1953, p. 1624, § 1, eff. July 15, 1953; Laws 1955, p. 135, § 1, eff. July 1, 1955; Laws 1955, p. 1310, § 1, eff. July 9, 1955; Laws 1955, p. 2041, § 1, eff. July 14, 1955; Laws 1957, p. 2282, § 1, eff. July 9, 1957; Laws 1959, p. 179, § 1, eff. July 1, 1959; Laws 1959, p. 649, § 1, eff. July 8, 1959; Laws 1963, p. 2599, § 1, eff. Aug. 8, 1963; Laws 1965, p. 1120, § 1, eff. July 1, 1965; Laws 1967, p. 1850, § 1, eff. Aug. 1, 1967; Laws 1967, p. 1983, § 1, eff. July 24, 1967; Laws 1967, p. 1985, § 1, eff. July 24, 1967; Laws 1967, p. 2138, § 1, eff. July 26, 1967; Laws 1967, p. 3236, § 1, eff. Aug. 18, 1967; Laws 1968, p. 375, § 1, eff. July 1, 1969; P.A. 76–369, § 1, eff. Aug. 1, 1969; P.A. 76–675, § 1, eff. Aug. 7, 1969; P.A. 76–986, § 1, eff. Aug. 26, 1969; P.A. 76–1165, § 1, eff. Aug. 29, 1969; P.A. 76–2495, § 1, eff. July 2, 1970; P.A. 77–171, § 1, eff. Jan. 1, 1972; P.A. 77–1080, § 1, eff. Aug. 17, 1972;

P.A. 77–1673, § 1, eff. July 1, 1972; P.A. 77–2829, § 53, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–1252, § 1, eff. Dec. 4, 1974; P.A. 79–1122, § 1, eff. Nov. 20, 1975; P.A. 80–462, § 1, eff. Jan. 1, 1979; P.A. 81–3, 2nd Sp.Sess., § 10, eff. Sept. 19, 1979; P.A. 81–1509, Art. IV, § 123, eff. Sept. 26, 1980; P.A. 83–12, § 2, eff. Aug. 1, 1983; P.A. 83–1362, Art. IV, § 28, eff. Sept. 11, 1984; P.A. 83–1477, § 2, eff. Sept. 24, 1984; P.A. 84–206, § 1, eff. Jan. 1, 1986; P.A. 85–7, § 2, eff. June 30, 1987; P.A. 85–183, Art. XI, § 11–1, eff. Aug. 19, 1987; P.A. 85–1209, Art. II, § 2–83, eff. Aug. 30, 1988; P.A. 86–16, Art. II, § 2, eff. June 30, 1989; P.A. 86–125, § 2, eff. July 28, 1989; P.A. 86–982, § 2, eff. July 1, 1990; P.A. 86–1028, Art. II, § 2–75, eff. Feb. 5, 1990; P.A. 86–1091, § 2, eff. July 13, 1990; P.A. 86–1433, § 3, eff. Sept. 12, 1990; P.A. 86–1475, Art. 2, § 2–34, eff. Jan. 10, 1991; P.A. 88–480, § 50, eff. Jan. 1, 1994; P.A. 88–533, § 10, eff. Jan. 18, 1994; P.A. 89–167, § 5, eff. Jan. 1, 1996; P.A. 89–445, § 9A–37, eff. Feb. 7, 1996; P.A. 89–699, § 12, eff. Jan. 16, 1997; P.A. 90–110, § 5, eff. July 14, 1997; P.A. 90–655, § 44, eff. July 30, 1998; P.A. 90–659, § 5, eff. Jan. 1, 1999; P.A. 90–691, § 5, eff. Jan. 1, 1999; P.A. 91–37, § 30, eff. July 1, 1999; P.A. 91–59, § 5, eff. June 30, 1999; P.A. 91–173, § 5, eff. Jan. 1, 2000; P.A. 91–357, § 62, eff. July 29, 1999; P.A. 91–704, Art. 10, § 10–20, eff. July 1, 2000; P.A. 91–725, § 5, eff. June 2, 2000; P.A. 91–794, § 5, eff. June 9, 2000; P.A. 92–16, § 39, eff. June 28, 2001; P.A. 92–30, § 5, eff. July 1, 2001; P.A. 93–32, Art. 50, § 50–35, eff. June 20, 2003; P.A. 93–839, Art. 10, § 10–145, eff. July 30, 2004; P.A. 94–839, Art. 5, § 5–65, eff. June 6, 2006; P.A. 95–744, § 47, eff. July 18, 2008; P.A. 96–34, § 930, eff. July 13, 2009; P.A. 96–45, § 5–50, eff. July 15, 2009; P.A. 96–959, § 5–40, eff. July 1, 2010; P.A. 96–1000, § 220, eff. July 2, 2010; P.A. 96–1024, § 5, eff. July 12, 2010; P.A. 96–1384, § 5, eff. July 29, 2010; P.A. 97–72, § 5–20, eff. July 1, 2011; P.A. 97–333, § 140, eff. Aug. 12, 2011; P.A. 98–24, § 5–60, eff. June 19, 2013; P.A. 98–674, § 20–45, eff. June 30, 2014.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 424.

[1] 625 ILCS 45/10–1 et seq.

[2] 625 ILCS 5/18c–7401.

[3] 605 ILCS 5/1–101 et seq.

[4] 625 ILCS 5/13A–101 et seq. (repealed).

[5] 605 ILCS 5/6–901 through 5/6–906.

[6] 605 ILCS 5/6–601, 5/6–602 and 5/6–603.

[7] 35 ILCS 200/18–185 et seq.

P.A. 98–674 incorporated the amendment by P.A. 98–24.

505/8a. Deposit of tax receipts under § 2a of this Act

§ 8a. All money received by the Department under Section 2a of this Act shall be deposited in the Underground Storage Tank Fund created by Section 57.11 of the Environmental Protection Act, as now or hereafter amended.[1]

Laws 1929, p. 625, § 8a, added by P.A. 86–125, § 2, eff. July 28, 1989. Amended by P.A. 88–496, § 10, eff. Sept. 13, 1993.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 424a.

[1] 415 ILCS 5/57.11.

505/13a. Motor fuel use tax; commercial vehicles

§ 13a. (1) A tax is hereby imposed upon the use of motor fuel upon highways of this State by commercial motor vehicles. The tax shall be comprised of 2 parts. Part (a) shall be at the rate established by Section 2 of this Act, as heretofore or hereafter amended. Part (b) shall be at the rate established by subsection (2) of this Section as now or hereafter amended.

(2) A rate shall be established by the Department as of January 1 of each year using the average "selling price", as defined in the Retailers' Occupation Tax Act,[1] per gallon of motor fuel sold in this State during the previous 12 months and multiplying it by 6 ¼% to determine the cents per gallon rate. For the period beginning on July 1, 2000 and through December 31, 2000, the Department shall establish a rate using the average " selling price", as defined in the Retailers' Occupation Tax Act, per gallon of motor fuel sold in this State during calendar year 1999 and multiplying it by 1.25% to determine the cents per gallon rate.

Laws 1929, p. 625, § 13a, added by P.A. 80–515, § 1, eff. Sept. 8, 1977. Amended by P.A. 82–1035, Art. III, § 2, eff. July 1, 1983; P.A. 86–1233, § 1, eff. Jan. 1, 1991; P.A. 88–480, § 50, eff. Jan. 1, 1994; P.A. 91–872, Fourth Sp. Sess., § 22, eff. July 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 120, ¶ 429a.

[1] 35 ILCS 120/1 et seq.

CHAPTER 50

LOCAL GOVERNMENT

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ACT 510. LOCAL GOVERNMENT PROFESSIONAL SERVICES SELECTION ACT

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OFFICERS AND EMPLOYEES

ACT 105. PUBLIC OFFICER PROHIBITED ACTIVITIES ACT

HOLDING OTHER OFFICE

105/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Public Officer Prohibited Activities Act.

Laws 1871–72, p. 612, § 0.01, added by P.A. 86–1324, § 679, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 0.01.

105/1. County board

§ 1. County board. No member of a county board, during the term of office for which he or she is elected, may be appointed to, accept, or hold any office other than (i) chairman of the county board or member of the regional planning commission by appointment or election of the board of which he or she is a member, (ii) alderman of a city or member of the board of trustees of a village or incorporated town if the city, village, or incorporated town has fewer than 1,000 inhabitants and is located in a county having fewer than 50,000 inhabitants, or (iii) trustee of a forest preserve district created under Section 18.5 of the Conservation District Act, unless he or she first resigns from the office of county board member or unless the holding of another office is authorized by law. Any such prohibited appointment or election is void. This Section shall not preclude a member of the county board from being selected or from serving as a member of a County Extension Board as provided in Section 7 of the County Cooperative Extension Law,[1] as a member of an Emergency Telephone System Board as provided in Section 15.4 of the Emergency Telephone System Act,[2] or as appointed members of the board of review as provided in Section 6–30 of the Property Tax Code.[3] Nothing in this Act shall be construed to prohibit an elected county official from holding elected office in another unit of local government so long as there is no contractual relationship between the county and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

Laws 1871–72, p. 612, § 1, eff. July 1, 1872. Amended by Laws 1949, p. 1162, § 1, eff. July 1, 1949; Laws 1963, p. 3185, § 1, eff. Aug. 19, 1963; Laws 1967, p. 2445, § 1, eff. July 31, 1967; Laws 1967, p. 3367, § 1, eff. Aug. 26, 1967; Laws 1968, p. 317, § 1, eff. July 1, 1969; P.A. 77–1059, § 1, eff. Aug. 17, 1971; P.A. 87–146, § 1, eff. Aug. 20, 1991; P.A. 87–350, § 1, eff. Jan. 1, 1992; P.A. 87–847, § 106.5, eff. Feb. 5, 1992; P.A. 88–623, § 3, eff. Jan. 1, 1995; P.A. 89–89, § 40, eff. June 30, 1995; P.A. 91–732, § 10, eff. Jan. 1, 2001; P.A. 92–111, § 10, eff. Jan. 1, 2002; P.A. 94–617, § 5, eff. Aug. 18, 2005.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 1.

[1] 505 ILCS 45/7.

[2] 50 ILCS 750/15.4.

[3] 35 ILCS 200/6–30.

105/1.1. County boards; counties having fewer than 550,000 inhabitants

§ 1.1. A member of the county board in a county having fewer than 550,000 inhabitants, during the term of office for which he is elected, may also hold the office of township highway commissioner.

Laws 1871–72, p. 612, § 1.1, added by P.A. 86–1330, § 1, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 1.1.

105/1.2. County board member; education office

§ 1.2. County board member; education office. A member of the county board in a county having fewer than 40,000 inhabitants, during the term of office for which he or she is elected, may also hold the office of member of the board of education, regional board of school trustees, board of school directors, board of a community college district, or board of school inspectors.

Laws 1871–72, p. 612, § 1.2, added by P.A. 88–471, § 10, eff. Sept. 1, 1993. Amended by P.A. 97–460, § 5, eff. Aug. 19, 2011.

105/1.3. Municipal board member; education office

§ 1.3. Municipal board member; education office. In a city, village, or incorporated town with fewer than 2,500 inhabitants, an alderman of the city or a member of the board of trustees of a village or incorporated town, during the term of office for which he or she is elected, may also hold the office of member of the board of education, regional board of school trustees, board of school directors, or board of school inspectors.

Laws 1871–72, p. 612, § 1.3, added by P.A. 91–161, § 5, eff. July 16, 1999.

105/2. Aldermen of cities; trustees of villages

§ 2. No alderman of any city, or member of the board of trustees of any village, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the mayor or president of the board of trustees, unless the alderman or board member is granted a leave of absence from such office, or unless he or she first resigns from the office of alderman or member of the board of trustees, or unless the holding of another office is authorized by law. The alderman or board member may, however, serve as a volunteer fireman and receive compensation for that service. The alderman may also serve as a commissioner of the Beardstown Regional Flood Prevention District board. Any appointment in violation of this Section is void. Nothing in this Act shall be construed to prohibit an elected municipal official from holding elected office in another unit of local government as long as there is no contractual relationship between the municipality and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

Laws 1871–72, p. 612, § 2, eff. July 1, 1872. Amended by Laws 1949, p. 1162, § 1, eff. July 1, 1949; P.A. 82–719, § 2, eff. July 1, 1982; P.A. 83–1331, § 4, eff. Sept. 5, 1984; P.A. 87–350, § 1, eff. Jan. 1, 1992; P.A. 87–847, § 106.5, eff. Feb. 5, 1992; P.A. 89–89, § 40, eff. June 30, 1995; P.A. 97–309, § 50, eff. Aug. 11, 2011.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 2.

105/2a. Township supervisors and trustees

§ 2a. Township supervisors and trustees. No township supervisor or trustee, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the board of township trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by law. A supervisor or trustee may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void. Nothing in this Act shall be construed to prohibit an elected township official from holding elected office in another unit of local government as long as there is no contractual relationship between the township and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

Laws 1871–72, p. 612, § 2a, added by P.A. 86–717, § 1, eff. Jan. 1, 1990. Amended by P.A. 87–350, § 1, eff. Jan. 1, 1992; P.A. 89–89, § 40, eff. June 30, 1995.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 2a.

INTEREST IN CONTRACTS

105/3. Prohibited interest in contracts

§ 3. Prohibited interest in contracts.

(a) No person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. This Section shall not apply to any person serving on an advisory panel or commission, to any director serving on a hospital district board as provided under subsection (a–5) of Section 13 of the Hospital District Law, [1] or to any person serving as both a contractual employee and as a member of a public hospital board as provided under Article 11 of the Illinois Municipal Code in a municipality with a population between 13,000 and 16,000 that is located in a county with a population between 50,000 and 70,000.

(b) However, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor, subject to the following provisions under either paragraph (1) or (2):

(1) If:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which such interested member of the governing body of the municipality has less than a 7 1/2% share in the ownership; and

B. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

C. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum; and

D. such contract is approved by a majority vote of those members presently holding office; and

E. the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds $1500, or awarded without bidding if the amount of the contract is less than $1500; and

F. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed $25,000.

(2) If:

A. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

B. the amount of the contract does not exceed $2,000; and

C. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed $4,000; and

D. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

E. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(b–5) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a 1% share in the ownership; and

B. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

C. such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

D. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(c) A contract for the procurement of public utility services by a public entity with a public utility company is not barred by this Section by one or more members of the governing body of the public entity being an officer or employee of the public utility company or holding an ownership interest of no more than 7 1/2% in the public utility company, or holding an ownership interest of any size if the public entity is a municipality with a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body of the public entity having such an interest shall be deemed not to have a prohibited interest under this Section.

(d) Notwithstanding any other provision of this Section or any other law to the contrary, until January 1, 1994, a member of the city council of a municipality with a population under 20,000 may purchase real estate from the municipality, at a price of not less than 100% of the value of the real estate as determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser, if the purchase is approved by a unanimous vote of the city council members then holding office (except for the member desiring to purchase the real estate, who shall not vote on the question).

(e) For the purposes of this Section only, a municipal officer shall not be deemed interested if the officer is an employee of a company or owns or holds an interest of 1% or less in the municipal officer's individual name in a company, or both, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member: (i) publicly discloses the fact that he or she is an employee or holds an interest of 1% or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise participating in negotia-

tion, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of 1% or less, not in the officer's individual name but through a mutual fund or exchange-traded fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

(f) Under either of the following circumstances, a municipal or county officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the municipality or county:

(1) If the municipal or county officer is appointed by the governing body of the municipality or county to represent the interests of the municipality or county on a not-for-profit corporation's board, then the municipal or county officer may actively vote on matters involving either that board or the municipality or county, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal or county officer may be reimbursed by the non-for-profit board for expenses incurred as the result of membership on the non-for-profit board.

(2) If the municipal or county officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the municipality or county, then the municipal or county officer may continue to serve; however, the municipal or county officer shall abstain from voting on any proposition before the municipal or county governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal or county governing body.

Laws 1871–72, p. 612, § 3, eff. July 1, 1872. Amended by Laws 1949, p. 1162, § 1, eff. July 1, 1949; P.A. 80–938, § 2, eff. July 1, 1978; P.A. 80–1086, § 2, eff. July 1, 1978; P.A. 81–291, § 2, eff. Aug. 28, 1979; P.A. 82–399, § 2, eff. Sept. 4, 1981; P.A. 87–855, § 4, eff. July 1, 1992; P.A. 87–1197, Art. 1, § 2, eff. Sept. 25, 1992; P.A. 90–197, § 5, eff. Jan. 1, 1998; P.A. 90–364, § 5, eff. Jan. 1, 1998; P.A. 90–655, § 50, eff. July 30, 1998; P.A. 96–277, § 5, eff. Jan. 1, 2010; P.A. 96–1058, § 5, eff. July 14, 2010; P.A. 97–520, § 5, eff. Aug. 23, 2011; P.A. 98–1083, § 5, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 3.

[1] 70 ILCS 910/13.

105/3.1. Disclosure of identity of owners, beneficiaries, members, shareholders and partners; written disclosure; letter of direction; construction

§ 3.1. Before any contract relating to the ownership or use of real property is entered into by and between the State or any local governmental unit or any agency of either the identity of every owner and beneficiary having any interest, real or personal, in such property, and every member, shareholder, limited partner, or general partner entitled to receive more than 7 ½% of the total distributable income of any limited liability company, corporation, or limited partnership having any interest, real or personal, in such property must be disclosed. The disclosure shall be in writing and shall be subscribed by a member, an owner, authorized trustee, corporate official, general partner, or managing agent, or his or her authorized attorney, under oath. However, if the interest, stock, or shares in a limited liability company, corporation, or general partnership is publicly traded and there is no readily known individual having greater than a 7 ½% interest, then a statement to that effect, subscribed to under oath by a member, officer of the corporation, general partner, or managing agent, or his or her authorized attorney, shall fulfill the disclosure statement requirement of this Section. As a condition of contracts entered into on or after the effective date of this amendatory Act of 1995, the beneficiaries of a lease shall furnish the trustee of a trust subject to disclosure under this Section with a binding non-revocable letter of direction authorizing the trustee to provide the State with an up-to-date disclosure whenever requested by the State. The letter of direction shall be binding on beneficiaries' heirs, successors, and assigns during the term of the contract. This Section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of real property thereby.

For any entity that is wholly or partially owned by another entity, the names of the owners of the wholly or partially owning entity shall be disclosed under this Section, as well as the names of the owners of the wholly or partially owned entity.

Laws 1871–72, p. 612, § 3.1, added by P.A. 76–1613, § 1, eff. Sept. 30, 1969. Amended by P.A. 80–1495, § 41, eff. Jan. 8, 1979; P.A. 83–257, § 1, eff. Jan. 1, 1984; P.A. 89–91, § 5, eff. June 30, 1995; P.A. 91–361, § 5, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 3.1.

105/3.2. Pecuniary interest allowed in contracts of deposit and financial service with local banks and savings and loan associations

§ 3.2. Pecuniary interest allowed in contracts of deposit and financial service with local banks and savings and loan associations. Nothing contained in this Act, including the restrictions set forth in subsections (b), (c), and (d) of Section 3, shall preclude a contract of deposit of monies, loans, or other financial services by a unit of local government, school district, community college district, State university, or a police or firefighter's pension fund established under Article 3 or 4 of the Illinois Pension Code [1] with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the unit (including any director serving on a hospital district board as provided under subsection (a–5) of Section 13 of the Hospital District Law) [2] are interested in the bank or savings and loan association as a director, an officer, employee, or holder of less than 7½% of the total ownership interest. A member or members holding such an interest in such a contract shall not be deemed to be holding a prohibited interest for purposes of this Act. The interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract, but shall not participate in any further deliberations concerning the proposed award. The interested member or members shall not vote on such a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of such a contract shall require approval by a majority vote of those members presently holding office. Consideration and award of any such contract in which a member or members are interested may only be made at a regularly

scheduled public meeting of the governing body of the unit or district.

Laws 1871–72, p. 612, § 3.2, added by P.A. 80–376, § 2, eff. Oct. 1, 1977. Amended by P.A. 80–1086, § 2, eff. July 1, 1978; P.A. 81–291, § 2, eff. Aug. 28, 1979; P.A. 86–1179, § 3, eff. Aug. 17, 1990; P.A. 87–1096, § 1, eff. Sept. 15, 1992; P.A. 90–197, § 5, eff. Jan. 1, 1998.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 3.2.

[1] 40 ILCS 5/3–101 et seq. or 40 ILCS 5/4–101 et seq.

[2] 70 ILCS 910/13.

PENALTIES

105/4. Violations

§ 4. Any alderman, member of a board of trustees, supervisor or county commissioner, or other person holding any office, either by election or appointment under the laws or constitution of this state, who violates any provision of the preceding sections, is guilty of a Class 4 felony and in addition thereto, any office or official position held by any person so convicted shall become vacant, and shall be so declared as part of the judgment of court.

Laws 1871–72, p. 612, § 4, eff. July 1, 1872. Amended by Laws 1949, p. 1162, § 1, eff. July 1, 1949; P.A. 77–2721, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 4.

105/4.5. False verification; perjury

§ 4.5. False verification; perjury. A person is guilty of perjury who:

(1) In swearing on oath or otherwise affirming a statement in writing as required under this Act, knowingly makes a false statement as to, or knowingly omits a material fact relating to, the identification of an individual or entity that has an ownership interest in real property, or that is material to an issue or point in question in the written disclosure pertaining to a contract for the ownership or use of real property.

(2) Having taken a lawful oath or made affirmation, testifies willfully and falsely as to any of those matters for the purpose of inducing the State or any local governmental unit or any agency of either to enter into a contract for the ownership or use of real property.

(3) Suborns any other person to so swear, affirm, or testify.

Upon conviction of perjury, a person shall be sentenced as provided in Section 32–2 or 32–3, respectively, of the Criminal Code of 2012 [1] for those offenses.

This Section applies to written statements made or testimony given on or after the effective date of this amendatory Act of 1995.

Laws 1871–72, p. 612, § 4.5, added by P.A. 89–91, § 5, eff. June 30, 1995. Amended by P.A. 97–1150, § 170, eff. Jan. 25, 2013.

[1] 720 ILCS 5/32–2 or 5/32–3.

ACT 110. PUBLIC OFFICER SIMULTANEOUS TENURE ACT

110/2. Simultaneous tenure declared to be lawful

§ 2. Simultaneous tenure declared to be lawful. It is lawful for any person to hold the office of county board member and township supervisor, and in counties of less than 100,000 population the office of county board member and township trustee, simultaneously. It is lawful for any person to hold the office of county board member and the office of township assessor or town clerk, simultaneously, in counties of less than 300,000 population.

P.A. 79–457, § 2, eff. Oct. 1, 1975. Amended by P.A. 80–1424, § 1, eff. Sept. 8, 1978; P.A. 82–554, § 4, eff. Sept. 17, 1981; P.A. 82–948, § 1, eff. Aug. 19, 1982; P.A. 90–748, § 10, eff. Aug. 14, 1998.

Formerly Ill.Rev.Stat.1991, ch. 102, ¶ 4.11.

FINANCES

ACT 340. INVESTMENT OF MUNICIPAL FUNDS ACT

340/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Investment of Municipal Funds Act.

Laws 1941, vol. 2, p. 473, § 0.01, added by P.A. 86–1324, § 1184, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 146 ½, ¶ 3.01.

340/1. Surplus funds of counties, park districts, sanitary districts or other municipal corporations; purchase of tax anticipation warrants or municipal bonds

§ 1. Every county, park district, sanitary district, or other municipal corporation, holding in its treasury funds which are set aside for use for particular purposes, including any funds that are disbursed to a county or municipality as their share of the taxes collected under the "Motor Fuel Tax Law",[1] but which are not immediately necessary for those purposes, by ordinance, may use those funds, or any of them, in the purchase of tax anticipation warrants issued by the county, park district, sanitary district, or other municipal corporation possessing the funds against taxes levied by that county, park district, sanitary district, or other municipal corporation. These warrants shall bear interest not to exceed four percent annually. All interest upon these warrants, and all money paid in redemption of these warrants, or received from the resale thereof, shall at once be credited to and placed in the particular fund used to purchase the specified warrants. Likewise, every county, park district, sanitary district, or other municipal corporation, by resolution or ordinance may use the money in the specified funds in the purchase of municipal bonds issued by the county, park district, sanitary district, or other municipal corporation, possessing the funds and representing an obligation and pledging the credit of that county, park district, sanitary district, or other municipal corporation, or bonds and other interest bearing obligations of the United States, of the State of Illinois, or of any other state or of any political subdivision or agency of the State of Illinois or of any other state, whether the interest earned thereon is taxable or tax-exempt under federal law, including savings accounts and savings certificates of deposit of any State or National Bank if such accounts and certificates are fully insured by the Federal Deposit Insurance Corporation, withdrawable capital accounts or deposits of State or federal chartered savings and loan associations which are fully insured by the Federal Savings and Loan Insurance Corporation, or treasury notes and other securities issued by agencies of the United States. All interest upon these bonds or obligations and all money

paid in redemption of these bonds or obligations or realized from the sale thereof, if afterwards sold, shall at once be credited to and placed in the particular fund used to purchase the specified bonds or obligations.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.[2]

This amendatory Act of 1975 is not a limit on any home rule unit.

Laws 1941, vol. 2, p. 473, § 1, eff. Aug. 15, 1941. Amended by Laws 1967, p. 1730, § 1, eff. July 17, 1967; P.A. 79–496, § 1, eff. Oct. 1, 1975, P.A. 81–1024, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. II, § 135, eff. Sept. 26, 1980; P.A. 83–541, § 92, eff. Sept. 17, 1983; P.A. 84–1308, Art. III, § 87, eff. Aug. 25, 1986; P.A. 93–360, § 10, eff. July 24, 2003.

Formerly Ill.Rev.Stat.1991, ch. 146 ½, ¶ 3.1.

[1] 35 ILCS 505/1 et seq.

[2] 30 ILCS 235/6.

340/2. Resale or issuance of new tax anticipation warrants; priority of payment; inapplicability to cities, villages and towns

§ 2. If at any time it is deemed expedient to convert into money any tax anticipation warrants theretofore issued and purchased with public funds pursuant to the provisions of section 1 of this Act, before receipt of the taxes in anticipation of which the warrants were issued, the governing body of the county, park district, sanitary district, or other municipal corporation, by ordinance or resolution, may authorize a resale of such warrants and adjust the interest rate thereon or may authorize the issuance and sale of a like principal amount of any warrants for the same purpose and in anticipation of the same taxes as the original warrants were issued. These new warrants may have any date subsequent to the date of the original tax anticipation warrants. The new tax anticipation warrants shall be of the denomination and shall bear interest at the rate, not to exceed the statutory rate, that is authorized by the ordinance or resolution specified in this section.

Simultaneously with the delivery of these new tax anticipation warrants a like principal amount of the original warrants that were issued against the same tax that is anticipated by the new warrants shall be paid and cancelled. The proceeds of the sale of these new tax anticipation warrants shall be used first to restore to the fund or funds so invested in the original tax anticipation warrants, money equivalent to the par value and accrued interest of the original tax anticipation warrants and the balance, if any, shall revert to the fund for the creation of which the tax so anticipated was levied.

When tax anticipation warrants are reissued they shall bear the index numerical designation of the original warrants and shall be subnumbered consecutively in the order of reissuance, and shall be paid in the direct order of reissuance, beginning with the earliest subnumber.

In determining the priority of payment of more than one series of tax anticipation warrants against the collection of the same tax the various series shall be treated as having been issued on the date of the original issue of each series of warrants. The series prior in point of time as thus determined shall be paid first.

This Act shall not apply to cities, villages, and incorporated towns.

Laws 1941, vol. 2, p. 473, § 2, eff. Aug. 15, 1941.

Formerly Ill.Rev.Stat.1991, ch. 146 ½, ¶ 3.2.

PURCHASES AND CONTRACTS

ACT 505. LOCAL GOVERNMENT PROMPT PAYMENT ACT

505/1. Short title

§ 1. This Act shall be known and may be cited as the "Local Government Prompt Payment Act".

P.A. 84–731, § 1, eff. July 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5601.

505/2. Application

§ 2. This Act shall apply to every county, township, municipality, municipal corporation, school district, school board, forest preserve district, park district, fire protection district, sanitary district and all other local governmental units. It shall not apply to the State or any office, officer, department, division, bureau, board, commission, university or similar agency of the State, except as provided in Section 7.

P.A. 84–731, § 2, eff. July 1, 1987. Amended by P.A. 85–1159, § 2–2, eff. Aug. 4, 1988.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5602.

505/3. Approval of bills

§ 3. The appropriate local governmental official or agency receiving goods or services must approve or disapprove a bill from a vendor or contractor for goods or services furnished the local governmental agency within 30 days after the receipt of such bill or within 30 days after the date on which the goods or services were received, whichever is later. If one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid. When safety or quality assurance testing of goods by the local governmental agency is necessary before the approval or disapproval of a bill and such testing cannot be completed within 30 days after receipt of the goods, approval or disapproval of the bill must be made immediately upon completion of the testing or within 60 days after receipt of the goods, whichever occurs first. Written notice shall be mailed to the vendor or contractor immediately if a bill is disapproved.

P.A. 84–731, § 3, eff. July 1, 1987. Amended by P.A. 85–1159, § 2–2, eff. Aug. 4, 1988; P.A. 87–773, § 2, eff. Jan. 1, 1992; P.A. 94–972, § 10, eff. July 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5603.

505/4. Payment of bills; penalty

§ 4. Any bill approved for payment pursuant to Section 3 shall be paid within 30 days after the date of approval. If payment is not made within such 30 day period, an interest penalty of 1% of any amount approved and unpaid shall be added for each month or fraction thereof after the expiration of such 30 day period, until final payment is made.

P.A. 84–731, § 4, eff. July 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5604.

505/5. Failure to approve bills; penalty for late payment

§ 5. If the local governmental official or agency whose approval is required for any bill fails to approve or disapprove that bill within the period provided for approval by Section 3, the penalty for late payment of that bill shall be computed from the date 60 days after the receipt of that bill or the date 60 days after the goods or services are received, whichever is later.

P.A. 84–731, § 5, eff. July 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5605.

505/6. Time periods

§ 6. The time periods specified in Sections 3, 4 and 5, as they pertain to particular goods or services, are superseded by any greater time periods as agreed to by the local government agency and the particular vendor or contractor.

P.A. 84–731, § 6, added by P.A. 85–1159, § 2–2, eff. Aug. 4, 1988. Amended by P.A. 87–773, § 2, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5606.

505/7. Funds appropriated or controlled by state; certification

§ 7. If the funds from which the local governmental official or agency is to pay for goods or services are funds appropriated or controlled by the State, then the local governmental official or agency may certify to the State Treasurer, Comptroller and State agency responsible for administering such funds that a specified amount is anticipated to be necessary within 45 days after certification to pay for specified goods or services and that such amount is not currently available to the local governmental official or agency. The State Treasurer, Comptroller and State agency shall than expedite distribution of funds to the local governmental unit to make such payments. The certification shall be mailed on the date of certification by certified U.S. mail, return receipt requested. Any interest penalty incurred by the local governmental unit under Section 3 or 4 because of the failure of funds to be distributed from the State to the local governmental unit within the 45 day period shall be reimbursed by the State to the local governmental unit as an amount in addition to the funds to be otherwise distributed from the State.

P.A. 84–731, § 7, added by P.A. 85–1159, § 2–2, eff. Aug. 4, 1988.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5607.

505/9. Payments to subcontractors and material suppliers; failure to make timely payments; additional amount due

§ 9. Payments to subcontractors and material suppliers; failure to make timely payments; additional amount due. When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier their application less any retention. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment. All interest payments received pursuant to Section 4 also shall be disbursed to subcontractors and material suppliers to whom payment has been delayed, on a pro rata basis. When, however, the public owner does not release the full payment due under the contract because there are specific areas of work or materials the contractor is rejecting or because the contractor has otherwise determined such areas are not suitable for payment, then those specific subcontractors or suppliers involved shall not be paid for that portion of the work rejected or deemed not suitable for payment and all other subcontractors and suppliers shall be paid in full.

If the contractor, without reasonable cause, fails to make any payment to his subcontractors and material suppliers within 15 days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15–day period until fully paid. This Section shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

P.A. 84–731, § 9, added by P.A. 87–773, § 2, eff. Jan. 1, 1992. Amended by P.A. 94–972, § 10, eff. July 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 5609.

ACT 510. LOCAL GOVERNMENT PROFESSIONAL SERVICES SELECTION ACT

510/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Local Government Professional Services Selection Act.

P.A. 85–854, Art. I, § 0.01, added by P.A. 86–1324, § 614, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6400.

510/1. Policy

§ 1. Policy. It shall be the policy of the political subdivisions of the State of Illinois to negotiate and enter into contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable compensation.

P.A. 85–854, Art. I, § 1, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6401.

510/2. Federal Requirements

§ 2. Federal Requirements. In the procurement of architectural, engineering and land surveying services and in the awarding of contracts, a political subdivision of the State of Illinois may comply with federal law and regulations and take all necessary steps to adapt its rules, specifications, policies and procedures accordingly to remain eligible for federal aid.

P.A. 85–854, Art. I, § 2, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6402.

510/3. Definitions

§ 3. Definitions. As used in this Act unless the context specifically requires otherwise:

(1) "Firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide architectural, engineering or land surveying services.

(2) "Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.[1]

(3) "Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 [2] or Section 5 of the Structural Engineering Practice Act of 1989.[3]

(4) "Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.[4]

(5) "Political subdivision" means any school district and any unit of local government of fewer than 3,000,000 inhabitants, except home rule units.

(6) "Project" means any capital improvement project or any study, plan, survey or new or existing program activity of a political subdivision, including development of new or existing programs which require architectural, engineering or land surveying services.

P.A. 85–854, Art. I, § 3, eff. Sept. 24, 1987. Amended by P.A. 86–711, § 40, eff. Jan. 1, 1990; P.A. 86–987, § 52, eff. Jan. 1, 1990; P.A. 86–1028, Art. II, § 2–42, eff. Feb. 5, 1990; P.A. 86–1475, Art. 3, § 3–41, eff. Jan. 10, 1991; P.A. 91–91, § 15, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6403.

[1] 225 ILCS 305/5.

[2] 225 ILCS 325/4.

[3] 225 ILCS 340/5.

[4] 225 ILCS 330/5.

510/4. Public notice

§ 4. Public notice. Present provisions of law notwithstanding, in the procurement of architectural, engineering or land surveying services, each political subdivision which utilizes architectural, engineering or land surveying services shall permit firms engaged in the lawful practice of their professions to annually file a statement of qualifications and performance data with the political subdivision. Whenever a project requiring architectural, engineering or land surveying services is proposed for a political subdivision, the political subdivision shall, unless it has a satisfactory relationship for services with one or more firms:

(1) mail or e-mail a notice requesting a statement of interest in the specific project to all firms who have a current statement of qualifications and performance data on file with the political subdivision;

(2) place an advertisement in a secular English language daily newspaper of general circulation throughout such political subdivision, requesting a statement of interest in the specific project and further requesting statements of qualifications and performance data from those firms which do not have such a statement on file with the political subdivision. Such advertisement shall state the day, hour and place the statement of interest and the statements of qualifications and performance data shall be due; or

(3) place an advertisement for professional services on the political subdivision's website requesting a statement of interest in the specific project. The professional services advertisement shall include a description of each project and state the time and place for interested firms to submit its letter of interest, statement of qualifications, and performance data, as required.

P.A. 85–854, Art. I, § 4, eff. Sept. 24, 1987. Amended by P.A. 98–420, § 5, eff. Aug. 16, 2013.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6404.

510/5. Evaluation Procedure

§ 5. Evaluation Procedure. A political subdivision shall, unless it has a satisfactory relationship for services with one or more firms, evaluate the firms submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm, and such other qualifications-based factors as the political subdivision may determine in writing are applicable. The political subdivision may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project, and ability to furnish the required services. In no case shall a political subdivision, prior to selecting a firm for negotiation under Section 7, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

P.A. 85–854, Art. I, § 5, eff. Sept. 24, 1987. Amended by P.A. 94–1097, § 5, eff. Feb. 2, 2007.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6405.

510/6. Selection procedure

§ 6. Selection procedure. On the basis of evaluations, discussions and presentations, the political subdivision shall, unless it has a satisfactory relationship for services with one or more firms, select no less than 3 firms which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The political subdivision shall then contact the firm ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. If fewer than 3 firms submit letters of interest and the political subdivision determines that one or both of those firms are so qualified, the political subdivision may proceed to negotiate a contract pursuant to this Section and Section 7.

P.A. 85–854, Art. I, § 6, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6406.

510/7. Contract negotiation

§ 7. Contract negotiation. (1) The political subdivision shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the political subdivision determines in writing to be fair and reasonable. In making this decision the political subdivision shall take into account the estimated value, scope, complexity and professional nature of the services to be rendered.

(2) If the political subdivision is unable to negotiate a satisfactory contract with the firm which is most preferred, negotiations with that firm shall be terminated. The political subdivision shall then begin negotiations with the firm which is next preferred. If the political subdivision is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The political subdivision shall then begin negotiations with the firm which is next preferred.

(3) If the political subdivision is unable to negotiate a satisfactory contract with any of the selected firms, the political subdivision shall re-evaluate the architectural, engineering or land surveying services requested, including the estimated value, scope, complexity and fee requirements. The political subdivision shall then compile a second list of

not less than three qualified firms and proceed in accordance with the provisions of this Act.

P.A. 85–854, Art. I, § 7, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 6407.

510/8. Waiver of competition

§ 8. Waiver of competition. A political subdivision may waive the requirements of Sections 4, 5, and 6 if it determines, by resolution, that an emergency situation exists and a firm must be selected in an expeditious manner, or the cost of architectural, engineering, and land surveying services for the project is expected to be less than $25,000.

P.A. 85–854, Art. I, § 8, added by P.A. 87–1034, § 1, eff. Jan. 1, 1993.

Formerly Ill.Rev.Stat., ch. 85, ¶ 6408.

PROPERTY

ACT 605. LOCAL GOVERNMENT PROPERTY TRANSFER ACT

605/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Local Government Property Transfer Act.

Laws 1925, p. 246, § 0.01, added by P.A. 86–1324, § 263, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 155h.

605/1. Definitions

§ 1. When used in this Act:

(a) The term "transferor municipality" shall mean a municipal corporation transferring real estate or any interest therein, under the provisions of this Act.

(b) The term "transferee municipality" shall mean a municipal corporation or 2 or more school districts operating a cooperative or joint educational program pursuant to Section 10–22.31 of the School Code receiving a transfer of real estate or any interest therein under provisions of this Act.

(c) The term "municipality" whether used by itself or in conjunction with other words, as in (a) or (b) above, shall mean and include any municipal corporation or political subdivision organized and existing under the laws of the State of Illinois and including, but without limitation, any city, village, or incorporated town, whether organized under a special charter or under the General Act, or whether operating under the commission or managerial form of government, county, school districts, trustees of schools, boards of education, 2 or more school districts operating a cooperative or joint educational program pursuant to Section 10–22.31 of the School Code, sanitary district or sanitary district trustees, forest preserve district or forest preserve district commissioner, park district or park commissioners, airport authority and township.

(d) The term "restriction" shall mean any condition, limitation, qualification, reversion, possibility of reversion, covenant, agreement or restraint of whatever kind or nature, the effect of which is to restrict the use or ownership of real estate by a municipality as defined in (c) above.

(e) The term "corporate authorities" shall mean the members of the legislative body of any municipality as defined in (c) above.

(f) The term "held" or any form thereof, when used in reference to the interest of a municipality in real estate shall be taken and construed to refer to and include all of the right, title and interest of such municipality of whatever kind or nature, in and to such real estate.

(g) Each of the terms above defined and the terms contained in the definition of each of said terms shall be taken and construed to include the plural form thereof.

(h) The term "Local Improvement Act" shall mean an Act of the General Assembly of the State of Illinois entitled "An Act concerning local improvements," approved June 14, 1897, and the amendments thereto.[1]

(i) The term "State of Illinois" shall mean the State of Illinois or any department, commission, board or other agency of the State.

Laws 1925, p. 246, § 1. Amended by Laws 1929, p. 279, § 1; Laws 1933, p. 301, § 1; Laws 1947, p. 661, § 1; P.A. 80–253, § 1, eff. Aug. 16, 1977; P.A. 82–783, Art. XI, § 59, eff. July 13, 1982; P.A. 96–783, § 3, eff. Aug. 28, 2009.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 156.

[1] Former Ill.Rev.Stat. ch. 24, ¶¶ 698 to 808 (repealed; see, now, 65 ILCS 5/9–2–1 et seq.).

605/2. Method of making transfer

§ 2. If the territory of any municipality shall be wholly within, coextensive with, or partly within and partly without the corporate limits of any other municipality, or if the municipality is a school district and the territory of the school district is adjacent to the boundaries of any other school district, and the first mentioned municipality (herein called "transferee municipality"), shall by ordinance declare that it is necessary or convenient for it to use, occupy or improve any real estate held by the last mentioned municipality (herein called the "transferor municipality") in the making of any public improvement or for any public purpose, the corporate authorities of the transferor municipality shall have the power to transfer all of the right, title and interest held by it immediately prior to such transfer, in and to such real estate, whether located within or without either or both of said municipalities, to the transferee municipality upon such terms as may be agreed upon by the corporate authorities of both municipalities, in the manner and upon the conditions following:

(a) If such real estate shall be held by the transferor municipality without restriction, the said municipality shall have power to grant or convey such real estate or any portion thereof to the transferee municipality upon such terms as may be agreed upon by the corporate authorities of both municipalities, by an instrument of conveyance signed by the mayor, president or other chief executive of the transferor municipality, attested by its clerk or secretary and sealed with its corporate seal, all duly authorized by a resolution passed by the vote of ⅔ of the members of the legislative body of the transferor municipality then holding office, and duly recorded in the office of the recorder in the county in which said real estate is located. Provided, however, that any municipality may, in the manner above provided, convey real estate to a Public Building Commission organized and existing pursuant to "An Act to authorize the creation of Public Building Commissions and to define their rights, powers and duties", approved July 5, 1955, as amended,[1] when duly authorized by a majority vote of the members of the legislative body of such municipality then holding office whenever provision is made in the conveyance for a reverter of the real estate to such transferor municipality. The transferee municipality shall thereafter have the right to use, occupy or improve the real estate so transferred for any municipal or public purpose and shall hold said real estate by

the same right, title and interest by which the transferor municipality held said real estate immediately prior to said transfer.

(b) If any such real estate shall be held by the transferor municipality subject to or limited by any restriction, and the transferee municipality shall desire the use, occupation or improvement thereof free from said restriction, the transferor municipality (or the transferee municipality, in the name of and for and on behalf of the transferor municipality, but without subjecting the transferor municipality to any expense without the consent of its corporate authorities), shall have the power to secure from its grantor, or grantors, their heirs, successors, assigns, or others, a release of any or all of such restrictions upon such terms as may be agreed upon between either of said municipalities and the person or persons entitled to the benefit of said restrictions. Upon the recording of any such release the transferor municipality shall then have the powers granted in paragraph (a) of this Section.

(c) If either the transferor municipality or the transferee municipality shall be unable to secure a release of any restriction as above provided, the transferor municipality (or the transferee municipality in the name of and for and in behalf of the transferor municipality, but without subjecting the transferor municipality to any expense without the consent of its corporate authorities), shall have the power to file in any circuit court a petition for the purpose of removing or releasing said restriction and determining the compensation, if any, to be paid in consequence thereof to the owner or owners of said real estate, for any right, title or interest which they or any of them may or might have in and to any such real estate arising out of said restriction. If any compensation shall be awarded, the same shall be measured by the actual damage, if any, to the owner or owners of said real estate, resulting from the removal or release of said restriction, and shall be determined as of the date of the filing of said petition. Upon the payment of such compensation as may be awarded, if any, the transferor municipality shall have the powers granted in paragraph (a) of this Section, and said transferor municipality shall grant and convey the said real estate to the transferee municipality upon the terms and conditions theretofore agreed upon by the said municipalities and in the manner provided for in paragraph (a) of this Section.

(d) If the transferor municipality shall hold an easement in any real estate for a particular purpose different from the purpose for which the transferee municipality shall desire to use, occupy or improve said real estate, the transferor municipality (or the transferee municipality in the name of and for and in behalf of the transferor municipality, but without subjecting the transferor municipality to any expense without the consent of its corporate authorities), shall have the power to file in any circuit court a petition for the purpose of terminating said easement and securing the right to use, occupy and improve any such real estate for the purpose or purposes set forth in said petition, and for determining the compensation, if any, to be paid in consequence thereof to the owner, or owners of said real estate. If any compensation shall be awarded, the same shall be measured by the actual damage, if any, to the owner or owners of said real estate, resulting from the termination of the said easement and the granting of the right sought in said petition, and shall be determined as of the date of the filing of said petition. Upon the payment of such compensation as may be awarded, if any, the easement held by the transferor municipality shall in the final order entered in such proceeding be declared terminated and the right of the transferee municipality in said real estate shall be declared. If the transferee municipality shall desire to use, occupy or improve said real estate for the same purpose authorized by the easement held by the transferor municipality, the transferor municipality shall have the power to transfer said easement to the transferee municipality by instrument of conveyance as provided for in paragraph (a).

(e) If such real estate shall have been acquired or improved by the transferor municipality under the Local Improvements Act,[2] or under the said Act in conjunction with any other Act, and the times fixed for the payment of all installments of the special assessments therefor have not elapsed at the time the transferor and transferee municipalities shall have reached an agreement for the transfer of said real estate, the transferee municipality shall deposit with the transferor municipality to be placed in the special assessment funds authorized to be collected to pay the cost of acquiring or improving said real estate, an amount sufficient to pay (1) the installments of said special assessments not due and payable at the time of the agreement for said transfer, and (2) the amounts paid in advance by any property owner on account of said special assessments, which, had such amounts not been paid in advance, would have been due and payable after the date of such agreement, and the transferor municipality shall upon the receipt of such amount cause orders to be entered in the courts in which said special assessments were confirmed, cancelling the installments becoming due and payable after the said time at which the transferor and transferee municipalities shall have reached an agreement for the transfer of said real estate, and releasing the respective lots, tracts, and parcels of real estate assessed in any such proceedings from the installments of the said assessments in this paragraph authorized to be cancelled. The transferor municipality shall after the entry of such orders of cancellation refund to any property owner who has paid the same in advance, any amounts which otherwise would have been due and payable after the said time at which the transferor and transferee municipalities shall have reached an agreement for the transfer of said real estate. Upon the entry of such orders of cancellation the transferor municipality shall then have the powers granted in paragraph (a) of this Section.

(f) The procedure, for the removal of any restriction upon the real estate of the transferor municipality, for the termination of any easement of the transferor municipality in said real estate and the declaration of another or different right in the transferee municipality in said real estate, and for the ascertainment of just compensation therefor, shall be as near as may be like that provided for the exercise of the power of eminent domain under the Eminent Domain Act.[3]

(g) If any property shall be damaged by the release or removal of any restrictions upon, or the termination of any easement in, or the granting of a new right in any real estate held by the transferor municipality, the same shall be ascertained and paid as provided by law.

Laws 1925, p. 246, § 2. Amended by Laws 1961, p. 2765, § 1; Laws 1965, p. 3403, § 1; Laws 1967, p. 3437, § 1; P.A. 81–1541, § 1, eff. Jan. 1, 1981; P.A. 82–783, Art. XI, § 59, eff. July 13, 1982; P.A. 83–358, § 21, eff. Sept. 14, 1983; P.A. 94–1055, Art. 95, § 95–10–50, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 157.

[1] 50 ILCS 20/1 et seq.

[2] Former Ill.Rev.Stat. ch. 24, ¶¶ 698 to 808 (repealed; see, now, 65 ILCS 5/9–2–1 et seq.).

[3] 735 ILCS 30/1–1–1 et seq.

605/3. Transfer may include more than one parcel

§ 3. The powers conferred in sections one (1) and two (2) of this Act shall also be taken to authorize the transfer of two or more parcels of real estate at the same time and in the same proceeding in the manner provided in this Act.

Laws 1925, p. 246, § 3.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 158.

605/3.1. Lease of property

§ 3.1. Any municipality may lease for any term not exceeding 50 years to any other municipality real property owned or held by the transferor municipality, or any part thereof or interest therein, upon such terms and conditions and for such uses as may be agreed upon by the corporate authorities of both the transferor and transferee municipalities in the same manner as is provided in paragraph (a) of Section 2 of this Act for the conveyance of real estate to a transferee municipality.

This amendatory Act of 1975 is not a limit on any home rule unit.

This amendatory Act of 1975 is not a limit on the associational or contractual powers granted in Article VII, Section 10 of the Illinois Constitution.

Laws 1925, p. 246, § 3.1, added by Laws 1957, p. 1408, § 1. Amended by P.A. 79–1093, § 1, eff. Sept. 25, 1975.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 158.1.

605/4. Transfer of real estate to state; removal of restrictions on use

§ 4. Any municipality shall have the power upon resolution passed by a two-thirds vote of the members of its legislative body then holding office, to transfer all of the right, title and interest held by it immediately prior to such transfer, in and to any real estate, whether located within or without such municipality, to the State of Illinois, for any authorized purpose of state government, upon such terms and conditions as may be agreed upon by the transferor municipality and the State of Illinois, and the State of Illinois is authorized to accept the title or interest in such real estate so conveyed; except that a majority vote of the members of such legislative body then holding office is sufficient for the dedication by any municipality of any area as a nature preserve as provided in the "Illinois Natural Areas Preservation Act" as now or hereafter amended.[1] If such real estate is held by the transferor municipality subject to or limited by any restriction, the State of Illinois, by the Secretary of Transportation or by the Director of any state department, or the Chairman or President of any commission, board or agency of the State vested by law with the power, duty or function of the State Government for which said property is to be used by the State after its acquisition, may remove such restriction through purchase, agreement or condemnation. Any such condemnation proceedings shall be brought and maintained by the State of Illinois and shall conform, as nearly as may be, with the procedure provided for the exercise of the power of eminent domain under the Eminent Domain Act.[2]

Laws 1925, p. 246, § 4, added by Laws 1947, p. 661, § 1. Amended by Laws 1965, p. 959, § 1; Laws 1967, p. 3437, § 1; P.A. 81–840, § 30, eff. Sept. 19, 1979; P.A. 82–445, § 27, eff. Sept. 15, 1981; P.A. 82–783, Art. XI, § 59, eff. July 13, 1982; P.A. 94–1055, Art. 95, § 95–10–50, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 158a.

[1] 525 ILCS 30/1 et seq.

[2] 735 ILCS 30/1–1–1 et seq.

605/5. Eminent domain

§ 5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1925, p. 246, § 5, added by P.A. 94–1055, Art. 95, § 95–5–85, eff. Jan. 1, 2007.

CHAPTER 55

COUNTIES

ACT 5. COUNTIES CODE

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Section

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ACT 5. COUNTIES CODE

ARTICLE 3. OFFICERS AND EMPLOYEES

DIVISION 3–2. CLERK

5/3–2001. Election of county clerk

§ 3–2001. Election of county clerk. In all counties there shall be an elected county clerk who shall hold office until his successor is qualified. The functions and powers of the county clerks shall be uniform in the various counties of this State. He shall enter upon the duties of his office on the first day in the month of December following his election on which the office of the county clerk is required, by statute or by action of the county board, to be open.

P.A. 86–962, Art. 3, § 3–2001, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2001.

5/3–2002. Oath

§ 3–2002. Oath. Each county clerk, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation prescribed by Section 3, Article XIII of the Constitution which shall be entered at large upon the records of his office.

P.A. 86–962, Art. 3, § 3–2002, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2002.

5/3–2003. Functions, powers and duties of clerk

§ 3–2003. Functions, powers and duties of clerk. The county clerk shall have those functions, powers and duties as provided in the Sections following this Section and preceding Section 3–2004.

P.A. 86–962, Art. 3, § 3–2003, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2003.

5/3–2003.1. Appointment of deputies, assistants and personnel

§ 3–2003.1. Appointment of deputies, assistants and personnel. The county clerk shall appoint his deputies, assistants and personnel to assist him in the performance of his duties.

P.A. 86–962, Art. 3, § 3–2003.1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2003.1.

5/3–2003.2. Internal operations of office

§ 3–2003.2. Internal operations of office. The county clerk shall have the right to control the internal operations of his office; to procure necessary equipment, materials and services to perform the duties of his office.

P.A. 86–962, Art. 3, § 3–2003.2, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2003.2.

5/3–2003.3. Monthly report of financial status

§ 3–2003.3. Monthly report of financial status. The county clerk shall file a monthly report summarizing the financial

status of his office in such form as shall be determined by the county board.

P.A. 86–962, Art. 3, § 3–2003.3, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2003.3.

5/3–2003.4. Deposit of fee income; special funds

§ 3–2003.4. Deposit of fee income; special funds. The county clerk shall deposit in the office of the county treasurer monthly by the 10th day of the month following, all fee income. The county clerk may maintain the following special funds from which the county board shall authorize payments by voucher between board meetings:

(a) Overpayments.

(b) Reasonable amount needed during the succeeding accounting period to pay office expenses, postage, freight, express or similar charges.

(c) Excess earnings from the sale of revenue stamps to be maintained in a fund to be used for the purchase of additional stamps from the Illinois Department of Revenue.

(d) Fund to pay necessary travel, dues and other expenses incurred in attending workshops, educational seminars and organizational meetings established for the purpose of providing in-service training.

(e) Trust funds, for tax redemptions, or for such other purposes as may be provided for by law.

(f) Such other funds as may be authorized by the county board.

The county clerk shall make accounting monthly to the county board of all special funds maintained by him in the discharge of his duties.

P.A. 86–962, Art. 3, § 3–2003.4, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2003.4.

5/3–2003.5. Compensation of deputies and employees

§ 3–2003.5. Compensation of deputies and employees. Compensation of deputies and employees shall be fixed by the county clerk subject to budgetary limitations established by the county board.

P.A. 86–962, Art. 3, § 3–2003.5, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2003.5.

5/3–2004. Prompt payment

§ 3–2004. Prompt payment. Purchases made pursuant to this Division shall be made in compliance with the "Local Government Prompt Payment Act".[1]

P.A. 86–962, Art. 3, § 3–2004, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2004.

[1] 50 ILCS 505/1 et seq.

5/3–2005. Bond

§ 3–2005. Bond. Each county clerk shall, before entering upon the duties of his or her office, give bond (or, if the county is self-insured, the county through its self-insurance program may provide bonding) in such penalty and with such security as the county board shall deem sufficient, which bond shall be substantially in the following form, and shall be recorded in full in the records of his or her office, and when so recorded shall be deposited with the clerk of the circuit court for safe keeping:

We, (A B) principal, and (C D) and (E F), sureties, all of the county of . . . and State of Illinois, are obligated to the People of the State of Illinois, in the penal sum of $. . ., for the payment of which, we obligate ourselves, each of us, our heirs, executors and administrators.

The condition of the above bond is such, that if the above obligated (A B) shall perform all the duties which are or may be required by law to be performed by him as county clerk of the county of . . . in the time and manner prescribed or to be prescribed by law, and when he is succeeded in office, shall surrender and deliver over to his or her successor in office all books, papers, moneys, and other things belonging to the county, and appertaining to his or her office, then the above bond to be void; otherwise to remain in full force.

Dated (insert date).

Signed and delivered in the presence of (G H).

Signature A B,
Signature C D,
Signature E F,

P.A. 86–962, Art. 3, § 3–2005, eff. Jan. 1, 1990. Amended by P.A. 88–387, § 5, eff. Aug. 20, 1993; P.A. 91–357, § 73, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2005.

5/3–2006. Commission

§ 3–2006. Commission. County clerks shall be commissioned by the governor.

P.A. 86–962, Art. 3, § 3–2006, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2006.

5/3–2007. Office quarters and hours; violation

§ 3–2007. Office quarters and hours; violation. The county clerk shall keep his office at the court house of his county, or at such other place as may be provided for him by the authorities of such county seat and shall keep his office open and attend to the duties thereof:

(a) In counties of 500,000 or more population from 9 a.m. to 5 p.m. of each working day except Saturday afternoons and legal holidays, but the clerk may open the office at 8 a.m. on each working day:

(b) In counties of less than 500,000 population from 8 a.m. to 5 p.m. of each working day except Saturdays and legal holidays, but in such counties the office shall remain open until noon the Saturday before general, primary or special election days.

Provided, that the days on which such office shall be open and the hours of opening and closing of the office of the county clerk may be changed and otherwise fixed and determined by the county board of any county. Any such action taken by the county board shall be by an appropriate resolution passed at a regular meeting.

Notwithstanding any other provision of this Section, when any election is held and the results of such election are required by law to be returned to the county clerk, the office of the county clerk shall remain open for the purpose of receiving such results from the time of opening of the polls until the returns from each precinct have been received.

Any county clerk who fails to keep his office open for the purpose of receiving election returns as required by this Section commits a business offense, and shall be fined not less than $500 nor more than $5,000.

P.A. 86–962, Art. 3, § 3–2007, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2007.

5/3–2008. Seal

§ 3–2008. Seal. He shall be keeper of the seal of the county, which shall be used by him in all cases where he is required to use an official seal.

P.A. 86–962, Art. 3, § 3–2008, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2008.

5/3–2009. Deputies

§ 3–2009. Deputies. He shall appoint a chief deputy and may appoint additional deputies, who shall take and subscribe the same oath for the discharge of their duties as is required of the county clerk, which shall be entered of record in his office.

P.A. 86–962, Art. 3, § 3–2009, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2009.

5/3–2010. Responsibility

§ 3–2010. Responsibility. The principal clerk shall in all cases be responsible for the acts of his deputies. Whenever a vacancy occurs in the office of the county clerk in any county, including counties with a population of less than 60,000 inhabitants, the chief deputy clerk shall perform all the duties appertaining to the office of county clerk until the successor of such clerk is elected or appointed and qualified as provided in Section 3–2011.

P.A. 86–962, Art. 3, § 3–2010, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2010.

5/3–2011. Vacancies; military service

§ 3–2011. Vacancies; military service. Whenever a vacancy occurs in the office of any county clerk and the unexpired term exceeds one year, the vacancy shall be filled as provided by The Election Code by appointment of a clerk pro tempore, who shall qualify by giving bond and taking the oath as required of the county clerk, and shall thereupon perform all the duties and be entitled to all the emoluments and be subject to all the penalties appertaining to the office of county clerk until the successor of such clerk is elected or appointed and qualified; Provided, that in case the county clerk is called into the active military service of the United States, the appointee shall perform and discharge all the duties of the county clerk during the time such county clerk is in the active military service of the United States, and such county clerk so appointed shall possess all the powers and discharge all the duties of a regularly elected county clerk under the laws of this State, and shall be paid the same compensation as provided by law for the county clerk of that county, apportioned as to the time of service, and such appointment and all authority thereunder shall cease upon the discharge of the said county clerk from such active military service of the United States; and provided further, that the office of county clerk shall not be deemed to be vacant during the time the said county clerk is in the active military service of the United States.

P.A. 86–962, Art. 3, § 3–2011, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2011.

5/3–2012. Custody of records; public inspection

§ 3–2012. Custody of records; public inspection. The county clerk shall have the care and custody of all the records, books and papers appertaining to and filed or deposited in their respective offices, and the same, except as otherwise provided in the Vital Records Act,[1] shall be open to the inspection of all persons without reward.

P.A. 86–962, Art. 3, § 3–2012, eff. Jan. 1, 1990. Amended by P.A. 87–895, Art. 3, § 3–21, eff. Aug. 14, 1992.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2012.

[1] 410 ILCS 535/1 et seq.

5/3–2013. General duties of clerk

§ 3–2013. General duties of clerk. Subject to the provisions of "The Local Records Act",[1] the duties of the county clerk shall be—

1st. To act as clerk of the county board of his county and to keep an accurate record of the proceedings of said board, file and preserve all bills of account acted upon by the board, and when any account is allowed or disallowed, he shall note that fact thereon, and when a part of any account is allowed he shall note particularly the items allowed.

2nd. To keep a book in which he shall enter the number, date and amount of each order upon the county treasurer, and the name of the person in whose favor the same is drawn, and when such order is canceled, he shall note the date of cancellation opposite such entry.

3rd. Before any such order is delivered to the person for whose benefit it is drawn, the county clerk shall present the same to the county treasurer, who shall personally countersign the same.

4th. To keep a book, in which shall be entered in alphabetical order, by name of the principal, a minute of all official bonds filed in his office, giving the name of the office, amount and date of bond, names of sureties and date of filing, with such reference to the number or other designation of the bond, that the same may be easily found.

5th. To keep proper alphabetical indexes of all records and papers in his office.

6th. To give any person requiring the same, and paying the lawful fees therefor, a copy of any record, paper or account in his office.

7th. Such other duties as are or may be required by law.

P.A. 86–962, Art. 3, § 3–2013, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 3–2013.

[1] 50 ILCS 205/1 et seq.

ARTICLE 5. POWERS AND DUTIES OF COUNTY BOARDS

DIVISION 5–1. IN GENERAL

5/5–1014. Powers generally

§ 5–1014. Powers generally. The county board of each county has the powers enumerated in the Sections following this Section and preceding Section 5–1105, subject to conditions therein stated. Powers conferred on counties are in addition to and not in limitation of their existing powers.

It is the policy of this State that all powers granted, either expressly or by necessary implication, by this Code, other Illinois statute, or the Illinois Constitution to non-home rule counties may be exercised by those counties notwithstanding effects on competition. It is the intention of the General Assembly that the "State action exemption" to the application of federal antitrust statutes be fully available to counties to the extent their activities are authorized by law as stated herein.

P.A. 86–962, Art. 5, § 5–1014, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1014.

5/5–1020. Trust agreements for funds retained pending construction completion

§ 5–1020. Trust agreements for funds retained pending construction completion. Whenever any county has entered into a contract for the repair, remodeling, renovation or construction of a building or structure or the construction or maintenance of a road or highway (including any contract to which Section 5–409 of the Illinois Highway Code [1] is applicable) or of a local improvement as defined in Division 5–32 [2], as amended, which provides for retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the county, the amount so retained may be deposited under a trust agreement with an Illinois bank or savings and loan association of the contractor's choice and subject to the approval of the county. The contractor shall receive any interest thereon.

Upon application by the contractor, the trust agreement must contain, as a minimum, the following provisions:

a. The amount to be deposited subject to the trust;

b. The terms and conditions of payment in case of default of the contractor;

c. The termination of the trust agreement upon completion of the contract; and

d. The contractor shall be responsible for obtaining the written consent of the bank trustee, and any costs or service fees shall be borne by the contractor.

The trust agreement may, at the discretion of the county and upon request of the contractor, become operative at the time of the first partial payment in accordance with existing statutes, ordinances and county procedures.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.[3]

P.A. 86–962, Art. 5, § 5–1020, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1020.

[1] 605 ILCS 5/5–409.

[2] 55 ILCS 5/5–32001 et seq.

[3] 30 ILCS 235/6.

5/5–1022. Competitive bids

§ 5–1022. Competitive bids.

(a) Any purchase by a county with fewer than 2,000,000 inhabitants of services, materials, equipment or supplies in excess of $30,000, other than professional services, shall be contracted for in one of the following ways:

(1) by a contract let to the lowest responsible bidder after advertising for bids in a newspaper published within the county or, if no newspaper is published within the county, then a newspaper having general circulation within the county; or

(2) by a contract let without advertising for bids in the case of an emergency if authorized by the county board.

(b) In determining the lowest responsible bidder, the county board shall take into consideration the qualities of the articles supplied; their conformity with the specifications; their suitability to the requirements of the county, availability of support services; uniqueness of the service, materials, equipment, or supplies as it applies to networked, integrated computer systems; compatibility to existing equipment; and the delivery terms. The county board also may take into consideration whether a bidder is a private enterprise or a State-controlled enterprise and, notwithstanding any other provision of this Section or a lower bid by a State-controlled enterprise, may let a contract to the lowest responsible bidder that is a private enterprise.

(c) This Section does not apply to contracts by a county with the federal government or to purchases of used equipment, purchases at auction or similar transactions which by their very nature are not suitable to competitive bids, pursuant to an ordinance adopted by the county board.

(d) Notwithstanding the provisions of this Section, a county may let without advertising for bids in the case of purchases and contracts, when individual orders do not exceed $35,000, for the use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and inter-connect equipment, software, and services.

(e) A county may require, as a condition of any contract for goods and services, that persons awarded a contract with the county and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act [1] regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. [2] For purposes of this subsection (e), the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (e), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (e), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(f) Bids submitted to, and contracts executed by, the county may require a certification by the bidder or contractor that the bidder or contractor is not barred from bidding for or entering into a contract under this Section and that the bidder or contractor acknowledges that the county may declare the contract void if the certification completed pursuant to this subsection (f) is false.

P.A. 86–962, Art. 5, § 5–1022, eff. Jan. 1, 1990. Amended by P.A. 87–1208, § 3, eff. Jan. 1, 1993; P.A. 88–150, § 5, eff. Jan. 1, 1994; P.A. 90–517, § 5, eff. Aug. 22, 1997; P.A. 93–25, Art. 30, § 30–20, eff. June 20, 2003; P.A. 93–157, § 5, eff. Jan. 1, 2004; P.A. 95–331, § 465, eff. Aug. 21, 2007; P.A. 96–170, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1022.

[1] 35 ILCS 105/1 et seq.

[2] 35 ILCS 105/2.

5/5–1035.1. County Motor Fuel Tax Law

§ 5–1035.1. County Motor Fuel Tax Law. The county board of the counties of DuPage, Kane and McHenry may, by an ordinance or resolution adopted by an affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the county in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law, [1] at retail for

the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The tax may be imposed, in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and right-of-ways for public highways and waterways within the county imposing the tax.

A tax imposed pursuant to this Section, and all civil penalties that may be assessed as an incident thereof, shall be administered, collected and enforced by the Illinois Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act, as now or hereafter amended, [2] insofar as may be practicable; except that in the event of a conflict with the provisions of this Section, this Section shall control. The Department of Revenue shall have full power: to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Option Motor Fuel Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder, which shall be deposited into the County Option Motor Fuel Tax Fund, a special fund in the State Treasury which is hereby created. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named counties for which taxpayers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected hereunder from retailers within the county during the second preceding calendar month by the Department, but not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; less 2% of the balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing the provisions of this Section. The Department, at the time of each monthly disbursement to the counties, shall prepare and certify to the Comptroller the amount so retained by the State Treasurer, which shall be transferred into the Tax Compliance and Administration Fund.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the County Option Motor Fuel Tax shall be deposited into the Transportation Development Partnership Trust Fund.

Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department of Revenue, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the county as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the county board of the county shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting the change or discontinuance.

This Section shall be known and may be cited as the County Motor Fuel Tax Law.

P.A. 86–962, § 5–1035.1, added by P.A. 86–1028, Art. II, § 2–17, eff. Feb. 5, 1990. Amended by P.A. 87–289, § 1, eff. Jan. 1, 1992; P.A. 96–845, § 10, eff. July 1, 2012; P.A. 98–1049, § 5, eff. Aug. 25, 2014.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1035.1.

[1] 35 ILCS 505/1 et seq.

[2] 35 ILCS 120/1 et seq.

5/5–1035.2. County economic development tax

§ 5–1035.2. County economic development tax. (a) A county with a population under 100,000 may levy an annual tax on all the taxable property in the county, as equalized or assessed by the Department of Revenue, for the purpose of promoting economic development, upon approval of the tax at a referendum held in accordance with the general election law.

(b) The referendum may be initiated by either (i) adoption of a resolution by the county board or (ii) filing a petition with the county board signed by at least 5% of the electors of the county as determined by the number of electors voting at the most recent presidential election. Upon adoption of the resolution or filing of the petition, as the case may be, the county board shall certify the question to the appropriate election officials.

(c) The resolution or petition, as the case may be, shall set forth the maximum rate at which the tax may be levied, expressed as a percentage of the value, as equalized or assessed by the Department of Revenue, of all the taxable property in the county.

(d) The question shall be submitted to the electors in substantially the following form: Shall an annual tax of not to exceed ...% be levied in ..... County for the purpose of promoting economic development? The question is approved if a majority of the electors voting on the question vote in favor of it.

(e) The proceeds of the tax authorized by this Section shall be deposited into a separate fund in the county treasury, to be expended by the county board solely for the purpose of promoting economic development.

(f) The tax authorized by this Section shall be in addition to and shall not be subject to any limitation on the maximum rate of taxes otherwise provided by law.

P.A. 86–962, § 5–1035.2, added by P.A. 86–1028, Art. II, § 2–17, eff. Feb. 5, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1035.2.

5/5–1067. Names of streets and highways; numbers of buildings and lots

§ 5–1067. Names of streets and highways; numbers of buildings and lots. A county board may name or may change the name of any street, lane, road or highway and may regulate the numbering of buildings and lots adjacent to any street, lane, road or highway in the unincorporated area of the county.

In counties under 1,000,000 population, a county board may name or change the name of any road in the county highway system or any trail under its jurisdiction.

P.A. 86–962, Art. 5, § 5–1067, eff. Jan. 1, 1990. Amended by P.A. 86–1028, Art. III, § 3–10, eff. Feb. 5, 1990; P.A. 88–387, § 10, eff. Aug. 20, 1993.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1067.

5/5–1079. Liability insurance

§ 5–1079. Liability insurance. A county board may insure against any loss or liability of any officer, employee or agent of the county resulting from the wrongful or negligent act of any such officer, employee or agent while discharging and engaged in his duties and functions and acting within the scope of his duties and functions as an officer, employee or agent of the county. Such insurance shall be carried with a company authorized by the Department of Insurance to write such coverage in Illinois.

P.A. 86–962, Art. 5, § 5–1079, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1079.

5/5–1104. Removal of obstructions from streams, lakes, ponds, and other water courses—Stream maintenance

§ 5–1104. Removal of obstructions from streams, lakes, ponds, and other water courses—Stream maintenance. The county boards of the several counties in this State which have adopted by ordinance a Storm Water Management Plan may, in their respective counties:

(1) Cause the removal of, in such manner as they may direct, the driftwood and other obstructions from streams, lakes, ponds, natural and other water courses or from the channel, the banks, or within 10 feet inland from the top of the banks thereof;

(2) Provide that streams and other water courses that have been cleared of debris and obstructions will be maintained so that the flow of water will not be further impeded by causing:

(A) The regular removal of accumulations of rocks, boulders, construction materials, beaver dams, dead or diseased trees, logs, branches, twigs, refuse, wastes, and debris of any kind from the channel, the banks, or within 10 feet inland from the top of the banks of any streams, lakes, ponds, or water courses;

(B) The regular removal of accumulations of rocks, boulders, construction materials, beaver dams, dead or diseased trees, logs, branches, twigs, vegetation, refuse, wastes, and debris of any kind from the openings of bridges, culverts, sewer outfalls or any other man-made obstruction; and

(C) The regular removal of accumulations of sediment by dredging or other means;

(3) Provide for any inspection or survey required to clear or maintain any streams, lakes, ponds, or water courses; and

(4) For all of these purposes, after notice in writing to the owner at least 30 days prior thereto, may enter upon the lands, streams, lakes, ponds, or waters of any such person, but subject to responsibility for all damages which shall be occasioned thereby.

P.A. 86–962, Art. 5, § 5–1104, eff. Jan. 1, 1990. Amended by P.A. 87–847, § 102, eff. Feb. 5, 1992.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1104.

5/5–1104.1. Forest preserve districts; comprehensive policy for management and maintenance of streams, lakes, ponds and water courses on district property; exercise of powers

§ 5–1104.1. If a forest preserve district organized under the Downstate Forest Preserve District Act [1] has, either before or after the effective date of this amendatory Act of 1991, adopted a comprehensive policy for the management and maintenance of the streams, lakes, ponds and water courses located on the property owned by the district, the power conferred on a county board under Section 5–1104 shall be exercised in a manner consistent with such comprehensive policy and only pursuant to an intergovernmental agreement between the forest preserve district and the county specifying in detail the respective obligations of the parties.

A county may, either before or after the effective date of this amendatory Act of the 97th General Assembly, enter into an intergovernmental agreement with any forest preserve district within the county that exempts the forest preserve district from compliance with county zoning ordinances.

P.A. 86–962, Art. 5, § 5–1104.1, added by P.A. 87–847, § 102, eff. Feb. 5, 1992. Amended by P.A. 97–1016, § 5, eff. Aug. 17, 2012.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–1104.1.

[1] 70 ILCS 805/0.001 et seq.

DIVISION 5–13. BUILDING OR SET–BACK LINES

5/5–13001. Establishment of building or set-back lines

§ 5–13001. Establishment of building or set-back lines. In addition to the existing power and to the end that adequate safety may be secured and the congestion of public roads, streets, traffic-ways, drives and parkways may be lessened or avoided, the county board of each county is authorized and empowered to establish, regulate and limit the building or set-back lines on or along any road, street, traffic-way, drive or parkway in the county outside the corporate limits of any city, village or incorporated town, as may be deemed best suited to carry out the provisions of this Division. The powers given by this Division shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted.

P.A. 86–962, Art. 5, § 5–13001, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–13001.

5/5–13002. Enforcing officer

§ 5–13002. Enforcing officer. All resolutions passed under the terms of this Division shall be enforced by such officer of the county as may be designated by resolution.

P.A. 86–962, Art. 5, § 5–13002, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–13002.

5/5–13003. Amendments to regulations

§ 5–13003. Amendments to regulations. The regulations imposed under the authority of this Division may be amended from time to time by resolution after the resolution establishing the same has gone into effect, but no such amendments shall be made without a hearing before some committee designated by the county board. At least fifteen days notice of the time and place of such hearing shall be published in an official newspaper, or a newspaper of general circulation, in such county. Such amendment shall not be passed except by a favorable vote of two-thirds of all the members of the county board.

P.A. 86–962, Art. 5, § 5–13003, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–13003.

5/5–13004. Proceedings to restrain violation

§ 5–13004. Proceedings to restrain violation. In case any building or structure is erected or constructed in violation of this Division, or any resolution or other regulation made under the authority conferred thereby, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection or construction to restrain, correct or abate such violation, to prevent the occupancy of said building or structure or to prevent any illegal act, conduct, business or use in or about such premises.

P.A. 86–962, Art. 5, § 5–13004, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 34, ¶ 5–13004.

CHAPTER 60

TOWNSHIPS

ACT 1. TOWNSHIP CODE

ARTICLE 30. ANNUAL TOWNSHIP MEETING

Section

1/30–50. Purchase and use of property.

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1/35–35. Filling vacancy in township offices.

ARTICLE 60. VACANCIES IN TOWNSHIP OFFICES AND THE MANNER OF FILLING THEM

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ACT 1. TOWNSHIP CODE

ARTICLE 30. ANNUAL TOWNSHIP MEETING

1/30–50. Purchase and use of property

§ 30–50. Purchase and use of property.

(a) The electors may make all orders for the purchase, sale, conveyance, regulation, or use of the township's corporate property (including the direct sale or lease of single township road district property) that may be deemed conducive to the interests of its inhabitants, including the lease, for up to 10 years, or for up to 25 years if the lease is for a wireless telecommunications tower, at fair market value, of corporate property for which no use or need during the lease period is anticipated at the time of leasing. The property may be leased to another governmental body, however, or to a not-for-profit corporation that has contracted to construct or fund the construction of a structure or improvement upon the real estate owned by the township and that has contracted with the township to allow the township to use at least a portion of the structure or improvement to be constructed upon the real estate leased and not otherwise used by the township, for any term not exceeding 50 years and for any consideration. In the case of a not-for-profit corporation, the township shall hold a public hearing on the proposed lease. The township clerk shall give notice of the hearing by publication in a newspaper published in the township, or in a newspaper published in the county and having general circulation in the township if no newspaper is published in the township, and by posting notices in at least 5 public places at least 15 days before the public hearing.

(b) If a new tax is to be levied or an existing tax rate is to be increased above the statutory limits for the purchase of the property, however, no action otherwise authorized in subsection (a) shall be taken unless a petition signed by at least 10% of the registered voters residing in the township is presented to the township clerk. If a petition is presented to the township clerk, the clerk shall order a referendum on the proposition. The referendum shall be held at the next annual or special township meeting or at an election in accordance with the general election law. If the referendum is ordered to be held at the township meeting, the township clerk shall give notice that at the next annual or special township meeting the proposition shall be voted upon. The notice shall set forth the proposition and shall be given by publication in a newspaper published in the township. If there is no newspaper published in the township, the notice shall be published in a newspaper published in the county and having general circulation in the township. Notice also shall be given by posting notices in at least 5 public places at least 15 days before the township meeting. If the referendum is ordered to be held at an election, the township clerk shall certify that proposition to the proper election officials, who shall submit the proposition at an election. The proposition shall be submitted in accordance with the general election law.

(c) If the leased property is utilized in part for private use and in part for public use, those portions of the improvements devoted to private use are fully taxable. The land is exempt from taxation to the extent that the uses on the land are public and taxable to the extent that the uses are private.

(d) Before the township makes a lease or sale of township or road district real property, the electors shall adopt a resolution stating the intent to lease or sell the real property, describing the property in full, and stating the terms and conditions the electors deem necessary and desirable for the lease or sale. A resolution stating the intent to sell real property shall also contain pertinent information concerning the size, use, and zoning of the property. The value of real property shall be determined by a State licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the staff of the township or by listing with local licensed real estate agencies (in which case the terms of the agent's compensation shall be included in the resolution).

Anytime during the year, the township or township road district may lease or sell personal property by a vote of the township board or request of the township highway commissioner.

The clerk shall thereafter publish the resolution or personal property sale notice once in a newspaper published in the township or, if no newspaper is published in the township, in a newspaper generally circulated in the township. If no newspaper is generally circulated in the township, the clerk shall post the resolution or personal property sale notice in 5 of the most public places in the township. In addition to the foregoing publication requirements, the clerk shall post the resolution or personal property sale notice at the office of the township (if township property is involved) or at the office of the road district (if road district property is involved). The following information shall be published or posted with the resolution or personal property sale notice: (i) the date by which all bids must be received by the township or road district, which shall not be less than 30 days after the date of publication or posting, and (ii) the place, time, and date at which bids shall be opened, which shall be at a regular meeting of the township board.

All bids shall be opened by the clerk (or someone duly appointed to act for the clerk) at the regular meeting of the township board described in the notice. With respect to township personal property, the township board may accept the high bid or any other bid determined to be in the best interests of the township by a majority vote of the board. With respect to township real property, the township board may accept the high bid or any other bid determined to be in the best interests of the township by a vote of three-fourths of the township board then holding office, but in no event at a price less than 80% of the appraised value. With respect to road district property, the highway commissioner may accept the high bid or any other bid determined to be in the best interests of the road district. In each case, the township board or commissioner may reject any and all bids. This notice and competitive bidding procedure shall not be followed when property is leased to another governmental body. The notice and competitive bidding procedure shall not be followed when real or personal property is declared surplus by the township board or the highway commissioner and sold to another governmental body.

The township board or the highway commissioner may authorize the sale of personal property by public auction conducted by an auctioneer licensed under the Auction License Act or through an approved Internet auction service.

(e) A trade-in of machinery or equipment on new or different machinery or equipment does not constitute the sale of township or road district property.

P.A. 88–62, Art. 30, § 30–50, eff. Jan. 1, 1994. Amended by P.A. 88–670, Art. 2. § 2–30, eff. Dec. 2, 1994; P.A. 89–100, § 3, eff. July 7, 1995; P.A. 89–331, § 5, eff. Aug. 17, 1995; P.A. 89–626, Art. 2, § 2–29, eff. Aug. 9, 1996; P.A. 90–751, § 5, eff. Jan. 1, 1999; P.A. 93–424, § 5, eff. Aug. 5, 2003; P.A. 95–909, § 5, eff. Aug. 26, 2008; P.A. 97–337, § 5, eff. Aug. 12, 2011; P.A. 98–549, § 5, eff. Aug. 26, 2013; P.A. 98–653, § 5, eff. June 18, 2014.

P.A. 98–549, § 5, in the second paragraph of subsec. (d), substituted "lease or sell" for "dispose of"; rewrote the fourth paragraph of subsec. (d); and added the last paragraph of subsec. (d); the fourth paragraph of subsec. (d), prior thereto read:

"All bids shall be opened by the clerk (or someone duly appointed to act for the clerk) at the regular meeting of the township board described in the notice. With respect to township personal property, except personal property valued for sale at $2,500 or less, the township board may accept the high bid or any other bid determined to be in the best interests of the township by a majority vote of the board. With respect to township real property, the township board may accept the high bid or any other bid determined to be in the best interests of the township by a vote of three-fourths of the township board then holding office, but in no event at a price less than 80% of the appraised value. With respect to road district property, except personal property valued for sale at $2,500 or less, the highway commissioner may accept the high bid or any other bid determined to be in the best interests of the road district. In each case, the township board or commissioner may reject any and all bids. With respect to township or road district personal property valued for sale at $2,500 or less, the clerk shall accept at least 2 bids and the township board or highway commissioner shall accept the highest bid. This notice and competitive bidding procedure shall not be followed when property is leased to another governmental body. The notice and competitive bidding procedure shall not be followed when property is declared surplus by the electors and sold to another governmental body."

P.A. 98–653, § 5, in subsecs. (a) and (b), substituted "15 days" for "10 days".

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

ARTICLE 35. SPECIAL TOWNSHIP MEETINGS

1/35–35. Filling vacancy in township offices

§ 35–35. Filling vacancy in township offices. If a vacancy exists in any township office and the vacancy is not filled within 60 days, the electors at a special township meeting may select a qualified person to fill the vacancy and to serve until the expiration of that term. At the meeting, the electors may select the replacement officer by voice vote, and the person receiving the greatest number of votes shall be declared to be elected as the officer.

P.A. 88–62, Art. 35, § 35–35, eff. Jan. 1, 1994. Amended by P.A. 90–748, § 15, eff. Aug. 14, 1998; P.A. 92–194, § 5, eff. Aug. 1, 2001.

ARTICLE 60. VACANCIES IN TOWNSHIP OFFICES AND THE MANNER OF FILLING THEM

1/60–5. Filling vacancies in township offices

§ 60–5. Filling vacancies in township offices.

(a) Except for the office of township or multi-township assessor, if a township fails to elect the number of township officers that the township is entitled to by law, or a person elected to any township office fails to qualify, or a vacancy in any township office occurs for any other reason including without limitation the resignation of an officer or the conviction in any court of the State of Illinois or of the United States of an officer for an infamous crime, then the township board shall fill the vacancy by appointment, by warrant under their signatures and seals, and the persons so appointed shall hold their respective offices for the remainder of the unexpired terms. All persons so appointed shall have the same powers and duties and are subject to the same penalties as if they had been elected or appointed for a full term of office. A vacancy in the office of township or multi-township assessor shall be filled only as provided in the Property Tax Code. [1]

For purposes of this subsection (a), a conviction for an offense that disqualifies an officer from holding that office occurs on the date of (i) the entry of a plea of guilty in court, (ii) the return of a guilty verdict, or (iii) in the case of a trial by the court, the entry of a finding of guilt.

(b) If a vacancy on the township board is not filled within 60 days, then a special township meeting must be called under Section 35–5 to select a replacement under Section 35–35.

(c) Except as otherwise provided in this Section, whenever any township or multi-township office becomes vacant or temporarily vacant due to a physical incapacity of a township officer, the township or multi-township board may temporarily appoint a deputy to perform the ministerial functions of the vacant office until the physically incapacitated township officer submits a written statement to the appropriate board that he or she is physically able to perform his or her duty. The statement shall be sworn to before an officer authorized to administer oaths in this State. A temporary deputy shall not be permitted to vote at any meeting of the township board on any matter properly before the board. The compensation of a temporary deputy shall be determined by the appropriate board. The township board shall not appoint a deputy clerk if the township clerk has appointed a deputy clerk under Section 75–45.

(d) Any person appointed to fill a vacancy under this Section shall. be a member of the same political party as the person vacating the office if the person vacating the office was elected as a member of an established political party, under Section 10–2 of the Election Code, [2] that is still in existence at the time of appointment. The appointee shall establish his or her political party affiliation by his or her record of voting in party primary elections or by holding or having held an office in a political party organization before appointment. If the appointee has not voted in a party primary election or is not holding or has not held an office in a political party organization before the appointment, then the appointee shall establish his or her political party affiliation by his or her record of participating in a political party's nomination or election caucus.

P.A. 88–62, Art. 60, § 60–5, eff. Jan. 1, 1994. Amended by P.A. 88–670, Art. 2, § 2–30, eff. Dec. 2, 1994; P.A. 90–748, § 15, eff. Aug. 14, 1998; P.A. 97–295, § 5, eff. Jan. 1, 2012.

[1] 35 ILCS 200/1–1 et seq.

[2] 10 ILCS 5/10–2.

ARTICLE 75. TOWNSHIP CLERK

1/75–5. Custodian of records

§ 75–5. Custodian of records.

(a) The township clerk shall have the custody of all records, books, and papers of the township and shall duly file all certificates or oaths and other papers required by law to be filed in the clerk's office. This Section is subject to the Local Records Act.[1]

(b) The clerk may administer oaths and take affidavits in all cases required by law to be administered or taken by township officers. The clerk may administer oaths for absent voters as required by the general election law.

P.A. 88–62, Art. 75, § 75–5, eff. Jan. 1, 1994.

[1] 50 ILCS 205/1 et seq.

1/75–10. Township meeting records

§ 75–10. Township meeting records. The township clerk shall record in the book of records of the township the minutes of the proceedings of every township meeting held in the township and shall enter in the book every order or direction and all by-laws, rules, and regulations made by the electors at any township meeting.

P.A. 88–62, Art. 75, § 75–10, eff. Jan. 1, 1994.

1/75–15. Copies of vote entries

§ 75–15. Copies of vote entries. The township clerk shall deliver to the supervisor, before the annual meeting of the county board of the county, in each year, certified copies of all entries of votes for raising money made since the last annual meeting of the county board.

P.A. 88–62, Art. 75, § 75–15, eff. Jan. 1, 1994.

1/75–20. Certification of taxes

§ 75–20. Certification of taxes. The township clerk shall annually, at the time required by Section 18–15 of the Property Tax Code,[1] certify to the county clerk the amount of taxes required to be raised for all township purposes.

P.A. 88–62, Art. 75, § 75–20, eff. Jan. 1, 1994. Amended by P.A. 88–670, Art. 3, § 3–27, eff. Dec. 2, 1994.

[1] 35 ILCS 200/18–15.

1/75–25. Failure to make return; petty offense

§ 75–25. Failure to make return; petty offense. If a township clerk wilfully omits to make a return required by this Article, he or she is guilty of a petty offense and shall be fined, for each offense, not more than $10.

P.A. 88–62, Art. 75, § 75–25, eff. Jan. 1, 1994.

1/75–30. Deputy registration officer

§ 75–30. Deputy registration officer. The township clerk, upon appointment as a deputy registration officer by the county clerk under the Election Code,[1] shall have the powers and duties provided in the Election Code.

P.A. 88–62, Art. 75, § 75–30, eff. Jan. 1, 1994.

[1] 10 ILCS 5/1–1 et seq.

1/75–35. Member of board of health

§ 75–35. Member of board of health. The township clerk shall be a member of the board of health for a public health district as provided in the Public Health District Act.[1]

P.A. 88–62, Art. 75, § 75–35, eff. Jan. 1, 1994.

[1] 70 ILCS 905/0.01 et seq.

1/75–40. Road district clerk

§ 75–40. Road district clerk. In each road district comprised of a single township, the township clerk shall be ex officio clerk for the highway commissioner and shall have the powers and duties as provided in Article 6 of the Illinois Highway Code.[1]

P.A. 88–62, Art. 75, § 75–40, eff. Jan. 1, 1994.

[1] 605 ILCS 5/6–101 et seq.

1/75–45. Deputy clerk

§ 75–45. Deputy clerk.

(a) The township clerk, when authorized by the township board, may appoint one deputy clerk.

(b) The deputy clerk has the power and duty to do the following:

(1) Execute all documents required by law to be executed by the township clerk and affix the township clerk's seal to those documents when required by law. In signing a document, the deputy clerk shall sign the name of the clerk followed with the word "By" and the deputy clerk's own name and the words "Deputy Clerk".

(2) Attend bid openings with respect to the sale, purchase, or lease of goods or services by the township or the road district comprised of that township.

(3) Attend township meetings and township board meetings and take minutes of those meetings.

(c) The deputy clerk shall exercise the powers authorized under this Section only in the absence of the township clerk from the place where the clerk's office is maintained (in the case of powers described in paragraphs (1) and (2) of subsection (b)) and only when (i) the clerk has directed the deputy clerk, in writing, to exercise that power or (ii) the township board has determined by resolution that the township clerk is temporarily or permanently incapacitated to perform that function.

P.A. 88–62, Art. 75, § 75–45, added by P.A. 88–670, Art. 2, § 2–30, eff. Dec. 2, 1994.

ARTICLE 85. TOWNSHIP CORPORATE POWERS, GENERALLY

1/85–30. Purchases; bids

§ 85–30. Purchases; bids. Any purchase by a township for services, materials, equipment, or supplies in excess of $20,000 (other than professional services) shall be contracted for in one of the following ways:

(1) By a contract let to the lowest responsible bidder after advertising for bids at least once (i) in a newspaper published within the township, or (ii) if no newspaper is published within the township, then in one published within the county, or (iii) if no newspaper is published within the county, then in a newspaper having general circulation within the township.

(2) By a contract let without advertising for bids in the case of an emergency if authorized by the township board.

This Section does not apply to contracts by a township with the federal government.

P.A. 88–62, Art. 85, § 85–30, eff. Jan. 1, 1994. Amended by P.A. 92–627, § 5, eff. July 11, 2002; P.A. 94–435, § 3, eff. Aug. 2, 2005.

1/85–35. Retaining percentage of contract price; trust agreement

§ 85–35. Retaining percentage of contract price; trust agreement.

(a) Whenever any township has entered into a contract for the repair, remodeling, renovation, or construction of a building or structure or the construction or maintenance of a road or highway and the contract provides for retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the township board, the amount retained may be deposited under a trust agreement with an Illinois bank of the contractor's choice and subject to the approval of the township board. The contractor shall receive any interest on the amount deposited.

(b) Upon application by the contractor, the trust agreement must contain, as a minimum, the following provisions:

(1) The amount to be deposited subject to the trust.

(2) The terms and conditions of payment if the contractor defaults.

(3) The termination of the trust agreement upon completion of the contract.

(4) The contractor is responsible for obtaining the written consent of the bank trustee, and any costs or service fees shall be borne by the contractor.

(c) The trust agreement may, at the discretion of the township board and upon the request of the contractor, become operative at the time of the first partial payment in accordance with existing statutes, ordinances, and township procedures.

P.A. 88–62, Art. 85, § 85–35, eff. Jan. 1, 1994.

ARTICLE 240. TOWNSHIP BORROWING MONEY

1/240–5. Borrowing money

§ 240–5. Borrowing money. The township board may borrow money (i) from any bank or financial institution if the money is to be repaid within 10 years from the time it is borrowed or (ii) with the approval of the highway commissioner, from a township road district fund, if the money is to be repaid within one year from the time it is borrowed. "Financial institution" means any bank subject to the Illinois Banking Act,[1] any savings and loan association subject to the Illinois Savings and Loan Act of 1985,[2] and any federally chartered commercial bank or savings and loan association organized and operated in this State under the laws of the United States.

P.A. 88–62, Art. 240, § 240–5, eff. Jan. 1, 1994. Amended by P.A. 93–743, § 5, eff. July 15, 2004.

[1] 205 ILCS 5/1 et seq.

[2] 205 ILCS 105/1–1 et seq.

CHAPTER 65

MUNICIPALITIES

ACT 5. ILLINOIS MUNICIPAL CODE

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ACT 5. ILLINOIS MUNICIPAL CODE

Enactment

The Illinois Municipal Code of 1961 was enacted by Laws 1961, p. 576, effective July 1, 1961. The new Code repealed the Revised Cities and Villages Act of 1941 (except Article 21 and except sections which, by virtue of amendment, were saved from repeal). Article 21 was retained as Ill.Rev.Stat. ch. 24, ¶ 21–1 et seq. and is now contained in 65 ILCS 20/0.01 et seq.

ARTICLE 1. GENERAL PROVISIONS

DIVISION 1. SHORT TITLE, DEFINITIONS, SCOPE OF CODE, GRANT OF CERTAIN POWERS

5/1–1–1. Short title

§ 1–1–1. This Code shall be known and may be cited as the Illinois Municipal Code.

Laws 1961, p. 576, § 1–1–1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 1–1–1.

5/1–1–2. Definitions

§ 1–1–2. Definitions. In this Code:

(1) "Municipal" or "municipality" means a city, village, or incorporated town in the State of Illinois, but, unless the context otherwise provides, "municipal" or "municipality" does not include a township, town when used as the equivalent of a township, incorporated town that has superseded a civil township, county, school district, park district, sanitary district, or any other similar governmental district. If "municipal" or "municipality" is given a different definition in any particular Division or Section of this Act, that definition shall control in that division or Section only.

(2) "Corporate authorities" means (a) the mayor and aldermen or similar body when the reference is to cities, (b) the president and trustees or similar body when the reference is to villages or incorporated towns, and (c) the council when the reference is to municipalities under the commission form of municipal government.

(3) "Electors" means persons qualified to vote for elective officers at municipal elections.

(4) "Person" means any individual, partnership, corporation, joint stock association, or the State of Illinois or any subdivision of the State; and includes any trustee, receiver, assignee, or personal representative of any of those entities.

(5) Except as otherwise provided by ordinance, "fiscal year" in all municipalities with fewer than 500,000 inhabitants, and "municipal year" in all municipalities, means the period elapsing (a) between general municipal elections in succeeding calendar years, or (b) if general municipal elections are held biennially, then between a general municipal election and the same day of the same month of the following calendar year, and between that day and the next succeeding general municipal election, or (c) if general municipal elections are held quadrennially, then between a general municipal election and the same day of the same month of the following calendar year, and between that day and the same day of the same month of the next following calendar year, and between the last mentioned day and the same day of the same month of the next following calendar year, and between the last mentioned day and the next succeeding general municipal election. The fiscal year of each municipality with 500,000 or more inhabitants shall commence on January 1.

(6) Where reference is made to a county within which a municipality, district, area, or territory is situated, the reference is to the county within which is situated the major part of the area of that municipality, district, area, or territory, in case the municipality, district, area, or territory is situated in 2 or more counties.

(7) Where reference is made for any purpose to any other Act, either specifically or generally, the reference shall be to that Act and to all amendments to that Act now in force or that may be hereafter enacted.

(8) Wherever the words "city council", "aldermen", "commissioners", or "mayor" occur, the provisions containing these words shall apply to the board of trustees, trustees, and president, respectively, of villages and incorporated towns and councilmen in cities, so far as those provisions are applicable to them.

(9) The terms "special charter" and "special Act" are synonymous.

(10) "General municipal election" means the biennial regularly scheduled election for the election of officers of cities, villages, and incorporated towns, as prescribed by the general election law; in the case of municipalities that elect officers annually, "general municipal election" means each regularly scheduled election for the election of officers of cities, villages, and incorporated towns.

Laws 1961, p. 576, § 1–1–2, eff. July 1, 1961. Amended by P.A. 81–1490, § 2, eff. Dec. 1, 1980; P.A. 87–1119, § 3, eff. May 13, 1993.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 1–1–2.

5/1–1–2.1. Mayor or president of village or incorporated town

§ 1–1–2.1. The president of a village or incorporated town may be referred to as mayor or president of such village or incorporated town.

Laws 1961, p. 576, § 1–1–2.1, added by Laws 1963, p. 1937, § 1, eff. July 25, 1963. Amended by P.A. 76–1911, § 1, eff. Oct. 10, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 1–1–2.1.

DIVISION 7. CENSUS PROVISIONS

5/1–7–1. Powers of municipalities

§ 1–7–1. The corporate authorities of each municipality may provide for the taking of a municipal census, not oftener than once each year provided such census is conducted by the Federal Government.

Laws 1961, p. 576, § 1–7–1, eff. July 1, 1961. Amended by P.A. 76–985, § 1, eff. Aug. 26, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 1–7–1.

5/1–7–2. Population; determination; duty of Secretary of State; judicial notice

§ 1–7–2. Whenever in this Code any provision thereof is based upon the number of inhabitants, the number of inhabitants of the municipality shall be determined by reference to the latest census taken by authority of the United States or this state, or of that municipality. It is the duty of the

Secretary of State, upon the publication of any state or United States census or the certification of any municipal census referenced under Section 1–7–1, to certify to each municipality the number of inhabitants, as shown by that census. In the event that a partial census is conducted pursuant to Section 1–7–1, the Secretary of State shall certify the total number of inhabitants of the municipality as the number reflected by the last complete census of the municipality adjusted by the net increase or decrease reflected by the partial census. And the several courts in this state shall take judicial notice of the population of any municipality, as the population appears from the latest federal, state, or municipal census so taken, certified, and adjusted.

Laws 1961, p. 576, § 1–7–2, eff. July 1, 1961. Amended by P.A. 96–372, § 5, eff. Aug. 13, 2009.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 1–7–2.

ARTICLE 2. ORGANIZATION OF MUNICIPALITIES

DIVISION 2. INCORPORATION OF CITIES

5/2–2–15. Boundaries; adjacent highways

§ 2–2–15. Each boundary of the municipality shall extend to the far side of any adjacent highway not included in any other municipality and shall include all of every highway within the area incorporated. These highways shall be considered to be incorporated even though not included in the legal description set forth in the petition for incorporation. When any land proposed to be incorporated includes any highway under the jurisdiction of any township, the township commissioner of highways and the board of town trustees shall be notified in writing by certified or registered mail before any court hearing or other action is taken for incorporation. If any municipality has been incorporated before January 1, 1986 and the legal description in the petition for incorporation did not include an adjacent highway, any such incorporation shall be valid and every highway adjacent to the area incorporated and not included in any other municipality shall be considered to be incorporated, notwithstanding the failure of the petition to incorporate to include the description of the adjacent highway.

Laws 1961, p. 576, § 2–2–15, added by P.A. 84–898, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 2–2–15.

DIVISION 3. INCORPORATION OF VILLAGES

5/2–3–19. Boundaries; adjacent highways

§ 2–3–19. Each boundary of the municipality shall extend to the far side of any adjacent highway not included in any other municipality and shall include all of every highway within the area incorporated. These highways shall be considered to be incorporated even though not included in the legal description set forth in the petition for incorporation. When any land proposed to be incorporated includes any highway under the jurisdiction of any township, the township commissioner of highways and the board of town trustees shall be notified in writing by certified or registered mail before any court hearing or other action is taken for incorporation. If any municipality has been incorporated before January 1, 1986 and the legal description in the petition for incorporation did not include an adjacent highway, any such incorporation shall be valid and every highway adjacent to the area incorporated and not included in any other municipality shall be considered to be incorporated, notwithstanding the failure of the petition to incorporate to include the description of the adjacent highway.

Laws 1961, p. 576, § 2–3–18, added by P.A. 84–898, § 1, eff. Jan. 1, 1986. Renumbered § 2–3–19 and amended by P.A. 85–293, Art. III, § 9, eff. Sept. 8, 1987.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 2–3–19.

ARTICLE 3.1. OFFICERS

Date Effective

Article 3.1 was added by P.A. 87–1119, § 2, eff. May 13, 1993.

DIVISION 35. FUNCTIONS AND DUTIES OF CERTAIN MUNICIPAL OFFICERS

5/3.1–35–90. Clerk; duties

§ 3.1–35–90. Clerk; duties.

(a) The municipal clerk shall keep the corporate seal, to be provided by the corporate authorities, and all papers belonging to the municipality the custody and control of which are not given to other officers. The clerk shall attend all meetings of the corporate authorities including executive sessions and keep a full record of their proceedings in the journal, except if the clerk is the subject matter of the meeting and his or her presence creates a conflict of interest. The record of those proceedings shall be made available for public inspection within 7 days after being approved or accepted by the corporate authorities as the official minutes of their proceedings.

(b) The municipal clerk shall have other duties prescribed by the corporate authorities.

(c) Copies of all papers duly filed in the clerk's office and transcripts from the journals and other records and files of the clerk's office, certified by the clerk under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced.

Laws 1961, p. 576, § 3.1–35–90, added by P.A. 87–1119, § 2, eff. May 13, 1993. Amended by P.A. 90–777, § 5, eff. Jan. 1, 1999; P.A. 96–294, § 5, eff. Aug. 11, 2009.

Formerly Ill.Rev.Stat., ch. 24, ¶ 3.1–35–90.

5/3.1–35–95. Deputy clerks

§ 3.1–35–95. Deputy clerks.

(a) A deputy clerk may execute all documents required by law to be executed by the municipal clerk and may affix the seal of the clerk wherever required. In signing any document, a deputy clerk shall sign the name of the clerk followed with the word "By" and the deputy clerk's own name and the words "Deputy Clerk".

(b) Except in municipalities with a population of 500,000 or more, the powers and duties of a deputy clerk shall be exercised only in the absence of the clerk from the place where the clerk's office is maintained, and only when either written direction has been given by the clerk to that deputy to exercise a power or the corporate authorities have determined by resolution that the municipal clerk is temporarily or permanently incapacitated to perform that function. In municipalities with a population of 500,000 or more, the powers and duties of a deputy clerk shall be exercised upon the direction of the clerk, or when the corporate authorities have determined by resolution that the clerk is temporarily or permanently incapacitated to perform those functions and duties. When a deputy's signature is duly authorized as

provided in this Section and is affixed by a deputy in the manner prescribed in this Section on any document (including but not limited to contracts, bonds, or other obligations of the municipality), the document shall have the same effect as if the document had been signed by the municipal clerk in person.

Laws 1961, p. 576, § 3.1–35–95, added by P.A. 87–1119, § 2, eff. May 13, 1993.

Formerly Ill.Rev.Stat., ch. 24, ¶ 3.1–35–95.

ARTICLE 7. TERRITORY

DIVISION 1. ANNEXATION

5/7–1–1. Annexation of contiguous territory

§ 7–1–1. Annexation of contiguous territory. Any territory that is not within the corporate limits of any municipality but is contiguous to a municipality may be annexed to the municipality as provided in this Article. For the purposes of this Article any territory to be annexed to a municipality shall be considered to be contiguous to the municipality notwithstanding that the territory is separated from the municipality by a strip parcel, railroad or public utility right-of-way, or former railroad right-of-way that has been converted to a recreational trail, but upon annexation the area included within that strip parcel, right-of-way, or former right-of-way shall not be considered to be annexed to the municipality. For purposes of this Section, "strip parcel" means a separation no wider than 30 feet between the territory to be annexed and the municipal boundary.

Except in counties with a population of more than 600,000 but less than 3,000,000, territory which is not contiguous to a municipality but is separated therefrom only by a forest preserve district, federal wildlife refuge, open land or open space that is part of an open space program, as defined in Section 115–5 of the Township Code, or conservation area, may be annexed to the municipality pursuant to Section 7–1–7 or 7–1–8, but only if the annexing municipality can show that the forest preserve district, federal wildlife refuge, open land, open space, or conservation area creates an artificial barrier preventing the annexation and that the location of the forest preserve district, federal wildlife refuge, open land, open space, or conservation area property prevents the orderly natural growth of the annexing municipality. It shall be conclusively presumed that the forest preserve district, federal wildlife refuge, open land, open space, or conservation area does not create an artificial barrier if the property sought to be annexed is bounded on at least 3 sides by (i) one or more other municipalities (other than the municipality seeking annexation through the existing forest preserve district, federal wildlife refuge, open land, open space, or conservation area), (ii) forest preserve district property, federal wildlife refuge, open land, open space, or conservation area, or (iii) a combination of other municipalities and forest preserve district property, federal wildlife refuge property, open land, open space, or conservation area. It shall also be conclusively presumed that the forest preserve district, federal wildlife refuge, open land, open space, or conservation area does not create an artificial barrier if the municipality seeking annexation is not the closest municipality within the county to the property to be annexed. The territory included within such forest preserve district, federal wildlife refuge, open land, open space, or conservation area shall not be annexed to the municipality nor shall the territory of the forest preserve district, federal wildlife refuge, open land, open space, or conservation area be subject to rights-of-way for access or services between the parts of the municipality separated by the forest preserve district, federal wildlife refuge, open land, open space, or conservation area without the consent of the governing body of the forest preserve district or federal wildlife refuge. The changes made to this Section by Public Act 91–824 are declaratory of existing law and shall not be construed as a new enactment.

For the purpose of this Section, "conservation area" means an area dedicated to conservation and owned by a not-for-profit organized under Section 501(c)(3) of the Internal Revenue Code of 1986, or any area owned by a conservation district.

In counties that are contiguous to the Mississippi River with populations of more than 200,000 but less than 255,000, a municipality that is partially located in territory that is wholly surrounded by the Mississippi River and a canal, connected at both ends to the Mississippi River and located on property owned by the United States of America, may annex noncontiguous territory in the surrounded territory under Sections 7–1–7, 7–1–8, or 7–1–9 if that territory is separated from the municipality by property owned by the United States of America, but that federal property shall not be annexed without the consent of the federal government.

For the purposes of this Article, any territory to be annexed to a municipality that is located in a county with more than 500,000 inhabitants shall be considered to be contiguous to the municipality if only a river and a national heritage corridor separate the territory from the municipality. Upon annexation, no river or national heritage corridor shall be considered annexed to the municipality.

When any land proposed to be annexed is part of any Fire Protection District or of any Public Library District and the annexing municipality provides fire protection or a public library, as the case may be, the Trustees of each District shall be notified in writing by certified or registered mail before any court hearing or other action is taken for annexation. The notice shall be served 10 days in advance. An affidavit that service of notice has been had as provided by this Section must be filed with the clerk of the court in which the annexation proceedings are pending or will be instituted or, when no court proceedings are involved, with the recorder for the county where the land is situated. No annexation of that land is effective unless service is had and the affidavit filed as provided in this Section.

The new boundary shall extend to the far side of any adjacent highway and shall include all of every highway within the area annexed. These highways shall be considered to be annexed even though not included in the legal description set forth in the petition for annexation. When any land proposed to be annexed includes any highway under the jurisdiction of any township, the Township Commissioner of Highways, the Board of Town Trustees, the Township Supervisor, and the Township Clerk shall be notified in writing by certified or registered mail before any court hearing or other action is taken for annexation. In the event that a municipality fails to notify the Township Commissioner of Highways, the Board of Town Trustees, the Township Supervisor, and the Township Clerk of the annexation of an area within the township, the municipality shall reimburse that township for any loss or liability caused by the failure to give notice. If any municipality has annexed any area before October 1, 1975, and the legal description in the petition for annexation did not include the entire adjacent highway, any such annexation shall be valid and any highway adjacent to the area annexed shall be considered to be annexed notwithstanding the failure of the petition to annex to include the description of the entire adjacent highway.

Any annexation, disconnection and annexation, or disconnection under this Article of any territory must be reported by certified or registered mail by the corporate authority initiating the action to the election authorities having jurisdiction in the territory and the post office branches serving the territory within 30 days of the annexation, disconnection and annexation, or disconnection.

Failure to give notice to the required election authorities or post office branches will not invalidate the annexation or disconnection. For purposes of this Section "election authorities" means the county clerk where the clerk acts as the clerk of elections or the clerk of the election commission having jurisdiction.

No annexation, disconnection and annexation, or disconnection under this Article of territory having electors residing therein made (1) before any primary election to be held within the municipality affected thereby and after the time for filing petitions as a candidate for nomination to any office to be chosen at the primary election or (2) within 60 days before any general election to be held within the municipality shall be effective until the day after the date of the primary or general election, as the case may be.

For the purpose of this Section, a toll highway or connection between parcels via an overpass bridge over a toll highway shall not be considered a deterrent to the definition of contiguous territory.

When territory is proposed to be annexed by court order under this Article, the corporate authorities or petitioners initiating the action shall notify each person who pays real estate taxes on property within that territory unless the person is a petitioner. The notice shall be served by certified or registered mail, return receipt requested, at least 20 days before a court hearing or other court action. If the person who pays real estate taxes on the property is not the owner of record, then the payor shall notify the owner of record of the proposed annexation.

Laws 1961, p. 576, § 7–1–1, eff. July 1, 1961. Amended by Laws 1965, p. 2431, § 1, eff. Aug. 3, 1965; Laws 1965, p. 2754, § 1, eff. Aug. 9, 1965; Laws 1967, p. 3728, § 1, eff. Sept. 7, 1967; P.A. 76–603, § 1, eff. July 31, 1969; P.A. 76–697, § 1, eff. Oct. 1, 1975; P.A. 77–2165, § 1, eff. Oct. 1, 1973; P.A. 78–585, § 1, eff. Sept. 7, 1973; P.A. 79–896, § 1, eff. Oct. 1, 1975; P.A. 79–996, § 1, eff. Oct. 1, 1975; P.A. 79–1454, § 8, eff. Aug. 31, 1976; P.A. 80–310, § 1, eff. Oct. 1, 1977; P.A. 80–398, § 1, eff. Oct. 1, 1977; P.A. 80–1364, § 11, eff. Aug. 13, 1978; P.A. 81–632, § 1, eff. Jan. 1, 1980; P.A. 82–783, Art. X, § 7, eff. July 13, 1982; P.A. 83–358, § 16, eff. Sept. 14, 1983; P.A. 84–815, § 1, eff. Sept. 22, 1985; P.A. 85–1421, Art. 1, § 1, eff. Dec. 15, 1988; P.A. 87–1254, § 1, eff. July 1, 1993; P.A. 89–388, § 5, eff. Jan. 1, 1996; P.A. 89–502, § 4, eff. June 28, 1996; P.A. 89–666, § 5, eff. Aug. 14, 1996; P.A. 90–14, Art. 2, § 2–115, eff. July 1, 1997; P.A. 91–824, § 90–5, eff. June 13, 2000; P.A. 93–1098, § 5, eff. Jan. 1, 2006; P.A. 94–361, § 5, eff. Jan. 1, 2006; P.A. 94–1065, § 5, eff. Aug. 1, 2006; P.A. 95–174, § 5, eff. Jan. 1, 2008; P.A. 96–1000, § 245, eff. July 2, 2010; P.A. 96–1233, § 5, eff. July 23, 2010; P.A. 97–601, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–1–1.

5/7–1–2. Petition or ordinance for annexation; filing; notice; fee; restrictions on annexation

§ 7–1–2. (a) A written petition signed by a majority of the owners of record of land in the territory and also by a majority of the electors, if any, residing in the territory shall be filed with the circuit court clerk of the county in which the territory is located, or the corporate authorities of a municipality may initiate the proceedings by enacting an ordinance expressing their desire to annex the described territory. A person owning land underlying a highway shall not be considered an owner of record for purposes of this petition unless that person owns some land not underlying a highway proposed to be annexed in the petition for annexation. No tract of land in excess of 10 acres in area may be included in the ordinances of a municipality initiating the proceedings, however, without the express consent of the owner of the tract unless the tract (i) is subdivided into lots or blocks or (ii) is bounded on at least 3 sides by lands subdivided into lots or blocks. A tract of land shall be deemed so bounded if it is actually separated from the subdivision only by the right-of-way of a railroad or other public utility or at a public highway. The petition or ordinance, as the case may be, shall request the annexation of the territory to a specified municipality and also shall request that the circuit court of the specified county submit the question of the annexation to the corporate authorities of the annexing municipality or to the electors of the unincorporated territory, as the case may be. The circuit court shall enter an order fixing the time for the hearing upon the petition, and the day for the hearing shall be not less than 20 nor more than 30 days after the filing of the petition or ordinance, as the case may be.

(b) The petitioners or corporate authorities, as the case may be, shall give notice of the annexation petition or ordinance, as the case may be, not more than 30 nor less than 15 days before the date fixed for the hearing. This notice shall state that a petition for annexation or ordinance, as the case may be, has been filed and shall give the substance of the petition, including a description of the territory to be annexed, the name of the annexing municipality, and the date fixed for the hearing. This notice shall be given by publishing a notice at least once in one or more newspapers published in the annexing municipality or, if no newspaper is published in the annexing municipality, in one or more newspapers with a general circulation within the annexing municipality and territory. A copy of this notice shall be filed with the clerk of the annexing municipality and the municipal clerk shall send, by registered mail, an additional copy to the highway commissioner of each road district within which the territory proposed to be annexed is situated. If a municipal clerk fails to send the notice to a highway commissioner as required by this subsection, the municipality shall reimburse the road district served by that highway commissioner for any loss or liability caused by that failure. Any notice required by this Section need not include a metes and bounds legal description of the territory to be annexed, provided that the notice includes: (i) the common street address or addresses and (ii) the property index number ("PIN") or numbers of all the parcels of real property contained in the territory to be annexed.

(c) The petitioners or corporate authorities, as the case may be, shall pay to the clerk of the circuit court $10 as a filing and service fee, and no petition or ordinance, as the case may be, shall be filed until this fee is paid.

(d) No petitioner may withdraw from this petition except by consent of the majority of the other petitioners, or where it is shown to the satisfaction of the court that the signature of the petitioner was obtained by fraud or misrepresentation.

(e) If a State charitable institution is situated upon a tract or tracts of land that lie partly within and partly without the corporate limits of any municipality, the corporate authorities of the municipality may by resolution without any petition or proceedings required by this Article but with the written consent of the Director of the State Department having

jurisdiction of the institution, annex any part or all of the tracts lying without the corporate limits.

(f) If real estate owned by the State of Illinois or any board, agency, or commission of the State is situated in unincorporated territory adjacent to a municipality, the corporate authorities of the municipality may annex any part or all of the real estate only with the written consent of the Governor or the governing authority of the board, agency, or commission, without any petition or proceedings required by this Article by resolution of the corporate authorities. This requirement does not apply, however, to State highways located within territory to be annexed under this Article.

Laws 1961, p. 576, § 7–1–2, eff. July 1, 1961. Amended by Laws 1961, p. 3788, § 1, eff. Aug. 22, 1961; Laws 1965, p. 2504, § 1, eff. Aug. 4, 1965; P.A. 77–1295, § 1, eff. Aug. 24, 1971; P.A. 80–467, § 1, eff. Oct. 1, 1977; P.A. 83–334, § 23, eff. Sept. 14, 1983; P.A. 87–533, § 1, eff. Jan. 1, 1992; P.A. 88–355, § 5, eff. Aug. 16, 1993; P.A. 97–336, § 5, eff. Aug. 12, 2011.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–1–2.

5/7–1–10. Territory dedicated for street or highway purposes; filing

§ 7–1–10. Any municipality by ordinance may annex any territory contiguous to it even though the annexed territory is dedicated or used for street or highway purposes under the jurisdiction of the Department of Transportation of the State of Illinois, or a county or township highway department if no part of the annexed territory is within any other municipality. After the passage of the ordinance of annexation a copy of the ordinance, with an accurate map of the territory annexed, certified as correct by the clerk of the municipality, shall be filed with the recorder of the county in which the annexed territory is situated and a document of annexation shall be filed with the county clerk and County Election Authority.

Laws 1961, p. 576, § 7–1–10, eff. July 1, 1961. Amended by Laws 1961, p. 2701, § 1, eff. Aug. 3, 1961; P.A. 81–840, § 29, eff. Sept. 19, 1979; P.A. 81–895, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 13, eff. Sept. 26, 1980; P.A. 83–358, § 16, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–1–10.

DIVISION 6. DISSOLUTION

5/7–6–1. Procedure

§ 7–6–1. Any municipality, incorporated under any general or special law, may be dissolved as follows: Whenever electors in the municipality, equal to a majority of the total vote at the last preceding general municipal election, file a petition with the clerk of the municipality requesting the submission of the question whether the municipality will dissolve its incorporation, that question shall be certified by the clerk to the proper election authorities who shall submit the proposition to the electors of the municipality.

Laws 1961, p. 576, § 7–6–1, eff. July 1, 1961. Amended by P.A. 81–1489, § 26, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–1.

5/7–6–2. Form of question

§ 7–6–2. The question shall read substantially as follows:

"Shall the municipal corporation of . . . . . be dissolved?"	YES	
	NO	

The result shall be entered upon the municipal records.

Laws 1961, p. 576, § 7–6–2, eff. July 1, 1961. Amended by P.A. 81–1489, § 26, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–2.

5/7–6–3. Result of election; resubmission

§ 7–6–3. If a majority of the votes cast on the question are "yes," the municipality is dissolved. But if a majority of the votes cast on the question are "no," the corporate authorities shall proceed with the affairs of the municipality as though the referendum had never been held. After a defeat, however, the proposition shall not be submitted to a vote in the same municipality for a period of 22 months.

Laws 1961, p. 576, § 7–6–3, eff. July 1, 1961. Amended by P.A. 81–1489, § 26, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–3.

5/7–6–4. Closing business affairs

§ 7–6–4. If the vote is in favor of a voluntary dissolution of the municipality there shall be no further elections for municipal officers. The officers acting at the time of this vote shall close up the business affairs of the municipality, and make the necessary conveyances of the title to the municipal property. They may levy and collect taxes for the purpose of paying the debts and obligations of the municipality, but they shall not create any new obligation against the municipality.

All money remaining after the business affairs of the municipality have been closed up and all the debts and obligations of the municipality have been paid, shall be paid to the school treasurer for the township or school unit, as the case may be, in which the municipality, or a greater part thereof, was situated. This money shall become a part of the school fund of the school district in which the municipality was situated. If the municipality was situated in more than one school district, the trustees of the schools for the specified township or unit shall direct the treasurer for that township or unit to distribute and credit the fund to the specified districts, in the same proportion as the amounts of the assessed valuation of property in these districts, according to the last assessment in these districts, bear to each other.

Laws 1961, p. 576, § 7–6–4, eff. July 1, 1961. Amended by Laws 1963, p. 854, § 1, eff. July 1, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–4.

5/7–6–5. Notices of dissolution

§ 7–6–5. If the vote is in favor of dissolution, the acting corporate authorities of the dissolved municipality shall give notice of the result of the election to the secretary of state within 10 days after the election. They shall also file within the same time a copy of this notice with the county clerk of the county in which the dissolved municipality was situated.

Laws 1961, p. 576, § 7–6–5, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–5.

5/7–6–6. Statement showing closing up transaction

§ 7–6–6. After the acting corporate authorities of the dissolved municipality (1) have paid all of the debts and obligations of the municipality, (2) have closed up all of the municipal business, and (3) the surplus money, if any, has been paid to the school treasurer for the proper township or school unit, then the acting corporate authorities shall file with the county clerk of the county in which the dissolved municipality was situated, a statement under oath, showing all of the closing up transactions. When this statement is filed, the duty to close up the municipal business is terminated, and all officers of the municipality, whether the terms for which they were elected have expired or not, shall thereupon cease to have any power or authority.

Laws 1961, p. 576, § 7–6–6, eff. July 1, 1961. Amended by Laws 1963, p. 854, § 1, eff. July 1, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–6.

5/7–6–7. Automatic dissolution

§ 7–6–7. Upon application by the county board of any county to the circuit court, and after a hearing upon such notice as may be directed by such court, any municipality which has less than 50 inhabitants according to the last preceding Federal census may be ordered by the court to dissolve. After service of such order upon the corporate authorities of the municipality acting at that time they shall proceed to close up the business affairs of the municipality as expeditiously as possible and in the same manner as is provided by Sections 7–6–4, 7–6–5 and 7–6–6 in the case of voluntary dissolution. The court may enforce compliance with its order by proceedings for contempt. If ever there is in existence any municipality in which the Bureau of the Census did not determine the population when the last preceding decennial census was taken, the county board of the county in which such municipality is located may, at county expense, arrange with the Bureau of the Census to take a special census of such municipality.

Laws 1961, p. 576, § 7–6–7, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–7.

5/7–6–8. Judicial notice

§ 7–6–8. All courts shall take judicial notice of (1) the existence of Illinois municipalities, (2) of the counties in which they are situated, (3) of the changes made in the municipal territory, and (4) of the dissolution of municipalities.

Laws 1961, p. 576, § 7–6–8, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 7–6–8.

ARTICLE 8. FINANCE

DIVISION 1. GENERAL PROVISIONS

5/8–1–7. Contractual liabilities; limitation

§ 8–1–7. (a) Except as provided otherwise in this Section, no contract shall be made by the corporate authorities, or by any committee or member thereof, and no expense shall be incurred by any of the officers or departments of any municipality, whether the object of the expenditure has been ordered by the corporate authorities or not, unless an appropriation has been previously made concerning that contract or expense. Any contract made, or any expense otherwise incurred, in violation of the provisions of this section shall be null and void as to the municipality, and no money belonging thereto shall be paid on account thereof. However, pending the passage of the annual appropriation ordinance for any fiscal year, the corporate authorities may authorize heads of departments or other separate agencies of the municipality to make necessary expenditures for the support thereof upon the basis of the appropriations of the preceding fiscal year. However, if it is determined by two-thirds vote of the corporate authorities then holding office at a regularly scheduled meeting of the corporate authorities that it is expedient and in the best public interest to begin proceedings for the construction of a needed public work, then the provisions of this section shall not apply to the extent that the corporate authorities may employ or contract for professional services necessary for the planning and financing of such public work.

(b) Notwithstanding any provision of this Code to the contrary, the corporate authorities of any municipality may make contracts for a term exceeding one year and not exceeding the term of the mayor or president holding office at the time the contract is executed, relating to: (1) the employment of a municipal manager, administrator, engineer, health officer, land planner, finance director, attorney, police chief or other officer who requires technical training or knowledge; (2) the employment of outside professional consultants such as engineers, doctors, land planners, auditors, attorneys or other professional consultants who require technical training or knowledge; (3) the provision of data processing equipment and services; or (4) the provision of services which directly relate to the prevention, identification or eradication of disease. In such case the corporate authorities shall include in the annual appropriation ordinance for each fiscal year, an appropriation of a sum of money sufficient to pay the amount which, by the terms of the contract, is to become due and payable during the current fiscal year.

(c) This section shall not apply to municipalities operating under special charters.

(d) In order to promote orderly collective bargaining relationships, to prevent labor strife and to protect the interests of the public and the health and safety of the citizens of Illinois, this Section shall not apply to multi-year collective bargaining agreements between public employers and exclusive representatives governed by the provisions of the Illinois Public Labor Relations Act.[1]

Notwithstanding any provision of this Code to the contrary, the corporate authorities of any municipality may enter into multi-year collective bargaining agreements with exclusive representatives under the provisions of the Illinois Public Labor Relations Act.

(e) Notwithstanding any provision of this Code to the contrary, the corporate authorities of any municipality may enter into any multi-year contract or otherwise associate for any term under the provisions of Section 10 of Article VII of the Illinois Constitution or the Intergovernmental Cooperation Act.[2]

Laws 1961, p. 576, § 8–1–7, eff. July 1, 1961. Amended by Laws 1967, p. 3428, § 1, eff. Aug. 31, 1967; P.A. 84–1323, § 1, eff. Sept. 9, 1986; P.A. 85–924, § 1, eff. July 1, 1988; P.A. 90–517, § 8, eff. Aug. 22, 1997.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–1–7.

[1] 5 ILCS 315/1 et seq.

[2] 5 ILCS 220/1 et seq.

DIVISION 2. ANNUAL APPROPRIATION ORDINANCES

5/8–2–9.11. Retention of percentage of contract price until final completion and acceptance of work; trust agreements

§ 8–2–9.11. Whenever any municipality has entered into a contract for the repair, remodeling, renovation or construc-

tion of a building or structure or the construction or maintenance of a road or highway, which provides for retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the municipality, the amount so retained may be deposited under a trust agreement with an Illinois bank of the contractor's choice and subject to the approval of the municipality. The contractor shall receive any interest thereon.

Upon application by the contractor, the trust agreement must contain, as a minimum, the following provisions:

a. The amount to be deposited subject to the trust;

b. The terms and conditions of payment in case of default of the contractor;

c. The termination of the trust agreement upon completion of the contract; and

d. The contractor shall be responsible for obtaining the written consent of the bank trustee, and any costs or service fees shall be borne by the contractor.

The trust agreement may, at the discretion of the municipality and upon request of the contractor, become operative at the time of the first partial payment in accordance with existing statutes, ordinances and municipality procedures.

Laws 1961, p. 576, § 8–2–9.11, added by P.A. 82–503, § 1, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–2–9.11.

DIVISION 3. LEVY AND COLLECTION OF TAXES

5/8–3–4. Tax levied and set apart for particular purpose

§ 8–3–4. Whenever a municipality is required to levy a tax for the payment of a particular debt, appropriation, or liability of the municipality, the tax for that purpose shall be included in the total amount levied by the corporate authorities, and certified to the county clerk as provided in Section 8–3–1. However, if a municipality has funds arising from any source whatsoever, including allocations received or to be received under the Motor Fuel Tax Law, as heretofore and hereafter amended [1] which may lawfully be used for the retirement of a particular debt, appropriation or liability of the municipality, or the payment of the next maturing installment thereof, then if the municipality by resolution directs the application of such funds to the payment of the particular debt, appropriation or liability or next maturing installment thereof, it shall certify such resolution to the county clerk as provided in Section 8–3–1. The county clerk shall abate the levy for the payment of the particular debt, appropriation or liability or the next maturing installment thereof to the extent of the funds so certified as available for such payment. The corporate authorities shall determine, in the ordinance making that levy, what proportion of that total amount shall be applied to the payment of the particular debt, appropriation or liability. The municipal treasurer shall set apart that proportion of the tax, collected and paid to him, for the payment of the particular debt, appropriation or liability, and shall not disburse that proportion of the tax for any other purpose until the debt, appropriation or liability has been discharged.

Laws 1961, p. 576, § 8–3–4, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–3–4.

[1] 35 ILCS 505/1 et seq.

DIVISION 5. DEBT LIMITS IN MUNICIPALITIES OF LESS THAN 500,000

5/8–5–16. Bonds, issuance, authorization

§ 8–5–16. The corporate authorities of any municipality which is not a home rule unit under the Constitution of 1970 are authorized to issue the bonds of such municipality without referendum subject to the limitation contained herein and the requirements of the Bond Issue Notification Act.[1] Such bonds shall be payable from ad valorem tax receipts. The amount of such bonds, together with other bonds issued pursuant to this Section and outstanding, shall not exceed at the time of issue one-half of 1% of the assessed value of all of the taxable property located within the municipality.

Such bonds shall be authorized by a bond ordinance adopted by the corporate authorities of the municipality. The bond ordinance shall make provision for the payment of the principal of and interest on the bonds by the levy of a direct annual irrepealable tax upon all of the taxable property within the municipality. A properly certified copy of the bond ordinance shall be filed in the office of the county clerk of each county in which any portion of the municipality is situated. Such county clerk or clerks shall extend the taxes levied in the bond ordinance for collection against all of the taxable property situated within the municipality. The taxes levied in the bond ordinance shall be extended annually by the county clerk or clerks without limitation as to rate or amount and such taxes shall be in addition to and in excess of all other taxes levied or authorized to be levied by the municipality.

Bonds heretofore or hereafter issued and outstanding which are approved by referendum, bonds issued under this Section which have been paid in full or for which provision for payment has been made by an irrevocable deposit of funds in an amount sufficient to pay the principal and interest on any such bonds to their respective maturity date, non-referendum bonds issued pursuant to other provisions of this Code, and bonded indebtedness assumed from another municipality, shall not operate to limit in any way the right of the municipality to issue its non-referendum bonds in accord with this Section.

Laws 1961, p. 576, § 8–5–16, added by P.A. 78–902, § 1, eff. July 1, 1974. Amended by P.A. 79–832, § 1, eff. Oct. 1, 1975; P.A. 89–655, § 95, eff. Jan. 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–5–16.

[1] 30 ILCS 352/1 et seq.

DIVISION 9. PURCHASING AND PUBLIC WORKS CONTRACTS IN MUNICIPALITIES OF LESS THAN 500,000

5/8–9–1. Letting of contracts; superintendence by commissioner of public works; civil service

§ 8–9–1. In municipalities of less than 500,000 except as otherwise provided in Articles 4 and 5 any work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, when the expense thereof will exceed $20,000, shall be constructed either (1) by a contract let to the lowest responsible bidder after advertising for bids, in the manner prescribed by ordinance, except that any such contract may be entered into by the proper officers without advertising for bids, if authorized by a vote of two-thirds of all the aldermen or trustees

then holding office; or (2) in the following manner, if authorized by a vote of two-thirds of all the aldermen or trustees then holding office, to–wit: the commissioner of public works or other proper officers to be designated by ordinance, shall superintend and cause to be carried out the construction of the work or other public improvement and shall employ exclusively for the performance of all manual labor thereon, laborers and artisans whom the municipality shall pay by the day or hour; and all material of the value of $20,000 and upward used in the construction of the work or other public improvement, shall be purchased by contract let to the lowest responsible bidder in the manner to be prescribed by ordinance. However, nothing contained in this section shall apply to any contract by a city, village or incorporated town with the federal government or any agency thereof.

In every city which has adopted Division 1 of Article 10, every such laborer or artisan shall be certified by the civil service commission to the commissioner of public works or other proper officers, in accordance with the requirement of that division.

In municipalities of 500,000 or more population the letting of contracts for work or other public improvements of the character described in this section shall be governed by the provisions of Division 10 of this Article 8.

Laws 1961, p. 576, § 8–9–1, eff. July 1, 1961. Amended by Laws 1967, p. 3425, § 1, eff. Aug. 31, 1967; P.A. 80–399, § 2, eff. Oct. 1, 1977; P.A. 82–423, § 1, eff. Jan. 1, 1982; P.A. 84–847, § 1, eff. Jan. 1, 1986; P.A. 86–576, § 1, eff. Sept. 1, 1989; P.A. 94–435, § 4, eff. Aug. 2, 2005.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–9–1.

DIVISION 10. PURCHASING AND PUBLIC WORKS CONTRACTS IN CITIES OF MORE THAN 500,000

5/8–10–1. Short title

§ 8–10–1. This division shall be known and is hereafter designated as "Municipal purchasing act for cities of 500,000 or more population."

Laws 1961, p. 576, § 8–10–1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–1.

5/8–10–2. Additional powers and duties

§ 8–10–2. In addition to all the rights, powers, privileges, duties, and obligations conferred thereon elsewhere in this division or any other Acts, all cities of 500,000 or more population shall have the rights, powers and privileges and shall be subject to the duties and obligations conferred thereon by this Division 10.

Laws 1961, p. 576, § 8–10–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–2.

5/8–10–2.5. Airports

§ 8–10–2.5. Airports. This Division 10 applies to purchase orders and contracts relating to airports owned or operated by a municipality of more than 500,000 population.

Laws 1961, p. 576, § 8–10–2.5, added by P.A. 89–405, § 20, eff. Nov. 8, 1995.

5/8–10–3. Purchase orders and contracts; competitive bids

§ 8–10–3. (a) Except as otherwise herein provided, all purchase orders or contracts of whatever nature, for labor, services or work, the purchase, lease, or sale of personal property, materials, equipment or supplies, involving amounts in excess of $10,000, made by or on behalf of any such municipality, shall be let by free and open competitive bidding after advertisement, to the lowest responsible bidder, or in the appropriate instance, to the highest responsible bidder, depending upon whether such municipality is to expend or to receive money. All such purchase orders or contracts, as defined above, which shall involve amounts of $10,000, or less, shall be let in the manner described above whenever practicable, except that such purchase orders or contracts may be let in the open market in a manner calculated to insure the best interests of the public, after solicitation of bids by mail, telephone, or otherwise. The provisions of this Section are subject to any contrary provision contained in "An Act concerning the use of Illinois mined coal in certain plants and institutions", filed July 13, 1937, as heretofore and hereafter amended.

(b) The corporate authorities of a municipality may by ordinance provide that contracts to provide goods and services to the municipality contain a provision requiring the contractor and its affiliates to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act,[1] and municipal use tax on all sales of tangible personal property into the municipality in accordance with a municipal ordinance authorized by Section 8–11–6 or 8–11–1.5, during the term of the contract or for some other specified period, regardless of whether the contractor or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act.[2] The provision may state that if the requirement is not met, the contract may be terminated by the municipality, and the contractor may be subject to such other penalties or the exercise of such remedies as may be stated in the contract or the ordinance adopted under this Section. An ordinance adopted under this Section may contain exceptions for emergencies or other circumstances when the exception is in the best interest of the public. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (b), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (b), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

Laws 1961, p. 576, § 8–10–3, eff. July 1, 1961. Amended by P.A. 76–2581, § 1, eff. July 10, 1970; P.A. 81–1376, § 1, eff. Aug. 9, 1980; P.A. 93–25, Art. 30, § 30–25, eff. June 20, 2003.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–3.

[1] 35 ILCS 105/1 et seq.

[2] 35 ILCS 105/2.

5/8–10–4. Contracts not requiring competitive bids

§ 8–10–4. Contracts which by their nature are not adapted to award by competitive bidding, such as but not limited to contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part, contracts for supplies, materials, parts or equipment which are available only from a single source, contracts for printing of finance committee pamphlets, comptroller's estimates, and departmental re-

ports, contracts for the printing or engraving of bonds, water certificates, tax warrants and other evidences of indebtedness, contracts for utility services such as water, light, heat, telephone or telegraph, and contracts for the purchase of magazines, books, periodicals and similar articles of an educational or instructional nature, and the binding of such magazine, books, periodicals, pamphlets, reports and similar articles shall not be subject to the competitive bidding requirements of this Article. The purchasing agent hereinafter provided for is hereby expressly authorized to procure from any federal, state or local governmental unit or agency thereof such materials, supplies, commodities or equipment as may be made available through the operation of any legislation heretofore or hereafter enacted without conforming to the competitive bidding requirements of this Division 10. Regular employment contracts in the municipal service, whether with respect to the classified service or otherwise, shall not be subject to the provisions of this Division 10, nor shall this Division 10 be applicable to the granting or issuance pursuant to powers conferred by laws, ordinances or resolutions, of franchises, licenses, permits or other authorizations by the corporate authorities of the municipality, or by departments, offices, institutions, boards, commissions, agencies or other instrumentalities thereof, nor to contracts or transactions, other than the sale or lease of personal property, pursuant to which the municipality is the recipient of money. The purchasing agent may sell or cause to be loaned with proper surety, materials common only to the municipal water distribution system, to such corporations and individuals, upon a proper showing that they are unable to obtain such materials for the purpose of obtaining water from the water system, or while awaiting shipment from manufacturers or vendors of such material, provided, that proper charges for the sale of such material shall be made to such extent as to save the municipality from monetary losses in such transactions.

Laws 1961, p. 576, § 8–10–4, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–4.

5/8–10–5. Emergency contracts

§ 8–10–5. In the case of an emergency affecting the public health or safety, so declared by the corporate authorities of the municipality at a meeting thereof duly convened, which declaration shall require the affirmative vote of a majority of all the members thereof and shall set forth the nature of the danger to the public health or safety, contracts may be let to the extent necessary to resolve such emergency without public advertisement. The resolution or ordinance in which such declaration is embodied shall fix the date upon which such emergency shall terminate, which date may be extended or abridged by the corporate authorities as in their judgment the circumstances require.

The purchasing agent hereinafter provided for, may purchase or may authorize in writing any agency of such municipal government or of the institutions, boards or commissions thereof, if any, to purchase in the open market without filing requisition or estimate therefor, and without advertisement, any supplies, materials or equipment, for immediate delivery to meet bona fide operating emergencies where the amount thereof is not in excess of $40,000. A full written account of any such emergency together with a requisition for the materials, supplies or equipment required therefor shall be submitted immediately to the purchasing agent and shall be open to public inspection for a period of at least one year subsequent to the date of such emergency purchase. The exercise of the authority herein vested in the purchasing agent in respect to purchases for such bona fide operating emergencies shall not be dependent upon a declaration of emergency by the corporate authorities under the first paragraph of this section.

Laws 1961, p. 576, § 8–10–5, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967; P.A. 81–1376, § 1, eff. Aug. 9, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–5.

5/8–10–6. Requisition agents

§ 8–10–6. The responsible head of each major department, office, institution, board, commission, agency or instrumentality of such municipal government shall certify in writing to the purchasing agent the names of such officers or employees who shall be exclusively authorized to sign requests for purchase for such respective department, office, institution, board, commission, agency or instrumentality, and all requests for purchase shall be void unless executed by such certified officers or employees and approved by the purchasing agent.

Except as to emergency contracts authorized by Section 8–10–5, no undertaking involving amounts in excess of $10,000 shall be split into parts, by the requisitioning agent or otherwise, so as to produce amounts of $10,000 or less, for the purpose of avoiding the provisions of this Division 10.

The term "responsible head" as used herein shall, in the case of the corporate authorities of the municipality, be such member, members, or committee thereof as shall be designated by appropriate resolution or order adopted by such corporate authorities.

Laws 1961, p. 576, § 8–10–6, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967; P.A. 81–1376, § 1, eff. Aug. 9, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–6.

5/8–10–7. Advertisements for bids; deposits

§ 8–10–7. All proposals to award purchase orders or contracts involving amounts in excess of $10,000 shall be published at least 10 days, excluding Sundays and legal holidays, in advance of the date announced for the receiving of bids, in a secular English language daily newspaper of general circulation throughout such municipality and shall simultaneously be posted on readily accessible bulletin boards in the office of the purchasing agent. Nothing contained in this section shall be construed to prohibit the purchasing agent from placing additional announcements in recognized trade journals. Advertisements for bids shall describe the character of the proposed contract or agreement in sufficient detail to enable the bidders thereon to know what their obligations will be, either in the advertisement itself, or by reference to detailed plans and specifications on file at the time of the publication of the first announcement. Such advertisement shall also state the date, time and place assigned for the opening of bids, and no bids shall be received at any time subsequent to the time indicated in the announcement. However, an extension of time may be granted for the opening of such bids upon publication in a secular English newspaper of general circulation throughout such municipality of the date to which the bid opening has been extended. The time of the bid extension opening shall not be less than 5 days after the publication thereof, Sundays and legal holidays excluded.

Cash, cashier's check, a certified check, a comptroller's certificate of moneys owed the particular vendor, or a bid bond with adequate surety approved by the purchasing agent as a deposit of good faith, in a reasonable amount, but not in

excess of 10% of the contract amount may be required of each bidder by the purchasing agent on all bids involving amounts in excess of $10,000 and, if so required, the advertisement for bids shall so specify.

Laws 1961, p. 576, § 8–10–7, eff. July 1, 1961. Amended by Laws 1961, p. 3850, § 1, eff. Aug. 24, 1961; Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967; P.A. 81–1376, § 1, eff. Aug. 9, 1980; P.A. 84–1269, § 1, eff. Aug. 11, 1986.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–7.

5/8–10–8. Collusion among bidders and disclosures; prohibition

§ 8–10–8. Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void. Each bidder shall accompany his bid with a sworn statement, or otherwise swear or affirm, that he has not been a party to any such agreement. Any disclosure in advance of the opening of bids, of the terms of the bids submitted in response to an advertisement, made or permitted by the purchasing agent shall render the proceedings void and shall require re-advertisement and re-award.

Laws 1961, p. 576, § 8–10–8, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–8.

5/8–10–8.5. Disclosure

§ 8–10–8.5. Disclosure. Each person submitting a bid or proposal in relation to any contract in excess of $10,000 under this Division 10, including contracts exempt from competitive bidding under Section 8–10–4 or 8–10–5, must disclose in his or her application the name of each individual having a beneficial interest of more than 7½% in the enterprise and, if the person wishing to submit a bid or proposal is a corporation, the names of all its officers and directors. The person shall notify the municipality of any changes in its ownership or officers at the time such changes occur. In the case of emergency contracts under Section 8–10–5, disclosure under this Section shall be made within 14 days after the contract.

Laws 1961, p. 576, § 8–10–8.5, added by P.A. 89–405, § 20, eff. Nov. 8, 1995.

5/8–10–9. Opening of bids

§ 8–10–9. All sealed bids shall be publicly opened by the purchasing agent of such municipality, or by an officer or employee in the office of the purchasing agent duly authorized in writing by the purchasing agent to open such bids, and all such bids shall be open to public inspection in the office of the purchasing agent for a period of at least 48 hours before award is made.

Laws 1961, p. 576, § 8–10–9, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–9.

5/8–10–10. Awarding of contracts; filing of purchase order or contract; public inspection

§ 8–10–10. The award of any contract involving amounts in excess of $10,000 shall be made by the purchasing agent to the lowest or highest responsible bidder as provided in Section 8–10–3. Every contract involving amounts in excess of $10,000 shall be signed by the mayor or his duly designated agent, by the comptroller and by the purchasing agent, respectively, of such municipality. Each bid, with the name of the bidder, shall be entered on a record which record with the name of the successful bidder indicated thereon, shall, after award of contract, be open to public inspection in the office of the purchasing agent of such municipality.

All purchase orders or contracts involving amounts of $10,000 or less shall be awarded by the purchasing agent to the lowest or highest responsible bidder as provided in Section 8–10–3 and shall be signed by the purchasing agent and by the comptroller.

An official copy of each awarded purchase order or contract together with all necessary attachments thereto, including assignments and written consents thereto of the purchasing agent as authorized by Section 8–10–14, shall be retained by the purchasing agent in an appropriate file open to the public for such period of time after termination of contract during which action against the municipality might ensue under applicable laws of limitation. After such period such purchase orders, contracts and attachments may be destroyed by direction of the purchasing agent.

Laws 1961, p. 576, § 8–10–10, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967; P.A. 81–1376, § 1, eff. Aug. 9, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–10.

5/8–10–11. Responsibility of bidders; determination

§ 8–10–11. In determining the responsibility of any bidder the purchasing agent may take into account other factors in addition to financial responsibility, such as past records of transactions with the bidder, experience, adequacy of equipment, ability to complete performance within a specified time limit and other pertinent considerations.

Laws 1961, p. 576, § 8–10–11, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–11.

5/8–10–12. Rejection of bids

§ 8–10–12. Any and all bids received in response to an advertisement may be rejected by the purchasing agent if the bidder is not deemed responsible, or the character or quality of the services, supplies, materials, equipment or labor does not conform to requirements or if the public interest may otherwise be served thereby.

Laws 1961, p. 576, § 8–10–12, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–12.

5/8–10–13. Bonds of bidders

§ 8–10–13. Bond, with sufficient sureties, in such amount as shall be deemed adequate, not only to insure performance of contract in the time and manner prescribed in the contract, but also to save, indemnify, and keep harmless the municipality against all loss, damages, claims, liabilities, judgments, costs, and expenses which may in anywise accrue against the municipality in consequence of the granting of the contract, or which may in anywise result therefrom, may be required of each bidder upon contracts involving amounts in excess of $10,000 when, in the opinion of the purchasing agent, the public interests will be served thereby.

Laws 1961, p. 576, § 8–10–13, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967; P.A. 81–1376, § 1, eff. Aug. 9, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–13.

5/8–10–14. Assignment of contracts

§ 8–10–14. No contract awarded to the lowest responsible bidder or to the highest responsible bidder, as the case may be, shall be assignable or sublet by the successful bidder

without the written consent of the purchasing agent. In no event shall a contract or any part thereof be assigned or sublet to a bidder who had been declared not to be a responsible bidder in the consideration of bids submitted in response to advertisement for the particular contract.

Laws 1961, p. 576, § 8–10–14, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–14.

5/8–10–15. Purchasing agents; tenure; removal; salary; bond; exemption from civil service

§ 8–10–15. In all municipalities within the purview of this Division 10, there shall be a purchasing agent who shall be appointed by the mayor by and with the consent of the corporate authorities of the municipality. The purchasing agent shall hold office for a term of 4 years and until his successor is appointed and qualified. Such purchasing agent may be removed from office for cause after public hearing before the corporate authorities at which hearing the purchasing agent with counsel shall be entitled to be heard. His salary shall be fixed by the corporate authorities and he shall be required to give bond, with adequate surety, for the faithful performance of his duties in an amount to be determined by the corporate authorities. He shall be exempt from the provisions of Division 1 of Article 10, relating to civil service, in any municipality which has or may hereafter adopt that Division 1. In making the appointment of the purchasing agent, the mayor and corporate authorities shall give due consideration to the executive experience and ability required for the proper and effective discharge of the duties of the office, and no person shall be appointed purchasing agent unless he has served for at least 3 years in a responsible executive capacity requiring knowledge of and experience in large scale purchasing activities.

Laws 1961, p. 576, § 8–10–15, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–15.

5/8–10–16. Purchasing agent; powers and duties

§ 8–10–16. The purchasing agent may appoint the necessary employees of his office in accordance with law. The number and salaries of such employees shall be fixed by the corporate authorities. The purchasing agent shall: (a) adopt, promulgate and from time to time revise rules and regulations for the proper conduct of his office; (b) constitute the sole agent of the municipality in contracting for labor, materials, services, or work, the purchase, lease, or sale of personal property, materials, equipment or supplies, in conformity with the provisions of this Division 10; (c) open all sealed bids; (d) determine the lowest or highest responsible bidder, as the case may be, as required by this Division 10, and purchase orders in conformity with this Division 10; (e) enforce written specifications describing standards established in conformity with this Division 10; (f) operate or require such physical, chemical or other tests as may be necessary to insure conformity to such specifications with respect to quality of materials; (g) exercise, or require, at central storerooms or otherwise, such control as may be necessary to insure conformity to contract provisions with respect to quantity; (h) distribute or cause to be distributed, to the various requisitioning agencies of such municipality, such supplies, materials or equipment, as may be purchased by him; (i) transfer materials, supplies and equipment to or between the various requisitioning agencies and to trade in, sell or dispose of such materials, supplies or equipment as may become surplus, obsolete or unusable; (j) control inventories and inventory records of all stocks of materials, supplies and equipment of common usage contained in any central or principal storeroom, stockyard or warehouse of such municipality; (k) assume such related activities as may be assigned to him from time to time by the mayor or the corporate authorities of such municipality, and (*l*) submit to the mayor of such municipality an annual report faithfully describing the activities of his office, which report shall be spread upon the official public records of the corporate authorities of such municipality or given comparable public distribution.

Laws 1961, p. 576, § 8–10–16, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–16.

5/8–10–17. Revolving fund; pecuniary interest in contracts; penalty

§ 8–10–17. The corporate authorities of any such municipality may establish a revolving fund in such amount as may be necessary to enable the purchasing agent to purchase items of common usage in advance of immediate need, the revolving fund to be reimbursed from the annual appropriation of the requisitioning agencies. Neither the purchasing agent, nor any officer or employe of his office, nor any member of the board of standardization hereinafter provided for, shall be financially interested, directly or indirectly, in any purchase order or contract coming under the purview of his official duties. The above named officials and employes are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract may be awarded, any rebate, gift, money, or anything of value whatsoever. Any officer or employe, as above defined, convicted of violating this section, shall be guilty of a business offense and shall be fined not to exceed $10,000 and shall forfeit the right to his public office, trust or employment and shall be removed therefrom.

Laws 1961, p. 576, § 8–10–17, eff. July 1, 1961. Amended by P.A. 77–2500, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–17.

5/8–10–18. Purchasing agent; execution of contracts

§ 8–10–18. No department, office, institution, commission, board, agency or instrumentality of any such municipality, or any officer or employe thereof, shall be empowered to execute any purchase order or contract as defined in Section 8–10–3 except as herein specifically authorized, but all such purchase orders or contracts shall be executed by the purchasing agent in conformity with the provisions of this Division 10.

Laws 1961, p. 576, § 8–10–18, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–18.

5/8–10–19. Board of standardization; powers and duties

§ 8–10–19. In all municipalities to which the provisions of this Division 10 shall apply, there shall be a board of standardization, which board shall be composed of the purchasing agent for such municipality, who shall be chairman, and 6 other members who shall be appointed by the mayor of such municipality. Three of the members shall be responsible heads of a major office, department, institution, commission or board of such municipality and shall receive no compensation for their services on the board of standardization. The other 3 members may be officers or employees of the munici-

pality but only those such members who are not officers or employees shall be entitled to receive such compensation as the corporate authorities may provide. Any member, excepting the purchasing agent, may deputize a proxy to act in his stead. The board of standardization shall meet at least once each 2 calendar months upon notification by the chairman at least 5 days in advance of the date announced for such meeting. Official action of the board shall require the vote of a majority of all members of the board. The chairman shall cause to be prepared a report faithfully describing the proceedings of each meeting, which report shall be transmitted to each member and shall be made available to the mayor and to the corporate authorities, respectively, of such municipality within 5 days, excluding Sundays and legal holidays, subsequent to the date of the meeting.

The board of standardization shall: (a) classify the requirements of such municipality, including the departments, offices, institutions, commissions and boards thereof, with respect to supplies, materials, and equipment, of common usage, (b) adopt as standards, the smallest numbers of the various qualities, sizes and varieties of such supplies, materials and equipment as may be consistent with the efficient operation of such municipal government, and (c) prepare, adopt, promulgate, and from time to time revise, written specifications describing such standards.

Specifications describing in detail the physical, chemical and other characteristics of supplies, material or equipment to be acquired by purchase order or contract shall be prepared by the board of standardization.

In the preparation or revision of standard specifications the board of standardization shall solicit the advice, assistance and cooperation of the several requisitioning agencies and shall be empowered to consult such public or non-public laboratory or technical services as may be deemed expedient. After adoption, each standard specification shall, until rescinded, apply alike in terms and effect to every purchase or contract for the purchase of any commodity, material, supply or equipment and shall be made available to the public upon request.

Laws 1961, p. 576, § 8–10–19, eff. July 1, 1961. Amended by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–19.

5/8–10–20. Ordinances; adoption and publication

§ 8–10–20. Official ordinances in conformity with the provisions of this Division 10 shall be adopted by formal action of the corporate authorities of such municipality and shall be published for the information of the public.

Laws 1961, p. 576, § 8–10–20, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–20.

5/8–10–21. Contracts executed in violation of this division; effect

§ 8–10–21. Any purchase order or contract executed in violation of this Division 10 shall be null and void as to the municipality and if public funds shall have been expended thereupon the amount thereof may be recovered in the name of the municipality in an appropriate action instituted therefor.

An official who knowingly and intentionally lets a contract in violation of the competitive bid requirements of this Division 10 forfeits his or her office.

Laws 1961, p. 576, § 8–10–21, eff. July 1, 1961. Amended by P.A. 89–405, § 20, eff. Nov. 8, 1995.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–21.

5/8–10–22. Local improvement contracts

§ 8–10–22. Nothing contained in this Division 10 shall be deemed to apply to the letting of contracts and accepting of bids for the construction of local improvements pursuant to Division 2 of Article 9.

Laws 1961, p. 576, § 8–10–22, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–22.

5/8–10–23. Audits of expenditures; reports

§ 8–10–23. The comptroller of each municipality to which this Division 10 applies shall conduct audits of all expenditures incident to all purchase orders and contracts awarded hereunder by the purchasing agent. The comptroller shall make reports on such audits to the mayor and corporate authorities.

Laws 1961, p. 576, § 8–10–23, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–23.

5/8–10–24. Specifications relating to construction, alteration, rehabilitation or repair of realty; preparation; approval; modification

§ 8–10–24. All specifications pertaining to the construction, alteration, rehabilitation or repair of any real property of such municipality shall be prepared by the engineering agency engaged in the design of such construction, alteration, rehabilitation or repair, prior to approval by the purchasing agent, and any such specification shall form a part of any such purchase order or contract, and the performance, inspection and testing of all such contracts shall be supervised by the engineering agency designated in such contracts.

If after award of such contracts changes or modifications are necessitated therein, such changes or modifications may be accomplished or ordered in writing by the engineering agency, but if the costs thereof are estimated to exceed $5,000 written approval of the purchasing agent must be first obtained. A modification agreement therefor shall thereafter be executed by the contractor, the mayor or his duly designated agent, by the comptroller and by the purchasing agent.

Laws 1961, p. 576, § 8–10–24, added by Laws 1967, p. 3599, § 1, eff. Sept. 5, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–24.

5/8–10–25. Conflicts of application of laws

§ 8–10–25. In the event of a conflict between the application of this Division 10 of Article 8 and the application of "An Act concerning municipalities, counties and other political subdivisions", enacted by the 85th General Assembly,[1] the provisions of "An Act concerning municipalities, counties and other political subdivisions" shall prevail.

Laws 1961, p. 576, § 8–10–25, added by P.A. 85–854, Art. I, § 8, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–10–25.

[1] 50 ILCS 510/0.01 et seq.

5/8–10–26. Long-term contracts

§ 8–10–26. Long-term contracts. Any municipality may enter into a long-term energy contract, even if the length of the contract would exceed the term of office of the corporate authorities that approved the contract.

Laws 1961, p. 576, § 8–10–26, added by P.A. 93–58, § 5, eff. Jan. 1, 2004.

DIVISION 11. CERTAIN REVENUE TAXES

5/8–11–15. Motor fuel tax; referendum; liability

§ 8–11–15. (a) The corporate authorities of a municipality of over 100,000 inhabitants may, upon approval of the electors of the municipality pursuant to subsection (b), impose a tax of one cent per gallon on motor fuel sold at retail within such municipality. A tax imposed pursuant to this Section shall be paid in addition to any other taxes on such motor fuel.

(b) The corporate authorities of the municipality may by resolution call for the submission to the electors of the municipality of the question of whether the municipality shall impose such tax. Such question shall be certified by the municipal clerk to the election authority in accordance with Section 28–5 of The Election Code.[1] The question shall be in substantially the following form:

Shall the city (village or incorporated town) of ..... impose a tax of one cent per gallon on motor fuel sold at retail within its boundaries?	YES	
	NO	

If a majority of the electors in the municipality voting upon the question vote in the affirmative, such tax shall be imposed.

(c) The purchaser of the motor fuel shall be liable for payment of a tax imposed pursuant to this Section. This Section shall not be construed to impose a tax on the occupation of persons engaged in the sale of motor fuel.

If a municipality imposes a tax on motor fuel pursuant to this Section, it shall be the duty of any person engaged in the retail sale of motor fuel within such municipality to collect such tax from the purchaser at the same time he collects the purchase price of the motor fuel and to pay over such tax to the municipality as prescribed by the ordinance of the municipality imposing such tax.

(d) For purposes of this Section, "motor fuel" shall have the same meaning as provided in the "Motor Fuel Tax Law".[2]

Laws 1961, p. 576, § 8–11–15, added by P.A. 84–1099, § 1, eff. Dec. 9, 1985.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 8–11–15.

[1] 10 ILCS 5/28–5.

[2] 35 ILCS 505/1 et seq.

ARTICLE 9. LOCAL IMPROVEMENTS

DIVISION 1. PROVISIONS GENERALLY APPLICABLE

5/9–1–1. Application

§ 9–1–1. The provisions of Sections 9–1–2 through 9–1–10 apply in all municipalities unless otherwise provided in any of such sections.

The provisions of Sections 9–1–11 through 9–1–14 are alternative to and not in exclusion of other methods of disposition of undistributed or unclaimed money received from the making of any local improvement paid for wholly or in part by special assessment or special taxation.

Any municipality in making local improvements may use either the procedure set out in Division 2 of this Article or the procedure set out in Division 3 of this Article subject to any restrictions appearing in such divisions. Once a local improvement is begun under one of the procedures, it must be completed pursuant to the same procedure.

Laws 1961, p. 576, § 9–1–1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–1.

5/9–1–2. Improvement made by general taxation

§ 9–1–2. When the ordinance under which a local improvement is ordered to be made provides that the improvement shall be made by general taxation, the cost of the improvement shall be added to the annual appropriation ordinance of the municipality ordering the improvement and shall be levied and collected with and as a part of the general taxes of that municipality.

Laws 1961, p. 576, § 9–1–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–2.

5/9–1–3. Repeal of ordinance ordering improvement

§ 9–1–3. No ordinance ordering a local improvement shall be repealed except on a written recommendation of the board of local improvements, or committee on local improvements, as the case may be, stating the reasons therefor. This section shall not apply to municipalities having a population of less than 100,000.

Laws 1961, p. 576, § 9–1–3, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–3.

5/9–1–4. Board of local improvements; reports

§ 9–1–4. The board of local improvements or committee on local improvements, as the case may be, shall submit to the corporate authorities, during the months of May and October of each year, for 3 years following the completion of any public work, a written report of its condition based upon a careful examination of the public work by the board of local improvements, or by the committee on local improvements, as the case may be, or by its representative, who shall be an experienced and capable person of good character. This section shall not apply to municipalities having a population of less than 100,000.

Laws 1961, p. 576, § 9–1–4, eff. July 1, 1961. Amended by P.A. 80–324, § 1, eff. Aug. 26, 1977.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–4.

5/9–1–5. Unclaimed rebate fund

§ 9–1–5. Any municipality having any undistributed or unclaimed money received from the making of any local improvement paid for wholly or in part by special assessment or special taxation, and which money has remained in the possession of the municipality for a period of 4 years or more from the due date of the last installment undistributed or unclaimed as a rebate or refund, after complying with all provisions for the distribution of such rebates or refunds set out in Divisions 2 and 3 of this Article, may set aside and transfer the money, so undistributed or unclaimed, into a special fund to be known as the unclaimed rebate fund. This fund may be used as provided in Sections 9–1–6 through 9–1–10.

Laws 1961, p. 576, § 9–1–5, eff. July 1, 1961. Amended by Laws 1963, p. 2431, § 1, eff. Aug. 6, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–5.

5/9–1–6. Notice; certificate; recommendation

§ 9–1–6. Before the money so remaining undistributed or unclaimed and in the possession of a municipality is set aside

and transferred into the unclaimed rebate fund, the board of local improvements, or the committee on local improvements, as the case may be, of the municipality shall have a notice published at least once a week for 8 successive weeks in a newspaper published in the municipality, or, if no newspaper is published therein, then in a newspaper with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may be made by posting a notice in 3 prominent places within the municipality.

The notice shall describe in a general manner the improvement in which there is an undistributed or unclaimed rebate or refund, giving the location of the improvement and the warrant number, and shall give notice that the municipality, by ordinance after the expiration of 60 days from the date of the first publication of this notice, will set aside and transfer all money which has remained for a period of 4 years, or more, undistributed or unclaimed as a rebate or refund, into the unclaimed rebate fund, and shall state that unless the money is claimed by the person entitled thereto within the 60 day period, and the passage of an ordinance by the municipality, all interest therein and all right and title thereto shall be forfeited and barred.

A certificate of the publication of this notice, with a copy thereof, accompanied by the affidavit of the publisher that the publication has been made and setting forth the date of the first and last publication thereof shall be filed in the office of the board of local improvements, or the committee on local improvements, as the case may be. The board or committee thereupon shall certify the fact of the publication to the corporate authorities of the municipality and shall therewith recommend the passage of an ordinance making transfer of the specified money into the unclaimed rebate fund.

Laws 1961, p. 576, § 9–1–6, eff. July 1, 1961. Amended by P.A. 80–179, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–6.

5/9–1–7. Creation and control of fund

§ 9–1–7. The corporate authorities, by ordinance, may create an unclaimed rebate fund and may provide for its regulation and control, and from time to time upon the recommendation specified in Section 9–1–6, may direct that the undistributed and unclaimed money described in Section 9–1–5, be set aside and transferred to the unclaimed rebate fund.

Laws 1961, p. 576, § 9–1–7, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–7.

5/9–1–8. Claims against unclaimed rebate fund; limitations

§ 9–1–8. Unless a claim is made by the person entitled thereto before the passage of an ordinance by a municipality, as specified in Section 9–1–6, all interest therein and all right and title thereto of all claimants shall be forfeited and barred. No action shall be begun or claim made for any money undistributed or unclaimed as a rebate or refund, received from the making of any local improvement, paid for wholly or in part by special assessment or special taxation, after the money has remained in the possession of a municipality undistributed or unclaimed as a rebate or refund, for a period of 4 years or more from the due date of the last installment, and where the money has been set aside and transferred into the unclaimed rebate fund in the manner provided in Sections 9–1–5 through 9–1–7.

Laws 1961, p. 576, § 9–1–8, eff. July 1, 1961. Amended by Laws 1963, p. 2431, § 1, eff. Aug. 6, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–8.

5/9–1–9. Purposes for which fund may be expended

§ 9–1–9. Any municipality having an unclaimed rebate fund as provided in Sections 9–1–5 through 9–1–7, by ordinance may at its option direct the use of the money in that fund for any public purpose for which the municipality is authorized by law to expend funds.

Laws 1961, p. 576, § 9–1–9, eff. July 1, 1961. Amended by P.A. 84–581, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–9.

5/9–1–10. Return of money to fund

§ 9–1–10. Whenever any municipality creates an unclaimed rebate fund and by ordinance directs the use of the money in that fund for the purpose of paying rebates or refunds due on any warrant for any special assessment or special tax, the equivalent of any such money so used shall be returned to the unclaimed rebate fund as soon as the warrants, which were deficient, have been collected. Whenever any municipality directs the use of the money in that fund for the purpose of paying unpaid special assessment vouchers or special assessment bonds or special tax vouchers or interest or deficiency in interest or public benefits in any warrant in which there is a deficiency, the equivalent of any such money so used or any part thereof shall be returned to the unclaimed rebate fund in the event there is collected in the warrant any surplus in excess of the amount required to pay the bonds and vouchers issued to anticipate such warrant. Whenever any municipality directs the use of the money in the fund for the purpose of purchasing any lot, block or tract or parcel of land, or any real estate at any sale had to enforce the collection of special assessments or special taxes, the proceeds of any redemption from such sale or from any sale of the certificate or title acquired by such sale, to an amount equivalent to any such money so used or any part thereof, shall be returned to the unclaimed rebate fund.

Laws 1961, p. 576, § 9–1–10, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–10.

5/9–1–11. Disposition of unclaimed money

§ 9–1–11. Whenever the treasurer of any municipality has petitioned a court of record for directions as to the distribution of undistributed or unclaimed money received from the making of any local improvement paid for wholly or in part by special assessment or special taxation, and, under order of the court, public notice has been given of the amounts of rebates payable and of the names of the persons entitled to them by publication one time in a secular newspaper of general circulation in the county where the municipality is located, and more than one year has elapsed since the publication of the notice, the judge of the court of record may order the money remaining unclaimed to be paid to the treasurer of the municipality in trust. However, in all cases where all special assessment bonds in a special assessment warrant have been paid and retired and where reimbursements have been made, all moneys remaining in such warrants shall be paid over and transferred to the general corporate fund of the municipality.

Laws 1961, p. 576, § 9–1–11, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–11.

5/9–1–12. Transfer of funds

§ 9–1–12. If the corporate authorities have created an unclaimed rebate fund, the treasurer shall transfer to the unclaimed rebate fund, in trust any funds which the court of record may have ordered paid to such treasurer. Subject to the provisions of Section 9–1–14, the funds may be used as provided in Sections 9–1–9 and 9–1–10.

Laws 1961, p. 576, § 9–1–12, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–12.

5/9–1–13. Transfer if municipality has no unclaimed rebate fund

§ 9–1–13. If the corporate authorities have not created an unclaimed rebate fund, the treasurer shall transfer to the general fund of the municipality, in trust, any funds which the court of record may order paid to such treasurer. Subject to the provisions of Section 9–1–14, the funds may be used as provided in Sections 9–1–9 and 9–1–10.

Laws 1961, p. 576, § 9–1–13, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–13.

5/9–1–14. Claims

§ 9–1–14. Any person entitled to any unclaimed sum of money paid into the general fund of a municipality, in trust, under the provisions of Sections 9–1–12 or 9–1–13 must apply or make claim, or commence action for the repayment thereof in the manner and within the time set forth in Sections 9–1–5 through 9–1–10.

Laws 1961, p. 576, § 9–1–14, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–1–14.

DIVISION 2. LOCAL IMPROVEMENT PROCEDURES RESTRICTED TO CERTAIN MUNICIPALITIES

5/9–2–1. Scope of division; powers conferred

§ 9–2–1. This Division 2 applies to all cities and villages incorporated under this Code and to any city, village or incorporated town organized under a special charter if such city, village or incorporated town has, prior to, on or after the effective date of this Code, adopted the provisions of this Division 2 as provided herein.

The corporate authorities of the specified municipalities have the power to make such local improvements as are authorized by law, by special assessment or special taxation of contiguous property, or by general taxation, or otherwise, as such corporate authorities prescribe by ordinance.

Laws 1961, p. 576, § 9–2–1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–1.

5/9–2–2. Definitions

§ 9–2–2. In this Division 2, the following terms have the meaning ascribed to them unless the context indicates otherwise:

"Municipality" means any city, village or incorporated town which comes within the scope of this Division 2 as determined by the provisions of Section 9–2–1.

"Work" means labor performed or material used, or both, as the corporate authorities may determine.

"Subways" means all tunnels, entrances, exits, passageways, connections, approaches, inclines, elevators, stations and other structures, equipment, appliances or appurtenant property appropriate to a system of subways.

"Pedestrian Mall" means one or more streets, or portions thereof, on which vehicular traffic is or is to be restricted in whole or in part and which is or is to be used exclusively or primarily for pedestrian travel.

"Prime Commercial Rate" means such prime rate as from time to time is publicly announced by the largest commercial banking institution located in this State, measured in terms of total assets.

Laws 1961, p. 576, § 9–2–2, eff. July 1, 1961. Amended by Laws 1963, p. 2428, § 1, eff. Aug. 6, 1963; P.A. 82–642, § 1, eff. Sept. 24, 1981.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–2.

5/9–2–3. Special assessment for projects with federal grant

§ 9–2–3. Any municipality which after July 6, 1937, enters into an agreement with the Federal Government or any agency thereof or other governmental agency for the construction, extension, improvement or repair of any local improvements with the aid of a Federal grant of money, or any other governmental grant of money, services, or materials may, for the purpose of raising its portion of the funds necessary for such construction, extension, improvement, or repair, provide a special tax or special assessment of the property benefited, to pay for the share of that improvement to be met by the municipality. This special tax or special assessment shall be levied and collected, and the proceedings incident thereto shall be carried on, in conformance with the provisions of this Division 2, in so far as those provisions are applicable.

Laws 1961, p. 576, § 9–2–3, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–3.

5/9–2–4. Water supply, sewer or highway system in municipality in which Federal defense project is in progress

§ 9–2–4. Any municipality in or adjacent to which any Federal defense project is in progress or is about to be in progress, may, if the Defense Department of the United States, or any officer thereof designated by the Secretary of Defense for such purpose, certifies that the water supply, sewage system or highway system of such municipality is inadequate to provide sufficient facilities due to the increase or anticipated increase in the population of such municipality on account of such project, provide a special tax or special assessment of the property benefited, (or in case the Federal Government or any agency thereof grants moneys, services or materials, for raising its portion of the funds necessary), for such construction, extension, improvement or repair. Such special tax or special assessment shall be levied and collected and the proceedings incident thereto shall be carried on, in conformance with the provisions of this Division 2, in so far as such provisions are applicable, with the following exceptions: (1) no public hearing, as provided in Section 9–2–10, shall be necessary; (2) if the improvement is accomplished through Federal aid which takes the form of the supplying of labor and materials rather than funds, no public letting of contract shall be required; (3) to meet such emergency, the municipality may secure temporary financing therefor and levy such special tax or assessment during construction of the improvement or at any time within one year thereafter and utilize the proceeds of such levy or assessment (or bonds issued in anticipation thereof) to retire such temporary financing when and if such tax or assessment

shall be confirmed by the Circuit Court wherein such municipality shall be situated.

Laws 1961, p. 576, § 9–2–4, eff. July 1, 1961. Amended by P.A. 80–571, § 1, eff. Oct. 1, 1977; P.A. 80–1495, § 12, eff. Jan. 8, 1979.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–4.

5/9–2–4.5. Special assessment for payment of costs associated with certain ordinance violations

§ 9–2–4.5. Special assessment for payment of costs associated with certain ordinance violations.

(a) For purposes of this Section, "Code" means any municipal ordinance that requires, after notice, the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, and rodent and vermin abatement.

(b) In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement, (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in Division 31.1 of Article 11 of the Illinois Municipal Code, and (iv) a lien has been filed of record by the municipality in the office of the recorder in the county in which the property is located, then those costs may be collected as a special assessment on the property under this Division. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

Laws 1961, p. 576, § 9–2–4.5, added by P.A. 93–993, § 5, eff. Jan. 1, 2005.

5/9–2–5. Ordinance providing for making of improvements

§ 9–2–5. When any municipality provides by ordinance for the making of any local improvement, it shall prescribe by the same ordinance whether the improvement shall be made by special assessment or special taxation of contiguous property, or by general taxation, or by special assessment of contiguous property and by general taxation, or by special taxation of contiguous property and by general taxation.

Laws 1961, p. 576, § 9–2–5, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–5.

5/9–2–6. Restriction on passage of ordinance; abandonment of proposed improvement

§ 9–2–6. No ordinance for any local improvement, to be paid wholly or in part by special assessment or special taxation, shall be considered or passed by the corporate authorities of any such municipality unless the ordinance is first recommended by the board of local improvements; provided, however, that after the ordinance for any local improvement has been adopted by the corporate authorities and before the same is confirmed in court, the corporate authorities, upon recommendation of the board of local improvements, may by ordinance abandon any portion of the proposed improvement without further action by or hearing before the board.

Laws 1961, p. 576, § 9–2–6, eff. July 1, 1961. Amended by Laws 1963, p. 2424, § 1, eff. Aug. 6, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–6.

5/9–2–7. Board of local improvements

§ 9–2–7. In cities having a population of 500,000 or more, there is created a board of local improvements consisting of the superintendent of special assessments and 5 other members. These 5 other members shall be nominated by the mayor and shall be confirmed by the city council. None of the members of the board, except the superintendent of special assessments, shall hold any other office or position in any government department of the city. The Board shall elect from its members a president, a vice president, and an assistant secretary. The superintendent of special assessments shall be ex-officio secretary of the board. In the absence or the inability of the president or secretary to act, the vice president for the president and the assistant secretary for the secretary have full power to sign and execute contracts, vouchers, bonds, payrolls, and all other papers, documents, and instruments necessary. The board shall hold regular and special sessions, as it may determine, for the transaction of all business in rooms accessible to the public, to be provided by the city council. The city council of the city shall provide for salaries for the board of local improvements.

In cities having a population of 50,000 or more and less than 500,000, there is created a board of local improvements consisting of 6 members, of which board the commissioner of public works shall be the president. The other members of this board shall be the superintendent of streets, the superintendent of sewers, the superintendent of special assessments, the city engineer and the city clerk, or if there is no office of City Clerk, the City Comptroller.

In cities having a population of less than 50,000, and in villages and incorporated towns, the board of local improvements shall consist of the mayor of the city, or the president of the village or incorporated town, and the public engineer and the superintendent of streets of the municipality, where such officers are provided for by ordinance. But if at any time such officers are not so provided for, the corporate authorities, by ordinance, shall designate 2 or more members of their body who, with the mayor or president of the village or incorporated town shall constitute the members of the board, until otherwise provided by ordinance. The mayor or president, as the case may be, shall be president of the board.

The corporate authorities of any municipality having a population of more than 18,000 and less than 100,000, may provide by ordinance for the payment of salaries to the members of the board of local improvements, but if any member of such a board holds any other office in the government of that municipality, his salary as member of the board shall not exceed the sum of $100 per month.

However, in cities, having a population of less than 100,000, and in villages, where such cities and villages prior to or after the effective date of this Code adopt the commission form of municipal government, corporate authorities of such cities and villages may provide by ordinance that the board of local improvements shall consist of the mayor and any 2 or more of the commissioners, regardless of whether or not the offices of public engineer and superintendent of streets are provided for by ordinance.

Laws 1961, p. 576, § 9–2–7, eff. July 1, 1961. Amended by Laws 1965, p. 3166, § 1, eff. Aug. 20, 1965; P.A. 82–432, § 1, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–7.

5/9–2–8. Chief clerk of special assessments; powers and duties

§ 9–2–8. In cities having a population of 500,000 or more, and having a chief clerk of special assessments, that chief clerk of special assessments, in the event of the absence or inability to act of the superintendent of special assessments, may, with full effect, perform all acts and duties provided for in this Division 2 to be performed by the superintendent of special assessments.

Laws 1961, p. 576, § 9–2–8, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–8.

5/9–2–9. Preliminary procedure for local improvements by special assessment

§ 9–2–9. Preliminary procedure for local improvements by special assessment. All ordinances for local improvements to be paid for wholly or in part by special assessment or special taxation shall originate with the board of local improvements. Petitions for any local improvement shall be addressed to that board. The board may originate a scheme for any local improvement to be paid for by special assessment or special tax, either with or without a petition, and in either case shall adopt a resolution describing the proposed improvement. This resolution may provide that specifications for the proposed improvement be made part of the resolution by reference to specifications previously adopted by resolution by the municipality, or to specifications adopted or published by the State of Illinois or a political subdivision thereof, provided that a copy of the specifications so adopted by reference is on file in the office of the clerk of the municipality. This resolution shall be at once transcribed into the records of the board.

The proposed local improvement may consist of the acquisition of the necessary interests in real property and the construction of any public improvement or any combination of public improvements, including, but not limited to, streets, storm drain sewers, water mains, sanitary sewer improvements, sidewalks, walkways, bicycle paths, landscaping, lighting improvements, signage improvements, vehicular parking improvements, any additional improvements necessary to provide access to the public improvements, and all necessary appurtenances in a local contiguous area pursuant to a single special assessment project, provided that in assessing each lot, block, tract, and parcel of property, the commissioner so assessing shall take into consideration whether each lot, block, tract, or parcel is benefited by all or only some of the improvements combined into the single special assessment project. For purposes hereof, a local contiguous area shall be defined as an area in which all of the lots, blocks, tracts, or parcels located within the boundaries thereof will be benefited by one or more of the proposed improvements. The fact that more than one improvement is being constructed as part of a single special assessment project shall not be grounds for an objection by an assessee to the special assessment proceeding in court.

Whenever the proposed improvement requires that private or public property be taken or damaged, the resolution shall describe the property proposed to be taken or damaged for that purpose. The board, by the same resolution, shall fix a day and hour for a public hearing thereon. The hearing shall not be less than 10 days after the adoption of the resolution. The board shall also have an estimate of the cost of the improvement (omitting land to be acquired) made in writing by the engineer of the board, (if there is an engineer, if not, then by the president) over his signature. This estimate shall be itemized to the satisfaction of the board and shall be made a part of the record of the resolution. However, such an estimate is not required in municipalities having a population of 100,000 or more when the proposed improvement consists only of taking or damaging private or public property. And in cities and villages which have adopted prior to the effective date of this Code or which after the effective date of this Code adopt the commission form of municipal government, the estimate of the cost of the improvement, (omitting land to be acquired), shall be made in writing by the public engineer if there is one, of the city or village, if not, then by the mayor or president of the city or village.

Notice of the time and place of the public hearing shall be sent by mail directed to the person who paid the general taxes for the last preceding year on each lot, block, tract, or parcel of land fronting on the proposed improvement not less than 5 days prior to the time set for the public hearing. These notices shall contain (1) the substance of the resolution adopted by the board, (2) when an estimate is required by this Division 2 the estimate of the cost of the proposed improvement, and (3) a notification that the extent, nature, kind, character, and (when an estimate is required by this article) the estimated cost of the proposed improvement may be changed by the board at the public hearing thereon. If upon the hearing the board deems the proposed improvement desirable, it shall adopt a resolution and prepare and submit an ordinance therefor. But in proceedings only for the laying, building, constructing, or renewing of any sidewalk, water service pipe, or house drain, no resolution, public hearing, or preliminary proceedings leading up to the same are necessary. In such proceedings the board may submit to the corporate authorities an ordinance, together with its recommendation and (when an estimate is required) the estimated cost of the improvement, as made by the engineer. Such proceedings shall have the same effect as though a public hearing had been held thereon.

In the event that a local improvement is to be constructed with the assistance of any agency of the Federal government, or other governmental agency, the resolution of the board of local improvements shall set forth that fact and the estimate of cost shall set forth and indicate, in dollars and cents, the estimated amount of assistance to be so provided.

Laws 1961, p. 576, § 9–2–9, eff. July 1, 1961. Amended by Laws 1963, p. 2425, § 1, eff. Aug. 6, 1963; P.A. 90–480, § 75, eff. Aug. 17, 1997; P.A. 93–196, § 10, eff. Jan. 1, 2004.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–9.

5/9–2–10. Public hearing; new resolution; ordinance; remonstrance petition

§ 9–2–10. At the time and place fixed in the specified notice for the public hearing, the board of local improvements shall meet and hear the representations of any person desiring to be heard on the subject of the necessity for the proposed improvement, the nature thereof, or the cost as estimated. In case any person appears to object to the proposed improvement or any of the elements thereof, the board shall adopt a new resolution abandoning the proposed scheme or adhering thereto, or changing, altering, or modifying the extent, nature, kind, character, and estimated cost, provided the change does not increase the estimated cost of the improvement to exceed 20% of the same, without a further public hearing thereon, as it considers most desirable. Thereupon, if the proposed improvement is not abandoned, the board shall have an ordinance prepared therefor, to be submitted to the corporate authorities. This ordinance shall prescribe the nature, character, locality, and description of the improvement and shall provide whether the improve-

ment shall be made wholly or in part by special assessment or special taxation of contiguous property. This ordinance may provide that specifications for the proposed improvement be made part of the ordinance by reference to specifications previously adopted by ordinance by the municipality, or to specifications adopted or published by the State of Illinois or a political subdivision thereof, provided that a copy of the specifications so adopted by reference is on file in the office of the clerk of the municipality. If the improvement is to be paid in part only by special assessment or special taxation, the ordinance shall so state.

If property is to be taken or damaged for the improvement, the ordinance shall describe the property with reasonable certainty.

In cities having a population of 500,000 or over when a remonstrance petition is filed by the owners of a majority of the frontage on the line of the proposed improvement with the board of local improvements within 30 days after the public hearing thereon, the board shall thereupon stay all proceedings therein for one year from that date. This remonstrance petition shall contain the signatures of the owners or legal representatives, the description of the property owned or represented, and the number of feet so owned or represented and shall be verified by affidavit of one or more property owners fronting on the line of the proposed improvement, setting forth that the party making the affidavit is a property owner, fronting on the proposed improvement, and that the parties who signed the petition are the owners or legal representatives of the property described therein.

Laws 1961, p. 576, § 9–2–10, eff. July 1, 1961. Amended by Laws 1963, p. 2425, § 1, eff. Aug. 6, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–10.

5/9–2–11. Recommendation by board

§ 9–2–11. Accompanying any ordinance for a local improvement presented by the board of local improvements to the corporate authorities shall be a recommendation of such improvement by the board, signed by at least a majority of the members thereof. The recommendation by the board shall be prima facie evidence that all the preliminary requirements of the law have been complied with. If a variance is shown on the proceedings in the court, it shall not affect the validity of the proceeding, unless the court deems the variance willful or substantial.

Laws 1961, p. 576, § 9–2–11, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–11.

5/9–2–12. Estimate of cost; recommendation; prima facie evidence; assessment

§ 9–2–12. An estimate of the cost of the improvement, including the cost of engineering services, as originally contemplated, or as changed, altered, or modified at the public hearing, itemized so far as the board of local improvements thinks necessary, shall be presented to the corporate authorities, except when rendered unnecessary by Section 9–2–9, together with the specified ordinance and recommendation. This estimate of cost shall be presented over the signature of the engineer of the board, if there is one, if not, then of the signature of the president of the board, who shall certify that in his opinion the estimate does not exceed the probable cost of the improvement proposed and the lawful expenses attending the improvement.

However, in a city or village which has adopted or which hereafter adopts the commission form of municipal government, this estimate of cost shall be over the signature of the public engineer, if there is one, and if there is no such public engineer, then over the signature of the mayor or president of that city or village, who shall certify that in his opinion the estimate does not exceed the probable cost of the improvement proposed and the lawful expenses attending the improvement.

The recommendation by the board shall be prima facie evidence that it is based upon a full compliance with the requirements of this Division 2.

In the event the improvement is to be constructed with assistance from any agency of the Federal Government, or other governmental agency, the estimate of cost shall state this fact and shall set forth the estimated amount in dollars and cents that is to be provided by the agency of the Federal Government or other governmental agency.

The commissioners, superintendent of special assessments, or other person appointed to make the assessments as provided hereinafter, shall make a true and impartial assessment upon the petitioning municipality and the property benefited by such improvement, of that portion of the estimated cost that is within the benefits exclusive of the amount to be provided by the agency of the Federal Government or other governmental agency.

Laws 1961, p. 576, § 9–2–12, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–12.

5/9–2–13. Publication and posting of ordinances

§ 9–2–13. Publication and posting of ordinances. Upon the presentation to the corporate authorities of the proposed ordinance, together with the required recommendation and estimate, if the estimate of cost exceeds the sum of $1,000,000, exclusive of the amount to be paid for land to be taken or damaged, the ordinance shall be referred to the proper committee and published in the usual way or posted on the municipality's Internet website, in full, with the recommendation and estimate, at least 10 days before any action is taken thereon by the corporate authorities. Whenever any plat, plan, profile, or drawing is a part of the ordinance, or is attached thereto as a part thereof, or is referred to by the ordinance, it is not necessary to publish or post that plat, plan, profile, or drawing in connection with the publication or posting of the ordinance.

Laws 1961, p. 576, § 9–2–13, eff. July 1, 1961. Amended by P.A. 96–1075, § 5, eff. July 16, 2010.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–13.

5/9–2–14. Taking of property; provisions governing

§ 9–2–14. If the ordinance provides for improvements which require the taking or damaging of property, the proceeding for making just compensation therefor shall be as described in Sections 9–2–15 through 9–2–37. Such a proceeding also shall be governed by the remaining sections of this Division 2, so far as not in conflict with Sections 9–2–15 through 9–2–37.

Laws 1961, p. 576, § 9–2–14, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–14.

5/9–2–15. Proceedings to ascertain compensation

§ 9–2–15. Whenever any local improvement ordinance is passed by the corporate authorities of any municipality, to be paid for wholly or in part by special assessment, or by special taxation, the making of which will require that private or public property be taken or damaged for public use, the municipality, either in that ordinance or by subsequent order,

shall designate some officer to file a petition in the circuit court of the county in which the municipality is situated, or if the municipality is situated in more than one county and the proposed improvement or the property to be taken or damaged, or both, lies in more than one county, then in the circuit court in the county in which the major part of the territory to be affected thereby is situated. Such petition shall be filed in the name of the municipality, praying that steps may be taken to ascertain the just compensation to be made for private or public property to be taken or damaged for the improvement or purpose specified in the ordinance, and to ascertain what property will be benefited by the improvement, and the amount of those benefits.

Laws 1961, p. 576, § 9–2–15, eff. July 1, 1961. Amended by Laws 1967, p. 3762, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–15.

5/9–2–16. Contents of petition; commissioners

§ 9–2–16. The petition required in Section 9–2–15 shall contain a reasonably accurate description of lots, blocks, tracts, and parcels of land which are to be taken or damaged; provided that in counties in which a property index number system has been established in accordance with Section 9–45 of the Property Tax Code,[1] the index number shall be given in addition to the legal description. There shall be filed with or attached to the petition a copy of the specified condemnation ordinance, certified by the clerk, under the corporate seal. Failure to file such a copy shall not affect the jurisdiction of the court to proceed in that cause and to act upon the petition, but if it appears in the cause that a copy of the ordinance has not been attached to or filed with the petition before the report of the commissioners is filed, as provided in Section 9–2–18, then, upon motion of any person whose real estate is to be taken, or to be assessed, the entire petition and proceedings shall be dismissed.

Upon the filing of the petition, the court shall enter an order designating 2 competent persons as commissioners, to act with the superintendent of special assessments where that officer is provided for by this Code, and in other cases to act with the president of the board of local improvements. These 3 commissioners shall investigate and report to the court the just compensation to be made to the respective owners of private or public property which is to be taken or damaged for the specified improvement, and also what real estate will be benefited by that improvement, and the amount of those benefits to each parcel. Neither of the persons designated by the court shall be an employee of the petitioning municipality and both shall be disinterested persons. They shall be allowed a fee for their services which shall be fixed by the court in advance. The amounts so allowed may be reviewed by the court upon motion, and may be taxed as costs and included in the amount to be assessed, except that in cities having a population of 500,000 or more, the commissioners' fees shall be either paid by the city out of its general fund or included among the expenses to be defrayed out of the sum not to exceed 5% of the amount of the assessment, for which provision is made in Section 9–2–139. These 3 commissioners shall be duly sworn to make a true and just assessment of the cost of the improvement according to law. The concurrence of any 2 in a report shall be sufficient.

Laws 1961, p. 576, § 9–2–16, eff. July 1, 1961. Amended by P.A. 85–1252, § 1, eff. Jan. 1, 1989; P.A. 88–670, Art. 3, § 3–28, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–16.

[1] 35 ILCS 200/9–45.

5/9–2–17. Filing of petition

§ 9–2–17. When a petition is filed, a certified copy of the petition and the assessment roll of the municipality, hereinafter required in Section 9–2–18, shall be immediately delivered by the clerk of the court to the petitioner, who shall record the certified copy with the recorder of deeds of that county, to be kept as part of the permanent records of the office of the recorder.

A certified copy of any order or judgment to divide, modify, alter, change, reduce, increase, annul, confirm, or deny anything contained within the assessment roll shall be immediately delivered by the clerk of the court to the petitioner, who shall record the certified copy with the recorder of that county, to be kept as part of the permanent records of the office of the recorder.

Laws 1961, p. 576, § 9–2–17, eff. July 1, 1961. Amended by P.A. 83–358, § 16, eff. Sept. 14, 1983; P.A. 85–479, § 1, eff. Sept. 17, 1987; P.A. 85–1252, § 1, eff. Jan. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–17.

5/9–2–18. Commissioners' report

§ 9–2–18. The commissioners shall make an investigation as required and prepare and file in court their report accordingly. In this report the commissioners shall in one column describe the respective parcels of property to be taken or damaged for the specified improvement and, in counties in which a property index number system has been established in accordance with Section 9–45 of the Property Tax Code,[1] shall give the index number in addition to the legal description; in another column the respective owners of record of those parcels of land, the name and residence of each such owner being set opposite his own property; in another column the name and residence of the occupant, where the property is occupied, so far as known to the commissioners or can be found upon diligent inquiry; in another column the amount of the value of each parcel to be taken for the improvement, setting the amount opposite the property to which it relates; and in another column the amount of damages, if any, which in the opinion of the commissioners, will result to any parcel of land not taken, by reason of the improvement, describing each parcel so damaged by a reasonably accurate description.

The commissioners shall further estimate and report what proportion of the total cost of the improvement (including therein their estimate of value and damages, and, when an estimate is required by this Article, the estimate of the cost of such proceeding) will be of benefit to the public, and what proportion thereof will be of benefit to the property. The commissioners shall apportion the total cost of the improvement between the municipality and the property so that each will bear its relative equitable proportion. Having found these amounts, the commissioners shall further report what lots, blocks, tracts, and parcels of land will be specially benefited by the improvement, shall describe them by a reasonably accurate description, and shall apportion and assess the amount so found to be of benefit to the property upon the several lots, blocks, tracts, and parcels of land in the proportion in which they will be severally benefited by the improvement. But no lot, block, tract, or parcel of land shall be assessed a greater amount than it will be actually benefited, except that the apportionment and assessment shall include the anticipated fees for the recording of documents as provided in this Article.

Laws 1961, p. 576, § 9–2–18, eff. July 1, 1961. Amended by P.A. 85–1252, § 1, eff. Jan. 1, 1989; P.A. 88–670, Art. 3, § 3–28, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–18.

[1] 35 ILCS 200/9–45.

5/9–2–19. Waterworks system; bridge or viaduct; thirty installments

§ 9–2–19. Whenever any local improvement provided in any ordinance passed by virtue of this Division 2 consists of a system of waterworks or a bridge or viaduct, or extension of water mains which are a part of any municipal waterworks system, any portion of the cost of which is to be defrayed by special assessment, it may be provided by the ordinance for the improvement or by ordinance passed at any time before the confirmation of the assessment roll, that the aggregate amount assessed and each individual assessment, and also the assessment against the municipality for public benefits and on account of property owned by it, may be divided into not exceeding 30 installments in the manner provided in Section 9–2–48. The provisions of this Section 9–2–19 shall not apply to any city having a population of 500,000 or more.

Laws 1961, p. 576, § 9–2–19, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–19.

5/9–2–20. Net damage or benefit

§ 9–2–20. If the amount awarded to any person for property taken or damaged for an improvement under this Division 2 is greater than the amount assessed against the property for that improvement, or if the benefit is greater than the damage, in either case the difference only shall be collectible of the owner or be paid to him.

Laws 1961, p. 576, § 9–2–20, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–20.

5/9–2–21. Offset for land donated for street or alley

§ 9–2–21. In the assessment of damages and benefits for the opening of any street or alley, the commissioners, where part of the land to be laid out into that street or alley has been theretofore donated by any person for that street or alley, may appraise the value of the land so donated. Or in cases where such a donation is made after the filing of any petition in the circuit court praying that steps be taken to levy a special assessment for the opening of any street or alley, and after the making of the assessment roll as provided in this Division 2, the court may appraise, or may have a jury appraise, the value of the land so donated. The commissioners or the court, as the case may be, shall apply the value thereof, so far as the amount so appraised shall go, as an offset to the benefits assessed against the person making such a donation, or parties claiming under such person. Nothing contained in this section authorizes any person by whom such a donation is made to claim from the municipality the amount of that appraisement, except as an offset, as provided in this section. Where the assessment is only for the widening of any street which may have been theretofore donated either in whole or in part, to the public by the proprietors of the adjoining land, the commissioners, in their discretion, may make such allowance therefor in their assessment of benefits as seems to them equitable and just. But in either such case the commissioners shall state in their report the amount of that allowance, and the allowance shall be subject to review, as the court shall direct.

Laws 1961, p. 576, § 9–2–21, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–21.

5/9–2–22. Commissioners' certificate

§ 9–2–22. The commissioners shall return their report to the court in which the specified petition was filed, and file the report with the clerk thereof, with their certificate, duly verified, stating in substance that they have carefully examined the questions referred to in their report, and that in their opinion the amounts awarded for damages and value therein, and the respective amounts assessed against the property specially benefited, and also the apportionment of the cost of the improvement between the public and the property assessed, and the allowance for property theretofore dedicated, if any, are correct, equitable, and just. The return and filing of this report shall be deemed an application by the petitioner for judgment of condemnation of the property so to be taken or damaged, and for a confirmation of the assessment of benefit.

Laws 1961, p. 576, § 9–2–22, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–22.

5/9–2–23. Affidavit of ownership

§ 9–2–23. The superintendent of special assessments, or president of the board of local improvements, as the case may be, shall file with the commissioners' report an affidavit made by himself or by some employee of his office, that (1) the affiant has carefully examined the records in the recorder's office of the specified county or counties for the names of the owners of record of the several lots, blocks, tracts, and parcels of land to be taken or damaged for the improvement, (2) that the affiant made a careful examination of the collector's books showing the payments of general taxes during the last preceding year in which taxes were paid on the respective lots, blocks, tracts, and parcels of land against which benefits are assessed in the commissioners' report, to ascertain the person or persons who last paid the taxes on those respective lots, blocks, tracts, and parcels of land, (3) that the names of those owners of record and persons who paid those taxes are correctly shown in the columns or schedules of ownership and of persons who paid those taxes in the commissioners' report, (4) that he has diligently inquired as to the residence of the respective owners of property to be taken or damaged for the improvement and of the persons who paid the general taxes during the last preceding calendar year in which general taxes were paid on all the respective lots, blocks, tracts, and parcels of land against which benefits have been assessed in the commissioners' report (specifying the nature of the inquiry and examination he has made for that purpose), (5) that the residences of the owners and parties paying those general taxes are correctly stated, according to the result of his examination, in the column or schedule of residences in the commissioners' report, and (6) that in all cases where he has been unable to find the residence of the owner of the record title, he has examined the return of the collector's warrant for taxes on real estate for the last preceding year, in which the taxes were paid, and has set opposite each such parcel whose owner has not been found, the name of the person who last paid the tax on that parcel, together with his place of residence, wherever, on diligent inquiry, he was able to find the same. This affidavit, or an affidavit filed therewith, shall further state that the affiant has visited each of the parcels of land to be taken or damaged for the improvement described in the commissioners' report, for the purpose of ascertaining whether or not the parcel was occupied, and the name and residence of the occupant, if any, and that in every case where those parcels of land were found to be occupied, upon such investigation, the name of the occupant is stated in the commissioners' report opposite that parcel, together with his residence, when

ascertained. Such an affidavit and report shall be prima facie evidence that the requirements of this Division 2 have been complied with.

Laws 1961, p. 576, § 9–2–23, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–23.

5/9–2–24. Parties defendant; service of summons; appearance; non-residents

§ 9–2–24. Every person who is named in the commissioners' report as an owner of property to be taken or damaged for the improvement, and every person who is therein named as an occupant of any parcel thereof, shall be made a party defendant in the proceeding. All other persons having or claiming interest in any of the premises shall be described and designated as "all whom it may concern," and by that description shall be made defendants. Upon the filing of the commissioners' report, a summons shall be issued and served upon the persons made party defendants, as in other civil actions, except that the summons shall require a defendant to appear within 15 days after service, exclusive of the day of service. As to such of the defendants as are shown by the affidavits to be non-residents of the State of Illinois, or whose residences are shown thereby to be unknown, and the defendants designated as "all whom it may concern," the clerk of the court shall publish in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality, a notice of the pendency of the proceeding, the parties thereto, the title of the court, the time and place of the return of the summons in the case, the description of the property to be taken or damaged, the total cost of the improvement as shown by the estimate and report, and the nature of the proceeding. This notice shall further state that a special assessment has been made to raise the cost of the improvement, and the time and place of filing the report thereof. This notice shall be published at least once in each week for 3 weeks, the first notice to be published at least 30 days before the return day of the summons.

Laws 1961, p. 576, § 9–2–24, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–24.

5/9–2–25. Mailing notice to owners

§ 9–2–25. Where the residence of any defendant named in the commissioners' report is shown thereby to be outside of the State of Illinois, and the residence is stated therein, a copy of the specified notice shall be sent by mail to that party, at the address so given, at least 15 days prior to the return day of the summons. If the residence of any defendant is found to be unknown, as shown by the report and affidavit, a similar notice shall be sent to the person last paying taxes upon the premises, if his residence is stated in the report. Such service, publication, and notices shall be sufficient to give the court jurisdiction of all the parties whose land is to be taken or damaged, so as to determine all questions relating to the proceeding, and affecting the land described in the report.

Laws 1961, p. 576, § 9–2–25, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–25.

5/9–2–26. Mailing notices to parties assessed

§ 9–2–26. There shall be sent by mail, post paid, to each of the persons paying the taxes during the last preceding year in which taxes were paid on the property which has been assessed for the benefits in the proceeding, directed to the address as shown in the commissioners' report, or where not so shown, then generally to the municipality in which the improvement is to be made, at least 15 days before the specified return day, a notice stating the nature of the improvement, the description of that taxpayer's property assessed therefor, the amount of the assessment, and the date when the summons in the cause will be returnable, and when objections thereto may be filed. An affidavit of one of the commissioners, or some other person showing such service, mailing, posting, and publication, shall be prima facie evidence of a compliance with all the requirements thereof, but the publication may be proved in any other manner provided by law.

Laws 1961, p. 576, § 9–2–26, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–26.

5/9–2–27. Trials

§ 9–2–27. Upon the return of the summons, or as soon thereafter as the business of the court will permit, the court shall proceed to a hearing of the cause, and shall impanel a jury to ascertain the just compensation to be paid to all owners of property to be taken or damaged. If objections are filed to the confirmation of the assessment of benefits, those objections shall be submitted to the same jury at the same time. Thereupon the jury shall ascertain the just compensation to be paid to the owner of each lot, block, tract, or parcel of land to be taken or damaged in the proceeding, and shall also determine whether or not any lot, piece, or parcel of land assessed in the proceeding, for which objections have been filed, has been assessed more than it will be benefited by the improvement. On this hearing the commissioners' report so returned and filed, shall be prima facie evidence, both of the amount of the compensation to be awarded, and of the benefits to be assessed, but either party may introduce such other evidence as may bear upon that issue or issues.

Laws 1961, p. 576, § 9–2–27, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–27.

5/9–2–28. Separate trials

§ 9–2–28. If any defendant or party interested demands, and if the court deems it proper, separate juries may be impaneled, either as to the benefits assessed, or as to the compensation or damages to be paid to any one or more of the defendants or parties in interest.

Laws 1961, p. 576, § 9–2–28, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–28.

5/9–2–29. View by the jury

§ 9–2–29. The court upon the motion of the petitioner, or of any person claiming any such compensation, may direct that the jury, under the charge of an officer, shall view the premises which it is claimed by any party to the proceeding will be taken or damaged by the improvement. In any case where there is no satisfactory evidence given to the jury as to the ownership of, or as to the extent of the interest of any defendant in, the property to be taken or damaged, the jury may return their verdict as to the compensation or damage to be paid for the property or part of property to be taken or damaged, and for the entire interests therein.

Laws 1961, p. 576, § 9–2–29, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–29.

5/9–2–30. Adjournments; judgments

§ 9–2–30. Upon the return of the jury's verdict, the court shall order the verdict to be recorded and shall enter such judgment thereon as the nature of the case may require. The court shall continue or adjourn the cause from time to time as to all occupants and owners named in the petition who have not been served with process, or brought in by notice or by publication, and shall order a new summons to issue and publication to be made. When those occupants or owners are brought into court, the court shall impanel a jury to ascertain the compensation to be paid to those defendants for property taken or damaged, and the amount of benefits to be assessed against them, if any. Like proceedings shall be had for that purpose as hereinbefore provided in the case of other owners. But no final judgment shall be entered as to any of the property embraced in the assessment roll until all the issues in the case have been disposed of, including revised rolls, if any.

Laws 1961, p. 576, § 9–2–30, eff. July 1, 1961. Amended by P.A. 84–452, § 8, eff. Sept. 17, 1985; P.A. 84–545, § 8, eff. Sept. 18, 1985.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–30.

5/9–2–31. Change of title since filing of petition; judgment

§ 9–2–31. Upon proof that any owner named in such petition, who has not been served with process, has ceased to own the described property since the filing of the petition, the court has the power, at any time, to impanel a jury and ascertain the just compensation to be made for that property, or the damage thereto, and the benefits thereto. Upon any finding or findings of the jury, or at any time during the course of the proceedings, the court may enter such order, rule, or judgment as the nature of the case may require.

Laws 1961, p. 576, § 9–2–31, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–31.

5/9–2–32. Adverse claimants

§ 9–2–32. No delay in making an assessment of compensation shall be occasioned by any doubt or contest which may arise as to the ownership of the property or any part thereof, or as to the interests of the respective owners or claimants. In case of such a doubt or contest the court may require the jury to ascertain the entire compensation or damage that should be paid for the property, or part of the property, and the entire interests of all parties therein, and may require adverse claimants to interplead, so as to fully determine their rights and interests in the compensation so ascertained. And the court may make such order as may be necessary in regard to the deposit or payment of that compensation.

Laws 1961, p. 576, § 9–2–32, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–32.

5/9–2–33. Appointed guardian ad litem for minor or person under legal disability

§ 9–2–33. When it appears from the petition, or otherwise at any time during the proceedings upon the petition, that any minor or person under legal disability is interested in any property that is to be taken or damaged, the court shall appoint a guardian ad litem for that person, to defend his or her interest in that property, or the compensation which is awarded therefor.

Laws 1961, p. 576, § 9–2–33, eff. July 1, 1961. Amended by P.A. 83–706, § 14, eff. Sept. 23, 1983.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–33.

5/9–2–34. Effect of judgment

§ 9–2–34. Any final judgment rendered by a court upon any finding of any jury or of any judge where trial by jury is waived by the parties concerned, shall be a lawful and sufficient condemnation of the land or property to be taken, upon the payment of the net amount of the finding, as hereinafter provided. It shall be final and conclusive as to the damages and benefits caused by the improvement, unless the judgment is appealed from. But no appeal shall delay proceedings under the ordinance, if the petitioner files in the case its written election to proceed with the improvement notwithstanding that appeal and deposits, as directed by the court, the amount of judgment and costs, after deducting the benefits assessed and adjudged against that property, if any. If the petitioner so elects to make such a deposit prior to the final determination of any appeal, it shall thereby become liable to pay to the owners of and parties interested in the property in question, the difference, if any, between the amount so deposited and the amount ultimately adjudged to be the just compensation to be paid on account of the property, and interest on any such difference at the rate of 5% annually from the date of the making of the deposit, and costs.

Laws 1961, p. 576, § 9–2–34, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–34.

5/9–2–35. Order of possession

§ 9–2–35. The court, upon proof that the amount of the just compensation as found by the jury or by the court in case a trial by jury is waived by the parties concerned, in excess of the benefits so assessed and adjudged against the same property, has been paid to the person entitled thereto, or has been deposited as directed by the court, shall enter an order that the petitioner has the right, at any time thereafter, to take possession of or damage the property, in respect to which compensation has been so paid or deposited.

Laws 1961, p. 576, § 9–2–35, eff. July 1, 1961. Amended by Laws 1967, p. 3762, § 1, eff. Sept. 7, 1967; P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–35.

5/9–2–36. Proceedings pending appeal

§ 9–2–36. Upon the return of a verdict in a proceeding to acquire property for a public improvement, if no motion for a new trial is made, or if made, is overruled, the petitioner, within 90 days after final judgment as to all defendants, both as to the amount of damages and compensation to be awarded and benefits to be assessed shall elect whether it will dismiss the proceeding or enter judgment on the verdict. If it elects to enter judgment on the verdict, it shall become bound thereby and liable to pay the amount thereof, whether the assessment is collected or not, and the judgment of condemnation shall not be conditional. But the judgment shall not draw interest until the petitioner takes possession of or damages the property, in respect to which the judgment is entered. After entry of judgment the petitioner shall not be permitted to withdraw from or to dismiss the proceeding, without the consent of all parties whose land is thereby condemned, except as hereinafter provided. In case an appeal is taken by either party from the judgment of condemnation or confirmation, then unless the petitioner files in the cause its written election to proceed with the improvement notwithstanding the appeal, no steps shall be taken to collect the assessment nor to compel payment of the compen-

sation awarded until the appeal is disposed of and final judgment entered in the cause, or, in case of reversal, until there is a new trial and judgment. However, in case of a final reversal the petitioner may still elect, within a period of 60 days, to abandon the proceeding.

Laws 1961, p. 576, § 9–2–36, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–36.

5/9–2–37. Filing roll; commissioners; deficiency; revised assessment roll; notice

§ 9–2–37. If, in any case, upon the filing of the assessment roll by the commissioners, it appears that the amount assessed as benefits is not sufficient to pay the awards, with the costs, or if, upon the disposition of the whole case, any such deficiency appears, the court, on the application of the petitioner, may refer the roll again to the same or other commissioners, to be recast. In such cases the commissioners shall consider and report whether or not other premises will be benefited by the improvement, or whether or not the premises already assessed will be benefited thereby in any greater amount, and in what amount, if any, and shall make and return a revised assessment roll. This may be done from time to time, as often as any deficiency appears. But no lot, block, tract, or parcel of land shall be assessed more than it will be benefited by the improvement, nor more than its proportionate share of the costs of the improvement. If any premises not already described in the roll are assessed by the commissioners, the owners thereof shall be shown and notice given as for an original assessment. If the assessment on any premises previously assessed is increased thereby, or if any property is newly assessed, the owner thereof, if not already represented in court, shall be notified in like manner, and a hearing shall be had as above provided.

Laws 1961, p. 576, § 9–2–37, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–37.

5/9–2–38. Waterworks and sewerage system; annual tax levy; public benefit fund; referendum; issuance of warrants

§ 9–2–38. Any municipality which (1) has a population exceeding 15,000 but less than 500,000, (2) is not located within any sanitary district, (3) discharges its sewage into Lake Michigan without having provided any adequate provisions for otherwise disposing of its sewage, and (4) owns and operates a waterworks and sewerage system, the cost of the construction of which waterworks and sewerage system has been provided for by special assessment, and a large portion of which cost has been assessed against the municipality for public benefits, has the power to provide by ordinance for the levy, in addition to the taxes now authorized by law, and in addition to the amount authorized to be levied for general purposes as provided by Section 8–3–1, of a direct annual tax for not exceeding 20 successive years and not exceeding .1666% of the value, as equalized or assessed by the Department of Revenue of all taxable property, in the municipality. This tax shall be levied and collected with and in like manner as the general tax in the municipality and shall be known as the public benefit tax. The fund arising therefrom shall be known as the public benefit fund, which fund shall be used solely for the purpose of paying that portion of the several amounts heretofore assessed against the municipality for such public benefits, as well as for paying any such amounts as may be hereafter so assessed for such public benefits under and in pursuance of any ordinance that may be hereafter passed. However, no such tax shall be levied in excess of .1% of the taxable property for any year until after the corporate authorities of the municipality have passed an ordinance providing for the levying of that excess. This ordinance shall not become effective until it has been submitted to the electors of the municipality in accordance with the provisions of Sections 8–4–1 and 8–4–2 and has been approved by a majority of the electors voting upon the question.

Where any such tax has been levied, warrants may be drawn against the tax in the manner and with like effect as is provided by Sections 8–1–9, 8–1–11 and 8–1–12.

This section is subject to the provisions of the General Revenue Law of Illinois.[1]

Laws 1961, p. 576, § 9–2–38, eff. July 1, 1961. Amended by P.A. 77–865, § 1, eff. Aug. 17, 1971; P.A. 81–1509, Art. IV, § 34, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–38.

[1] 35 ILCS 205/1 et seq.

5/9–2–39. Public benefit tax and fund

§ 9–2–39. Any municipality having a population of less than 500,000 may provide by ordinance for the levy, in addition to the taxes now authorized by law, and in addition to the amount authorized to be levied for general purposes as provided by Section 8–3–1, of a direct annual tax not exceeding .05%, or the rate limit in effect on July 1, 1967, whichever is greater, of the value, as equalized or assessed by the Department of Revenue, of all taxable property in the municipality. This tax shall be known as the public benefit tax. The fund arising therefrom shall be known as a public benefit fund, which fund shall be used solely for the purpose of paying that portion of the several amounts heretofore assessed against the municipality for public benefit as well as paying any such amounts as may be hereafter assessed for public benefit under and in pursuance of any ordinance that may be hereafter passed. However, where and whenever any road or street is constructed or reconstructed by the State or any county or both jointly with any municipality, the municipality may consider, accept, and use, the amount estimated by the State of Illinois or the county, or both, to be its or their portion of the cost of construction, as a part or all of the municipal public benefit.

Where any such tax has been so levied, warrants may be drawn against the tax, as and in the manner and with like effect as is provided by Sections 8–1–9, 8–1–11 and 8–1–12. The foregoing limitations upon tax rates may be increased or decreased under the referendum provisions of the General Revenue Law of Illinois.[1]

Laws 1961, p. 576, § 9–2–39, eff. July 1, 1961. Amended by Laws 1967, p. 923, § 1, eff. July 1, 1967; P.A. 77–866, § 1, eff. Aug. 17, 1971; P.A. 81–1509, Art. IV, § 34, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–39.

[1] 35 ILCS 205/1 et seq.

5/9–2–40. Improvements requested by a majority of frontage; sidewalks

§ 9–2–40. Whenever the owners of one-half of the property abutting on any street, alley, park, or public place, or portion thereof, petition for any local improvement thereon, the board of local improvements in any municipality shall take steps hereinbefore required for hearing thereon, but at that hearing shall consider only the nature of the proposed improvement and the cost thereof. The board shall determine, in the manner above provided, the nature of the improvement which it will recommend, and thereupon shall

prepare and transmit to the corporate authorities a draft of an ordinance thereof, together with an estimate of the cost, as above described, and shall recommend the passage thereof. Such a recommendation shall be prima facie evidence that all the preliminary steps required by law have been taken. Thereupon it is the duty of the corporate authorities to pass an ordinance for that improvement and to take the necessary steps to have the ordinance carried into effect.

Whenever an ordinance provides only for the building or renewing of any sidewalk, and the owner of any lot or piece of land fronting on that sidewalk builds or renews that sidewalk opposite to his land to conform in all respects to the requirements of that ordinance within 40 days after the ordinance takes effect, an allowance shall be made in the spreading of the assessment against that lot or piece of land of an amount equal to the estimated cost of that sidewalk, based on the cost per unit of the sidewalk as shown in the engineer's estimate.

Notice of the passage of such a sidewalk ordinance shall be sent by mail within 10 days after the ordinance takes effect to the person who paid the taxes on the premises for the last preceding year, in which taxes were paid, if he can be found in that county. A like notice addressed to the occupant of the property, if the property is actually occupied at that time, and an affidavit of such service shall be filed with the official report of the assessment. Such an affidavit shall be prima facie evidence of a compliance with these requirements.

Laws 1961, p. 576, § 9–2–40, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–40.

5/9–2–41. Special tax

§ 9–2–41. When the ordinance under which a local improvement is ordered provides that the improvement shall be made wholly or in part by special taxation of contiguous property, that special tax shall be levied, assessed, and collected, as nearly as may be, in the manner provided in the section of this Division 2 providing for the mode of making, assessing, and collecting special assessments. No special tax shall be levied or assessed upon any property to pay for any local improvement in an amount in excess of the special benefit which the property will receive from the improvement. The ordinance shall not be deemed conclusive of the benefit, but the question of the benefit and of the amount of the special tax shall be subject to the review and determination of the court, and shall be tried in the same manner as in proceedings by special assessment.

Laws 1961, p. 576, § 9–2–41, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–41.

5/9–2–42. Special assessment

§ 9–2–42. When the ordinance under which a local improvement is ordered to be made contains no provisions for the condemnation of private property therefor, and provides that the improvement shall be wholly or in part paid for by special assessment, the proceedings for the making of that assessment shall be as follows.

Laws 1961, p. 576, § 9–2–42, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–42.

5/9–2–43. Petition; jurisdiction of courts

§ 9–2–43. Upon the passage of any ordinance for a local improvement pursuant thereto, the officer specified therein shall file a petition in the circuit court in the county where the affected territory lies, or if the municipality is situated in more than one county and the proposed improvement lies in more than one county, then in the circuit court in the county in which the major part of the territory to be affected thereby is situated, in the name of the municipality, praying that steps be taken to levy a special assessment for the improvement in accordance with the provision of that ordinance. There shall be attached to or filed with this petition a copy of the ordinance, certified by the clerk under the corporate seal, and also a copy of the recommendation of the board of local improvements and of the estimate of cost as approved by the corporate authorities. The failure to file any or either of these copies shall not affect the jurisdiction of the court to proceed in the cause and to act upon the petition, but if it appears in any such cause that the copies have not been attached to or filed with the petition before the filing of the assessment roll therein, then, upon motion of any objector for that purpose on or before appearance day in the cause the entire petition and proceedings shall be dismissed.

The several circuit courts of this State have jurisdiction of any proceeding under this Division 2.

Laws 1961, p. 576, § 9–2–43, eff. July 1, 1961. Amended by Laws 1967, p. 3762, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–43.

5/9–2–44. Order for assessment

§ 9–2–44. Upon the filing of such a petition, either the superintendent of special assessments, in municipalities where that officer is provided for by law or some competent person appointed by the president of the board of local improvements in municipalities where the office of such superintendent does not exist, shall make a true and impartial assessment of the cost of the specified improvement upon the petitioning municipality and the property benefited by the improvement.

Laws 1961, p. 576, § 9–2–44, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–44.

5/9–2–45. Apportionment of cost

§ 9–2–45. The officer specified in Section 9–2–44 shall estimate what proportion of the total cost of such improvement will be of benefit to the public, and what proportion thereof will be of benefit to the property to be benefited, and to apportion the total cost between the municipality and that property, so that each will bear its relative equitable proportion. Having found these amounts, such officer shall apportion and assess the amount so found to be of benefit to the property, upon the several lots, blocks, tracts, and parcels of land, in the proportion in which they will be severally benefited by the improvement. No lot, block, tract, or parcel of land shall be assessed a greater amount than it will be actually benefited, except that the apportionment and assessment shall include the anticipated fees for the recording of documents as provided in this Article. When the proposed improvement is for the construction of a sewer, it is the duty of such officer to investigate and report the district which will be benefited by the proposed sewer, describing the district by boundaries.

Where the improvement is to be constructed with aid from any agency of the Federal Government, or other governmental agency, the proportion of the total cost of the improvement to be raised by the municipality in addition to such aid shall be the amount allocated between public benefits and benefits of the property affected as above provided.

Laws 1961, p. 576, § 9–2–45, eff. July 1, 1961. Amended by P.A. 85–1252, § 1, eff. Jan. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–45.

5/9–2–46. Description of property assessed

§ 9–2–46. In levying any special assessment or special tax, each lot, block, tract, or parcel of land shall be assessed separately, in the same manner as upon assessment for general taxation. However, this requirement shall not apply to the property of railroad companies, or the right of way and franchise of street railway companies. Such property and right of way and franchise may be described in any manner sufficient to reasonably identify the property intended to be assessed.

Laws 1961, p. 576, § 9–2–46, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–46.

5/9–2–47. Assessment roll; notice; affidavit of compliance; perjury

§ 9–2–47. The assessment roll shall contain (1) a list of all the lots, blocks, tracts, and parcels of land assessed for the proposed improvement and, in counties in which a property index number system has been established in accordance with Section 9–45 of the Property Tax Code,[1] the index number in addition to the legal description, (2) the amount assessed against each, (3) the name of the person who paid the taxes on each such parcel during the last preceding calendar year in which taxes were paid, as ascertained upon investigation by the officer making the return, or under his direction, and (4) the residence of the person so paying the taxes on each such parcel if the residence on diligent inquiry can be found. In case of an assessment in installments, the amount of each installment shall also be stated. The officer making the roll shall certify under oath that he believes that the amounts assessed against the public and each parcel of property are just and equitable, and do not exceed the benefit which in each case will be derived from the improvements, and that no lot, block, tract, or parcel of land has been assessed more than its proportionate share of the cost of the improvement.

Several lots, or parts of land, owned and improved as one parcel may be assessed as one parcel.

Notice shall be given of the nature of the improvement, of the pendency of the proceeding, of the time and place of filing the petition therefor, of the time and place of filing the assessment roll therein, and of the time and place at which application will be made for confirmation of the assessment, the same to be not less than 15 days after the mailing of such notices. The notices shall be sent by mail postpaid to each of the specified persons paying the taxes on the respective parcels during the last preceding year in which taxes were paid, at his residence as shown in the assessment roll, or, if not shown, then to such person so paying the taxes, directed generally to the municipality in which the improvement is proposed to be made.

The notice shall state the amount assessed to the person to whom it is directed for the improvement proposed, the total amount of the cost of the improvement, and the total amount assessed as benefits upon the public.

Where the improvement is to be constructed with aid furnished by any agency of the Federal Government, or other governmental agency, the notice shall set forth, in dollars and cents, the estimated amount of aid to be so furnished.

An affidavit shall be filed before the final hearing showing a compliance with the requirements of this section, and also showing that the affiant, either the officer making the specified return, or some one acting under his direction, made a careful examination of the collector's books showing the payments of general taxes during the last preceding year in which the taxes were paid thereon, to ascertain the person who last paid the taxes on the respective parcels, and a diligent search for his residence, and that the report correctly states the persons and residences as ascertained by the affiant. This report and affidavit shall be conclusive evidence, for the purpose of this proceeding, of the correctness of the assessment roll in these particulars. In case the affidavit is found in any respect wilfully false, the person making it is guilty of perjury, and upon conviction thereof shall be punished according to the laws of this State.

Laws 1961, p. 576, § 9–2–47, eff. July 1, 1961. Amended by P.A. 85–1252, § 1, eff. Jan. 1, 1989; P.A. 88–670, Art. 3, § 3–28, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–47.

[1] 35 ILCS 200/9–45.

5/9–2–48. Division of assessment into installments; payment of interest; bonds; subways

§ 9–2–48. The corporate authorities may provide in the ordinance for any local improvement, any portion of the cost of which is to be defrayed by special assessment or special taxation, or by ordinance passed at any time before the confirmation of the assessment roll, that the aggregate amount assessed, and each individual assessment, and also the assessment against the municipality on account of property owned by the municipality and for public benefits be divided into installments not more than 10 in number. However, any such special assessment or special tax levy for building sewers or viaducts or for the acquisition, construction, and operation or maintenance of a pedestrian mall and parking facilities for a commercial or shopping center, notwithstanding the provisions of Division 71 of Article 11 of the "Illinois Municipal Code", approved May 29, 1961, as amended, provided that the owners of a majority of the property abutting on any street, alley, park or public place or portion thereof within such commercial or shopping center area shall consent to such assessment and further provided that no such assessment as above authorized shall be made against a property used wholly for residential purposes, in like manner may be divided into not exceeding 20 installments, and any such special assessment or special tax levy for building subways may in like manner be divided into not exceeding 40 installments. In all cases such a division shall be made so that all installments shall be equal in amount, except that all fractional amounts shall be added to the first installment, so as to leave the remaining installments of the aggregate equal in amount and each a multiple of $100. The first installment shall be due and payable on January 2 next after the date of the first voucher issued on account of work done, and the second installment one year thereafter, and so on annually until all installments are paid. The board of local improvements shall file in the office of the clerk of the court in which such an assessment was confirmed, a certificate signed by its secretary, of the date of the first voucher and of the amount thereof, within 30 days after the issuance thereof.

All installments shall bear interest as hereinafter provided until paid, at the rate set forth in the ordinance referred to in Section 9–2–10 of the Illinois Municipal Code and not to exceed the greater of (i) 9% annually or 70% of the Prime Commercial Rate in effect at the time of the passage of such ordinance or (ii) the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract. Interest on assessments shall begin to run from 60 days after the date of the first voucher issued on account of work done, except as otherwise provided in Section 9–2–113. The interest on each installment shall be

payable as follows: on January 2 next succeeding the date of the first voucher as certified, the interest accrued up to that time on all unpaid installments shall be due and payable and be collected with the installment, and thereafter the interest on all unpaid installments then payable, shall be payable annually and be due and payable at the same time as the installments maturing in that year and be collected therewith. In all cases the municipal collector, whenever payment is made of any installment, shall collect interest thereon up to the date of such payment whether the payment be made at or after maturity. Any person may at any time pay the whole assessment against any lot, piece, or parcel of land, or any installment thereof with interest as provided in this Division 2 up to the date of payment. Whenever any municipality heretofore has levied for any public improvement a special tax or a special assessment payable in not to exceed 10 installments of which all except the first draw interest at any rate specified in the ordinance under the authority of which the improvement is made, and judgment has been duly entered in the proceeding confirming the tax or the assessment so payable, the judgment in that proceeding shall not be invalid because the assessment is so divided or because the rate of interest therein is fixed at an interest rate of less than that set forth in said ordinance, but all such judgments, unless void for other reasons, shall be valid and enforceable. And when improvement bonds have been issued for the purpose of anticipating the collection of the deferred installments of any such special tax or assessment, the bonds, if otherwise valid, shall not be void either because of the number of series into which they are divided or the rate of interest they bear. If the bonds are in other respects in compliance with the statutes of the State of Illinois in such cases, they shall be valid and enforceable to the extent that the tax or assessment against which they are levied is enforceable or any re-levy thereof.

The cost of operating and maintaining any pedestrian mall and parking facilities for a commercial or shopping center as provided for herein may be assessed not more than once in each calendar year against all property in a benefited area.

Any municipality which has provided or does provide for the creation of a plan commission under Division 12 of Article 11 shall submit to and receive the approval of the plan commission before establishing, maintaining or operating any such pedestrian mall and parking facilities for a commercial or shopping center.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

This amendatory Act of 1971 is not a limit upon any municipality which is a home rule unit.

This amendatory Act of 1972 is not a limit upon any municipality which is a home rule unit.

Laws 1961, p. 576, § 9–2–48, eff. July 1, 1961. Amended by Laws 1963, p. 2417, § 1, eff. Aug. 6, 1963; Laws 1963, p. 2428, § 1, eff. Aug. 6, 1963; Laws 1965, p. 2969, § 1, eff. Aug. 13, 1965; P.A. 76–1825, § 1, eff. Oct. 9, 1969; P.A. 76–2237, § 1, eff. July 1, 1970; P.A. 77–1458, § 1, eff. Sept. 7, 1971; P.A. 77–2823, § 1, eff. Dec. 22, 1972; P.A. 82–642, § 1, eff. Sept. 24, 1981; P.A. 86–4, § 8, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–48.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/9–2–48(1). Alternative assessment procedure for maintenance of pedestrian mall or parking facility

§ 9–2–48(1). In addition to any other powers or procedures for the making of a local improvement by special tax or assessment, when a pedestrian mall and parking facilities improvement is proposed or made under Section 9–2–48, the corporate authorities may provide in the original ordinance for the improvement, or in a separate ordinance, that the costs and expenses of maintenance and operation thereof as provided in this Section, shall be paid for by an annual assessment, upon the commercial or business property within the district of the improvement, which improvement district is primarily benefited by the provision for such costs and expenses which are necessary, convenient and desirable for the protection and preservation of the capital improvement so made and the operation, upkeep, repairs, replacement and/or maintenance of the said improvement and its component parts, fixtures, equipment or facilities. When an ordinance is so enacted, the annual assessment so provided for by such ordinance may be made under and in accordance with the provisions of this Section.

(a) The annual assessment hereunder shall be made each year for a period of consecutive years not exceeding the number of years over which the cost for the making of the improvement has been spread, provided, however, that by consent of the owners of 66⅔% of the frontage of private property within the district, the annual assessment can be continued for additional periods of years.

The annual assessments hereunder shall be due and payable on January 2nd next after the date of confirmation of each annual assessment.

(b) Upon the completion of the pedestrian mall or parking facility, the court in which the special assessment or tax for the making of the improvement was confirmed shall upon the application of the municipality or any assessee within the district, appoint a board of commissioners consisting of 5 members, at least 3 of whom shall be owners or lessees (or their duly authorized representatives) of property within the district. The board of commissioners shall determine and estimate the amount of the costs and expenses of the improvement for the year as provided in this Section, and shall file a report of said expenses and an assessment roll signed and certified to by the chairman of the board, spreading the total annual cost over the property of the district proportionate to the assessed valuation of said property for general real estate tax purposes. Notice of the filing of said report and assessment shall be given to the assessee of taxes for said property and a date for filing and hearing objections, if any, thereto shall be set. The court shall hear and determine objections and shall have full and complete power to revise, confirm, modify, amend or recast the said roll to comply with the provisions of this Section, including the power to revise individual assessments wherein the assessment as levied in accordance with this Section exceeds the benefit to the property or constitutes more than a proportionate share of the total annual assessment. Upon confirmation of the roll and the annual assessment, a warrant to collect the assess-

ment shall issue by the County Clerk. The assessment hereunder shall have the same force and effect as other assessments under Article 9, Division 2 and shall be otherwise governed thereby except as provided otherwise herein. The annual assessments collected hereunder shall be paid over to the board of commissioners who shall apply same in discharge of the actual cost and expenses provided for herein as incurred during the course of said year. Any surplus in the estimated amount collected over the actual costs or expense of the year shall be credited on the next year's estimate and any deficiency shall be included as a permitted item of cost or expense to be defrayed by the assessment for the following year. In the event there is any surplus of assessments collected in the last year of collections, the same shall be rebated in proportion to the assessments for that year, and in the event there is any deficiency in collections of the last year, a final winding-up assessment to satisfy said deficit shall be made for the year following the said last year of assessment hereunder.

(c) The items of cost and expense which may be included in the estimate and for which an annual assessment may be levied hereunder are as follows:

1. The cost of repairs, upkeep and maintenance of any or all fixtures, equipment or facilities which comprised the improvement as originally made or any replacements thereof.

2. The costs of repairs, upkeep and maintenance of any common areas within the improvement as originally made.

3. The costs of any additions to or modifications of the improvement as originally made, any new or additional fixtures, equipment, facilities or service which is or are determined to be essential to public health, safety or welfare and to the protection and preservation of the improvement and the operation thereof.

4. A reserve for contingencies in the item of costs and expense estimated, not to exceed 10% of the total of such costs for the year in question.

5. A reserve to defray interest on funds borrowed or vouchers issued in anticipation of collection of annual installments.

6. Any deficiencies in collection over the actual costs and expense of the preceding year.

7. The costs and expenses of management employees and facilities, of making and levying the assessments and letting and executing contracts, of necessary estimates, examinations, advertisements and the like, including any court costs and fees, and for reimbursement of the expenses incurred by the commissioners in performing their duties hereunder.

(d) The commissioners to be appointed hereunder shall receive no compensation for services and shall serve for a term of 5, 4, 3, 2 and 1 year from the date of appointment and the term shall be selected by lot at the first meeting of the board after appointment by the court. The court shall thereafter appoint commissioners for 5 year terms upon termination of each term and shall appoint successors in the event of vacancy. Any commissioner shall be eligible to succeed himself.

(e) The board of commissioners shall have authority:

(1) To issue vouchers in anticipation of the collections of the annual assessments, in payment for the costs and expenses of maintenance and operation provided for hereunder and such vouchers shall be payable from the annual assessments when collected and shall bear interest at a rate set by the board, not to exceed the greater of 9% or 70% of the Prime Commercial Rate in effect at the time of the passage of the ordinance referred to in Section 9–2–10 of the Illinois Municipal Code.

(2) To borrow funds for working capital in anticipation of collection of annual assessments at a rate of interest not to exceed the greater of (i) 9% annually or 70% of the Prime Commercial Rate in effect at the time of the passage of the ordinance referred to in Section 9–2–10 of the Illinois Municipal Code or (ii) the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract.

(3) To enter into agreements with the municipality relative to the payment of that portion of the costs of maintenance and operation provided for herein, which reflects the general public benefit derived from the protection and preservation of the pedestrian mall or parking facility improvement. In such agreements, the board shall have authority to accept the fair and reasonable value of service provided by the municipality in full or partial satisfaction of the public benefit portion of said costs.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1961, p. 576, § 9–2–48, added by P.A. 76–666, § 1, eff. Aug. 6, 1969. Amended by P.A. 82–642, § 1, eff. Sept. 24, 1981; P.A. 86–4, § 8, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–48(1).

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/9–2–49. Construction of improvement and taking or damaging property combined; distribution of assessment

§ 9–2–49. Whenever an ordinance provides for the making of a local improvement which comprises either the construction of an improvement or the taking or damaging of property therefor, or both such construction and taking or damaging, and proceedings are instituted prior to, on or after January 1, 1942, for the confirmation of a special assessment or a special tax to defray the whole or any portion of the cost of any such improvement, including the cost of the construction thereof and the compensation for the taking or damaging of property therefor, or including only the cost of taking or damaging of property therefor, and including in each such proceeding the cost of making and collecting the special assessment or special tax (in the case of such municipalities as may lawfully include that cost in special assessment or special tax proceedings), the corporate authorities may provide by the ordinance for any such local improvement, or if proceedings authorized by any such ordinance have been filed in court, then by an ordinance passed at any time before the confirmation of the assessment roll filed in any such proceeding, that the aggregate amount assessed to defray the cost of the improvement, including the cost of the construction thereof and the compensation for the taking or damaging of property therefor or including only the cost of taking or damaging property therefor, and each individual

assessment and also the assessment against the municipality on account of property owned by the municipality and for public benefits, be divided into not more than 20 installments. Such installments shall be equal in amount and each a multiple of $100, except that any fractional amounts of the aggregate assessment, after division as aforesaid, shall be apportioned to the first installment. However, if it is so provided by ordinance passed at any time before the confirmation of the assessment roll, so much of the aggregate amount assessed as represents the cost of the construction of the improvement shall be divided into as many parts as there are installments, which parts shall be equal in amount and each a multiple of $100, except that any fractional amounts of the cost of construction after division as aforesaid shall be apportioned to the first installment, and so much of the aggregate amount assessed as represents the compensation for property to be taken or damaged, together with the cost of making and collecting the special assessment or special tax (in the case of such municipalities as may lawfully include that cost in special assessment or special tax proceedings) shall be apportioned to the first installment of the special assessment or special tax.

Laws 1961, p. 576, § 9–2–49, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–49.

5/9–2–50. Construction of improvement and taking or damaging property combined; certification of assessment roll; due date of assessments

§ 9–2–50. Within 30 days after the entry of confirmation of the assessment roll in such a proceeding described in Section 9–2–49, the clerk of the court in which the judgment is rendered shall certify the assessment roll and judgment to the officer of the municipality authorized to collect the special assessment or tax. If, however, there has been an appeal taken on any part of the judgment, then the designated clerk shall certify such part of the judgment as is not included in that appeal and this certification shall be filed by the officer receiving it, in his office. With the assessment roll and judgment, the clerk of the specified court shall also issue and deliver a warrant for the collection of the assessment or tax. Upon the delivery of this warrant to the designated collecting officer, the first installment of such assessment or tax shall be immediately due and payable. The second installment of the assessment or tax shall be due and payable on the second day of January next after the date of the first voucher issued on account of work done, if the uncollected portion of the first installment has been returned delinquent to the authorized county officer as provided in this article, but if the same has not been so returned delinquent, then the second installment shall be due and payable one year after that second day of January. The third and subsequent installments shall be due and payable respectively at successive annual periods after the second installment becomes due and payable. The amount awarded to any person for property taken or damaged may be applied, at the option of the owner of that property, as an offset to the amount of benefits assessed in the first and succeeding installments against any property owned by that person and assessed in that proceeding.

Laws 1961, p. 576, § 9–2–50, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–50.

5/9–2–51. Construction of improvement and taking or damaging property combined; interest on installments; bonds; collection of tax

§ 9–2–51. All installments established pursuant to Section 9–2–50 shall bear interest until paid at the rate set forth in the ordinance referred to in Section 9–2–10 of the Illinois Municipal Code and not more than the greater of (i) 9% annually or 70% of the Prime Commercial Rate in effect at the time of the passage of such ordinance, or (ii) the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, payable annually, and such interest shall begin to run from 60 days after the date when the first installment becomes due and payable. Interest on the first installment, if any, shall be due and payable and shall be collected at the same time as the first installment. Interest on the second and subsequent installments, if any, shall be due and payable and shall be collected with the installments respectively, as provided in this Division 2. Bonds to anticipate the collection of the installments of the assessment provided for in this Section may be issued after the entry of confirmation in any such proceeding, and such bonds shall draw interest from the date of issuing the same at the rate specified in said ordinance referred to in Section 9–2–10 and of not more than the rate the installments of the assessment against which the bonds are being issued bear, payable annually, and shall otherwise conform to the provisions of Section 9–2–119 or Sections 9–2–127 through 9–2–129.

The special assessment or special tax described in Section 9–2–49 shall be collected in the manner prescribed in this Division 2 for other special assessments and special taxes, except that the collection of the first installment of such special assessment or special tax, or any part thereof, may be enforced if necessary by the sale of the property against which the same is levied, notwithstanding that the improvement for which the same is levied may not have been completed.

The proceedings provided for in this Section also shall be governed by the other Sections of this Division 2 so far as they are applicable thereto, and not inconsistent with the provisions of this Section.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

This amendatory Act of 1971 is not a limit upon any municipality which is a home rule unit.

This amendatory Act of 1972 is not a limit upon any municipality which is a home rule unit.

Laws 1961, p. 576, § 9–2–51, eff. July 1, 1961. Amended by Laws 1963, p. 2417, § 1, eff. Aug. 6, 1963; P.A. 76–2237, § 1, eff. July 1, 1970; P.A. 77–1459, § 1, eff. Sept. 7, 1971; P.A. 77–2823, § 1, eff. Dec. 22, 1972; P.A. 82–642, § 1, eff. Sept. 24, 1981; P.A. 86–4, § 8, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–51.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/9–2–52. Retirement of bonds

§ 9–2–52. Whenever sufficient funds are on hand, the corporate authorities of the municipality issuing improvement bonds shall direct the treasurer, or such other officer as may be designated by ordinance for that purpose, to select by lot, bonds of series to be paid, or the corporate authorities shall direct the treasurer or the other officer so designated to make a pro rata payment on all unpaid bonds in the series. The treasurer or other officer so designated shall send notice by registered mail to the address of the known owner of each of the designated bonds as set out in the treasurer's records, specifying a day not less than 30 days after the date of the notice, upon which the designated bonds will be paid either in full or in part, as the case may be, at his office. He shall also supplement this notice by publishing a notice of the number of bonds to be so paid, not less than 15 days prior to the day set for payment, in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality, the series thereof, the assessment to which they relate and the particular bonds so selected to be paid if payment is to be made in full or in case a pro rata payment is to be made, naming the particular series upon which the partial payment is to be made, and that the same will be paid at a place to be specified.

Thereupon from the specified date of payment these bonds shall be payable on demand either in full or in part, as the case may be, at the place so appointed. No further interest shall accrue on the bonds selected to be paid in full or on that portion of the principal on bonds to be paid in part. However, in municipalities, having a population of 100,000 or more, the selection by lot and the mailing and publishing of notice may be omitted if bonds or vouchers in any series having sufficient funds on hand are presented for payment. In this latter case the bonds so presented may be paid in full, both as to principal and interest, in their order of presentation, within the limits of the funds available.

The provisions of this section shall apply to all proceedings now pending, proceedings in which judgment has been entered, and all future proceedings, except that the provisions of this section shall not apply to bonds issued under Section 9–2–127.

Laws 1961, p. 576, § 9–2–52, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–52.

5/9–2–53. Notice by posting and publication

§ 9–2–53. Petitioner, in addition to other notices hereinbefore provided for, shall publish a notice at least twice, not more than 30 nor less than 15 days in advance of the time at which confirmation of the specified assessment is to be sought, in one or more newspapers published in the municipality or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may be made by posting a notice in 3 prominent places within the municipality. The notice shall be over the name of the officer levying the assessment, and shall be substantially as follows:

"SPECIAL ASSESSMENT NOTICE"

"Notice is hereby given to all persons interested that the city council (or board of trustees, or other corporate authority, as the case may be) of . . . having ordered that (here insert a brief description of the nature of the improvement), the ordinance for the improvement being on file in the office of the . . . clerk, having applied to the . . . court of . . . county for an assessment of the costs of the improvement, according to benefits, and an assessment therefor having been made and returned to that court, the final hearing thereon will be had on (insert date), or as soon thereafter as the business of the court will permit. All persons desiring may file objections in that court before that day and may appear on the hearing and make their defense."

(Here give date.)

. . . . . .

Where the assessment is payable in installments, the number of installments and the rate of interest also shall be stated.

Laws 1961, p. 576, § 9–2–53, eff. July 1, 1961. Amended by P.A. 91–357, § 75, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–53.

5/9–2–54. Continuance for notice

§ 9–2–54. If 15 days have not elapsed between the first publication or the putting up of such notice, and the day fixed in the notice for filing objections, the cause shall be continued for 15 days, and the time for filing objections shall be correspondingly extended.

Laws 1961, p. 576, § 9–2–54, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–54.

5/9–2–55. Objections

§ 9–2–55. Any person interested in any real estate to be affected by an assessment, may appear and file objections to the report, by the time mentioned in the specified notice, or in case of incomplete notice then as specified in the last preceding section, or within such further time as the court may allow.

As to all lots, blocks, tracts, and parcels of land, to the assessment of which objections are not filed within the specified time, or such other time as may be ordered by the court, default may be entered, and the assessment may be confirmed by the court, notwithstanding the fact that objections may be pending and undisposed of as to other property.

Laws 1961, p. 576, § 9–2–55, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–55.

5/9–2–56. Review of assessment roll by the court

§ 9–2–56. Upon objections or motion for that purpose, the court in which the specified proceeding is pending may inquire in a summary way whether the officer making the report has omitted any property benefited and whether or not the assessment, as made and returned, is an equitable and just distribution of the cost of the improvement, first, between the public and the property, and second, among the parcels of property assessed. The court has the power, on such application being made, to revise and correct the assessments levied, to change or modify the distribution of the total cost between the public and property benefited, to change the manner of distribution among the parcels of private property, and to strike out of the roll of awards by the commissioners filed in the case the amount or amounts shown as compensation for property which property has been theretofore donated by any person or persons for the making of the proposed improvement, so as to produce a just and equitable assessment, considering the nature of the property

assessed, and its capacity for immediate use of the improvement when completed.

The court may either make such corrections or changes, or determine in general the manner in which the corrections or changes shall be made, and refer the assessment roll to any competent person for revision, correction or alteration in such manner as the court may determine. The determination of the court as to the correctness of the distribution of the cost of the improvement between the public and the property to be assessed, is appealable as in other civil cases.

Laws 1961, p. 576, § 9–2–56, eff. July 1, 1961. Amended by Laws 1967, p. 3762, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–56.

5/9–2–57. Hearing of legal objections

§ 9–2–57. On the application of the petitioner, at any time after the return day, the court may set down all objections, except the objection that the property of the objector will not be benefited to the amount assessed against it, and that it is assessed more than its proportionate share of the cost of the improvement, for a hearing at a time to be fixed by the court. Upon this hearing the court shall determine all questions relating to the sufficiency of the proceedings, the distribution of the cost of the improvement between the public and the property, and of the benefits between the different parcels of property assessed, together with all other questions arising in that proceeding, with the exception specified, and shall thereupon enter an order in accordance with the conclusions it reaches. But this order shall not be a final disposition of any of those questions for the purpose of appeal, unless the objectors waive further controversy as to the remaining question upon the record.

Laws 1961, p. 576, § 9–2–57, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–57.

5/9–2–58. Trial by jury

§ 9–2–58. If it is objected on the part of any property assessed for such an improvement, that it will not be benefited thereby to the amount assessed thereon, and that it is assessed more than its proportionate share of the cost of the improvement, and a jury is not waived by agreement of parties, the court shall impanel a jury to try that issue. In that case, unless otherwise ordered by the court, all such objections shall be tried and disposed of before a single jury. The assessment roll, as returned by the officer who made it, or as revised and corrected by the court on the hearing of the legal objections, shall be prima facie evidence of the correctness of the amount assessed against each objecting owner but shall not be counted as the testimony of any witness or witnesses in the cause. That assessment roll may be submitted to the jury and may be taken into the jury room by the jury when it retires to deliberate on its verdict. Either party may introduce such other evidence as may bear upon that issue or issues. The hearing shall be conducted as in other civil cases. If it appears that the property of any objector is assessed more than it will be benefited by the specified improvement, or more than its proportionate share of the cost of the improvement, the jury shall so find, and it shall also find the amount for which that property ought to be assessed, and judgment shall be rendered accordingly.

Laws 1961, p. 576, § 9–2–58, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–58.

5/9–2–59. Distribution of deficiency; new notice

§ 9–2–59. Wherever, on a hearing by the court, or before a jury, the amount of any assessment is reduced or cancelled, so that there is a deficiency in the total amount remaining assessed in the proceeding, the court may, in the same proceeding, distribute this deficiency upon the other property in the district assessed, in such manner as the court finds just and equitable, not exceeding, however, the amount such property will be benefited by the specified improvement.

In case any portion of this deficiency is charged against such property not represented in court, a new notice, of the same nature as the original notice, shall be given in like manner as the original notice, to show the cause why the assessment, as thus increased, should not be confirmed. The owners of or parties interested in such property have the right to object in the same form and with the same effect as in case of the original assessment, and the court has the same power to dispose thereof.

Laws 1961, p. 576, § 9–2–59, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–59.

5/9–2–60. Precedence for trial

§ 9–2–60. The hearing in all the cases arising under this Division 2 shall have precedence over all other cases in any court, where they are brought, except criminal cases, or other cases in which the public is a moving party.

Laws 1961, p. 576, § 9–2–60, eff. July 1, 1961. Amended by Laws 1967, p. 3740, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–60.

5/9–2–61. Modification by court; abandonment of proposed improvements

§ 9–2–61. The court before which any such proceedings may be pending may modify, alter, change, annul, or confirm any assessment returned as specified, in addition to the authority already conferred upon it, and may take all such proceedings, and make all such orders, as may be necessary to the improvement, according to the principles of this article, and may from time to time, as may be necessary, continue the application for that purpose, as to the whole or any part of the premises.

After an ordinance for any local improvement has been filed in court, and after the report and assessment roll relating thereto has been filed, but before the court has entered its final judgment thereupon, the corporate authorities may petition the court for the abandonment of any portion of the proposed improvement. Such petition shall be supported by a recommendation of the board of local improvements and an ordinance adopted by the corporate authorities pursuant to Section 9–2–6 hereof, as amended by this amendatory act of 1963. Upon the filing of such petition, the court may order the adjustment of the assessment roll according to the changes requested in the petition.

Laws 1961, p. 576, § 9–2–61, eff. July 1, 1961. Amended by Laws 1963, p. 2424, § 1, eff. Aug. 6, 1963.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–61.

5/9–2–62. Acquisition of lands; prerequisite to special assessment

§ 9–2–62. No special assessment or special tax shall be levied for any local improvement until the land necessary therefor has been acquired and is in possession of the

municipality, except in cases where proceedings to acquire such land have begun and have proceeded to judgment.

Laws 1961, p. 576, § 9–2–62, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–62.

5/9–2–63. Prior improvement of same kind as objection

§ 9–2–63. It is no objection to the legality of any local improvement that a similar improvement has been previously made in the same locality, if the ordinance therefor is recommended by the board of local improvements, as above provided. But nothing contained in this Division 2 shall interfere with any defense in this proceeding relating to the benefits received therefrom.

Laws 1961, p. 576, § 9–2–63, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–63.

5/9–2–64. Judgment on installment assessments

§ 9–2–64. In case of a special assessment or a special tax levied to be paid by installments, under the provisions of this Division 2, the order of confirmation that is entered upon the return of the assessment roll shall apply to all of the installments thereof, and may be entered in one order.

Laws 1961, p. 576, § 9–2–64, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–64.

5/9–2–65. Judgment for special tax or assessment

§ 9–2–65. Judgment for special tax or assessment. The judgments of the court shall be final as to all the issues involved, and the proceedings in the specified cause shall be subject to review by appeal as hereinafter provided, and not otherwise. By mutual consent, however, a judgment may be vacated or modified notwithstanding the expiration of 30 days from the rendition of the judgment, except as hereinafter provided.

The judgment shall have the effect of several judgments as to each tract or parcel of land assessed, and no appeal from any judgment shall invalidate or delay the judgments, except as to the property concerning which the appeal is taken.

The judgment shall be a lien on behalf of the municipality making an improvement, for the payment of which the special tax or special assessment is levied, on the property assessed from the date upon which a certified copy of the judgment and assessment roll is recorded in the office of the recorder of each county in which any part of the property is located, to the same extent and of equal force and validity as a lien for the general taxes until the judgment is paid or the property against which the judgment is entered is sold to pay the judgment, if the judgment is recorded within 60 days from the date the assessment roll is confirmed. A judgment recorded beyond the 60 days is not a valid lien against the property. This 60 day recording requirement does not apply to judgments entered before September 23, 1991.

When the judgment against any property has been fully paid, the corporate authorities of the municipality shall execute and record, in the recorder's office of the county in which the land is located, a release of the lien of the judgment so paid, and shall deliver a copy of the release to the owner of the property.

Nothing in this Section shall interfere with the right of the petitioner to dismiss its proceedings, and for that purpose to vacate a judgment at its election at any time before commencing the actual collection of the assessment. The court in which the judgment is rendered shall enter an order vacating or annulling the judgment of confirmation on motion of petitioner entered at any time after the expiration of 30 days from the rendition of that judgment or confirmation upon a showing by petitioner that no contract was let or entered into for the making of the specified improvement within the time fixed by law for the letting of the contract, that the making of the improvement under the original proceeding was never commenced, or that the making of the improvement under the prior proceedings was abandoned by petitioner. No judgment entered in a proceeding so dismissed and vacated shall be a bar to another like or different improvement. After the contract for the work has been entered into, or the improvement bonds have been issued, however, no judgment shall be vacated or modified or any petition dismissed after the expiration of 30 days from the rendition of the judgment, and the collection of the assessment shall not be in any way stayed or delayed by the corporate authorities, board of local improvements, or any officer of the municipality without the consent of the contractor and bondholder.

Subject to Sections 9–2–66 through 9–2–71, the municipality or its assignee may file a complaint to foreclose the lien in the same manner that foreclosures are permitted by law in case of delinquent general taxes. No forfeiture of the property, however, shall be required as a prerequisite to foreclosure.

Laws 1961, p. 576, § 9–2–65, eff. July 1, 1961. Amended by P.A. 85–479, § 1, eff. Sept. 17, 1987; P.A. 85–1252, § 1, eff. Jan. 1, 1989; P.A. 87–728, § 1, eff. Sept. 23, 1991; P.A. 87–895, Art. 3, § 3–17, eff. Aug. 14, 1992.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–65.

5/9–2–66. Assignment of assessment liens; petition; notice and publication

§ 9–2–66. A municipality may file a petition in the circuit court praying for the entry of an order authorizing the municipality to sell and assign special assessment liens. Any number of properties and special assessment liens may be included in a petition. Notice of the filing of the petition and notice of the time and place of hearing on the petition shall be given by the municipality to "Owners of the lots or tracts of land on which such special assessments are liens" and to "Owners and holders of special assessment bonds and vouchers" by publication in conformity with the provisions of "An Act to Revise the Law in Relation to Notices", approved February 13, 1874, as heretofore and hereafter amended.[1] The municipality shall also, within 10 days of the first publication of the notice, send a copy thereof by mail addressed to each known owner and holder of special assessment bonds and vouchers whose addresses are shown on the books and records of the municipality. The municipality shall also, within 10 days of the first publication of the notice, send a copy thereof by mail addressed to each owner of lots or tracts of land on which the special assessment is a lien and to a representative number of owners of lots or tracts of land on which the special assessments have been paid, whose names and addresses appear in the owner's column on the county collector's warrant for general taxes for the year preceding the filing of the petition. A certificate of the collector of special assessments of the municipality that he has sent copies in pursuance of this section is evidence that he has done so. Except as otherwise provided in this section and Sections 9–2–67 through 9–2–71, the practice and procedure shall be the same as in other civil cases.

Laws 1961, p. 576, § 9–2–66, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–66.

[1] 715 ILCS 5/0.01 et seq.

5/9–2–67. Assignment of assessment liens; allegations; hearing

§ 9–2–67. The petition to sell and assign special assessment liens shall allege that the special assessments are past due and unpaid, the total amounts owing on each lot or tract of land, and that it is in the best interest of the municipality and the owners of the special assessment bonds and vouchers that the municipality be authorized to sell and assign the special assessment liens.

The court shall hear the proceeding in a summary manner and there shall be no hearing on benefits or on any legal objections arising prior to the order or orders of confirmation of the special assessments. The Court on such petition may enter an order authorizing the sale and assignment of all or a part of the special assessment liens set forth in the petition. The court in such order shall determine and find the amount of the special assessment liens on each lot or tract of land on which it authorizes the liens to be sold.

Laws 1961, p. 576, § 9–2–67, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–67.

5/9–2–68. Sale of special assessment liens

§ 9–2–68. Pursuant to authorization by order of court, the municipality may at public sale, after first giving notice by publication of the time and place of sale in conformity with the provisions of "An Act to Revise the Law in Relation to Notices", approved February 13, 1874, as heretofore and hereafter amended,[1] sell the special assessment lien or liens.

The special assessment liens shall be sold in the manner in which they are assessed. The municipality shall file a report of sale in the circuit court within 30 days of the date of sale of the lien on each tract or lot and pray for an order of court confirming the sale. Upon confirmation, the collector of special assessments of the municipality shall issue to the purchaser a certificate of sale and assignment by the municipality of the lien. Such certificate shall be countersigned by the county clerk. Each certificate of sale shall state the amount of the sale and the amount of the lien as determined by the court. Appropriate notations of the sale and assignment of special assessment liens shall be made on the public records of the municipality and the county by the official custodians thereof.

The county clerk shall prepare and keep a record in his office which shall be known as the "special assessment sale, assignment and redemption record", in which shall be entered all sales and assignments of special assessment liens, the amount of the liens as determined by order of court, payments made by the owners of lots or tracts of land to the county clerk under the provisions of this Division 2 and redemptions. No sale and assignment or cancellation of the special assessment lien or redemption shall be valid unless and until the sale and assignment, cancellation or redemption is entered on the records of the county clerk. The county clerk shall be entitled to a fee of $1 for each lot or tract of land for entering a sale and assignment on his record, which fee shall be included as costs in case of redemption or foreclosure.

Laws 1961, p. 576, § 9–2–68, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–68.

[1] 715 ILCS 5/0.01 et seq.

5/9–2–69. Redemption of special assessment liens

§ 9–2–69. Redemption of special assessment liens may be made prior to the entry of a foreclosure judgment by payment to the county clerk of the amount of the lien as determined by order of court, together with interest thereon at the rate of 12% for each 6 months or portion thereof intervening between the time of sale and the time of redemption. Redemptions made after foreclosure judgment and sale shall be the same as provided for in Section 21–75 of the Property Tax Code.[1]

The county clerk shall be entitled to the same fees for issuing estimates of the cost of redemption, issuing certificates of cancellation, certificates of redemption and cancelling sales of special assessment liens as he is presently entitled to by law in regard to tax sales.

Laws 1961, p. 576, § 9–2–69, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976; P.A. 88–670, Art. 3, § 3–28, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–69.

[1] 35 ILCS 200/21–75.

5/9–2–70. Foreclosure of special assessment liens

§ 9–2–70. The assignee of a special assessment lien may, not later than 5 years after the date of the sale and assignment of the special assessment lien by the municipality, file a complaint to foreclose the lien. The lien of a special assessment which has been assigned and any right of action to foreclose the same shall not expire during the pendency of a proceeding to foreclose the lien commenced within 5 years from the date of the sale and assignment of the lien by the municipality. If no action is commenced within 5 years from the date the lien is assigned by the municipality, the lien and all right of action to enforce the same shall expire and cease to exist.

The assignee of a special assessment lien sold or assigned on or prior to December 31, 1957 may, not later than 5 years after the effective date of this amendatory Act of 1975, file a complaint to foreclose the lien. The lien of a special assessment which has been assigned and any right of action to foreclose the same shall not expire during the pendency of a proceeding to foreclose the lien commenced within 5 years after the effective date of this amendatory Act of 1975. If no action is commenced within 5 years, the lien and all right of action to enforce the same shall expire and cease to exist.

Laws 1961, p. 576, § 9–2–70, eff. July 1, 1961. Amended by P.A. 79–198, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–70.

5/9–2–71. Sale and assignment of liens; costs

§ 9–2–71. The cost and expense attending the sale and assignment of a special assessment lien by a municipality, not exceeding 10% of the amount of the lien, shall be assessed as costs and shall be paid by the assignee. However, no lien created after September 1, 1949 shall be sold or assigned by a municipality as long as any obligation of any kind secured by such lien remains outstanding and unpaid.

Laws 1961, p. 576, § 9–2–71, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–71.

5/9–2–72. Vacation of assessment; new assessment; work accepted by board

§ 9–2–72. If any special assessment or special tax before January 1, 1942 has been, or on or after January 1, 1942, is annulled by the corporate authorities, or set aside by any court or declared invalid or void for any reason whatsoever, a

new assessment or tax may be made and returned and like notice shall be given and proceedings had as required in this Division 2 in relation to the first. If any local improvement before January 1, 1942 has been, or on or after January 1, 1942, is constructed under the direction of the board of local improvements and has been or is accepted by that board, and the special assessment or special tax levied or attempted to be levied to pay for the cost of such an improvement has been or is so annulled, set aside, or declared invalid or void, then a new special assessment or special tax may be made and returned to pay for the cost of the improvement so constructed, or to pay for the cost of such part thereof as the corporate authorities might lawfully have authorized to be constructed and paid for by special assessment or special tax. All parties in interest shall have like rights, and the corporate authorities and the court shall perform like duties and have like power in relation to any subsequent assessment or tax as are provided in relation to the first.

Laws 1961, p. 576, § 9–2–72, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–72.

5/9–2–73. Validity of special tax; accepted work; new ordinance

§ 9–2–73. No special assessment or special tax shall be held invalid because levied for work already done, if it appears that the work was done under a contract which has been duly let and entered into pursuant to an ordinance providing that such an improvement should be constructed and paid for by special assessment or special tax, and that the work was done under the direction of the board of local improvements and has been accepted by that board. It shall not be a valid objection to the confirmation of this new assessment that the original ordinance has been declared invalid or that the improvement as actually constructed does not conform to the description thereof as set forth in the original special assessment ordinance, if the improvement so constructed is accepted by the board of local improvements. The provisions of this section shall apply whenever the prior ordinance is held insufficient or otherwise defective, invalid, or void, so that the collection of the special assessment or special tax therein provided for becomes impossible. In every such case, when such an improvement has been so constructed and accepted, and the proceedings for the confirmation and collection of the special assessment or special tax are thus rendered unavailing, the corporate authorities shall pass a new ordinance for the making and collection of a new special assessment or special tax, and this new ordinance need not be presented by the board of local improvements.

Laws 1961, p. 576, § 9–2–73, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–73.

5/9–2–74. Supplemental assessments; rebates; new hearing in case of deficiency

§ 9–2–74. At any time after the bids have been received pursuant to the provisions of this Division 2, if it appears to the satisfaction of the board of local improvements that the first assessment is insufficient to pay the contract price or the bonds or vouchers issued or to be issued in payment of the contract price, together with the amount required to pay the accruing interest thereon, the board shall make and file an estimate of the amount of the deficiency. Thereupon a second or supplemental assessment for the estimated deficiency of the cost of the work and interest may be made in the same manner as nearly as may be as in the first assessment, and so on until sufficient money has been realized to pay for the improvement and the interest. It shall be on objection to the supplemental assessment that the prior assessment has been levied, adjudicated, and collected unless it appears that in that prior cause upon proper issue made, it was specially found in terms, that the property objected for would be benefited by the improvement no more than the amount assessed against it in that prior proceedings.

If too large a sum is raised at any time, the excess shall be refunded ratably to those against whom the assessment was made.

But if the estimated deficiency exceeds 10% of the original estimate, no contract shall be awarded until a public hearing has been held on the supplemental proceeding in like manner as in the original proceedings. No more than one supplemental assessment shall be levied to meet any deficiency where the deficiency is caused by the original estimate made by the engineer being insufficient.

Where the improvement is to be constructed with the aid and assistance of any federal agency or other governmental agency after judgment of confirmation if there appears a deficiency in assessments levied in excess of 10% of the original estimate the municipality shall not proceed with the construction of the work until a new hearing has been held upon the levy of a special assessment to make up that deficiency.

However, the petitioner, in case it so elects, may dismiss the petition and vacate the judgment of confirmation at any time after the judgment of confirmation is rendered, and begin new proceedings for the same or a different improvement as provided in Section 9–2–65.

Laws 1961, p. 576, § 9–2–74, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–74.

5/9–2–75. New assessment against delinquents

§ 9–2–75. If from any cause any municipality fails to collect the whole or any portion of any special assessment or special tax which may be levied, which is not canceled or set aside by the order of any court, for any public improvement authorized to be made and paid for by a special assessment or a special tax, the corporate authorities, at any time within 5 years after the confirmation of the original assessment, may direct a new assessment to be made upon the delinquent property for the amount of the deficiency and interest thereon from the date of the original assessment, which assessment shall be made, as nearly as may be, in the same manner as is prescribed in this Division 2 for the first assessment. In all cases where partial payments have been made on such former assessments, they shall be credited or allowed on the new assessment to the property for which they were made, so that the assessment shall be equal and impartial in its results. If this new assessment proves insufficient, either in whole or in part, the corporate authorities, at any time within the specified period of 5 years, may order a third to be levied, and so on in the same manner and for the same purpose. It shall constitute no legal objection to any new assessment that the property may have changed hands, or been encumbered subsequent to the date of the original assessment.

Laws 1961, p. 576, § 9–2–75, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–75.

5/9–2–76. Certification of roll

§ 9–2–76. Within 30 days after the filing of the report of the amount and date of the first voucher issued on account of work done, as provided in Section 9–2–48, the clerk of the court in which such judgment is rendered shall certify the assessment roll and judgment to the officer of the municipali-

ty authorized to collect the special assessment, or, if there has been an appeal taken on any part of the judgment, he shall certify such part of the judgment as is not included in that appeal. This certification shall be filed by the officer receiving it in his office. With the assessment roll and judgment the clerk of the designated court shall also issue a warrant for the collection of the assessment. The court has the power to recall such warrants as to all or any of the property affected at any time before payment or sale, in case the proceedings are abandoned by the petitioner or the judgment is vacated or modified in a material respect as hereinbefore provided, but not otherwise. In case the assessment roll has been abated and the judgment reduced in accordance with the provisions of Section 9–2–114, the clerk of the designated court, within 30 days thereafter, shall certify the order of reduction or the roll as so reduced or re-cast, under the directions of the court, to the officer so authorized to collect the special assessment, and shall issue a warrant for the collection of the assessment as so reduced or re-cast.

Laws 1961, p. 576, § 9–2–76, eff. July 1, 1961. Amended by Laws 1967, p. 3423, § 1, eff. Aug. 31, 1967; P.A. 76–1556, § 1, eff. Sept. 22, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–76.

5/9–2–77. Payment in advance for land taken; credit

§ 9–2–77. Whenever any warrant is issued by the clerk of the court in which the judgment of confirmation is rendered, for the collection of any special assessment specified in Section 9–2–19, that warrant shall not authorize the collection of any assessment levied against the municipality for and on account of public benefits, but the clerk shall likewise certify the assessment roll and judgment to the clerk or comptroller, if any, of that municipality upon being requested so to do by that officer. The several and respective installments of the amounts that may be assessed against the municipality for and on account of public benefits and confirmed by the court, shall be paid out by the municipal treasurer out of any money arising from the collection of the direct annual tax provided for in Section 9–2–38 and out of any other money in his hands that may be used for that purpose whenever he is legally authorized so to do, by an ordinance of that municipality. Any such municipality may pay for any land to be taken or damaged in the making of any local improvement specified in Section 9–2–19, before any such assessment or any installment thereof becomes due, and when the same becomes due, the amount so paid shall be credited upon the assessment against the municipality so paying in advance. The provisions of this section shall not apply to any city having a population of 500,000 or more.

Laws 1961, p. 576, § 9–2–77, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–77.

5/9–2–78. Warrant to collector

§ 9–2–78. If an appeal is taken on any part of such judgment, and if the board elects to proceed with the improvement, notwithstanding such an appeal, as provided for in Section 9–2–102, the clerk shall certify the appealed portion, from time to time, in the manner above mentioned, as the judgment is rendered thereon, and the warrant accompanying this certificate in each case shall be authority for the collection of so much of the assessment as is included in the portion of the roll thereto attached.

The warrant in all cases of assessment, under this Division 2, shall contain a copy of the certificate of the judgment describing lots, blocks, tracts, and parcels of land assessed so far as they are contained in the portion of the roll so certified, and shall state the respective amounts assessed on each lot, block, tract, or parcel of land, and shall be delivered to the officer authorized to collect the special assessment. The collector having a warrant for any assessment levied to be paid by installments may receive any or all of the installments of that assessment, but if he receives only a part of the installments, then he shall receive them in their numerical order.

Laws 1961, p. 576, § 9–2–78, eff. July 1, 1961. Amended by P.A. 90–655, § 56, eff. July 30, 1998.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–78.

5/9–2–79. Collector's notice

§ 9–2–79. The collector receiving such a warrant shall give notice thereof within 10 days by publishing a notice once each week for 2 successive weeks in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality. This notice may be substantially in the following form:

"SPECIAL ASSESSMENT NOTICE

Special Warrant, No. . . .

Notice: Publication is hereby given that the (here insert title of court) has rendered judgment for a special assessment (or special tax) upon property benefited by the following improvement: (here describe the character and location of the improvement in general terms) as will more fully appear from the certified copy of the judgment on file in my office; that the warrant for the collection of this assessment (or special tax) is in my possession. All persons interested are hereby notified to call and pay the amount assessed at the collector's office (here insert location of office) within 30 days from the date hereof.

Dated (insert date).

. . . (Collector)."

When such an assessment or special tax is levied to be paid in installments, the notice shall contain also the amount of each installment, the rate of interest deferred installments bear, and the date when payable.

Laws 1961, p. 576, § 9–2–79, eff. July 1, 1961. Amended by P.A. 91–357, § 75, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–79.

5/9–2–80. Collector's demand; interest; penalty; entry of payment

§ 9–2–80. The collector, into whose possession the warrant comes, as far as practicable, shall call upon all persons, resident within the neighborhood, whose names appear upon the assessment roll, or the occupants of the property assessed, and personally, or by written or printed notices left at his or her usual place of abode or mailed to all persons whose names appear on the assessment roll, inform them of the special assessment, and request payment thereof. This notice shall be given by the collector within 10 days after his receipt of the warrant and shall indicate the date on or before which the assessment may be paid in whole or in part without interest. Under Section 9–2–48 interest on assessments shall begin to run from 60 days after the date of the

first voucher issued on account of work done, except as otherwise provided in Section 9–2–113.

Any collector omitting to do so is liable to a penalty of $10 for every such omission, but the validity of the special assessment, or the right to apply for and obtain judgment thereon, is not affected by such an omission. It is the duty of such collector to write the word "paid" opposite each tract or lot on which the assessment is paid, together with the name and post office address of the person making the payment, and the date of payment.

Laws 1961, p. 576, § 9–2–80, eff. July 1, 1961. Amended by P.A. 87–532, § 1, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–80.

5/9–2–81. Special assessments; stamping on tax books

§ 9–2–81. In cities of this state having a population of 1,000,000 or more, when any officer is authorized to collect special assessments or special taxes, that officer, on or before March 10 each year, or if the general tax books have not been turned over to the county collector at that time then within 15 days after the county collector has received the general tax books, shall mark on the general tax books of the county collector, opposite the description of all lots, blocks, tracts, or parcels of land to be assessed, the number of the special assessment or special tax warrant. The county collector shall stamp or write in large letters on the face of all tax bills or receipts issued by him the number of the special assessment or special tax warrant, and the words, "Special assessment due and payable."

Laws 1961, p. 576, § 9–2–81, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–81.

5/9–2–82. Report of delinquent list

§ 9–2–82. In counties having a population of 1,000,000 or more the collector shall, on or before the first day of August in each year, make a report in writing to the general officer of the county (in which the respective lots, tracts, and parcels of land are situated) authorized by the general revenue laws of this State to apply for judgment and sell land for taxes due the county and State, of all the land, town lots, and real property on which he has been unable to collect special assessments or special taxes, or installments thereof matured and payable, or interest thereon, or interest due to the preceding January 2 on installments not yet matured on all warrants in his possession, with the amount of those delinquent special assessments or special taxes or installments and interest together with his warrants; or, in case of an assessment levied to be paid by installments, with a brief description of the nature of the warrant or warrants received by him authorizing the collection thereof. This report shall be accompanied with the oath of the collector (1) that the list is a correct return and report of the land, town lots, and real property on which the special assessment or special tax (levied by the authority of the city or incorporated town or village of ..... as the case may be), or installments thereof, or interest, remains due and unpaid, (2) that he is unable to collect the same, or any part thereof, and (3) that he has given the notice required by law that the specified warrants have been received by him for collection.

Laws 1961, p. 576, § 9–2–82, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–82.

5/9–2–83. Designation of day for application for judgment

§ 9–2–83. In counties having a population of less than 1,000,000, the general officer of the county having authority to receive State and county taxes shall, not later than August 15 each year, designate a day in the month of October upon which application will be made for judgment and order of sale for unpaid special assessments or installments thereof, and interest thereon, on delinquent land, town lots, and real property and also a Monday succeeding the date of that application, on which the land and lots for the sale of which an order is made will be exposed to public sale, and shall forthwith notify the collectors of all municipalities situated in whole or in part within the county of the dates so designated.

Laws 1961, p. 576, § 9–2–83, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982; P.A. 85–1137, § 1, eff. July 29, 1988.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–83.

5/9–2–84. Advertisement of application for judgment

§ 9–2–84. In counties having a population of less than 1,000,000, the collector of the municipality, at any time after August 15 in each year, shall publish an advertisement that a return will be made to the general officer of the county having authority to receive State and county taxes of all unpaid special assessments or installments thereof matured and payable, or interest thereon, or interest due to the preceding January 2 on installments not yet matured on all warrants in his hands. This advertisement (1) shall contain a list of the delinquent lands, town lots, and real property upon which the special assessment or installments thereof or interest thereon remain unpaid, the name of the person shown by the county collector's current warrant book to be the party in whose name the general real estate taxes were last assessed for each such property, the total amount due thereon, and the year for which the same are due; (2) shall give notice that the general officer of the county having authority to receive State and county taxes in the county in which those lands, town lots, or real property may be located, will make application on the day specified therein, for judgment against those lands, town lots, and real property for those special assessments, matured installments of special assessments, interest and costs due thereon, and for an order to sell those lands, town lots, and real property for the satisfaction thereof; and (3) shall give notice that on the Monday fixed by that general officer of the county for sale, all the lands, town lots, and real property, for the sale of which an order is made, will be exposed to public sale at the court house in that county for the amount of special assessments and matured installments of special assessments, interest and costs due thereon. The advertisement shall be sufficient notice of the intended application for judgment and of the sale of those lands, town lots, and real property under the order of the court.

Publication of the advertisement shall be made at least once not more than 30 nor less than 15 days in advance of the date upon which the judgment is to be sought. Such publication shall be made in one or more newspapers published in the municipality, or if no newspaper is published therein then in one or more newspapers with a general circulation in the municipality. In municipalities with less than 500 inhabitants, publication may instead be made by posting a notice in 3 prominent places within the municipality.

The municipal collector shall add to all special assessments and matured installments of special assessments and the interest thereon, when paid after August 15 in the year when they became due and payable, an amount equal to the actual costs, not to exceed 0.2% of the assessed value of each lot, tract, or parcel of land upon which payment is made, to cover the cost of the advertisement as required in this Division 2.

Laws 1961, p. 576, § 9–2–84, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982; P.A. 85–1137, § 1, eff. July 29, 1988; P.A. 91–864, § 5, eff. June 22, 2000.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–84.

5/9–2–85. Return of delinquent assessments

§ 9–2–85. In counties having a population of less than 1,000,000, the collector of the municipality, not later than 5 days prior to the date fixed for application for judgment, shall make a return or report in duplicate upon forms to be provided by the county collector to the general officer of the county having authority to receive State and county taxes in the county in which the respective lots, tracts, and parcels of land are situated. Such report shall list all the land, town lots, and real property on which he has been unable to collect the special assessments or special taxes or installments, thereof, matured and payable or interest thereon, or interest due to the preceding January 2 on installments not yet matured on all warrants in his possession. Also contained in the report shall be a list of the amount of those delinquent special assessments or special taxes or installments and interest together with a brief description of the warrant or warrants received by him, authorizing the collection thereof. The original of this report shall be accompanied with the oath of the collector (1) that the list is a correct return and report of the land, town lots, and real property on which the special assessment or special tax (levied by the authority of the city or incorporated town or village of ....., as the case may be), or installments thereof, or interest, remains due and unpaid, (2) that he is unable to collect the same, or any part thereof, (3) that he has given the notice required by law that the specified warrants have been received by him for collection, and (4) that he has published an advertisement in the manner prescribed by law, giving notice that an application will be made on the date specified therefor for judgment against all of those delinquent lands, town lots, and real property.

Laws 1961, p. 576, § 9–2–85, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–85.

5/9–2–86. Report of collector; prima facie evidence; defenses; waiver; judgment for interest

§ 9–2–86. The report of the municipal collector, when so made, shall be prima facie evidence that all the forms and requirements of the law, in relation to the making of the return have been complied with, and that the special assessments, or special taxes, or the matured installments thereof, and the interest thereon, and the interest accrued on installments not yet matured, mentioned in the report, are due and unpaid.

Upon the application for judgment of sale upon such an assessment or matured installments thereof, or the interest thereon, or the interest accrued on installments not yet matured, no defense or objection shall be made or heard which might have been interposed in the proceeding for the making of that assessment, or the application for the confirmation thereof. No errors in the proceeding to confirm not affecting the power of the court to entertain and consider the petition therefor, shall be deemed a defense to the application provided for in this Division 2.

When such an application is made for judgment of sale on an installment only of an assessment payable by installments, all questions affecting the jurisdiction of the court to enter the judgment of confirmation and the validity of the proceedings shall be raised and determined on the first of such applications. On application for judgment of sale on any subsequent installment, no defense, except as to the legality of the pending proceeding, the amount to be paid, or actual payment, shall be made or heard. And it shall be no defense to the application for judgment on any assessment or any installment thereof that the work done under any ordinance for an improvement does not conform to the requirements of that ordinance, if it appears that the work has been accepted by or under the direction of the board of local improvements. And the voluntary payment by the owner or his agent, of any installment, or of any assessment, levied on any lot, block, tract, or parcel of land, shall be held in law to be an assent to the confirmation of the assessment roll, and shall be held to release and waive the right of the owner to enter objections to the application for judgment of sale and order for sale.

The judgment of sale on any installment shall include all interest accrued on the installment up to the date of that judgment of sale, and also the annual interest due as returned delinquent by the municipal collector on any installment or installments not matured. All judgments of sale for a matured installment shall bear interest on the amount of the principal of that matured installment to the date of payment or sale.

Laws 1961, p. 576, § 9–2–86, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–86.

5/9–2–87. Judgment and sale; contents and time of application

§ 9–2–87. When the specified general officer in each county receives the report provided for, he shall proceed to obtain judgment against the lots and parcels of land and property for the special assessments and the special taxes, or installments thereof, and interest remaining due and unpaid, in the same manner as is or may be by law provided for obtaining judgment against lands for taxes due and unpaid the county or State except that in counties having a population of less than 1,000,000, no other notice of the application for this judgment shall be required than that specified in this Division 2 to be given by the collector of the municipality. The general collecting officer of the county shall proceed in the same manner to sell the same for the specified special assessments, special taxes, or installments thereof, and interest remaining due and unpaid except that in counties having a population of less than 1,000,000, no other notice of sale shall be required than that specified in this Division 2 to be given by the collector of the municipality. In obtaining these judgments and making this sale, the general collecting officer of the county shall be governed by the general revenue law of the State except as otherwise provided in this Division 2.

No application for judgment against land for unpaid special taxes or special assessments shall be made at a time different from the annual application for judgment against land upon which general taxes remain due and unpaid.

The application for judgment upon delinquent special assessments or special taxes in each year shall include only such special assessments, special taxes, or installments thereof, and interest, as have been returned as delinquent to the county collector on or before the first day of August in the

year in which the application is made, and marked on the general tax books of the county collector on or before March 10, as provided in Section 9–2–81. However, in counties having a population of less than 1,000,000, such application shall include only the special assessments, special taxes, or installments thereof, and interest as have been returned or reported as delinquent to the general collecting officer of the county not less than 5 days prior to the date designated for application for judgment, in the year in which the application is made. Such judgment of sale shall include interest on matured installments up to the date of the judgment, as provided in this Division 2.

In the 5 years next following the completion of a general reassessment of real property in any county having a population of 1,000,000 or more, made pursuant to an order of the Department of Revenue of the State of Illinois, notwithstanding that those special assessments, special taxes, or installments thereof, and interest, have not been returned as delinquent to the county collector on or before the first day of August in the year in which the application is made, and notwithstanding that those special assessments, special taxes, or installments thereof, and interest, were not marked on the general tax books of the county collector on or before March 10 of the same year as provided in Section 9–2–81 or within 15 days after the county collector received the general tax books in that year, such an application shall be made on the first day of September for judgment and order of sale for special assessments, special taxes, or installments thereof, and interest, in each year on delinquent lands and lots. The county collector shall include in that application all special assessments, special taxes, and installments thereof, and interest, then remaining unpaid. Within 30 days after the county collector has received the general tax books the special assessments, special taxes, or installments thereof, and interest, then remaining unpaid, shall be marked therein, and if for any reason, that application cannot be made on the first day of September, it shall be made at any time not later than the first day of the next succeeding January.

In counties having a population of less than 1,000,000, the application for judgment and order of sale, and the sale, shall be made on the respective days previously designated by the general collecting officer of the county.

Laws 1961, p. 576, § 9–2–87, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–87.

5/9–2–88. Notice by mail of application for judgment

§ 9–2–88. In counties having a population of less than 1,000,000 in all cases, except where land or lots have been withdrawn from collection for want of bidders or forfeited to the State for nonpayment of special assessments 2 or more years in succession next preceding the year in which the application for judgment and order of sale is made, the collector of the municipality shall send a notice of the application for judgment and sale of the land or lots upon which special assessments remain due and unpaid, the date of sale, a description of the land or lots, and the amount of the special assessments together with interest and costs due thereon. The notice shall be sent by mail, either by letter or post card, postage prepaid, at least 5 days before the date of sale. The notice shall be addressed to the person shown by the county collector's current warrant book to be the party in whose name the general real estate taxes on such property were last assessed, and such notices shall be mailed to each such party at the address shown for such party in the county collector's current warrant book. For each such notice the collector of the municipality shall charge an amount equal to the actual costs, not to exceed 0.02% of the assessed value of each parcel, to be taxed and collected as costs.

Laws 1961, p. 576, § 9–2–88, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982; P.A. 85–1137, § 1, eff. July 29, 1988; P.A. 91–864, § 5, eff. June 22, 2000.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–88.

5/9–2–89. Payment of assessments before sale; report

§ 9–2–89. In counties having a population of less than 1,000,000, any person owning or claiming land or lots upon which judgment is prayed, as provided in this Division 2, may pay the special taxes, special assessments, interest, and costs due thereon to the collector of the municipality in which the land or lots are situated at any time before sale. On the day fixed for sale, the collector shall report, under oath, to the county clerk, all the land or lots upon which special assessments have been paid, if any, after the time of making the return mentioned in Section 9–2–85 and prior to that day. The clerk shall note this fact opposite each tract or lot upon which those payments have been made. This report shall include a statement by the collector, under oath, that notice of sale has been sent by mail, by letter or post card, as to all other land or lots included in the report as required by Section 9–2–88.

Laws 1961, p. 576, § 9–2–89, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–89.

5/9–2–90. Return of sale; redemption

§ 9–2–90. After making the specified sale, the list of lots, parcels of land, and property sold thereat shall be returned to the office of the county clerk and redemption may be made as provided for by the general revenue laws of the State.

Laws 1961, p. 576, § 9–2–90, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–90.

5/9–2–91. Return of sale in counties less than 1,000,000; payments

§ 9–2–91. In counties having a population of less than 1,000,000, a list of all lots, parcels of land, and property withdrawn from collection at the sale by the corporate authorities levying the tax and a list of all lots, parcels of land, and property charged with delinquent special assessments which were forfeited to the State at that sale, shall be returned by the county clerk to the office of the municipal collector, where payment of any delinquent special assessment so withdrawn from collection or forfeited to the State may be made, as in the case of redemption from sale, at any time thereafter, unless and until again advertised and offered for sale and sold for the non-payment thereof.

Laws 1961, p. 576, § 9–2–91, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–91.

5/9–2–92. Return of sale in counties of 1,000,000 or more

§ 9–2–92. In counties having a population of 1,000,000 or more, a list of all lots, parcels of land, and property withdrawn from collection at that sale by the corporate authorities levying the tax and a list of all lots, parcels of land, and property charged with delinquent special assessments which were forfeited to the State at that sale, shall also be returned

to the office of the county clerk where payment of any delinquent special assessment so withdrawn from collection or forfeited to the State may be made, as in the case of redemption from sale at any time while the same is withdrawn from the county collector, or forfeited, or thereafter, if again advertised and sold, until the period of redemption at such subsequent sale under the general revenue laws of the State has expired and a tax deed is issued thereon.

Laws 1961, p. 576, § 9–2–92, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–92.

5/9–2–93. Withdrawn or forfeited assessment; payment; penalty; interest; costs

§ 9–2–93. In case of such a payment of a withdrawn or forfeited special assessment, the municipal collector or county clerk, as the case may be, shall collect a penalty of 12% on the amount of the forfeiture and on the amount of the withdrawn special assessment together with interest and costs to the date of withdrawal or forfeiture for the first year after the date of that withdrawal or forfeiture, and after that first year interest at the rate of 6% annually. The municipal collector or the county clerk, as the case may be, shall pay over to the officer of the municipality entitled to receive the same, within 30 days after the collection has been made, all special assessments, together with interest, penalties, and also statutory costs advanced by the municipality and collected by him. But if any lot or parcel of land should again be offered for sale, because of failure to pay that delinquent special assessment, and again withdrawn from sale, there shall be no second charge of 12% for the first year following the subsequent withdrawal. Instead, the interest rate shall continue at the rate of 6% annually. There may be second and subsequent charges of 12% for successive forfeitures.

The municipal collector or county clerk shall be entitled to charge and collect from the person for whom the service is rendered, a fee of 40 cents for each estimate of the amount necessary to pay a withdrawn or forfeited special assessment, including costs, and a fee of $1 for each certificate of deposit for payment of such a withdrawn or forfeited special assessment.

Laws 1961, p. 576, § 9–2–93, eff. July 1, 1961. Amended by P.A. 85–1137, § 1, eff. July 29, 1988.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–93.

5/9–2–94. Lands forfeited or withdrawn from sale; payment of assessment; certificate of cancellation

§ 9–2–94. In counties having a population of 500,000 or more, the city comptroller or other officer designated and authorized by the corporate authorities of any municipality which levies any special assessment has the power to collect the amounts due on tracts or lots which have been forfeited or withdrawn from sale, and the interest and penalties due thereon, based upon an estimate of the cost of redemption computed by the county clerk and at a rate to be fixed by the corporate authorities as to the interest and penalties thereon, and he shall issue a receipt therefor. However, the corporate authorities may authorize the municipal officer to waive the penalties for the first year in excess of 7%. The person receiving this receipt shall file it with the county clerk.

Upon the presentation of such a receipt, the county clerk shall issue to the person a certificate of cancellation setting forth a description of the property, the special assessment warrant, and installment, and the amount received by the municipal officer, and this certificate of cancellation shall be evidence of the redemption of the property therein described. The form of such a certificate of redemption for filing with the county clerk shall be substantially as follows: Receipt of Deposit for Redemption.

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State of Illinois — Office of (give title of municipal office)

County of Cook

I, (here give name, title of municipal officer), of the (give name of city, village, or incorporated town), do hereby certify that on (insert date), ... deposited in this office ... Dollars for the redemption of ... (describe property) ... which ... withdrawn or forfeited by the collector of this county on (insert date) for the nonpayment of ... installment of special assessment warrant.

You are hereby authorized and ordered to cancel from the records and files in your office that withdrawal or forfeiture, and issue your certificate of redemption and cancellation.

(insert date).

(insert name of city, village, or incorporated town).

By ... (proper officer).

Laws 1961, p. 576, § 9–2–94, eff. July 1, 1961. Amended by P.A. 82–1013, § 5, eff. Sept. 17, 1982; P.A. 91–357, § 75, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–94.

5/9–2–95. Sale where assessment paid; penalty

§ 9–2–95. If the collector receives any money for taxes or assessments, or installments thereof, and gives a receipt therefor, for any land or parcel of land, and afterwards makes a return that the tax assessment, or installment thereof was unpaid, to the State officers authorized to sell land for taxes, or receives the amount so payable after that return has been made, and that property is sold for any tax, assessment, or installment thereof which has been so paid and receipted for by himself or his clerks, the collector and his bondsmen shall be liable to the holder of the certificate given to the purchaser at that sale for double the amount of the face of the certificate. This sum may be demanded in 2 years from the date of the sale, and recovered in any court having jurisdiction of the amount. The municipality in no case shall be liable to the holder of such a certificate.

Laws 1961, p. 576, § 9–2–95, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–95.

5/9–2–96. Collectors; disposition of moneys; compensation

§ 9–2–96. The collector and the general officer to whom the warrants are returned, shall pay over to the municipal treasury to which the money belongs, all money collected by them, respectively, by virtue of such warrants, or upon any sale for taxes, or otherwise, at such time or times and in such manner as shall be prescribed by ordinance. They shall be allowed such compensation for their services in the collection of these assessments as the ordinance of the municipality may provide, except when their compensation is fixed by a general law.

Laws 1961, p. 576, § 9–2–96, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–96.

5/9–2–97. Proceedings for collection of special assessment and taxes; laws applicable

§ 9–2–97. The general revenue laws [1] of this State, with reference to proceedings to recover judgment for delinquent taxes, the sale of property thereon, the execution of certificates of sale and deeds thereon, the force and effect of such sales and deeds, and all other laws in relation to the enforcement and collection of taxes, and redemption from tax sales, except as otherwise provided in this Division 2, shall be applicable to proceedings to collect the special assessments and special taxes provided for in this Division 2.

Laws 1961, p. 576, § 9–2–97, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–97.

[1] 35 ILCS 205/1 et seq.

5/9–2–98. Purchase or withdrawal from collection; powers of municipality

§ 9–2–98. Except as otherwise provided in Section 9–2–113, any municipality interested in the collection of any tax or special assessment, in default of other bidders, may become a purchaser at any sale of property to enforce the collection of that tax or special assessment, and by ordinance may authorize and make it the duty of one or more municipal officers to attend such sales and bid thereat in behalf of the municipality. Such a municipality, through its officer or officers, acting under like authority, in default of bidders, may withdraw from collection at such a sale any special assessment or installment thereof levied by it on any lot, parcel of land, or property subject to sale. But such a withdrawal from collection shall not operate to cancel the assessment or impair the lien of the municipality so withdrawing it, and the assessment shall remain delinquent and payable at the office of the municipal collector or county clerk, with all fees, costs, penalties, interest, and charges that have accrued thereon. Such a lot, parcel of land, or property, may be readvertised and resold at any subsequent tax sale for such delinquent special assessments or installments thereof.

Where suit is instituted by a municipality to foreclose the lien of special assessments at the request of the owner of real property or his agent, the corporate authorities shall have the power to provide by ordinance for the payment by the owner of reasonable costs and expenses incurred by the municipality in connection with the suit. Any moneys collected for such purpose shall be expended by the municipality in the same manner and for the same purposes as provided for in Section 8–1–10.

Laws 1961, p. 576, § 9–2–98, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–98.

5/9–2–99. Contracts payable from assessments; claim limited to funds collected; account

§ 9–2–99. Except as otherwise provided in Section 9–2–113, no person obtaining contracts from the municipality and agreeing to be paid out of special assessments or special taxes, has any claim or lien upon the municipality in any event, except from the collection of special assessments or special taxes made or to be made for the work contracted for. However, the municipality shall cause collections and payments to be made with all reasonable diligence. If it appears that such an assessment or tax cannot be levied or collected, the municipality, nevertheless, is not in any way liable to a contractor in case of failure to collect the assessment or tax, but, so far as it can legally do so, with all reasonable diligence, it shall cause a valid assessment or assessments, or special taxes, to be levied and collected to defray the cost of the work until all contractors are fully paid. Any contractor is entitled to the summary relief of mandamus or injunction to enforce the provisions of this section.

The municipal treasurer shall keep a separate account of each special assessment warrant number, and of the money received thereunder.

Laws 1961, p. 576, § 9–2–99, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–99.

5/9–2–100. Letting contracts; performance of work by municipality

§ 9–2–100. Except as otherwise provided in Section 9–2–113, any work or other public improvement, to be paid for in whole or in part by special assessment or special taxation, when the expense thereof will exceed $10,000, shall be constructed by contract let to the lowest responsible bidder in the manner prescribed in this Division 2. Such contracts shall be approved by the president of the board of local improvements.

In case of any work which it is estimated will not cost more than $10,000, if after receiving bids it appears to the board of local improvements that the work can be performed better and cheaper by the municipality, the corporate authorities of the municipality shall perform that work and employ the necessary help therefor. The cost of that work by the municipality in no case shall be more than the lowest bid received.

Laws 1961, p. 576, § 9–2–100, eff. July 1, 1961. Amended by P.A. 96–138, § 5, eff. Aug. 7, 2009.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–100.

5/9–2–101. Assessment roll in case of alternate specifications

§ 9–2–101. Except as otherwise provided in Section 9–2–113, if the ordinance provides for alternate specifications for the kind, nature, character, and description of a proposed improvement, or the materials to be used in its construction, and more than one estimate has been prepared, then the assessing officer or commissioners appointed to make the assessment shall make his or their report and assessment roll, based upon the highest estimate of the cost of the proposed improvement.

Laws 1961, p. 576, § 9–2–101, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–101.

5/9–2–102. Letting of contracts; manner; time

§ 9–2–102. Except as otherwise provided in Section 9–2–113, within 90 days after judgment of confirmation of any special assessment or special tax, levied in pursuance of this Division 2, has been entered, if there is no appeal perfected, or other stay of proceedings by a court having jurisdiction, or in case the judgment for the condemnation of any property for any such improvement, or the judgment of confirmation as to any property is appealed from, then, if the petitioner files in the cause a written election to proceed with the work, notwithstanding the appeal, or other stay, steps shall be taken to let the contract for the work in the manner provided in this Division 2. If the judgment of condemnation or of confirmation of the special tax or special assessment levied for the work is appealed from, or stayed by order of a court having jurisdiction, and the petitioner files no such election, then the steps provided in this Division 2 for the letting of the contract for the work shall be taken within 15 days after

the final determination of the appeal, or the determination of the stay, unless the proceeding is abandoned as provided in this Division 2.

Laws 1961, p. 576, § 9–2–102, eff. July 1, 1961. Amended by P.A. 84–551, § 12, eff. Sept. 18, 1985.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–102.

5/9–2–103. Notice for letting contracts; bids

§ 9–2–103. Except as otherwise provided in Section 9–2–113, notice shall be given by the board of local improvements that bids will be received for the construction of such an improvement, either as a whole or in such sections as the board shall specify in its notice, in accordance with the ordinance therefor. This notice shall state the time of opening of the bids, and shall further state where the specifications for the improvement are to be found, and whether the contracts are to be paid in cash or in bonds, and if in bonds, then the rate of interest the vouchers or bonds shall draw. The notice shall be published at least twice, not more than 30 nor less than 15 days in advance of the opening of the bids, in one or more newspapers designated by the board of local improvements in an order entered in its records, published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality.

Proposals or bids may be made either for the work as a whole or for specified sections thereof. All proposals or bids offered shall be accompanied by cash, or by a check payable to the order of the president of the board of local improvements in his official capacity, certified by a responsible bank, for an amount which shall not be less than 10% of the aggregate of the proposal, or by a bid bond, for an amount which shall be not less than 10% of the aggregate of the proposal. These proposals or bids shall be delivered to the board of local improvements. That board, in open session, at the time and place fixed in the specified notice, shall examine and publicly declare the proposals or bids. However, no proposals or bids shall be considered unless accompanied by such a check or cash.

Laws 1961, p. 576, § 9–2–103, eff. July 1, 1961. Amended by P.A. 91–296, § 10, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–103.

5/9–2–104. Bond of contractor; suit on bond

§ 9–2–104. Except as otherwise provided in Section 9–2–113, the successful bidder for the construction of such an improvement shall be required to enter into bond in a sum equal to one-third of the amount of his bid with sureties to be approved by the president of the board of local improvements. This bond shall be filed with the board of local improvements, or where there is no board of local improvements, with the municipal clerk. When entering into the contract for the construction of an improvement the bond shall provide that the contractor shall well and faithfully perform and execute the work in all respects according to the complete and detailed specifications, and full and complete drawings, profiles, and models therefor, and according to the time and terms and conditions of the contract, and also, that the bidder and contractor shall promptly pay all debts incurred by him in the prosecution of the work, including those for labor, and materials furnished.

Suit may be brought on the bond in case of default, or failure to pay these debts promptly, by and in the name of the municipality for all damages sustained either by the municipality, or by any person interested or for the damages sustained by the municipality and all parties in interest, or by any beneficiary or party interested, in the name of the municipality for the use of the party interested as beneficial plaintiff, to recover for the labor and materials furnished. However, in no case shall costs be adjudged against the municipality in any suit brought by any party in interest wherein the municipality is the nominal, but not the beneficial, plaintiff.

In advertising for bids or proposals for the construction of such an improvement, the board of local improvements shall give notice that such a bond will be required, and all bids or proposals shall contain an offer to furnish such a bond upon the acceptance of such a bid or proposal.

Laws 1961, p. 576, § 9–2–104, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–104.

5/9–2–105. Acceptance of bid; contract; forfeiture

§ 9–2–105. Except as otherwise provided in Section 9–2–113, the board of local improvements may reject any and all proposals or bids, should they deem it best for the public good. If the board is of the opinion that a combination exists between contractors, either to limit the number of bidders, or to increase the contract price, and that the lowest bid is made in pursuance thereof, the board shall reject all proposals or bids. The board may reject the bid of any party who has been delinquent or unfaithful in any former contract with the municipality. It shall reject all proposals or bids other than the lowest regular proposals or bids of any responsible bidder and may award the contract for the specified work or improvement to the lowest responsible bidder at the prices named in his bid. Such an award shall be recorded in the record of its proceedings. Such an award, if any, shall be made within 20 days after the time fixed for receiving bids.

If no award is made within that time, another advertisement for proposals or bids for the performance of the work, as in the first instance, shall be made, and thereafter the board shall proceed in the manner above provided in this Division 2. Such a re-advertisement shall be deemed a rejection of all former bids, and thereupon the respective checks and bonds corresponding to the bids so rejected shall be returned to the proper parties. However, the check accompanying any accepted proposal or bid shall be retained in the possession of the president of the board until the contract for doing the work, as hereinafter provided, has been entered into either by the lowest responsible bidder or by the owners of a majority of the frontage, whereupon the certified check shall be returned to the bidder. But if that bidder fails, neglects, or refuses to enter into a contract to perform that work or improvement, as provided in this Division 2, the certified check accompanying his bid, and the amount therein mentioned, shall be declared to be forfeited to the municipality, and shall be collected by it and paid into its fund for the repairing and maintenance of like improvements. Any bond forfeited may be prosecuted, and the amount due thereon collected and paid into the same fund.

Laws 1961, p. 576, § 9–2–105, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–105.

5/9–2–106. Provisional award; authorization by voters

§ 9–2–106. Except as otherwise provided in Section 9–2–113, whenever any contract has been awarded to any bidder for the construction of any waterworks system, bridge, or viaduct referred to in Section 9–2–19, the bid of the party to

whom the contract has been awarded and the award therefor shall be treated as provisional and shall not be binding upon the party to whom the contract is awarded, or upon the municipality, until the levying of the tax provided for in Section 9–2–38 has been authorized by the electors of that municipality voting at an election to be held as provided in Section 9–2–38. The provisions of this Section 9–2–106 shall not apply to any city having a population of 500,000 or more.

Laws 1961, p. 576, § 9–2–106, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–106.

5/9–2–107. Person interested; hearing

§ 9–2–107. Except as otherwise provided in Section 9–2–113, any owner or person interested in any of the property assessed and any bidder shall be entitled to a hearing before the board on any question connected with any such award.

Laws 1961, p. 576, § 9–2–107, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–107.

5/9–2–108. Notice of awarding of contract

§ 9–2–108. Except as otherwise provided in Section 9–2–113, a notice of such an award of contract shall be published in one or more newspapers, designated by the board of local improvements in an order entered in its records, published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality.

Laws 1961, p. 576, § 9–2–108, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–108.

5/9–2–109. Owners of a majority of frontage; election to take contract

§ 9–2–109. Except as otherwise provided in Section 9–2–113, the owners of a majority of the frontage of the lots and land upon the street wherein the work is to be done, or their agents, who take oath that they are such owners or agents, shall not be required to present sealed proposals or bids, but, within 10 days after the first publication of the notice of such an award, may elect to take the work, and enter into a written contract to do the whole work at 10% less than the price at which the contract has been awarded.

Should those owners fail to elect to take the work, and to enter into a written contract therefor within 10 days, or to commence the work within 30 days after the first publication of the award, and to prosecute the work with diligence, the board of local improvements shall enter into a contract with the original bidder, to whom the contract was awarded, at the prices specified in his bid.

Laws 1961, p. 576, § 9–2–109, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–109.

5/9–2–110. Rejection of bids in case of default

§ 9–2–110. Except as otherwise provided in Section 9–2–113, if such original bidder fails or refuses for 20 days after the first publication of the notice of award, or in case a contract is made with the owners, and default by them, then, within 10 days after notice that the owners are in default, to enter into a contract, which shall be simultaneously executed by the municipality and signed by the president of the board of local improvements and attested by the municipal clerk under the municipal seal, then the board of local improvements, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and award the contract for the work to the then regular lowest bidder. The bids of all persons, and the election of all owners as specified in Section 9–2–109 who have failed to enter into the contract as provided in this Division 2, shall be rejected in any bidding or election subsequent to the first for the same work.

Laws 1961, p. 576, § 9–2–110, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–110.

5/9–2–111. Completing unfinished work; contractor's bond

§ 9–2–111. Except as otherwise provided in Section 9–2–113, if the owners or contractors, who may have taken any contract, do not complete the work within the time mentioned in the contract, or within such further time as the board of local improvements may give them, the board may relet the unfinished portions of that work, after pursuing the formalities prescribed hereinbefore for the letting of the whole in the first instance.

All contractors, contracting owners included, at the time of executing any contract for such public work, shall execute a bond to the satisfaction and approval of the board of local improvements of the municipality, in such sum as the board deems adequate, conditioned for the faithful performance of the contract. The sureties shall justify, before some person competent to administer an oath, in double the amount mentioned in that bond, over and above all statutory exemptions.

Laws 1961, p. 576, § 9–2–111, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–111.

5/9–2–112. Appointment of engineers, clerks, inspectors, etc.; execution and acceptance of work; recourse on municipality

§ 9–2–112. Except as otherwise provided in Section 9–2–38, the board of local improvements in cities of 500,000 and over, may appoint an engineer for the board, and such assistant engineers, clerks, and inspectors as may be necessary to carry into effect the purposes of this Division 2.

The board is hereby authorized to make or cause to be made, the written contracts, and receive all bonds authorized by this Division 2, and to do any other act, expressed or implied, that pertains to the execution of the work provided for by such an ordinance. The board shall fix the time for the commencement of the work under such an ordinance and for the completion of the work under all contracts entered into by it. This work shall be prosecuted with diligence thereafter to completion and the board may extend the time so fixed from time to time, as they may think best for the public good. The work to be done pursuant to such contracts in all cases must be done under the direction and, except where the assessment is divided into installments, to the satisfaction of the board of local improvements, and all contracts made therefor must contain a provision to that effect, and also express notice that in no case, except as otherwise provided in the ordinance, or the judgment of the court, will the board, or municipality, except as otherwise provided in this Division 2, or any officer thereof, be liable for any portion of the expenses, nor for any delinquency of persons or property assessed.

The acceptance by the board of any improvement shall be conclusive in the proceeding to make the assessment, and in all proceedings to collect the assessment, or installments

thereof, on all persons and property assessed therefor, that the work has been performed substantially according to the requirements of the ordinance therefor. But if any property owner is injured by any failure so to construct the improvement, or suffers any pecuniary loss thereby, he may recover the amount of the injury in a civil action against the municipality making the improvement, if the action is commenced within one year from the date of the acceptance of the work by the board of local improvements.

Laws 1961, p. 576, § 9–2–112, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–112.

5/9–2–113. Improvement constructed with federal aid

§ 9–2–113. In any case where an improvement is to be constructed with the aid and assistance of any agency of the Federal Government, or any other governmental agency, the provisions of Sections 9–2–100 through 9–2–112 shall not apply where they conflict with this section. The board of local improvements in cities having a population of 500,000 or more and the corporate authorities in municipalities having a population of less than 500,000 may proceed at any time within 90 days after the judgment of confirmation has been entered in the construction of the work. Within 90 days after the judgment of confirmation the board of local improvements in cities having a population of 500,000 or more and the corporate authorities in municipalities having a population of less than 500,000, shall adopt a resolution determining to proceed with the construction of the work, publish the resolution within 10 days in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality.

Ten days after the publishing of this resolution a copy thereof, properly certified, shall be filed in the court in which the judgment of confirmation was entered. This resolution shall be authority for the issuing of the warrant to the collector for the collection of the assessment. Each assessment shall draw interest from the date of passage of the resolution of intention to proceed with the work, as provided in Sections 9–2–48 through 9–2–51.

After this resolution has been filed and a warrant issued to the collector for the collection of the assessment, the municipality may issue bonds or vouchers to anticipate the collection of the unpaid portions of all installments of the assessment, including the first installment if it has not been certified delinquent, for the purpose of applying the proceeds of the bonds toward paying the cost of the improvement, including all expenses of making, levying, collecting the assessment and engineering and attorneys' fees. These bonds if issued shall be sold for not less than par and accrued interest and the proceeds used for that purpose, or the bonds may be issued, for not less than par and accrued interest, in payment for materials, labor, or services.

No person furnishing materials or supplying labor for the construction of any such local improvement shall have any claim or lien against the municipality except from the collection of the special assessments or special taxes made or to be made for that work, or from the proceeds of the sale of bonds to anticipate the collection of the same in case such bonds have been sold.

Laws 1961, p. 576, § 9–2–113, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–113.

5/9–2–114. Excess of assessments over improvements; abatement

§ 9–2–114. Except as otherwise provided in Section 9–2–117, within 30 days after the final completion and, where required, acceptance of the work, as provided in Section 9–2–112, the board of local improvements shall have the cost thereof, including the cost of engineering services, certified in writing to the court in which the assessment was confirmed, together with an amount estimated by the board to be required to pay the accruing interest on bonds or vouchers issued to anticipate collection. Thereupon, if the total amount assessed for the improvement upon the public and private property exceeds the cost of the improvement, all of that excess, except the amount required to pay such interest as is provided for in this Division 2, shall be abated and the judgment reduced proportionately to the public and private property owners and shall be credited pro rata upon the respective assessments for the improvement under the direction of the court.

In case the assessment is collectible in installments, this reduction shall be made so that all installments shall be equal in amount, except that all fractional amounts shall be added to the first installment so as to leave the remaining installments in the aggregate equal in amount and each a multiple of $100. If prior to the entry of the order abating and reducing the assessment the assessment has been certified for collection pursuant to the provisions of Section 9–2–76, and any of the installments of the assessment so certified for collection have become due and payable, the reduction and abatement above referred to shall be made pro rata upon the other installments. The intent and meaning of this is that no property owner shall be required to pay to the collector a greater amount than his proportionate share of the cost of the work and of the interest that may accrue thereon.

Laws 1961, p. 576, § 9–2–114, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–114.

5/9–2–115. Report to court; notice of hearing; certificate of board as prima facie evidence; order

§ 9–2–115. In every assessment proceeding in which the assessment is divided into installments, the board of local improvements shall state in the certificate whether or not the improvement conforms substantially to the requirements of the original ordinance for the construction of the improvements, and shall make an application to the court to consider and determine whether or not the facts stated in the certificate are true. Thereupon the court, upon such an application, shall fix a time and place for a hearing upon the application, and shall record the application. The time of this hearing shall be not less than 15 days after the filing of the certificate and application. Public notice shall be given at least twice of the time and place fixed for that hearing by publishing in a newspaper, in the same manner and for the same period as provided in this Division 2 for publishing notice of application for the confirmation of the original assessment, the publication of this notice to be not more than 30 nor less than 15 days before the day fixed by the order for that hearing.

At the time and place fixed by the notice or at any time thereafter, the court shall proceed to hear the application and any objection which may be filed thereto within the time fixed in the order. Upon that hearing the specified certificate of the board of local improvements shall be prima facie evidence that the matters and things stated are true, but if any part thereof is controverted by objections duly filed

thereto, the court shall hear and determine the objections in a summary manner and shall enter an order according to the fact.

Laws 1961, p. 576, § 9–2–115, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–115.

5/9–2–116. Finding against certificate; completion of improvement; supplemental applications; bonds

§ 9–2–116. If upon the hearing the court finds against the allegations of the certificate, it shall enter an order accordingly. The board of local improvements shall then procure the completion of the improvement in substantial accordance with the ordinance. The board, from time to time, may file additional or supplemental applications or petitions in respect thereto, until the court eventually is satisfied that the allegations of the certificate or applications are true, and that the improvement is constructed in substantial accordance with the ordinance.

If before the entry of such an order upon such a certificate there has been issued to the contractor in the progress of any such work, bonds to apply upon the contract price thereof, that contractor or the then owner or holder of those bonds, shall be entitled to receive in lieu thereof new bonds of equivalent amount, dated and issued after the entry of that order. Nothing contained in Sections 9–2–114 through 9–2–116 shall apply to any proceedings under Sections 9–2–72 and 9–2–73, or either of them, for the confirmation of new assessments, levied to pay for the cost of work already done.

Laws 1961, p. 576, § 9–2–116, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–116.

5/9–2–117. Procedure in case of improvement with federal aid

§ 9–2–117. Where an improvement has been constructed with the aid of any agency of the Federal government, or other governmental agency, the provisions of Sections 9–2–114 through 9–2–116 shall not apply except as to the manner of the final hearing. In that case, upon completion of the project the board of local improvement shall adopt a resolution accepting the project as constructed in full conformance with the ordinance and specifications therefor and approving the cost of the work upon its completion as being in compliance with the ordinance and specifications. Whereupon a certified copy of this resolution shall be filed in the court in which the judgment of confirmation was entered and a hearing had upon the cost and completion in the same manner as is provided in Sections 9–2–114 through 9–2–116.

Laws 1961, p. 576, § 9–2–117, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–117.

5/9–2–118. Inspection of work

§ 9–2–118. The board of local improvements shall designate someone to carefully inspect the entire work done pursuant to any such proceeding and contract, and the materials therefor, during the progress of the work, to the end that the contractor shall comply fully and adequately with all the provisions of the ordinance, and of the contract under which the work is to be done, and the specifications therefor. Upon the complaint of any property owner that the work or materials do not comply with those requirements, the president of the board of local improvements shall either examine the work and materials himself, or designate some member of the board to do so. The president of the board shall make a personal examination, and certify in writing as to the result thereof. This written certificate shall be filed with the papers pertaining to the board, and shall be open to public inspection at any time.

Laws 1961, p. 576, § 9–2–118, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–118.

5/9–2–119. Bonds in anticipation of installments; surplus; due date; form

§ 9–2–119. For the purpose of anticipating the collection of the second and succeeding installments, provided for in this Division 2, a municipality may issue bonds, payable out of these installments, bearing interest at a rate specified in the ordinance referred to in Section 2–9–10 of the Illinois Municipal Code [1] and not more than the rate the installments of the assessment against which the bonds are issued bear, payable annually and signed by such officers as may be by ordinance prescribed. Bonds shall be issued in sums of $100, or some multiple thereof, and shall be dated and draw interest from the date of their issuance. Each bond shall state on its face out of which installment it is payable, and shall state, by number or other designation, the assessment to which that installment belongs. The principal of these bonds shall not exceed, in the aggregate, the amount of the deferred installments, and shall be divided into as many series as there are deferred installments.

However, if there is a surplus to the credit of any such installment which is not required for the payment of any vouchers or bonds issued against that installment, that surplus shall be applied toward the payment of any outstanding vouchers or bonds already issued or to be issued, as the case may be, against any other installment or installments.

Each series shall become due at some time in the year in which the corresponding installment will mature, the date to conform, as nearly as may be, to the time when that installment will be actually collected. This time shall be estimated and determined by the municipal officers issuing the bonds. But it is lawful to provide in the case of any one or more of the bonds in any series, that that bond or bonds shall not become due until some subsequent date, not later than December 31 next succeeding the January in which the installment against which that series is issued will mature.

The bonds may be in the following form:

State of Illinois)	
)	ss
County of .....)	
$	Series No. .....
	Bond No. .....
.....	of .....

Improvement Bond

The ... of ... in ... County, Illinois, for value received, promises to pay to the bearer on (insert date) the sum of ... dollars, with interest thereon from date hereof, at the rate of ...%, payable annually on presentation of the coupons hereto annexed.

Both principal and interest of this bond are payable at the office of the treasurer of said ... of .....

This bond is issued to anticipate the collection of a part of the ... installment of special assessment No. ... levied for the purpose of ... which installment bears interest from (insert date), and this bond and the interest thereon are payable solely out of the installment when collected.

Dated (insert date).

The bond may have coupons attached to represent the interest to accrue thereon.

In lieu of the bonds described in this Section, a municipality may issue bonds of the type described in Section 9–2–127, but all bonds issued under any one special assessment proceeding must be of the same type.

This amendatory Act of 1971 is not a limit upon any municipality which is a home rule unit.

Laws 1961, p. 576, § 9–2–119, eff. July 1, 1961. Amended by P.A. 76–1556, § 1, eff. Sept. 22, 1969; P.A. 76–2237, § 1, eff. July 1, 1970; P.A. 77–1185, § 1, eff. Aug. 19, 1971; P.A. 82–642, § 1, eff. Sept. 24, 1981; P.A. 91–357, § 75, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–119.

[1] So in enrolled bill.

5/9–2–120. Extension of time for payment of assessments; re-division of installments; refunding bonds

§ 9–2–120. The court having jurisdiction of the original assessment proceeding is authorized at any time after the assessment has been confirmed to extend the time of payment of the assessment, or any installment thereof, whether due or not due, heretofore or hereafter levied, and in case securities have been issued, to refund the securities and past due interest thereon, heretofore or hereafter issued in anticipation of the collection of the assessment or any installment thereof levied under the provisions of this Division 2, or any part thereof, and past due interest thereon (unless such past due interest is waived). In cases where no securities have been issued, the provisions of this section as to refunding securities shall not apply but the court, on petition of the municipality, has jurisdiction to extend the time of payment of the assessment. Securities not due may be refunded only when the holders thereof surrender the securities in exchange for refunding securities issued in lieu thereof, or deposit the securities as hereinafter provided and agree to accept payment therefor in cash in an amount not exceeding the par value thereof, together with accrued interest. This payment is to be made out of the proceeds of the sale by the municipality of those refunding securities. All securities against any installment to be refunded shall be so surrendered or deposited.

The specified court is hereby vested with authority to divide any assessment or any installment or installments thereof into a greater number of installments than was originally provided for in the order confirming the assessment and to fix the amount of each installment, if, in its judgment, such a re-division into a greater number of installments is for the best interest of all parties concerned.

As used in this section and Sections 9–2–121 through 9–2–124, "securities" means bonds, coupons (except bonds or coupons issued under Sections 9–2–127 through 9–2–129) and vouchers, public benefit vouchers, and warrants and accrued interest.

Laws 1961, p. 576, § 9–2–120, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–120.

5/9–2–121. Petition for extension of time for payment; ordinance

§ 9–2–121. Whenever it is desired to extend the time of payment of any assessment or any of the installments thereof and issue refunding securities, any municipality that has issued securities in anticipation of the collection of the special assessment levied under the provisions of this Division 2, upon a petition of 75% of the holders of any securities issued against any assessment or any installment or installments thereof addressed to the corporate authorities of the issuing municipality, shall adopt an ordinance directing and providing for the extension of the time of payment of the assessment or any of the installments thereof and the sale and exchange of refunding securities in anticipation of the collection of the special assessment or any of the installments thereof the time of payment of which is to be extended. The ordinance so adopted shall direct the filing of a petition in the court having jurisdiction of the original assessment. In the ordinance, the municipality shall establish a date of issue of those refunding securities and this date of issue shall be also the date from which interest on those refunding securities shall run and from which interest on the assessment so extended shall run. The ordinance for this refunding shall refer to the original assessment proceeding and no estimate or recommendation by the board of local improvements shall be required.

Laws 1961, p. 576, § 9–2–121, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–121.

5/9–2–122. Proceeding for extension of time for payment; contents of petition

§ 9–2–122. The court shall hear the proceeding in a summary manner without a jury and there shall be no hearing on benefits or on any legal objections not arising subsequent and incidental to the proceeding provided for in Sections 9–2–120 through 9–2–124. No judgment confirming any such proceeding shall be entered until all unpaid securities have been either deposited in the court or with some depository under an escrow agreement approved by the court. The petition shall set forth the amount of the assessment or installments to be extended, the date of confirmation of the original assessment, the rate of interest of the original assessment, the amount of cash on hand in the particular assessment or installments, the unpaid securities or other obligations to be refunded, the date of maturity of the unpaid securities, and the rate of interest the unpaid securities bear. This petition shall also state that the holders of the securities issued in anticipation of the collection of the assessment or installments, will surrender their securities in exchange for refunding securities to be issued under the provisions of Sections 9–2–120 through 9–2–124, or accept in payment thereof an amount not exceeding the par value thereof, with accrued interest thereon. This petition shall also state what assessment or installments thereof are desired to be refunded, the desired maturity and the rate of interest of the extended installments, and the maturity, amount, and rate of interest of the refunding securities sought to be issued.

Laws 1961, p. 576, § 9–2–122, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–122.

5/9–2–123. Proceedings for extension of time for payment; notice; hearing and order; payments

§ 9–2–123. Accompanying the petition there shall be filed an assessment roll setting forth a description of the lots, blocks, tracts, and parcels of land assessed in the original proceeding, the total amount of the unpaid installments, and the interest thereon proposed to be extended against each tract, the amount, number and due date of each installment of the proposed extended assessment.

The assessment as extended shall be collected in the same manner as the original assessment.

When this petition is filed it shall be presented to the court and if found to be in proper form the court shall set the petition for hearing at such date as will enable the clerk of the court to give at least 10 days' notice of the hearing thereon, and it is the duty of the clerk to publish a notice at least twice, not more than 30 nor less than 15 days before the date set for hearing, in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality. This notice shall set forth the filing of the petition, the docket and warrant number of the assessment and the installment or installments thereof proposed to be extended and the number of installments in which it is proposed to divide the extended assessment. The notice shall also state when and where the court will hear objections to the petition.

At this hearing the court may extend the time of payment of one or more installments of the assessment, change the number of installments in which the assessment is divided, and subject to the provisions of Sections 9–2–120 through 9–2–124, provide for the details of the issuance of the refunding securities, in accordance with the prayer of the petition, and enter an order confirming the assessment as extended.

Any property owner may pay the original assessment or any installment to be extended within 10 days after the entry of such an order. Upon the expiration of 10 days after the entry of such an order the corporate authorities shall issue the refunding securities authorized by the order of the court, but the delivery of the refunding securities shall be simultaneous with the surrender of the securities to be refunded or paid. The securities so surrendered shall be immediately cancelled. The collection and payment of the extended assessment and the securities issued under Sections 9–2–120 through 9–2–124 shall be in the manner as now provided by law.

Laws 1961, p. 576, § 9–2–123, eff. July 1, 1961. Amended by P.A. 79–1361, § 39, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–123.

5/9–2–124. Extension of time for payment; lien; property forfeited or withdrawn; fee

§ 9–2–124. Any assessment and all installments, the time for collection of which has been extended, shall continue to be a lien on the land assessed the same as in the original assessment and the refunding securities issued under the provisions of Section 9–2–120 through 9–2–124 shall be payable therefrom.

Whenever the refunding of securities and the extending of the time of the payment of assessments or installments thereof include assessments or installments past due and these assessments or installments or any part thereof have been returned delinquent, withdrawn, or forfeited as provided by law, the court, in the order extending the time of payment and authorizing the refunding of the securities, shall order the county collector to withdraw those assessments or installments from the delinquent list and order the proper officers to release all property forfeited or withdrawn on account of those assessments or installments, the time of payment of which is to be extended, by a proper entry upon the tax sale and judgment record of the county. The county clerk shall charge the security holders a fee of 35 cents for each such service rendered by him in connection therewith.

Laws 1961, p. 576, § 9–2–124, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–124.

5/9–2–125. Extension of payments; property sold to municipality

§ 9–2–125. Whenever, in a proceeding under Sections 9–2–120 through 9–2–124, the refunding of securities and the extending of the time of payment of any assessment or installments thereof include an assessment or installments past due and the property against which the past due assessment or installments or any part thereof were levied has been sold at a sale of property to enforce the collection of the past due assessment to the municipality levying the assessment and the municipality has not paid the purchase price at that sale and a certificate of purchase has been issued and delivered to the municipality, this past due assessment or installments or any part thereof shall be extended, and the securities issued to anticipate their collection shall be refunded, as in the case of an assessment returned delinquent, withdrawn, or forfeited, and the lien of the original assessment and of the certificate of purchase shall be continued and preserved by the assessment as extended.

In such a case the court in which the proceeding is pending, in the order extending the time of payment and authorizing the refunding of the securities, shall order the municipality levying the assessment to present its certificate of purchase to the county clerk. The county clerk shall cancel this certificate by endorsing thereon the words "cancelled by assessment as extended" and shall enter a note of such cancellation upon his tax, judgment, sale redemption, and forfeiture record. Where this certificate or evidence thereof has been recorded with the recorder of deeds or registered with the registrar of titles the court shall order the county clerk to issue a certificate to the municipality showing the legal description of all lots, blocks, tracts, and parcels of land against which a certificate or evidence thereof has been recorded or registered and reciting the cancellation of the certificate of purchase by virtue of the extension of the assessment and refunding of the securities. This certificate shall be filed by the municipality with the recorder or the registrar of titles, as the case may be. Thereupon the lien of that assessment as extended shall stand in lieu of the lien of the original assessment and of the certificate of purchase, and the assessment as extended shall be collected in the same manner as the original assessment.

The county clerk shall receive for his services rendered as set forth in this section a fee of 35 cents for each certificate so cancelled. This fee, together with the fees of the recorder and of the registrar of titles shall be paid by the security holders.

Laws 1961, p. 576, § 9–2–125, eff. July 1, 1961. Amended by P.A. 83–358, § 16, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–125.

5/9–2–126. Lost or destroyed bonds; issuance of duplicates

§ 9–2–126. Whenever any voucher, bond or interest coupon issued by a municipality in anticipation of the collection of special assessments under any of the provisions of this Division 2 has been lost, destroyed or stolen and proof is made to the official of the municipality charged with making payments on the voucher, bond or interest coupon that the loss, theft or destruction occurred while the voucher, bond or interest coupon was owned by and in possession of the claimant, such official shall issue or cause to be issued and delivered to the claimant a duplicate of such voucher, bond or interest coupon alleged to have been lost, destroyed or stolen

after first indorsing on the duplicate all payment of principal and interest made on the original voucher, bond or interest coupon. However, the claimant shall prior to issuance of any such duplicate execute and deliver to the municipality a bond in a penalty at least double the amount of the principal of such voucher, bond or interest coupon alleged to have been lost, destroyed or stolen with sufficient security to be approved by the municipal official, conditioned to indemnify the municipality against all claims by any other person on account of such voucher, bond or interest coupon and against all costs and expenses by reason thereof.

Laws 1961, p. 576, § 9–2–126, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–126.

5/9–2–127. Bonds issued in exchange for vouchers issued in payment of work; request; requisites

§ 9–2–127. In lieu of the bonds authorized in Section 9–2–119, the municipality upon the written request of the holders of all of the outstanding and unpaid vouchers issued in payment of the work, may issue and deliver to such voucher holders, in exchange for such vouchers, bonds provided for in this Section 9–2–127, provided that prior to the receipt of such request the municipality has not issued or has not made any commitment to issue any bonds the funds from which are to be used toward paying such outstanding and unpaid vouchers in full. The bonds shall be dated as of and shall draw interest from the date of their issuance, except when issued in exchange for vouchers theretofore issued in payment of the work. In such latter case the bonds shall be issued in the principal amount of the unpaid balance of the vouchers and shall bear the same date as the vouchers for which they are exchanged or the date to which interest was last paid on the vouchers, and the bonds shall draw interest from such date. The bonds shall be issued at not less than their par value. The bonds shall be executed by such officers as may be prescribed by ordinance of such municipality, with the corporate seal attached. The bonds shall bear interest at a rate specified in the ordinance referred to in Section 2–9–10 of the Illinois Municipal Code and of not more than the rate the installments of the assessment against which the bonds are issued bear. The bonds shall recite specifically that they are payable solely and only from the assessment levied for the payment of the cost of the improvement, designating the improvement for which the assessment has been levied, and shall mature on or before December 31 next succeeding the January 2 on which the last installment shall mature. Interest coupons attached to the bonds shall bear the official or facsimile signatures of the same officers who signed the bonds and shall be made payable at the office of the treasurer of the municipality. The bonds shall be numbered consecutively beginning with number one upwards and shall be payable in their numerical order and redeemable prior to maturity in numerical order as hereinafter provided. Each of the bonds issued pursuant to this Section 9–2–127 shall bear a legend on the face of the bond printed in bold face type and in a paragraph by itself to the effect that the bond is one of a series of bonds which are to be paid and redeemed in numerical order and not on a pro-rata basis.

As used in this Section and in Sections 9–2–128 and 9–2–129, "treasurer" with respect to municipalities in which a comptroller is elected or appointed means treasurer or comptroller.

This amendatory Act of 1971 is not a limit upon any municipality which is a home rule unit.

Laws 1961, p. 576, § 9–2–127, eff. July 1, 1961. Amended by P.A. 76–1556, § 1, eff. Sept. 22, 1969; P.A. 76–2237, § 1, eff. July 1, 1970; P.A. 77–1185, § 1, eff. Aug. 19, 1971; P.A. 82–642, § 1, eff. Sept. 24, 1981.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–127.

5/9–2–128. Bonds issued in exchange for vouchers issued in payment of work; form

§ 9–2–128. The bonds authorized in Section 9–2–127 may be in the following form:

United States of America

Number ..... Dollars .....

State of Illinois County of .....

..... of .....

IMPROVEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That the ..... of ....., in the County of ....., State of Illinois, hereby acknowledges itself to owe, and for value received promises to pay to the BEARER, the sum of ..... Dollars ($) on the ..... day of ....., ..., but subject to prepayment at the par value hereof at any time as hereinafter provided, together with interest thereon at the rate of ..... per cent (%) per annum, from date hereof until paid, payable on the ..... day of ....., ..., and annually thereafter on the ..... day of ..... in each year on presentation and surrender of the interest coupons hereto attached.

Both principal and interest on this bond are payable at the office of the treasurer of said ..... of ....., in lawful money of the United States of America.

This bond is issued in exchange for part of the vouchers issued in payment of the work done under Special Assessment No. ....., levied for the purpose of ....., which assessment bears interest from the ..... day of ....., ..., and this bond and the interest thereon are payable solely out of the installments of the assessment when collected.

THIS BOND IS ONE OF A SERIES OF BONDS WHICH ARE TO BE PAID AND REDEEMED IN NUMERICAL ORDER AND NOT ON A PRO–RATA BASIS.

The bonds in the series, aggregating ..... Dollars ($....), are numbered from ..... to ..... inclusive, bonds numbered ..... to ..... being of the denomination of $..... each, and bonds numbered ..... to ..... being of the denomination of $..... each.

By the terms of the statute and ordinance authorizing these bonds, whenever there shall be sufficient funds in the hands of the treasurer of the ..... of ....., after the payment of all interest due on the bonds, and after the establishment of such reserve, if any, as the treasurer in his discretion may deem advisable to pay interest to become due at the next interest coupon date, to prepay one or more of the bonds, then it is the duty of such treasurer to call and pay such bond or bonds. The treasurer shall cause notice of such call for prepayment to be published in some newspaper of general circulation in the ..... of ....., Illinois, not less than 5 nor more than 30 days prior to the date fixed for prepayment. If no newspaper is published in the municipality, such notice shall be published in a newspaper with a general circulation in the municipality, and if there be no

such newspaper, such notice shall be posted in at least 3 prominent places within the municipality. This bond will cease to bear interest on and after the date so fixed for prepayment. The presentation of the bond will waive the necessity of giving notice of its call for payment. Bonds shall be paid in numerical order beginning with the lowest numbered outstanding bond.

IN TESTIMONY WHEREOF, the ..... of ..... has caused its corporate seal to be hereto affixed, and this bond to be signed by the officers prescribed by ordinance, and the coupons hereto attached to be signed by such officials by their original or facsimile signatures, which officials, if facsimile signatures are used, do adopt by the execution hereof as and for their proper signatures their respective facsimile signatures appearing on the coupons, all as of the ..... day of ....., ...

SEAL

Interest coupons which may be attached to bonds authorized in this section may be in the following form:

Coupon No. .....
$.....

On the ..... day of ....., ..., unless the bond to which this coupon is attached shall have theretofore been called for payment at an earlier date and payment made or provided for,

The ..... of ..... in the County of ....., State of Illinois, will pay to BEARER ..... Dollars ($....), out of funds realized from the collections of Special assessment No. ..... of the municipality, at the office of the treasurer of the municipality, for interest due on that day on its improvement bond dated as of the ..... day of ....., ...
BOND NO. .....

Laws 1961, p. 576, § 9–2–128, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–128.

5/9–2–129. Bonds issued in exchange for vouchers issued in payment of work; call and payment

§ 9–2–129. The municipality shall have the right to call and pay the bonds authorized in Section 9–2–127, or any number thereof, in the following manner:

Whenever there are sufficient funds in the hands of the treasurer to redeem one or more of the bonds, after the payment of all interest due, and after the establishment of such reserve, if any, as the treasurer in his discretion may deem advisable to pay interest to become due at the next interest coupon date, the treasurer, by publication or posting of notice as provided in this section, shall call and pay such bond or bonds. The treasurer shall cause notice of such call for payment to be published in a newspaper published in the municipality, or if no newspaper is published therein, then in a newspaper with a general circulation within the municipality, and if there be no such newspaper, then by posting in at least 3 prominent places within the municipality. The notice shall specify the number or numbers of the bonds called, designating the assessment against which the bonds have been issued, and directing presentation of such bonds for payment and cancellation, and indicating that interest will cease on the bonds not less than 5 nor more than 30 days from the date of publication of such notice or posting, and thereafter the bonds shall cease to bear interest. The presentation of any bond to the treasurer for payment shall waive the necessity of giving notice of its call for payment.

The treasurer upon accumulation of sufficient funds shall pay one or more bonds and shall call and pay such bonds. Any bondholder or holder of any interest coupon appertaining to any bond, after giving reasonable notice, shall be entitled to summary relief by mandamus or injunction to enforce these provisions.

When bonds are issued under Section 9–2–127, all collections of the special assessment installments and all interest collected shall constitute a single fund which shall be applied first to the payment of interest due, and to the establishment of such reserve, if any, as the treasurer in his discretion may deem advisable to pay interest to become due at the next interest coupon date, and then to the redemption and payment of bonds as provided herein. However, in municipalities having a population of less than 500,000, where the ordinance for the improvement provides for the collection of costs, collections made on the first installment shall be used first to pay such costs, and any surplus shall be used to pay bonds and interest thereon as provided herein. Provision as to redemption and call of the bonds shall be inserted in each of the bonds issued in accordance with the provisions of this Section 9–2–129.

Laws 1961, p. 576, § 9–2–129, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–129.

5/9–2–130. Bonds; issuance at par and accrued interest

§ 9–2–130. The bonds may be sold, or paid to the contractor having the contract for the improvement for which the assessment was levied, at not less than their par value and interest accrued to time of delivery, whether sold, or paid to the contractor.

Laws 1961, p. 576, § 9–2–130, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–130.

5/9–2–131. Payment by bonds

§ 9–2–131. Payment for any improvement done or performed under the provisions of this Division 2, to be paid for out of any special assessment or special tax levied in installments, as provided in this Division 2, may be made in the bonds provided for in this Division 2. In the event payment is made in the bonds authorized under Section 9–2–119, the first installment of such special assessment or special tax shall be paid to the person entitled thereto on the contract for that work. If this first installment is not collected when payments fall due, vouchers therefor may be issued, payable out of the first installment when collected. These vouchers shall bear interest at the rate specified in the ordinance referred to in Section 9–2–10 of the Illinois Municipal Code for bonds and not more than the rate the installments of the assessment against which the vouchers are issued bear, payable annually, and shall be signed by such officers as may be prescribed by ordinance.

In the event payment is made in the bonds authorized under Section 9–2–127, the first installment of such special assessment or special tax and all other installments thereof shall be held and used to pay the bonds and interest thereon as provided in Section 9–2–127.

However, in municipalities having a population of less than 500,000, where the ordinance for the improvement provides for the collection of costs, such costs shall be first paid out of this first installment and may be included in and evidenced by vouchers issued as provided in this Section 9–2–131.

This amendatory Act of 1971 is not a limit upon any municipality which is a home rule unit.

This amendatory Act of 1972 is not a limit upon any municipality which is a home rule unit.

Laws 1961, p. 576, § 9–2–131, eff. July 1, 1961. Amended by P.A. 76–2237, § 1, eff. July 1, 1970; P.A. 77–1457, § 1, eff. Sept. 7, 1971; P.A. 77–2823, § 1, eff. Dec. 22, 1972; P.A. 82–642, § 1, eff. Sept. 24, 1981.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–131.

5/9–2–132. Payment of assessment with bonds or vouchers

§ 9–2–132. Any property owner may pay his assessment wholly or in part, either before or after it is due, and whether or not the assessment has been withdrawn from collection or the property assessed has been sold to any municipality or forfeited to the State for nonpayment of that assessment, with the bonds or vouchers heretofore or hereafter issued under this Division 2 on account of that assessment, applying, however, bonds issued under Section 9–2–119 and vouchers of each series only to the payment of the installments to which they relate. If bonds issued under Section 9–2–127 are used to make such payments, such bonds may be applied to the payment of any and all installments, but only such of those bonds may be used as are next in numerical order of redemption at the time of making such payments. In making such payments, the vouchers and bonds shall be taken at their par value and interest accrued to the date of making the payment. All vouchers and bonds received in payment of such an assessment shall be cancelled by the officer receiving the vouchers, or bonds, as of the date of their receipt, and then deposited with the treasurer or the comptroller, as the case may be, of the municipality issuing the vouchers or bonds.

However, when the amount of the assessment is less than that of a bond or voucher, the officer receiving the same shall issue a receipt for the balance which shall entitle the owner to the same rights, except as to negotiability, as if the receipt were the original bond or voucher in the amount of the balance. Any such indorsement on any such bond or voucher shall be made by writing or stamping across the face thereof the words "payments upon this bond (or voucher) are listed upon the back."

Laws 1961, p. 576, § 9–2–132, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–132.

5/9–2–133. Waterworks system; liens of contractor and bondholders

§ 9–2–133. When any municipality provides by ordinance for the construction of a waterworks system, any portion of the cost of which is to be paid by special assessment and a direct annual tax is authorized by a vote as provided in Section 9–2–38, in order to secure the payment of the cost of that construction, the contractor and holders of the bonds that may be issued in payment of that cost, in the manner provided in this Division 2, shall have a lien upon the waterworks system, and upon the income to be derived from its operation, to secure the payment of the amounts due them respectively. This lien shall be to the fullest extent that the municipality may be authorized by law to create. Upon a request in writing of the contractor for the construction of such a waterworks system, or of the holders of a majority in amount of the specified bonds, the municipality shall convey by a deed of trust in the nature of a mortgage the waterworks system so to be constructed, and all the property, both real and personal, pertaining thereto. Such a deed of trust shall secure the payment of the assessment for public benefit or of the bonds as the contractor or holders of the bonds may elect. The trustees in such a deed of trust shall be selected by the contractor or the holders of a majority in amount of such bonds. The provisions of this section shall not apply to any city having a population of 500,000 or more.

Laws 1961, p. 576, § 9–2–133, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–133.

5/9–2–134. Waterworks fund

§ 9–2–134. The entire proceeds arising from the operation of such waterworks system shall be paid into the municipal treasury and shall be kept in a separate fund to be known as the "waterworks fund." After the payment therefrom of the necessary running and operating expenses of the waterworks system, the balance from time to time shall be credited by the municipal treasurer upon the assessment levied against the municipality for public benefits and the respective installments thereof, and shall be applied toward the payment of the cost of the waterworks system in the manner provided by this Division 2. Until the bonds so issued to pay the cost of the construction of the waterworks system and the interest thereon have been fully paid, the municipal treasurer shall not pay any warrant drawn on the "waterworks fund" for any other purpose except for the payment of the necessary operating expenses of the waterworks system.

In case such a waterworks system is used and operated to supply water for any existing distributing system, the entire proceeds derived from the operation of the waterworks system and the distributing system so supplied with water shall be apportioned and divided in proportion to the original cost of the distributing system, and the cost of the waterworks system. These costs shall be determined by the municipal clerk. The portion of such income that is so determined to arise from the operation of the waterworks system shall be paid to the municipal treasurer and placed in the "waterworks fund" and used only in the manner specified in this section. The provisions of this section shall not apply to any city having a population of 500,000 or more.

Laws 1961, p. 576, § 9–2–134, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–134.

5/9–2–135. Claims against assessment

§ 9–2–135. No person accepting the vouchers or bonds as provided in this Division 2 shall have any claim or lien upon the municipality in any event for the payment of his vouchers or bonds or the interest thereon, except from the collection of the assessment against which the vouchers or bonds are issued. The municipality, nevertheless, shall not be in any way liable to the holders of these vouchers or bonds in case of a failure to collect the assessment, but with all reasonable diligence, so far as it can legally do so, it shall cause a valid special assessment or a special tax, as the case may be, to be levied and collected, to pay these bonds and vouchers, until all bonds and vouchers are fully paid. Any holder of vouchers or bonds, or his assigns, shall be entitled to summary relief by way of mandamus or injunction to enforce the provisions of this section.

Laws 1961, p. 576, § 9–2–135, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–135.

5/9–2–136. Payments as work progresses

§ 9–2–136. From time to time, as the work under any contract for such an improvement progresses, upon certificates by the board of local improvements, or by some officer designated by the board for that purpose, payments may be made either in money, vouchers, or bonds, as provided in this

Division 2, to apply upon the contract price, reserving, however, a sufficient amount upon each of the payments to properly secure, in the judgment of the board, the faithful performance of the contract. This reserve shall be paid over at such time and on such conditions as the board shall fix, after the specified work has been completed or accepted.

Laws 1961, p. 576, § 9–2–136, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–136.

5/9–2–137. Interest on bonds; payment

§ 9–2–137. The board of local improvements before the crediting of the excess as provided for in Section 9–2–114, shall estimate an amount deemed sufficient to make up any probable deficiency of interest, in the event that from any cause, collections of interest may prove insufficient to meet the interest to be paid on the bonds until they mature as hereinbefore provided. This estimated amount shall be deducted out of the installments as an item of expense before crediting rebates of excess as directed in this Division 2 and shall be used for no other purpose than to make up such a deficiency until the bonds are fully paid, both principal and interest. Any balance remaining of this estimated amount after the principal and interest of the bonds are fully paid may be used to reimburse the corporate fund for any advances made from this fund on account of costs of the special assessment or special tax or other expenses of the improvement for which the special assessment or special tax is levied.

However, in municipalities having a population of 500,000 or more, no deduction of this estimated amount out of the installments shall be made where the ordinance providing for the assessment provided that a certain sum not to exceed 5% of the amount of that special assessment or special tax shall be applied as provided in Sections 9–2–138 and 9–2–139, or in case such a municipality, at any time before the crediting of such excess, shall annually appropriate or set aside a fund sufficient in amount to meet all estimated deficiencies in interest which may arise during the year for which the fund is provided.

Laws 1961, p. 576, § 9–2–137, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–137.

5/9–2–138. Rebates

§ 9–2–138. If, after final settlement with the contractor for any improvement and after full payment of all vouchers or bonds except those bonds and interest coupons not presented for payment, although called and for which funds are available and reserved, within the period of time specified in Section 9–1–5, issued on account of that improvement, there is any surplus remaining in the special assessment or special tax above the specified payments and above the amount necessary for the payment of interest on those vouchers or bonds, such surplus shall be applied to reimbursing the public benefit fund for any amounts paid from such fund on account of the improvement. If, after the public benefit fund has been reimbursed, a surplus still remains, the proper authorities of the municipality shall declare at once a rebate upon each lot, block, tract, or parcel of land assessed, of its pro rata proportion of that surplus. Such rebate shall be paid to the owner of record of each such lot, block, tract, or parcel at the time of the declaration of the rebate. Should any additional funds be collected after the original rebate is declared, the municipality shall not be required to declare a supplemental rebate for 5 years from the date the original rebate is declared. The municipality may deduct for its cost and expenses for declaring and making any rebate not more than 5% of the amount declared to be rebated. The board of local improvements shall keep and exhibit publicly in its office, an index of all warrants upon which rebates are due and payable and upon proper proof, the warrants shall be repaid to the persons entitled thereto.

However, whenever any municipality having a population of 500,000 or more has appropriated or set aside a fund sufficient in amount to meet all estimated deficiencies in interest, cost of making, levying, and collecting a special assessment or special tax, and of letting and executing contracts, advertising, clerical hire, engineering and inspection, court costs and fees of commissioners in condemnation proceedings incurred in such a proceeding and has provided, in the ordinance providing for the assessment, that a certain sum not to exceed 5% of the amount of the assessment or special tax shall be applied toward the payment of the specified and other costs of making and collecting the assessment, the money collected in the fund created by this 5% so added as hereinbefore authorized shall be used to pay all deficiency in interest in the warrant, and the balance shall be used to reimburse the corporate funds for advances made from the corporate funds on account of costs of the special assessment or special tax or other expenses of the improvement for which the special assessment or special tax was levied.

Laws 1961, p. 576, § 9–2–138, eff. July 1, 1961. Amended by Laws 1963, p. 2431, § 1, eff. Aug. 6, 1963; Laws 1965, p. 2969, § 1, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–138.

5/9–2–139. Expenses, costs, etc.; manner of payment

§ 9–2–139. The costs and expenses of maintaining the board of local improvements, for paying salaries of the members of the board, and the expense of making and levying special assessments or special taxes and of letting and executing contracts, and also the entire cost and expense attending the making and return of the assessment rolls and the necessary estimates, examinations, advertisements, and like matters, connected with the proceedings provided for in this Division 2, including the court costs and the fees to commissioners in condemnation proceedings, which are to be taxed as provided in this Division 2, shall be paid by the municipality out of its general corporate fund.

However, in municipalities having a population of less than 500,000, the municipality, in the ordinance providing for the prescribed assessment, may provide that a certain sum, not to exceed 6% of the amount of this assessment, shall be applied toward the payment of the specified and other costs of making and collecting this assessment. In municipalities having a population of less than 500,000, the estimate of cost of the improvement may also provide an item setting forth a reserve for deficiency in interest not to exceed 6% of the amount of the assessment.

The limitation in the preceding paragraph shall not apply to the costs of engineering and inspection connected with any local improvement, but these costs in municipalities having a population of less than 500,000 may be included in the cost of the improvement to be defrayed by special assessment or special tax.

In municipalities having a population of 500,000 or more, the municipality, in the ordinance providing for the prescribed assessment, may provide that a certain sum not to exceed 5% of the amount of this assessment, as finally determined after the completion of the improvement in accordance with Sections 9–2–114 through 9–2–116, shall be applied (but only by way of reimbursement of the general

corporate fund as hereinafter in this Section provided) toward the payment of the cost of making, levying, and collecting the special assessment or special tax, and of letting and executing contracts, advertising, clerical hire, engineering and inspection, court costs and fees of commissioners in condemnation proceedings incurred in the proceeding and deficiency in interest in the matter of the special assessment or special tax. If the part of the assessment levied on account of the expenses specified in this paragraph, exceeds 5% of the entire assessment as finally determined in accordance with Sections 9–2–114 through 9–2–116, but does not exceed 5% of the assessment as originally levied and filed in court, that excess shall not constitute any objection to a judgment of confirmation of the assessment. But no larger sum on account of the expenses specified in this paragraph than 5% of the assessment as finally determined in accordance with Sections 9–2–114 through 9–2–116, shall be treated as a part of the cost of the improvement to be certified by the board of local improvements in accordance with Sections 9–2–114 through 9–2–116, and if the part of the assessment originally levied on account of the expenses specified in this paragraph exceeds 5% of the entire assessment as finally determined in accordance with that Section, any such excess shall be treated as a part of the excess to be abated in accordance with the provisions of Sections 9–2–114 through 9–2–116.

Such a deficiency in interest, if any, shall be first paid out of the fund so created by this 5% so added as in this Section authorized. The application of this fund toward the payment of the expenses specified in the preceding paragraph shall be only by paying over and transferring the balance of the fund after the payment of such a deficiency in interest, to the general corporate fund of the municipality for reimbursement for expenses of the improvement for which the assessment is levied, theretofore paid out of that general corporate fund.

Laws 1961, p. 576, § 9–2–139, eff. July 1, 1961. Amended by P.A. 76–758, § 1, eff. Aug. 15, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–139.

5/9–2–140. Appeals

§ 9–2–140. Appeals from final judgments or orders of any court made in the proceedings provided for by this Division 2, may be taken in the manner provided in other civil cases, by the municipality or by any of the owners or parties interested in land taken, damaged, or assessed therein. However, no appeal may be taken after 30 days from the entry of the final judgment or order. Such an appeal may be prosecuted jointly, and upon a joint bond, or severally, and upon several bonds, as may be specified in the order fixing the amount and terms of such bonds.

Laws 1961, p. 576, § 9–2–140, eff. July 1, 1961. Amended by Laws 1967, p. 3762, § 1, eff. Sept. 7, 1967; P.A. 76–1407, § 1, eff. Sept. 22, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–140.

5/9–2–141. Appeals after expiration of thirty-day period

§ 9–2–141. After the expiration of the 30 day period allowed for filing a notice of appeal under this Division 2, an appeal from any such judgment may be filed in the manner provided in other civil cases on petition or application of owners or parties interested in the property affected thereby, as shown by the record, at any time after the disposition of the last remaining objections to the confirmation, if any, prior to the first day of June following the entry of the judgment.

However, if the warrant for collection as to any parcel is not certified for collection so that an application for judgment of sale may be made in the year following the entry of the judgment, leave to appeal as to that parcel, on application, may be granted by the reviewing court within the period of one year after the entry of the judgment.

In every case there shall be filed with the clerk of the reviewing court, with the application for leave to appeal, an affidavit by the appellant or his agent setting forth the time when the warrant for collection, as to the property, was so certified, and further setting forth that the person to whom the notice of the filing of assessment roll as to the property, as shown by the record, did not receive the notice, or otherwise learn of the pendency of the proceedings for the confirmation of the assessment until less than 10 days before the entry of default against his property in the court below. In all such cases the notice of appeal shall contain a statement that it is filed pursuant to leave granted by the reviewing court under authority of this Division 2 and the notice of appeal shall be filed and served on or before the dates hereinabove fixed.

Laws 1961, p. 576, § 9–2–141, eff. July 1, 1961. Amended by Laws 1967, p. 3762, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–141.

5/9–2–142. Adoption of this division by other municipalities

§ 9–2–142. Any municipality, not already controlled by this Division 2, if it so determines by ordinance, may adopt the provisions of this Division 2, and where it has so adopted this Division 2, it has the right to take all the proceedings provided for and to have the benefit of all the provisions of this Division 2.

Laws 1961, p. 576, § 9–2–142, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–142.

5/9–2–143. Use of provisions of this division by other corporate authorities

§ 9–2–143. Whenever, immediately prior to January 1, 1942, authority of law existed in corporate authorities to levy special assessments or special taxes for local improvements, and for that purpose to use the proceedings provided by Article 9 of an act entitled "An Act to provide for the incorporation of cities and villages," approved April 10, 1872, as amended, or by "An Act concerning local improvements," approved June 14, 1897, as amended, such corporate authorities are authorized to make use of the provisions of this Division 2 for the purpose, with the same effect, and to the same extent as heretofore authorized to use the provisions of either mentioned act. Any such corporate authorities as may be on and after January 1, 1942, authorized by law to levy such special assessments or special taxes, whether otherwise expressly authorized thereto or not, may make use of the provisions of this Division 2 in like manner.

If, in any such case, a board of local improvements, as required in this Division 2, does not exist, the corporate authorities shall take such steps for a public hearing, on the subject of the proposed improvement, to be paid for by special assessment or special taxation, as are required in this Division 2 of the board of local improvements, and they shall act as such a board in the manner provided in this Division 2,

as nearly as may be, both in originating the improvement and in executing the work and making payment therefor.

Laws 1961, p. 576, § 9–2–143, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–143.

5/9–2–144. Pending cases; reservations

§ 9–2–144. The laws subsisting immediately prior to January 1, 1942, the time of the taking effect of this Division 2, shall continue to apply to all proceedings for the condemnation of land, or the confirmation of special assessment or special taxes for local improvements, which were pending in any court in this state at the time of the taking effect of this Division 2, and to all proceedings for the collection of any deficiency under past levies already made under any law existing at the time of the taking effect of this Division 2, and also to all proceedings for new assessments made in lieu of others annulled before this Division 2 took effect, by order of some court.

Whenever any installment of an assessment confirmed under prior acts matures, proceedings to return the installment delinquent, and to collect the installment shall conform to the provisions of this Division 2.

Whenever any bond issued under "An Act concerning local improvements," approved June 14, 1897, as amended, matures, proceedings to refund or enforce its payment shall conform to the provisions of this Division 2, so far as they are applicable.

Nothing in this Division 2 shall be construed to repeal any of the laws relating to civil service, and nothing in this Division 2 shall be construed to repeal or modify any of the rules of the civil service commission of the city of Chicago adopted pursuant to the civil service laws, and nothing in this Division 2 shall be construed to repeal Division 84 of Article 11.

Laws 1961, p. 576, § 9–2–144, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–2–144.

DIVISION 4. IMPROVEMENTS AFFECTING PROPERTY NOT WITHIN MUNICIPALITY

Date Effective

Division 4 was added by Laws 1963, p. 2635, § 1, eff. Aug. 9, 1963.

5/9–4–1. Charge of benefits against property; application of division

§ 9–4–1. Property not within the corporate limits but contiguous to any local improvement made by a municipality pursuant to the provisions of this Article may be charged by the corporate authorities of the municipality in an amount not greater than the benefit conferred by the local improvement on such property. This Division 4 shall apply only to municipalities of less than 500,000 inhabitants and shall not be exercised with respect to any contiguous property where such property is included within the corporate limits of another municipality.

Laws 1961, p. 576, § 9–4–1, added by Laws 1963, p. 2635, § 1, eff. Aug. 9, 1963. Amended by Laws 1965, p. 668, § 1, eff. July 1, 1965.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–4–1.

5/9–4–2. Proceedings; petition; contents; summons; notice; hearing

§ 9–4–2. The corporate authorities of a municipality who intend to charge benefits conferred by local improvements on property not within the corporate limits of such municipality against such property, as provided in this Division 4, shall commence a proceeding by filing a petition in the circuit court of the county in which the municipality making such local improvement is situated, or if such municipality is situated in more than one county and such proposed improvement lies in more than one county, then in the circuit court of the county in which the major part of the territory to be affected thereby is situated. Such petition shall contain (i) a statement that the board of local improvements or the committee on local improvements of such municipality is considering the making of a local improvement to be paid for by special assessment or by special tax and that the local improvement will benefit property not within the corporate limits of such municipality but contiguous to such local improvement; (ii) description of the extent, nature, kind, character and (when an estimate of the cost thereof is required under the provisions of Division 2 of this Article) the estimated cost of the proposed local improvement; (iii) a description of the lots, blocks, tracts, or parcels of property not within such municipality which the corporate authorities determine may be charged under this Division 4 with any part of the cost for making such local improvement, together with the name and address of the person or persons to whom the tax bill was sent for general taxes on each such lot, block, tract or parcel for the last preceding year; and (iv) a statement of the time and place of the public hearing, if any, to be held on such local improvement by the board of local improvements or the committee on local improvements. Upon the filing of such petition, the clerk of the circuit court shall issue a summons as in civil cases to the person or persons to whom such tax bills were sent as set forth in such petition. The board of local improvements or the committee on local improvements shall give to each person to whom such summons is issued notice of the time and place of the public hearing on such local improvement in the same manner as such notice is given to persons with respect to property within such municipality, all in accordance with the applicable provisions of Division 2 or Division 3 of this Article. Any person to whom such summons is issued shall have the right to appear and be heard at such public hearing in accordance with the provisions of Division 2 or Division 3 of this Article, and the circuit court shall upon application of such municipality, enter an order staying further proceedings on such petition filed pursuant to this Division 4 pending the filing of and hearing on the petition contemplated by Division 2 or Division 3 of this Article, and shall consolidate for hearing by the court such petition filed under Division 2 or Division 3 of this Article with such petition filed under Division 4 of this Article. The procedure and issues on the hearing on a petition filed under Division 4 of this Article shall be the same, as near as may be, as the procedure and issues set forth in Division 2 or Division 3 of this Article, and at such hearing, the circuit court shall hear and determine all objections as to the amount set as a benefit to such property.

Laws 1961, p. 576, § 9–4–2, added by Laws 1963, p. 2635, § 1, eff. Aug. 9, 1963. Amended by P.A. 76–1549, § 1, eff. Sept. 22, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–4–2.

5/9–4–3. Lien against property

§ 9–4–3. The amount set by order of the circuit court shall be a lien against such property enforceable in the same

manner as a lien created under Division 2 or Division 3 of this Article.

Laws 1961, p. 576, § 9–4–3, added by Laws 1963, p. 2635, § 1, eff. Aug. 9, 1963. Amended by P.A. 76–1549, § 1, eff. Sept. 22, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 9–4–3.

ARTICLE 11. CORPORATE POWERS AND FUNCTIONS

PUBLIC HEALTH, SAFETY AND WELFARE

POLICE PROTECTION AND PUBLIC ORDER

DIVISION 4. HOUSES OF CORRECTION AND FARM COLONIES

5/11–4–1. Establishment

§ 11–4–1. Except in any county having a population of more than 1,000,000, the corporate authorities of any city may establish a house of correction, which shall be used for the confinement and punishment of criminals, or persons sentenced or committed thereto under the provisions of this Division 4, or any law of this State, or ordinance of any city or village authorizing the confinement of convicted persons in any such house of correction.

The corporate authorities of any such city may purchase or otherwise acquire, own or control so much land within the incorporated limits of such city or outside and within the same county as such city may require, for the purpose of establishing thereon such house of correction and other buildings or appurtenances thereto, and for the purpose of establishing in connection therewith a farm colony. Any farm colony so established in connection with a house of correction shall also be used for the confinement and punishment of criminals or persons sentenced or committed thereto under the provisions of this Division 4, or any law of this State, or ordinance of any city or village, authorizing the confinement of convicted persons in any such house of correction or farm colony.

When such land is purchased or acquired and house of correction or farm colony established by any such city outside of the corporate limits thereof, such city and the corporate authorities thereof shall have complete police powers, for the purpose of control and management of same and of the persons confined therein, over such lands and territory surrounding the same and highways leading thereto from such city as is now conferred by law upon cities, incorporated towns and villages within this State over territory lying within the corporate limits thereof.

Laws 1961, p. 576, § 11–4–1, eff. July 1, 1961. Amended by P.A. 76–425, § 1, eff. Dec. 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–4–1.

5/11–4–2. Inspectors; letting of contracts; purchase orders

§ 11–4–2. The management and direction of any house of correction shall be under the control and authority of a board of inspectors, to be appointed for that purpose as in this section directed.

The mayor of each city shall, by virtue of his office, be a member of such board, who, together with 3 persons to be appointed by the mayor, by and with the advice and consent of the corporate authorities of the city, shall constitute the board of inspectors. The term of office for the appointed members of the board shall be 3 years, but the members first appointed shall hold their office, respectively, as shall be determined by lot at the first meeting of the board, for one, 2 and 3 years from and after the first Monday in May, 1871, and thereafter one member shall be appointed each year for the full term of 3 years.

The provisions of Divisions 9 and 10 of Article 8[1] shall apply in relation to letting of contracts and purchase orders by the board of inspectors in behalf of any such house of correction and the board of inspectors shall also be governed by the powers, functions and authority of the purchasing agent, board of standardization and the corporate authorities in such cities.

Laws 1961, p. 576, § 11–4–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–4–2.

[1] 65 ILCS 5/8–9–1 et seq. and 65 ILCS 5/8–10–1 et seq.

5/11–4–3. Rules; employees; appropriations

§ 11–4–3. Whenever a board of inspectors has been organized, it may establish and adopt rules for the regulation and discipline of the house of correction, for which such board has been appointed. Upon the nomination of the superintendent thereof, the board may appoint the subordinate officers, guards and employees thereof, may fix their compensation and prescribe their duties generally, may make all such by-laws and ordinances in relation to the management and government thereof as the board deems expedient. No appropriation shall be made by the board of inspectors for any purpose other than the ordinary and necessary expenses and repairs of the institution, except with the sanction of the corporate authorities of the city.

Laws 1961, p. 576, § 11–4–3, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–4–3.

5/11–4–4. Compensation and duties of inspectors; records

§ 11–4–4. The board of inspectors shall serve without fee or compensation. It shall be their duty to assure that the house of correction is operated in accordance with the minimum standards established by the Department of Corrections pursuant to Section 3–15–2 of the Unified Code of Corrections.[1] There shall be a meeting of the entire board, at the house of correction, once every 3 months. At such meeting the board shall fully examine into the management in every department, hear and determine all complaints or questions not within the province of the superintendent to determine, and make such further rules and regulations for the good government of the house of correction as to them shall seem proper and necessary. One of the appointed inspectors shall visit the house of correction at least once in each month. All rules, regulations or other orders of the board shall be recorded in a book to be kept for that purpose, which shall be deemed a public record, and, with the other books and records of the house of correction, shall be at all times subject to the examination of any member or committee of the corporate authorities, the comptroller, treasurer, corporation counsel or attorney of any such city.

Laws 1961, p. 576, § 11–4–4, eff. July 1, 1961. Amended by Laws 1965, p. 2612, § 1, eff. Aug. 5, 1965; P.A. 77–869, § 1, eff. Aug. 17, 1971; P.A. 91–239, Art. 5, § 5–240, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–4–4.

[1] 730 ILCS 5/3–15–2.

FIRE PROTECTION

DIVISION 8. FIRE SAFETY REGULATIONS

5/11–8–5. Lumber and coal yards

§ 11–8–5. The corporate authorities of each municipality may regulate and prohibit the keeping of any lumber or coal yard, or the placing, piling, or selling of any lumber, timber, wood, coal, or other combustible material within the fire limits of the municipality.

Laws 1961, p. 576, § 11–8–5, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–8–5.

POWERS OVER CERTAIN BUSINESSES

DIVISION 42.1. PUBLIC CONTRACTS

Date Effective

Division 42.1 was added by P.A. 86–1039, § 1, eff. March 19, 1990.

5/11–42.1–1. Delinquent taxpayers

§ 11–42.1–1. (a) Except as provided otherwise in this Section, a municipality may not enter into a contract or agreement with an individual or other entity that is delinquent in the payment of any tax administered by the Department of Revenue unless the individual or other entity is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of tax. Before awarding a contract, the municipality shall obtain a statement under oath from the individual or entity that no such taxes are delinquent. Making a false statement is a Class A misdemeanor. In addition, making a false statement voids the contract and allows the municipality to recover all amounts paid to the individual or entity under the contract in a civil action. A municipality may not regulate contracts with individuals or entities that are delinquent in payment of such taxes in a manner inconsistent with this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule municipalities of powers and functions exercised by the State.

(b) For purposes of this Section, a person or other entity shall not be considered delinquent in the payment of a tax if the person or entity (1) has entered into an agreement with the Department of Revenue for the payment of all such taxes that are due and (2) is in compliance with the agreement. In that case, the sworn statement required by subsection (a) shall state those facts.

(c) Notwithstanding the provisions of subsection (a), a municipality may enter into a contract with an individual or other entity that is delinquent in the payment of a tax if the contracting authority for the municipality determines that:

(1) the contract is for goods or services vital to the public health, safety, or welfare; and

(2) the municipality is unable to acquire the goods or services at a comparable price and of comparable quality from other sources.

Laws 1961, p. 576, § 11–42.1–1, added by P.A. 86–1039, § 1, eff. March 19, 1990.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–42.1–1.

PUBLIC WORKS, BUILDINGS AND PROPERTY

EMINENT DOMAIN AND PUBLIC WORKS—GENERAL

DIVISION 61. GENERAL EMINENT DOMAIN POWER AND POWER TO PURCHASE ON CONTRACT

5/11–61–1. Acquirement of property

§ 11–61–1. The corporate authorities of each municipality may exercise the right of eminent domain by condemnation proceedings in conformity with the provisions of the constitution and statutes of the State of Illinois for the acquirement of property useful, advantageous or desirable for municipal purposes or public welfare including property in unincorporated areas outside of but adjacent and contiguous to the municipality where required for street or highway purposes by the municipality.

Laws 1961, p. 576, § 11–61–1, eff. July 1, 1961. Amended by Laws 1961, p. 2425, § 1, eff. Aug. 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–61–1.

5/11–61–1.5. Acquiring property by gift, legacy, or grant

§ 11–61–1.5. Acquiring property by gift, legacy, or grant. Every municipality has the power to acquire by gift, legacy, or grant any real estate or personal property, or rights therein, for purposes authorized under this Code as its governing body may deem proper, whether the land or personal property is located within or outside the municipal boundaries. This Section applies to gifts, legacies, and grants acquired before, on, or after the effective date of this amendatory Act of the 92nd General Assembly.

Laws 1961, p. 576, § 11–61–1.5, added by P.A. 92–102, § 5, eff. Jan. 1, 2002.

5/11–61–1a. Quick-take; municipalities over 500,000

§ 11–61–1a. Any municipality with a population of over 500,000 may utilize the quick-take procedures if such procedures are commenced on or before January 1, 1990, for exercising the power of eminent domain under Section 7–103 of the Code of Civil Procedure (now Article 20 of the Eminent Domain Act) [1] for the purpose of constructing or extending rapid transit lines within the area bounded by a line beginning at the intersection of East Jackson Boulevard and South Michigan Avenue in the City of Chicago, running South on South Michigan Avenue to East Pershing Road, then West on East Pershing Road and West Pershing Road to South Ashland Avenue, then South on South Ashland Avenue to West Garfield Boulevard, then West on West Garfield Boulevard and West 55th Street to South Pulaski Road, then South on South Pulaski Road to West 63rd Street, then West on West 63rd Street to South Central Avenue, then North on South Central Avenue to West 55th Street, then East on West 55th Street to South Cicero Avenue, then North on South Cicero Avenue to West 47th Street, then East on West 47th Street to South Kedzie Avenue, then North on South Kedzie Avenue to West Cermak Road, then East on West Cermak Road to South Halsted Street, then North on South Halsted Street to West

Jackson Boulevard, then East on West Jackson Boulevard and East Jackson Boulevard to the place of beginning.

Laws 1961, p. 576, § 11–61–1a, added by P.A. 84–1477, § 1, eff. Feb. 9, 1987. Amended by P.A. 94–1055, Art. 95, § 95–10–65, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–61–1a.

[1] 735 ILCS 30/20–5–5 to 30/20–5–50.

5/11–61–2. Establishment, improvement and vacation of streets, sidewalks, wharves, and parks

§ 11–61–2. The corporate authorities of each municipality may vacate, lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and public grounds; and for these purposes or uses, to take real property or portions thereof belonging to the taking municipality, or to counties, school districts, boards of education, sanitary districts or sanitary district trustees, forest preserve districts or forest preserve district commissioners, and park districts or park commissioners, even though the property is already devoted to a public use, when the taking will not materially impair or interfere with the use already existing and will not be detrimental to the public.

Laws 1961, p. 576, § 11–61–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–61–2.

5/11–61–3. Purchase or lease of property

§ 11–61–3. The corporate authorities of each municipality having a population of less than 1,000,000 inhabitants shall have the express power to purchase or lease either real estate or personal property for public purposes through contracts which provide for the consideration for such purchase or lease to be paid through installments to be made at stated intervals during a certain period of time, but, in no case, shall such contracts provide for the consideration to be paid during a period of time in excess of 20 years nor shall such contracts provide for the payment of interest at a rate of more than that permitted in "An Act to authorize public corporations to issue bonds, other evidences of indebtedness and tax anticipation warrants subject to interest rate limitations set forth therein", approved May 26, 1970, as amended.[1] The indebtedness incurred under this Section when aggregated with existing indebtedness may not exceed the debt limits provided in Division 5 of Article 8 of this Code.

The amendatory Acts of 1972 and 1973 are not a limit upon any municipality which is a home rule unit.

Laws 1961, p. 576, § 11–61–3, added by Laws 1965, p. 992, § 1, eff. July 1, 1965. Amended by P.A. 76–2013, § 1, eff. July 1, 1971; P.A. 77–2821, § 1, eff. Dec. 22, 1972; P.A. 78–211, § 1, eff. July 18, 1973; P.A. 84–283, § 1, eff. Sept. 13, 1985; P.A. 91–493, § 10, eff. Aug. 13, 1999.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–61–3.

[1] 30 ILCS 305/0.01 et seq.

5/11–61–4. Eminent domain

§ 11–61–4. Eminent domain. Notwithstanding any other provision of this Code, any power granted under this Code to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1961, p. 576, § 11–61–4, added by P.A. 94–1055, Art. 95, § 95–5–110, eff. Jan. 1, 2007.

STREETS AND PUBLIC WAYS

DIVISION 80. GENERAL POWERS OVER STREETS AND PUBLIC WAYS

5/11–80–2. Use of streets

§ 11–80–2. The corporate authorities of each municipality may regulate the use of the streets and other municipal property.

Laws 1961, p. 576, § 11–80–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–2.

5/11–80–2a. Resident parking only

§ 11–80–2a. In areas zoned for residential use, the corporate authorities may restrict part of each street for "residents parking only".

Laws 1961, p. 576, § 11–80–2a, added by P.A. 79–545, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–2a.

5/11–80–3. Obstructions upon streets

§ 11–80–3. The corporate authorities of each municipality may prevent and remove encroachments or obstructions upon the streets and other municipal property.

Laws 1961, p. 576, § 11–80–3, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–3.

5/11–80–5. Street lighting tax

§ 11–80–5. The corporate authorities of each municipality, with the concurrence of two-thirds of all of the aldermen, trustees or commissioners elected therein, may levy and collect annually, in addition to all other taxes now authorized by law, a tax of not to exceed .05% of the value, as equalized or assessed by the Department of Revenue, of the taxable property in the municipality, to be used exclusively for the purpose of lighting streets. The tax authorized by this Section is in addition to taxes for general corporate purposes authorized by Section 8–3–1.

The foregoing tax rate limitation, insofar as it is applicable to municipalities of less than 500,000 population, may be increased or decreased under the referendum provisions of the General Revenue Law of Illinois.[1]

Laws 1961, p. 576, § 11–80–5, eff. July 1, 1961. Amended by Laws 1967, p. 926, § 1, eff. July 1, 1967; P.A. 77–898, § 1, eff. Aug. 17, 1971; P.A. 81–1509, Art. IV, § 34, eff. Sept. 26, 1980; P.A. 86–280, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–5.

[1] 35 ILCS 205/1 et seq.

5/11–80–7. Streets; pipes; sewers

§ 11–80–7. The corporate authorities of each municipality may regulate the openings in streets and other municipal property for the laying, building, repairing, and removing of gas or water mains and pipes, or sewers, tunnels, and drains and may erect gas lights.

Laws 1961, p. 576, § 11–80–7, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–7.

5/11–80–11. Cross-walks, curbs, and gutters

§ 11–80–11. The corporate authorities of each municipality may provide for and regulate cross-walks, curbs, and gutters. However, after the effective date of this amendatory Act of 1973, all new curbs which are provided for by any

municipality, and all existing curbs which are a part of any reconstruction, within any block which is contiguous to any highway and in which more than 50% of the territory is devoted to or zoned for business, commercial or industrial use shall comply with this Section. In order to enable persons using wheelchairs to travel freely and without assistance, at each cross-walk a ramp with non-slip surface shall be built into the curb so that the sidewalk and street blend to a common level. Such ramp shall conform to the standards adopted by the Capital Development Board in accordance with the Environmental Barriers Act. Where because of surrounding buildings or other restrictions it is impossible to conform the slope with this requirement, the ramp shall contain a slope with as shallow a rise as possible under the circumstances. In all ramps there shall be a gradual rounding at the bottom of the slope.

Laws 1961, p. 576, § 11–80–11, eff. July 1, 1961. Amended by P.A. 78–322, § 1, eff. Oct. 1, 1973; P.A. 86–447, § 1, eff. Aug. 30, 1989.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–11.

5/11–80–19. Naming of streets; change in name

§ 11–80–19. The corporate authorities of each municipality may name originally and then may change the name of any street, avenue, alley, or other public place. No change in the name of any street, avenue, alley or other public place shall be effective until 30 days after the election authorities having jurisdiction in the area in which the name of the public place is changed and the post office branch serving that area have been notified by the corporate authority initiating such action of the change in writing by certified or registered mail.

Laws 1961, p. 576, § 11–80–19, eff. July 1, 1961. Amended by P.A. 80–398, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–19.

5/11–80–21. Streets and sewers across or under railroad

§ 11–80–21. The corporate authorities by condemnation or otherwise may extend any street or alley over or across, or may construct any sewer under any railroad track, or through the right-of-way or land of any railroad company. Where no compensation is made to the railroad company, however, the municipality shall restore the railroad track, right-of-way, or land so that its usefulness will not be impaired more than is reasonably necessary.

Laws 1961, p. 576, § 11–80–21, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–80–21.

DIVISION 85. CERTAIN JOINT MUNICIPAL AND TOWNSHIP CONSTRUCTION PROJECTS

5/11–85–1. Joint construction with township

§ 11–85–1. Municipalities lying within one or more townships, or whose boundaries are coextensive with the boundaries of a township, have the power to enter into a contract with any township within which the municipality lies, or with any township lying immediately contiguous to the municipality, and such township has the power to enter into a contract with such municipality, for the construction of any public improvement consisting of the construction of any bridge, subway, elevated way, or viaduct which may lie partly within the municipality, and partly outside the municipality and within the township, or consisting of the improvement of the roadway of any highway or street upon and along which runs the line of the corporate limits of the municipality, so that the improvement as proposed would lie partly within the municipality and partly within the township, in the manner authorized in this Division 85.

Laws 1961, p. 576, § 11–85–1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–85–1.

5/11–85–2. Plans; estimate of cost; letting of contract

§ 11–85–2. The corporate authorities of such municipality and the commissioner of highways in and for such township, in the manner they agree upon, shall procure (1) detailed plans and specifications of the proposed improvement, (2) a detailed estimate of the cost thereof prepared by a competent engineer, showing the total estimated cost of the improvement, and (3) separate estimates from that engineer of the portions thereof within and without the municipality. As soon as the corporate authorities both of the municipality and of the township approve the plans, specifications, and estimates as a basis for the letting of a contract for the improvement, and as soon as the proportions of the cost thereof are agreed upon by the corporate authorities of the municipality and township, they may proceed jointly to let a contract therefor as provided in this section.

This contract shall be let only upon competitive bidding, in the manner provided for the letting of contracts by municipalities for the construction of local improvements under the provisions of Article 9, except that (1) the advertising for bids for the construction of the proposed improvement shall be authorized and made by the corporate authorities of both the municipality and the township, (2) bids for the construction shall be received by those corporate authorities jointly at the time and place agreed upon and stated in the notice for bids, and (3) no contract shall be let except by the approval of the corporate authorities of both the municipality and the township. All contracts shall be signed and executed by the officials of the municipality and of the township who may be vested generally, by law or ordinance, with the duty of the execution of contracts, for and in behalf of the respective bodies, and all bonds for the performance of a contract shall be made payable to those corporate bodies jointly.

All consents, agreements, and approvals provided for in this Division 85 shall be by writing and when hereby required to be made or given by a municipality, shall be made or given by a resolution of the corporate authorities of the municipality.

Laws 1961, p. 576, § 11–85–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–85–2.

5/11–85–3. Levy of special assessment or special tax

§ 11–85–3. If a municipality desires to pay its proportion of the cost of such an improvement by a special assessment or a special tax upon the property within the municipality benefited by the improvement, either before or after the letting of the contract as provided by Section 11–85–2, it may pass an ordinance providing for the improvement and that the cost thereof shall be paid by a special tax or a special assessment, to be levied upon the municipality and upon the property within the municipality specially benefited by the improvement. The proceedings thereafter for the levy of that special assessment or special tax, and the collection thereof, shall conform to the provisions of Article 9, in so far as the provisions of Article 9 are applicable. It shall be no defense in any proceedings to levy a special assessment or a

special tax hereunder that the special assessment or special tax is levied for work previously performed.

Laws 1961, p. 576, § 11–85–3, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–85–3.

5/11–85–4. Jurisdiction over improvement

§ 11–85–4. A municipality participating in the construction of an improvement specified in this Division 85 has jurisdiction over the part thereof lying within the corporate limits of the municipality. The participating township has jurisdiction over that part of the improvement lying outside the municipality and within the township. The municipality and the township may repair, maintain, or reconstruct the portions of the improvement within their respective jurisdictions in the manner provided by law in cases of similar improvements lying wholly within their respective jurisdictions. But nothing contained in this section affects any power otherwise given by law to either the municipality or the township to expend money in the repair, maintenance, or reconstruction of the entire improvement or any part thereof.

Although parts of the improvements are under separate jurisdictions, the municipality and the township interested may enter into contracts with each other providing for the repair, maintenance, and upkeep, including lighting, of the improvement, apportioning the cost thereof and providing the method of that repair, maintenance, and upkeep, as may be agreed upon between them.

A township may surrender its jurisdiction over such an improvement to the municipality jointly interested, by agreement made between the corporate authorities of both the municipality and the township. The municipality thus assuming that jurisdiction thereafter shall be chargeable with the repair, maintenance, and upkeep of the part of the improvements so turned over, and may exercise its police powers thereover in like manner as if the improvement lay entirely within the municipality.

Laws 1961, p. 576, § 11–85–4, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–85–4.

DIVISION 91. VACATING OF STREETS AND ALLEYS

5/11–91–1. Vote; hearing; compensation from abutting owners; reservations; public interest; damages

§ 11–91–1. Whenever the corporate authorities of any municipality, whether incorporated by special act or under any general law, determine that the public interest will be subserved by vacating any street or alley, or part thereof, within their jurisdiction in any incorporated area, they may vacate that street or alley, or part thereof, by an ordinance. The ordinance shall provide the legal description or permanent index number of the particular parcel or parcels of property acquiring title to the vacated property. But this ordinance shall be passed by the affirmative vote of at least three-fourths of the aldermen, trustees or commissioners then holding office. This vote shall be taken by ayes and noes and entered on the records of the corporate authorities.

No ordinance shall be passed vacating any street or alley under a municipality's jurisdiction and within an unincorporated area without notice thereof and a hearing thereon. At least 15 days prior to such a hearing, notice of its time, place and subject matter shall be published in a newspaper of general circulation within the unincorporated area which the street or alley proposed for vacation serves. At the hearing all interested persons shall be heard concerning the proposal for vacation.

The ordinance may provide that it shall not become effective until the owners of all property or the owner or owners of a particular parcel or parcels of property abutting upon the street or alley, or part thereof so vacated, shall pay compensation in an amount which, in the judgment of the corporate authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to them by reason of that vacation, and if there are any public service facilities in such street or alley, or part thereof, the ordinance shall also reserve to the municipality or to the public utility, as the case may be, owning such facilities, such property, rights of way and easements as, in the judgment of the corporate authorities, are necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof. If the ordinance provides that only the owner or owners of one particular parcel of abutting property shall make payment, then the owner or owners of the particular parcel shall acquire title to the entire vacated street or alley, or the part thereof vacated.

The determination of the corporate authorities that the nature and extent of the public use or public interest to be subserved in such as to warrant the vacation of any street or alley, or part thereof, is conclusive, and the passage of such an ordinance is sufficient evidence of that determination, whether so recited in the ordinance or not. The relief to the public from further burden and responsibility of maintaining any street or alley, or part thereof, constitutes a public use or public interest authorizing the vacation.

When property is damaged by the vacation or closing of any street or alley, the damage shall be ascertained and paid as provided by law.

Laws 1961, p. 576, § 11–91–1, eff. July 1, 1961. Amended by Laws 1967, p. 3425, § 1, eff. Aug. 31, 1967; P.A. 79–1018, § 1, eff. Oct. 1, 1975; P.A. 90–179, § 5, eff. July 23, 1997; P.A. 93–383, § 5, eff. July 25, 2003; P.A. 93–703, § 5, eff. July 9, 2004.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91–1.

P.A. 93–703 incorporated P.A. 93–683.

5/11–91–2. Title upon vacation

§ 11–91–2. Except in cases where the deed, or other instrument, dedicating a street or alley, or part thereof, has expressly provided for a specific devolution of the title thereto upon the abandonment or vacation thereof, whenever any street or alley, or any part thereof, is vacated under or by virtue of any ordinance of any municipality, the title to the land included within the street or alley, or part thereof, so vacated, vests in the then owners of the land abutting thereon, in the same proportions and to the same extent, as though the street or alley has been dedicated by a common law plat (as distinguished from a statutory plat) and as though the fee of the street or alley had been acquired by the owners as a part of the land abutting on the street or alley.

Laws 1961, p. 576, § 11–91–2, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91–2.

DIVISION 91.1. PERSONS DISPLACED BY FEDERAL AID SYSTEM OF STREETS AND HIGHWAYS

Date Effective

Division 91.1 was added by P.A. 76–1644, eff. Oct. 1, 1969.

5/11–91.1–1. Moving expenses for displaced persons; limitation

§ 11–91.1–1. The municipality is authorized to pay, as part of the cost of construction of any project on the federal aid system of streets and highways, to a person displaced by said highway project the actual reasonable expenses in moving said person, his family, his business, or his farm operation, including the moving of personal property. The allowable expenses for transportation shall not exceed the cost of moving 50 miles from the point from which such person, family, business or farm is being displaced.

The municipality is authorized to adopt rules and regulations as may be determined necessary to implement the payments as authorized by this section.

Laws 1961, p. 576, § 11–91.1–1, added by P.A. 76–1644, § 1, eff. Oct. 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.1–1.

5/11–91.1–2. Moving expense allowance; dislocation allowance

§ 11–91.1–2. In lieu of the actual moving expenses heretofore authorized to be paid, the municipality may pay any person displaced, from a dwelling, who elects to accept such payment, a moving expense allowance determined according to a schedule to be established by the municipality, not to exceed $200, and a further dislocation allowance of $100.

Laws 1961, p. 576, § 11–91.1–2, added by P.A. 76–1644, § 1, eff. Oct. 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.1–2.

5/11–91.1–3. Fixed relocation payment in lieu of moving expenses; average annual net earnings; prerequisites to payment

§ 11–91.1–3. In lieu of the actual moving expenses heretofore authorized to be paid, the municipality may pay any person who moves or discontinues his business or farm operation, who elects to accept such payment, a fixed relocation payment in an amount equal to the average annual net earnings of the business or the farm operation, or $5,000, whichever is the lesser. In the case of a business, no payment shall be made unless the municipality is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not part of a commercial enterprise having at least one other establishment not being acquired for highway purposes which is engaged in the same or similar business. The term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property being acquired for such project, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such two year period.

Laws 1961, p. 576, § 11–91.1–3, added by P.A. 76–1644, § 1, eff. Oct. 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.1–3.

5/11–91.1–4. Additional payment for dwelling or rental of dwelling

§ 11–91.1–4. In addition to the amounts heretofore authorized to be paid by the municipality, the municipality may, as a part of the cost of construction, make a payment to the owner of real property acquired for a Federal Aid highway project which is improved by a single, two or three family dwelling actually owned and occupied by the owner for not less than one year prior to the initiation of negotiations for the acquisition of such property, an amount which, when added to the acquisition payment, equals the average price required for a comparable dwelling determined in accordance with standards established by the municipality to be a decent, safe and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market. Such payment shall not exceed the sum of $5,000, and shall be made only to a displaced owner who purchases and occupies a dwelling that meets the standards established by the municipality within one year subsequent to the date on which he is required to move from the dwelling acquired for the highway project. Any individual or family not eligible to receive such payment, who is displaced from any dwelling which dwelling was actually and lawfully occupied by such individual and family for not less than ninety days prior to the initiation of negotiations for acquisition of such property, may be paid by the municipality an amount necessary to enable such individual or family to lease or rent for a period not to exceed two years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities. Such payment shall not exceed the sum of $1,500.

Laws 1961, p. 576, § 11–91.1–4, added by P.A. 76–1644, § 1, eff. Oct. 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.1–4.

5/11–91.1–5. Reimbursement for recording fees, transfer taxes etc., and penalty costs on mortgage

§ 11–91.1–5. In addition to the amounts heretofore authorized to be paid, the municipality may reimburse the owner of real property acquired for a Federal Aid highway project the reasonable and necessary expenses incurred for (1) recording fees, transfer taxes, and similar expenses incidental to conveying such property; and (2) penalty costs for prepayment of any mortgages entered into in good faith encumbering such real property, if such mortgage is on record or has been filed for record under applicable State law on the date of final approval by the Department of Transportation of the location of such highway project.

Laws 1961, p. 576, § 11–91.1–5, added by P.A. 76–1644, § 1, eff. Oct. 1, 1969. Amended by P.A. 81–840, § 29, eff. Sept. 19, 1979.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.1–5.

5/11–91.1–6. Construction in relation to eminent domain

§ 11–91.1–6. Nothing contained in this amendatory Act creates in any proceedings brought under the power of eminent domain any element of damages not in existence as of the date of enactment of this amendatory Act.

Laws 1961, p. 576, § 11–91.1–6, added by P.A. 76–1644, § 1, eff. Oct. 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.1–6.

DIVISION 91.2. JURISDICTION OVER ROADS BY AGREEMENT

Date Effective

Division 91.2 was added by P.A. 85–1421, Art. 1, § 1, eff. Dec. 15, 1988.

5/11–91.2–1. Surrender of jurisdiction

§ 11–91.2–1. A county or the State may surrender its jurisdiction over the right-of-way and improvements of all or part of a county or State highway, street or road to a municipality by agreement made between the corporate authorities of the municipality and the county board or the Illinois Department of Transportation, as the case may be. The agreement shall provide that the right-of-way and improvements continue to be used as a road, street or highway and that the municipality be chargeable with the repair, maintenance and upkeep of the right-of-way and improvements. The municipality may exercise its police powers over the right-of-way and improvements in like manner as if the right-of-way and improvements lay entirely within the municipality.

Laws 1961, p. 576, § 11–91.2–1, added by P.A. 85–1421, Art. 1, § 1, eff. Dec. 15, 1988.

Formerly Ill.Rev.Stat.1991, ch. 24, ¶ 11–91.2–1.

CHAPTER 70

SPECIAL DISTRICTS

STREET LIGHT

ACT 3305. STREET LIGHT DISTRICT ACT

Section

3305/0.01. Short title.
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STREET LIGHT

ACT 3305. STREET LIGHT DISTRICT ACT

3305/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Street Light District Act.

Laws 1949, p. 1363, § 0.01, added by P.A. 86–1324, § 874, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 354.9.

3305/1. Street lighting districts incorporation of; procedure

§ 1. Any area not included within the corporate boundaries of a city, village or incorporated town may be incorporated as a street lighting district in the manner following:

Fifty or more of the legal voters resident within the limits of such proposed district or a majority thereof if less than 100, may petition the circuit court for the county which contains all or the largest portion of the proposed district to order the question to be submitted to the legal voters of such proposed district, whether such proposed territory shall be organized as a street lighting district under this Act; such petition shall be addressed to the court and shall contain a definite description of the boundaries of the territory to be embraced in the proposed district, and the name of such proposed district: Provided, that the territory incorporated in any district formed hereunder may contain any territory not previously included in any street lighting district.

Upon filing any such petition in the office of the circuit clerk of the county in which such petition is made it shall be the duty of the court to consider the boundaries of any such proposed street lighting district whether the same shall be those stated in the petition or otherwise.

Notice shall be given by the court to whom the petition is addressed of the time and place of a hearing upon the subject of the petition which shall be inserted at least once in a newspaper of general circulation published within the proposed street lighting district, or if no newspaper of general circulation is published within such proposed street lighting district, then in a newspaper published in the county which contains all or the largest portion of such proposed district and having a general circulation in such district, at least 20 days before such meeting.

At such meeting the court shall preside; and all persons in such proposed street lighting district shall have an opportunity to be heard; and if the court finds that the petition does not comply with the provisions of law or that the allegations of the petition are not true, the court shall dismiss the petition; but if the court finds that the petition complies with the provisions of law and that the allegations of the petition are true, the same shall be incorporated in an order which shall be filed of record in the court. Upon the entering of such order the court shall certify the proposition to the proper election officials, who shall submit to the legal voters of the proposed street lighting district the question of organization and establishment of the proposed street lighting district at an election. Notice of the referendum shall be given in accordance with the general election law. Such notice shall specify the purpose of such referendum with a description of such proposed district.

The proposition under this section shall be in substantially the following form:

For Street Lighting District	
Against Street Lighting District	

The court shall cause a written statement of the results of such election to be filed of record in the court. If a majority of the votes cast upon the question shall be in favor of the incorporation of the proposed street lighting district, such district shall thenceforth be an organized street lighting district under this Act, and the court shall enter an order accordingly and cause the same to be filed of record in the court and shall also cause to be sent to the County Clerk of any and all other counties in which any portion of the district lies a certified copy of the order organizing such district and a plat of the same indicating what lands of the district lie in such other county or counties.

Laws 1949, p. 1363, § 1. Amended by Laws 1953, p. 226, § 1; Laws 1957, p. 1623, § 1; Laws 1967, p. 4046, § 1; P.A. 81–1489, § 118, eff. Dec. 1, 1980; P.A. 82–367, § 1, eff. Sept. 2, 1981; P.A. 83–343, § 46, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 355.

3305/2. Judicial notice; suits

§ 2. All courts in this State shall take judicial notice of the existence of all street lighting districts organized under this Act and every such district shall constitute a body corporate and as such may sue or be sued.

Laws 1949, p. 1363, § 2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 356.

3305/2a. Addition of territory to street lighting district

§ 2a. Additional territory having the qualifications set forth in Section 1 may be added to any street lighting district as provided for in this Act in the manner following:

Fifty or more of the legal voters resident within the limits of such proposed addition to such street lighting district may petition the circuit court of the county in which the original petition for the formation of said street lighting district was filed, to cause the question to be submitted to the legal voters of such proposed additional territory whether such proposed additional territory shall become a part of any street lighting district organized under this Act and whether the voters of the additional territory shall assume a proportionate share of the bonded indebtedness of such district. The petition shall be addressed to the court and shall contain a definite description of the boundaries of the territory to be embraced in the proposed addition and shall allege facts in support of the addition.

Upon filing the petition in the office of the circuit clerk of the county in which the original petition for the formation of such street lighting district was filed, it shall be the duty of the court to fix a time and place of a hearing upon the subject of said petition.

Notice shall be given by the circuit court, or by the circuit clerk or sheriff upon order of the circuit court of the county in which such petition is filed, of the time and place of a hearing upon the petition in the manner as provided in Section 1. The conduct of the hearing and the manner of conducting a subsequent referendum on the question whether the proposed additional territory shall become a part of the street lighting district, shall be carried out in the manner described in Section 1, as nearly as may be, and in accordance with the general election law but the question shall be in substantially the following form, to-wit:

For joining the ..... Street Lighting District and assuming a proportionate share of bonded indebtedness, if any.	
Against joining the ..... Street Lighting District and assuming a proportionate share of bonded indebtedness, if any.	

If a majority of the votes cast at the election upon the question of becoming a part of any street lighting district shall be in favor of becoming a part of such street lighting district and if the trustees of said street lighting district accept the proposed additional territory by resolution, such proposed additional territory shall thenceforth be deemed an integral part of such street lighting district and shall be subject to all the benefits of service and responsibilities of said district as herein set forth.

The owner or owners of any tract or tracts of land not included in a street lighting district, may file a written petition, addressed to the trustees of the street lighting district to which they seek to have their tract or tracts of land attached, containing a definite description of the boundaries of the territory and a statement that they desire that their property become a part of the street lighting district to which their petition is addressed, and that they are willing that their property assume a proportionate share of the bonded indebtedness, if any, of such street lighting district.

When such a petition is filed with the trustees, they shall immediately pass a resolution to accept or reject the territory proposed to be attached. If the trustees resolve in favor of accepting such territory, they shall file with the court of the county where the street lighting district was organized the original petition and a certified copy of the resolution and the circuit clerk shall then enter an order stating that such proposed annexed territory shall thenceforth be deemed an integral part of such street lighting district and subject to all of the benefits of service and responsibilities of the district. The circuit clerk shall transmit a certified copy of the order to the county clerk of each county in which any of the territory affected is situated.

Laws 1949, p. 1363, § 2a, added by Laws 1953, p. 226, § 1. Amended by Laws 1967, p. 4046, § 1; P.A. 76–1375, § 1, eff. Sept. 17, 1969; P.A. 81–1489, § 118, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 356a.

3305/2b. Disconnection; petition

§ 2b. The owner or owners of record of any area of land consisting of one or more tracts lying within the boundaries of any street lighting district which (1) is not contiguous in whole or in part to any other street lighting district; (2) contains 20 or more acres; (3) is not subdivided into residential lots and blocks; (4) is located on the border of the street lighting district; and (5) which, if disconnected, will not result in the isolation of any part of the street lighting district from the remainder of the street lighting district, may have the area disconnected as follows:

The owner or owners of record of any such area of land shall file a petition in the circuit court of the county where the land is situated alleging facts in support of the disconnection. The street lighting district from which disconnection is sought shall be made a defendant and it or any taxpayer residing in that street lighting district, may appear and defend against the petition. If the court finds that the allegations of the petition are true and that the area of land is entitled to disconnection, it shall order the specified land disconnected from the designated street lighting district.

The area of land or any part thereof disconnected from a street lighting district under the provisions of this section shall not be annexed or added to a street lighting district or included in any petition seeking annexation or addition to any street lighting district, for a period of 2 years from the date of such disconnection.

The disconnection of any such area of land shall not exempt it from taxation for the purpose of paying any indebtedness contracted by the corporate authorities of the street lighting district prior to the filing of the petition for disconnection. On the contrary, the territory designated shall be assessed and taxed to pay such indebtedness until this indebtedness is completely paid the same as though the territory had not been disconnected.

Laws 1949, p. 1363, § 2b, added by Laws 1957, p. 1630, § 1. Amended by Laws 1967, p. 4046, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 356b.

3305/2c. Disconnection

§ 2c. Disconnection. Any territory within a street lighting district that is or has been annexed to a city, village or

incorporated town that provides street lighting within such city, village or incorporated town is, by operation of law, disconnected from the street lighting district as of the January first after such territory is annexed to the city, village or incorporated town, or in case territory has been so annexed prior to the effective date of this amendatory Act of 1959, as of January 1, 1960. If there are any bonds of the street lighting district outstanding and unpaid at the time such territory is annexed to the city, village or incorporated town, such territory shall remain liable for its proportionate share of such bonded indebtedness and the street lighting district may continue to levy and extend taxes upon the taxable property in such territory for the purpose of amortizing such bonds until such time as such bonds are retired.

Territory shall not be disconnected from a street lighting district if all of the following criteria are met: (i) the municipality which contains all or part of the street lighting district does not levy a property tax on the taxable property in the territory, (ii) the municipality passes an ordinance permitting the street lighting district to operate and levy a tax, and (iii) the municipality does not collect a franchise fee from an electrical utility.

Laws 1949, p. 1363, § 2c, added by Laws 1959, p. 2048, § 1. Amended by P.A. 96–336, § 5, eff. Aug. 11, 2009.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 356c.

3305/3. Board of trustees; bond; quorum; interest in contracts, etc.; seal

§ 3. A board of trustees consisting of 3 members for the government and control of the affairs and business of the street lighting district incorporated under this Act shall be created in the following manner:

(1) If the district is located wholly within a single county, trustees for the district shall be appointed by the presiding officer of the county board with the advice and consent of the county board;

(2) If the district is located in more than one county, the number of trustees who are residents of a county shall be in proportion, as nearly as practicable, to the number of residents of the district who reside in that county in relation to the total population of the district.

Upon the expiration of the term of a trustee who is in office on the effective date of this amendatory Act of 1975, the successor shall be a resident of whichever county is entitled to such representation in order to bring about the proportional representation required herein, and he shall be appointed by the county board of that county, or in the case of a home rule county as defined by Article VII, Section 6 of the Constitution of 1970, the chief executive officer of that county, with the advice and consent of the county board.

Thereafter, each trustee shall be succeeded by a resident of the same county who shall be appointed by the same appointing authority; however, the provisions of the preceding paragraph shall apply to the appointment of the successor to each trustee who is in office at the time of the publication of each decennial Federal census of population.

Within 60 days after the creation of a street lighting district as provided in Section 1 hereof, the appropriate appointing authority shall appoint 3 trustees. The trustees shall hold their offices for one, 2 and 3 years from the first Monday of May next after their appointment and until their successors have been appointed and qualified. Thereafter on or before the second Monday in April of each year the appointing authority shall appoint one trustee whose term shall be for 3 years commencing on the first Monday in May next after they are respectively appointed. The length of term of the first trustees shall be determined by lot at their first meeting.

The appointing authority shall require each of the trustees to enter into bond with security to be approved by the appointing authority in such sum as the appointing authority may determine.

A majority of the board of trustees shall constitute a quorum. No trustee or employee of the district shall be directly or indirectly interested financially in any contract, work or business or the sale of any article, the expense, price or consideration of which is paid by the district. The trustees shall provide and adopt a corporate seal for the district.

Laws 1949, p. 1363, § 3. Amended by P.A. 76–1011, § 1, eff. Aug. 26, 1969; P.A. 77–695, § 1, eff. Aug. 9, 1971; P.A. 78–1128, § 52, eff. Oct. 1, 1974; P.A. 79–319, § 1, eff. Oct. 1, 1975; P.A. 79–855, § 1, eff. Oct. 1, 1975; P.A. 79–1454, § 58, eff. Aug. 31, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 357.

3305/4. Vacancies

§ 4. Whenever a vacancy in the board of trustees shall occur, either by death, resignation, refusal to qualify or for any other reason, the circuit court, as that term is defined in Section 3 of this Act, shall fill such vacancy by appointment for the unexpired term; and such person so appointed shall fill the vacancy until the next regular election for that office.

Laws 1949, p. 1363, § 4. Amended by P.A. 76–1011, § 1, eff. Aug. 26, 1969; P.A 81–1489, § 118, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 358.

3305/5. Powers and duties of trustees

§ 5. The trustees shall exercise all of the powers and control all the affairs and property of such district. The board of trustees, immediately after their appointment and at their first meeting in May of each year thereafter, shall elect one of their number as president and one of their number as secretary. The board shall prescribe the duties and fix the compensation of all of the officers and employees of the street lighting district: Provided that a member of the board of trustees shall in no case receive a sum to exceed $300.00 per annum. The board of trustees shall have full power to pass all necessary ordinances, rules and regulations for the proper management and conduct of the business of the street lighting district for carrying into effect the objects for which the district was formed.

Laws 1949, p. 1363, § 5. Amended by Laws 1953, p. 226, § 1, eff. July 1, 1953.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 359.

3305/5.1. Prompt payment

§ 5.1. Purchases made pursuant to this Act shall be made in compliance with the "Local Government Prompt Payment Act", approved by the Eighty-fourth General Assembly.[1]

Laws 1949, p. 1363, § 5.1, added by P.A. 84–731, § 108, eff. July 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 359.1.

[1] 50 ILCS 505/1 et seq.

3305/6. Publication of ordinances

§ 6. All ordinances imposing any penalty or making any appropriations shall be published at least once in a newspaper of general circulation published in said district, or if no newspaper of general circulation is published therein, then in a newspaper published in the county which contains all or the

largest portion of such district and having a general circulation in the district; and no such ordinance shall take effect until ten days after it is so published, and all other ordinances and resolutions shall take effect from and after their passage unless otherwise provided therein.

Laws 1949, p. 1363, § 6. Amended by P.A. 82–367, § 1, eff. Sept. 2, 1981.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 360.

3305/7. Proof of ordinances, orders and resolutions; pamphlets

§ 7. All ordinances, orders, and resolutions and the date of publication thereof, may be proven by the certificate of the secretary under the seal of the corporation and when printed in book or pamphlet form and purporting to be published by the board of trustees, such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinances, orders and resolutions as of the dates mentioned in such book or pamphlet, in all courts without further proof.

Laws 1949, p. 1363, § 7.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 361.

3305/8. Contract for street lighting service; installation, rental or use; borrowing money; bonds

§ 8. The board of trustees of any street lighting district organized hereunder may contract with any city, village or incorporated town lying adjacent to such district or with a public utility for street lighting service to be furnished by such municipality or utility for the street within such district. The board of trustees may also contract for the installation, rental or use of street lights within the street lighting district and for the furnishing of electric service to be used within such district for street lighting purposes.

Any street lighting district incorporated under this Act may borrow money for corporate purposes and may issue bonds therefor, but shall not become indebted in any manner, or for any purpose to an amount in the aggregate to exceed 5% on the valuation of taxable property therein to be ascertained by the last assessment for State and County taxes previous to the incurring of such indebtedness. Whenever the board of trustees of such district desire to issue bonds hereunder they shall order the question submitted to referendum at any election to be held in such district in accordance with the general election law. The notice and conduct of the referendum shall be in accordance with the general election law. If a majority of the voters voting on the question shall have voted in favor of the issue of said bonds, the board of trustees shall order and direct the execution of the bonds for and on behalf of said district. All bonds issued hereunder shall mature within 20 years. The question under this section shall be in substantially the following form:

Shall bonds be issued for street lighting in the amount of ..... dollars?	YES	
	NO	

Laws 1949, p. 1363, § 8. Amended by Laws 1957, p. 1623, § 1; P.A. 81–1489, § 118, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 362.

3305/9. Taxes to pay principal and interest

§ 9. At the time of or before incurring any indebtedness the board of trustees shall provide for the collection of a direct annual tax sufficient to pay the interest on the debt as it falls due, and also to pay and discharge the principal thereof as it shall fall due and at least within 20 years from the time of contracting the indebtedness. The tax rate shall not exceed .075 per cent of value, as equalized or assessed by the Department of Revenue.

Laws 1949, p. 1363, § 9. Amended by Laws 1967, p. 900, § 1; P.A. 77–1160, § 1, eff. Aug. 17, 1971; P.A. 81–1509, Art. IV, § 128, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 363.

3305/10. Taxes for corporate purposes

§ 10. The Board of trustees may levy and collect other taxes for corporate purposes upon property within the territorial limits of such street lighting district, the aggregate amount of which including the tax levied for payment of any bonds issued for each year, shall not exceed .125 per cent of value, as equalized or assessed by the Department of Revenue, except as provided by Section 10.1. The foregoing limitation upon tax rate may be increased or decreased under the referendum provisions of the General Revenue Law of Illinois.

Laws 1949, p. 1363, § 10. Amended by Laws 1963, p. 3034, § 1; Laws 1967, p. 900, § 1; P.A. 77–1161, § 1, eff. Aug. 17, 1971; P.A. 81–1509, Art. IV, § 128, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 364.

3305/10.1. Election to increase tax rate

§ 10.1. If the board desires to levy or cause to be levied, annually, more than the rate per cent authorized for corporate purposes by Section 10 or the rate as increased pursuant to this section, as the case may be, the board may adopt a resolution and certify such resolution and the proposition for an assent to increase the annual tax rate to the proper election officials who shall submit the proposition to the voters of the district at an election in accordance with the general election law. The rate as so increased shall not exceed 2.00%. If at such referendum a majority of the votes cast on the proposition is in favor thereof, the board and the authorities of such district may thereafter, until such authority is revoked in like manner, levy annually upon all taxable property of the district, for corporate purposes, the tax so authorized.

The notice of such referendum election shall specify the proposed increase in the tax rate and shall be published in accordance with the general election law. The proposed increase in the annual tax rate for corporate purposes shall be printed on the ballot and the proposition shall be in substantially the following form:

Shall the annual tax rate for corporate purposes in (insert name of district) be increased by .....% from (insert present rate) to (insert proposed rate)?	YES	
	NO	

The board of any district which has the authority to levy the tax at a rate not to exceed .50% as provided for in this Section before October 1, 1977 does not have the authority to increase the tax levy to a rate not to exceed 1.00% unless the question of increasing the taxing authority is submitted to

the voters of the district and approved by a majority of the votes cast upon the proposition.

The board of any district which has the authority to levy the tax at a rate not to exceed .50% as provided for in this Section before October 1, 1977 or at a rate not to exceed 1.00% as provided for in this Section before the effective date of this amendatory Act of 1980 does not have the authority to increase the tax levy to a rate not to exceed 2.00% unless the question of increasing the taxing authority is submitted to the voters of the district and approved by a majority of the votes cast upon the proposition.

Laws 1949, p. 1363, § 10.1, added by Laws 1963, p. 3034, § 1. Amended by P.A. 80–931, § 1, eff. Oct. 1, 1977; P.A. 81–1433, Art. II, § 2, eff. Sept. 3, 1980; P.A. 81–1489, § 118, eff. Dec. 1, 1980; P.A. 81–1535, § 29, eff. Dec. 19, 1980; P.A. 81–1550, Art. I, § 36, eff. Jan. 8, 1981; P.A. 82–783, Art. II, § 12, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 364.1.

3305/11. Cessation of district organization

§ 11. Cessation of district organization. Notwithstanding any other provision of law, if a majority vote of the board of trustees is in favor of the proposition to annex the district to another district whose boundaries are contiguous, or consolidate the district into a municipality with which the district is coterminous or substantially coterminous, or consolidate the district into the county in which the district sits if the district contains territory within only one county, and if the governing authorities of the governmental unit assuming the functions of the former district agree by resolution to accept the functions (and jurisdiction over the territory, if applicable) of the consolidated or annexed district, then the district shall cease. On the effective date of the annexation or consolidation, all the rights, powers, duties, assets, property, liabilities, indebtedness, obligations, bonding authority, taxing authority, and responsibilities of the district shall vest in and be assumed by the governmental unit assuming the functions of the former district.

The employees of the former district shall be transferred to the governmental unit assuming the functions of the former district. The governmental unit assuming the functions of the former district shall exercise the rights and responsibilities of the former district with respect to those employees. The status and rights of the employees of the former district under any applicable contracts or collective bargaining agreements, historical representation rights under the Illinois Public Labor Relations Act, or under any pension, retirement, or annuity plan shall not be affected by this amendatory Act.

Laws 1949, p. 1363, § 11, added by P.A. 98–1002, § 50, eff. Aug. 18, 2014.

CHAPTER 220

UTILITIES

ACT 50. ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT

Section

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ACT 50. ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT

50/1. Short title

§ 1. This Act shall be known and may be cited as the Illinois Underground Utility Facilities Damage Prevention Act, and for the purposes of participating in the State of Illinois Joint Purchasing Program, the State–Wide One–Call Notice System, commonly referred to as "JULIE, Inc.", shall be considered as created by this Act.

P.A. 86–674, § 1, eff. Jan. 1, 1991. Amended by P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1601.

50/2. Definitions

§ 2. Definitions. As used in this Act, unless the context clearly otherwise requires, the terms specified in Sections 2.1 through 2.11 have the meanings ascribed to them in those Sections.

P.A. 86–674, § 2, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002; P.A. 94–623, § 5, eff. Aug. 18, 2005.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1602.

50/2.1. Person

§ 2.1. "Person" means an individual, firm, joint venture, partnership, corporation, association, municipality or other governmental unit, department or agency, utility cooperative, or joint stock association, and includes any trustee, receiver, or assignee or employee or agent thereof.

P.A. 86–674, § 2.1, eff. Jan. 1, 1991. Amended by P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1602.1.

50/2.1.3. No show request

§ 2.1.3. No show request. "No show request" means a notice initiated by an excavator through the State–Wide One–Call Notice System to the owners or operators of underground utility facilities notified in the prior locate request that either failed to mark their facilities or to communicate their non-involvement with the excavation prior to the requested dig start date and time.

P.A. 86–674, § 2.1.3, added by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.1.4. Incomplete request

§ 2.1.4. Incomplete request. "Incomplete request" means a notice initiated by an excavator through the State–Wide One–Call Notice System to the owners or operators of underground utility facilities notified in a prior locate request

that such facility owners or operators, as identified by the person excavating, did not completely mark the entire extent or the entire segment of the proposed excavation, as identified by the excavator in the prior notice.

P.A. 86–674, § 2.1.4, added by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.1.5. Re-mark request

§ 2.1.5. Re-mark request. "Re-mark request" means a notice initiated by an excavator through the State–Wide One–Call Notice System to the owners or operators of underground utility facilities notified in the initial locate request requesting facility owners or operators to re-mark all or part of the work area identified in the initial locate request, because facility markings are becoming or have become indistinguishable due to factors, including, but not limited to, weather, fading, construction activity, or vandalism.

P.A. 86–674, § 2.1.5, added by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.1.6. Residential property owner

§ 2.1.6. Residential property owner. "Residential property owner" means any individual or entity that owns or leases real property that is used by such individual or entity as its residence or dwelling. Residential property owner does not include any persons who own or lease residential property for the purpose of holding or developing such property or for any other business or commercial purposes.

P.A. 86–674, § 2.1.6, added by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.1.9. JULIE Excavator Handbook

§ 2.1.9. JULIE Excavator Handbook. "JULIE Excavator Handbook" means the handbook periodically updated and published by the State–Wide One–Call Notice System that provides information for excavators and facility owners and operators on the use and services of the State–Wide One–Call Notice System.

P.A. 86–674, § 2.1.9, added by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.1.10. Internal electric grid of a wind turbine generation farm

§ 2.1.10. Internal electric grid of a wind turbine generation farm. "Internal electric grid of a wind turbine generation farm" means those facilities located within a wind generation farm from a tower to a substation.

P.A. 86–674, § 2.1.10, added by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.2. Underground utility facilities

§ 2.2. Underground utility facilities.

(a) "Underground utility facilities" or "facilities" means and includes wires, ducts, fiber optic cable, conduits, pipes, sewers, and cables and their connected appurtenances installed beneath the surface of the ground by:

(1) a public utility as defined in the Public Utilities Act; [1]

(2) a municipally owned or mutually owned utility providing a similar utility service;

(3) a pipeline entity transporting gases, crude oil, petroleum products, or other hydrocarbon materials within the State;

(4) a telecommunications carrier as defined in the Universal Telephone Service Protection Law of 1985, [2] or by a company described in Section 1 of the Telephone Company Act; [3]

(5) a community antenna television system, as defined in the Illinois Municipal Code [4] or the Counties Code;

(6) a holder, as that term is defined in the Cable and Video Competition Law of 2007;

(7) any other entity owning or operating underground facilities that transport generated electrical power to other utility owners or operators or transport generated electrical power within the internal electric grid of a wind turbine generation farm; and

(8) an electric cooperative as defined in the Public Utilities Act.

P.A. 86–674, § 2.2, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002; P.A. 94–623, § 5, eff. Aug. 18, 2005; P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1602.2.

[1] 220 ILCS 5/1–101 et seq.

[2] 220 ILCS 5/13–100 et seq.

[3] 220 ILCS 65/0.01 et seq.

[4] 65 ILCS 5/1–1–1 et seq.

50/2.3. Excavation

§ 2.3. Excavation. "Excavation" means any operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by means of any tools, power equipment or explosives, and includes, without limitation, grading, trenching, digging, ditching, drilling, augering, boring, tunneling, scraping, cable or pipe plowing, and driving but does not include farm tillage operations or railroad right-of-way maintenance or operations or coal mining operations regulated under the Federal Surface Mining Control and Reclamation Act of 1977 [1] or any State law or rules or regulations adopted under the federal statute, or land surveying operations as defined in the Illinois Professional Land Surveyor Act of 1989 [2] when not using power equipment, or roadway surface milling.

P.A. 86–674, § 2.3, eff. Jan. 1, 1991. Amended by P.A. 86–1195, § 4, eff. Aug. 29, 1990; P.A. 87–125, § 1, eff. Jan. 1, 1992; P.A. 92–179, § 5, eff. July 1, 2002; P.A. 94–623, § 5, eff. Aug. 18, 2005.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1602.3.

[1] 30 U.S.C.A. § 1201 et seq.

[2] 225 ILCS 330/1 et seq.

50/2.4. Demolition

§ 2.4. "Demolition" means the wrecking, razing, rending, moving, or removing of a structure by means of any power tool, power equipment (exclusive of transportation equipment) or explosives.

P.A. 86–674, § 2.4, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1602.4.

50/2.5. Damage

§ 2.5. "Damage" means the contact or dislocation of any underground utility facility or CATS facility during excavation or demolition which necessitates immediate or subsequent repair by the owner of such facility.

P.A. 86–674, § 2.5, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1602.5.

50/2.6. Emergency locate request

§ 2.6. Emergency locate request. "Emergency locate request" means a locate request for any condition constituting an imminent danger to life, health, or property, or a utility service outage, and which requires repair or action before the expiration of 48 hours.

P.A. 86–674, § 2.6, added by P.A. 92–179, § 5, eff. July 1, 2002. Amended by P.A. 96–714, § 5, eff. Jan. 1, 2010.

50/2.7. Tolerance zone

§ 2.7. Tolerance zone. "Tolerance zone" means the approximate location of underground utility facilities or CATS facilities defined as a strip of land at least 3 feet wide, but not wider than the width of the underground facility or CATS facility plus 1–½ feet on either side of such facility based upon the markings made by the owner or operator of the facility. Excavation within the tolerance zone requires extra care and precaution including, but not limited to, as set forth in Section 4.

P.A. 86–674, § 2.7, added by P.A. 92–179, § 5, eff. July 1, 2002.

50/2.8. Approximate location

§ 2.8. Approximate location. "Approximate location" means a strip of land at least 3 feet wide, but not wider than the width of the underground facility or CATS facility plus 1.5 feet on either side of the facility.

P.A. 86–674, § 2.8, added by P.A. 92–179, § 5, eff. July 1, 2002.

50/2.9. Forty-eight hours

§ 2.9. "Forty-eight hours" means 2 business days beginning at 8 a.m. and ending at 4 p.m. (exclusive of Saturdays, Sundays, and holidays recognized by the State-Wide One-Call Notice System or the municipal one-call notice system). All requests for locates received after 4 p.m. will be processed as if received at 8 a.m. the next business day.

P.A. 86–674, § 2.9, added by P.A. 94–623, § 5, eff. Aug. 18, 2005.

50/2.10. Open cut utility locate

§ 2.10. "Open cut utility locate" means a method of locating underground utility facilities that requires excavation by the owner, operator, or agent of the underground facility.

P.A. 86–674, § 2.10, added by P.A. 94–623, § 5, eff. Aug. 18, 2005.

50/2.11. Roadway surface milling

§ 2.11. "Roadway surface milling" means the removal of a uniform pavement section by rotomilling, grinding, or other means not including the base or subbase.

P.A. 86–674, § 2.11, added by P.A. 94–623, § 5, eff. Aug. 18, 2005.

50/3. State-wide one-call notice system

§ 3. The owners or operators of underground utility facilities or CATS facilities that are not currently participants in the State-Wide One-Call Notice System shall, within 6 months of the effective date of this Act, join the State-Wide One-Call Notice System. This Section shall not apply to utilities operating facilities or CATS facilities exclusively within the boundaries of a municipality with a population of at least one million persons.

P.A. 86–674, § 3, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1603.

50/4. Required activities

§ 4. Required activities. Every person who engages in nonemergency excavation or demolition shall:

(a) take reasonable action to inform himself of the location of any underground utility facilities in and near the area for which such operation is to be conducted;

(b) plan the excavation or demolition to avoid or minimize interference with underground utility facilities within the tolerance zone by utilizing such precautions that include, but are not limited to, hand excavation, vacuum excavation methods, and visually inspecting the excavation while in progress until clear of the existing marked facility;

(c) if practical, use white paint, flags, stakes, or both, to outline the dig site;

(d) provide notice not less than 48 hours but no more than 14 calendar days in advance of the start of the excavation or demolition to the owners or operators of the underground utility facilities in and near the excavation or demolition area through the State–Wide One–Call Notice System or, in the case of nonemergency excavation or demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system, through the one-call notice system which operates in that municipality.

At a minimum, the notice required under this subsection (d) shall provide:

(1) the person's name, address, phone number at which a person can be reached, and fax number, if available;

(2) the start date and time of the planned excavation or demolition;

(3) all counties, cities, or townships, or any combination thereof, where the proposed excavation shall take place;

(4) the address at which the excavation or demolition shall take place;

(5) the type and extent of the work involved; and

(6) the section or quarter sections when the information in items (1) through (5) of this subsection (d) does not allow the State–Wide One–Call Notice System to determine the appropriate excavation or demolition site. This item (6) does not apply to residential property owners;

(e) provide, during and following excavation or demolition, such support for existing underground utility facilities in and near the excavation or demolition area as may be reasonably necessary for the protection of such facilities unless otherwise agreed to by the owner or operator of the underground facility;

(f) backfill all excavations in such manner and with such materials as may be reasonably necessary for the protection of existing underground utility facilities in and near the excavation or demolition area;

(g) after February 29, 2004, when the excavation or demolition project will extend past 28 calendar days from the date of the original notice provided under clause (d), the excavator shall provide a subsequent notice to the owners or operators of the underground utility facilities in and near the excavation or demolition area through the

State–Wide One–Call Notice System or, in the case of excavation or demolition within the boundaries of a municipality having a population of at least 1,000,000 inhabitants that operates its own one-call notice system, through the one-call notice system that operates in that municipality informing utility owners and operators that additional time to complete the excavation or demolition project will be required. The notice will provide the excavator with an additional 28 calendar days from the date of the subsequent notification to continue or complete the excavation or demolition project;

(h) exercise due care at all times to protect underground utility facilities. If, after proper notification through the State–Wide One–Call Notice System and upon arrival at the site of the proposed excavation, the excavator observes clear evidence of the presence of an unmarked or incompletely marked utility in the area of the proposed excavation, the excavator shall not begin excavating until all affected facilities have been marked or 2 hours after an additional call is made to the State–Wide One–Call Notice System for the area. The owner or operator of the utility shall respond within 2 hours of the excavator's call to the State–Wide One–Call Notice System; and

(i) when factors, including, but not limited to, weather, construction activity, or vandalism, at the excavation site have caused the utility markings to become faded or indistinguishable, the excavator shall provide an additional notice through the State–Wide One–Call Notice System requesting that only the affected areas where excavation or demolition is to continue be re-marked. Facility owners or operators must respond to the notice to re-mark according to the requirements of Section 10 of this Act.

Nothing in this Section prohibits the use of any method of excavation if conducted in a manner that would avoid interference with underground utility facilities.

P.A. 86–674, § 4, eff. Jan. 1, 1991. Amended by P.A. 87–125, § 1, eff. Jan. 1, 1992; P.A. 88–578, § 5, eff. July 1, 1995; P.A. 92–179, § 5, eff. July 1, 2002; P.A. 93–430, § 5, eff. Aug. 5, 2003; P.A. 94–623, § 5, eff. Aug. 18, 2005; P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1604.

50/5. Notice of preconstruction conference

§ 5. Notice of preconstruction conference. When the Illinois Department of Transportation notifies an owner or operator of an underground utility facility or CATS facility that the Department will conduct a preconstruction conference concerning new construction, reconstruction, or maintenance of State highways in and near the area in which such owner or operator has placed underground utility facilities, such notification shall, except as otherwise provided in this Section constitute compliance by the Department or its contractors with paragraphs (a), (b), and (d) of Section 4 of this Act. In instances when notification of a preconstruction conference is provided to the owner or operator of an underground utility facility or CATS facility but no specific date is established at the preconstruction conference for the new construction, reconstruction or maintenance of State highways in and near the area in which the owner or operator has placed underground utility facilities or CATS facilities, then the Department or its contractors shall later comply with paragraph (d) of Section 4 of this Act.

P.A. 86–674, § 5, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1605.

50/6. Emergency excavation or demolition

§ 6. Emergency excavation or demolition.

(a) Every person who engages in emergency excavation or demolition outside of the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities in and near the excavation or demolition area, through the State–Wide One–Call Notice System, and shall notify, as far in advance as possible, the owners or operators of such underground utility facilities in and near the emergency excavation or demolition area, through the State–Wide One–Call Notice System. At a minimum, the notice required under this subsection (a) shall provide:

(1) the person's name, address, and (i) phone number at which a person can be reached and (ii) fax number, if available;

(2) the start date of the planned emergency excavation or demolition;

(3) the address at which the excavation or demolition will take place; and

(4) the type and extent of the work involved.

There is a wait time of 2 hours or the date and time requested on the notice, whichever is longer, after an emergency locate notification request is made through the State–Wide One–Call Notice System. If the conditions at the site dictate an earlier start than the required wait time, it is the responsibility of the excavator to demonstrate that site conditions warranted this earlier start time.

Upon notice by the person engaged in emergency excavation or demolition, the owner or operator of an underground utility facility in or near the excavation or demolition area shall communicate with the person engaged in emergency excavation or demolition within 2 hours or by the date and time requested on the notice, whichever is longer by (1) marking the approximate location of underground facilities; (2) advising the person excavating that their underground facilities are not in conflict with the emergency excavation; or (3) notifying the person excavating that the owner or operator shall be delayed in marking because of conditions as referenced in subsection (g) of Section 11 of this Act.

The notice by the owner or operator to the person engaged in emergency excavation or demolition may be provided by phone or phone message or by marking the excavation or demolition area. The owner or operator has discharged the owner's or operator's obligation to provide notice under this Section if the owner or operator attempts to provide notice by telephone but is unable to do so because the person engaged in the emergency excavation or demolition does not answer his or her telephone or does not have an answering machine or answering service to receive the telephone call. If the owner or operator attempts to provide notice by telephone or by facsimile but receives a busy signal, that attempt shall not discharge the owner or operator from the obligation to provide notice under this Section.

(b) Every person who engages in emergency excavation or demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities in and near the excavation or demolition area, through the municipality's one-call notice system, and shall notify, as far in advance as possible, the owners and operators of underground utility facilities in

and near the emergency excavation or demolition area, through the municipality's one-call notice system.

(c) The reinstallation of traffic control devices shall be deemed an emergency for purposes of this Section.

(d) An open cut utility locate shall be deemed an emergency for purposes of this Section.

P.A. 86–674, § 6, eff. Jan. 1, 1991. Amended by P.A. 87–125, § 1, eff. Jan. 1, 1992; P.A. 92–179, § 5, eff. July 1, 2002; P.A. 94–623, § 5, eff. Aug. 18, 2005; P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 2/3, ¶ 1606.

50/7. Damage or dislocation

§ 7. Damage or dislocation. In the event of any damage to or dislocation of any underground utility facilities in connection with any excavation or demolition, emergency or nonemergency, the person responsible for the excavation or demolition operations shall immediately notify the affected utility and the State–Wide One–Call Notice System and cease excavation in the area of the damage when the damaged facility is a threat to life or property or if otherwise required by law or, in the case of damage or dislocation in connection with any excavation or demolition within the boundaries of a municipality having a population of at least 1,000,000 inhabitants that operates its own one-call notice system, notify the affected utility and the one-call notice system that operates in that municipality. The person responsible for the excavation or demolition shall not attempt to repair, clamp, or constrict the damaged utility facility unless under the supervision or advisement of the utility facility owner or operator. At no time shall a person under this Act be required by a utility facility owner or operator to attempt to repair, clamp, or constrict a damaged utility facility. In the event of any damage to any underground utility facility that results in the escape of any flammable, toxic, or corrosive gas or liquid, the person responsible for the excavation or demolition shall call 9–1–1 and notify authorities of the damage. Owners and operators of underground utility facilities that are damaged and the excavator involved shall work in a cooperative and expeditious manner to repair the affected utility.

P.A. 86–674, § 7, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002; P.A. 93–430, § 5, eff. Aug. 5, 2003; P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 2/3, ¶ 1607.

50/8. Liability or financial responsibility

§ 8. Liability or financial responsibility.

(a) Nothing in this Act shall be deemed to affect or determine the financial responsibility for any operation under this Act or liability of any person for any damages that occur unless specifically stated otherwise.

(b) Nothing in this Act shall be deemed to provide for liability or financial responsibility of the Department of Transportation, its officers and employees concerning any underground utility facility or CATS facility located on highway right-of-way by permit issued under the provisions of Section 9–113 of the Illinois Highway Code.[1] It is not the intent of this Act to change any remedies in law regarding the duty of providing lateral support.

(c) Neither the State–Wide One–Call Notice System nor any of its officers, agents, or employees shall be liable for damages for injuries or death to persons or damage to property caused by acts or omissions in the receipt, recording, or transmission of locate requests or other information in the performance of its duties as the State–Wide One–Call Notice System, unless the act or omission was the result of willful and wanton misconduct.

(d) Any residential property owner who fails to comply with any provision of this Act and damages underground utility facilities or CATS facilities while engaging in excavation or demolition on such residential property shall not be subject to a penalty under this Act, but shall be liable for the damage caused to the owner or operator of the damaged underground utility facilities or CATS facilities.

P.A. 86–674, § 8, eff. Jan. 1, 1991. Amended by P.A. 87–125, § 1, eff. Jan. 1, 1992; P.A. 92–179, § 5, eff. July 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111 2/3, ¶ 1608.

[1] 605 ILCS 5/9–113.

50/9. Negligence

§ 9. When it is shown by competent evidence in any action for damages to underground utility facilities or CATS facilities that such damages resulted from excavation or demolition and that the person engaged in such excavation or demolition failed to comply with the provisions of this Act, that person shall be deemed prima facie guilty of negligence. When it is shown by competent evidence in any action for damages to persons, material or equipment brought by persons undertaking excavation or demolition acting in compliance with the provisions of this Act that such damages resulted from the failure of owners and operators of underground facilities or CATS facilities to comply with the provisions of this Act, those owners and operators shall be deemed prima facie guilty of negligence.

P.A. 86–674, § 9, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 111 2/3, ¶ 1609.

50/10. Record of notice; marking of facilities

§ 10. Record of notice; marking of facilities. Upon notice by the person engaged in excavation or demolition, the person owning or operating underground utility facilities in or near the excavation or demolition area shall cause a written record to be made of the notice and shall mark, within 48 hours of receipt of notice or by the requested date and time indicated on the notice, whichever is later, the approximate locations of such facilities so as to enable the person excavating or demolishing to establish the location of the underground utility facilities. Owners and operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall be required to respond and mark the approximate location of those sewer facilities when the excavator indicates, in the notice required in Section 4, that the excavation or demolition project will exceed a depth of 7 feet. "Depth", in this case, is defined as the distance measured vertically from the surface of the ground to the top of the sewer facility. Owners and operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall be required at all times to locate the approximate location of those sewer facilities when: (1) directional boring is the indicated type of excavation work being performed within the notice; (2) the underground sewer facilities owned are non-gravity, pressurized force mains; or (3) the excavation indicated will occur in the immediate proximity of known underground sewer facilities that are less than 7 feet deep. Owners or operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall not hold an excavator liable for damages that occur to sewer facilities

that were not required to be marked under this Section, provided that prompt notice of the damage is made to the State–Wide One–Call Notice System and the utility owner as required in Section 7.

All persons subject to the requirements of this Act shall plan and conduct their work consistent with reasonable business practices. Conditions may exist making it unreasonable to request that locations be marked within 48 hours or by the requested date and time indicated on the notice, whichever is later. It is unreasonable to request owners and operators of underground utility facilities to locate all of their facilities in an affected area upon short notice in advance of a large or extensive nonemergency project, or to request extensive locates in excess of a reasonable excavation or demolition work schedule, or to request locates under conditions where a repeat request is likely to be made because of the passage of time or adverse job conditions. Owners and operators of underground utility facilities must reasonably anticipate seasonal fluctuations in the number of locate requests and staff accordingly.

If a person owning or operating underground utility facilities receives a notice under this Section but does not own or operate any underground utility facilities within the proposed excavation or demolition area described in the notice, that person, within 48 hours or by the requested date and time indicated on the notice, whichever is later, after receipt of the notice, shall so notify the person engaged in excavation or demolition who initiated the notice, unless the person who initiated the notice expressly waives the right to be notified that no facilities are located within the excavation or demolition area. The notification by the owner or operator of underground utility facilities to the person engaged in excavation or demolition may be provided in any reasonable manner including, but not limited to, notification in any one of the following ways: by face-to-face communication; by phone or phone message; by facsimile; by posting in the excavation or demolition area; or by marking the excavation or demolition area. The owner or operator of those facilities has discharged the owner's or operator's obligation to provide notice under this Section if the owner or operator attempts to provide notice by telephone or by facsimile, if the person has supplied a facsimile number, but is unable to do so because the person engaged in the excavation or demolition does not answer his or her telephone or does not have an answering machine or answering service to receive the telephone call or does not have a facsimile machine in operation to receive the facsimile transmission. If the owner or operator attempts to provide notice by telephone or by facsimile but receives a busy signal, that attempt shall not serve to discharge the owner or operator of the obligation to provide notice under this Section.

A person engaged in excavation or demolition may expressly waive the right to notification from the owner or operator of underground utility facilities that the owner or operator has no facilities located in the proposed excavation or demolition area. Waiver of notice is only permissible in the case of regular or nonemergency locate requests. The waiver must be made at the time of the notice to the State–Wide One–Call Notice System. A waiver made under this Section is not admissible as evidence in any criminal or civil action that may arise out of, or is in any way related to, the excavation or demolition that is the subject of the waiver.

For the purposes of this Act, underground facility operators may utilize a combination of flags, stakes, and paint when possible on non-paved surfaces and when dig site and seasonal conditions warrant. If the approximate location of an underground utility facility is marked with stakes or other physical means, the following color coding shall be employed:

Underground Facility	Identification Color
Facility Owner or Agent Use Only	
Electric Power, Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission	High Visibility Safety Yellow
Telephone and Telegraph Systems	Safety Alert Orange
Community Antenna Television Systems	Safety Alert Orange
Water Systems	Safety Precaution Blue
Sewer Systems	Safety Green
Non-potable Water and Slurry Lines	Safety Purple
Excavator Use Only	
Temporary Survey	Safety Pink
Proposed Excavation	Safety White (Black when snow is on the ground)

P.A. 86–674, § 10, eff. Jan. 1, 1991. Amended by P.A. 88–578, § 5, eff. July 1, 1995; P.A. 88–681, § 12, eff. July 1, 1995; P.A. 92–179, § 5, eff. July 1, 2002; P.A. 93–430, § 5, eff. Aug. 5, 2003; P.A. 94–623, § 5, eff. Aug. 18, 2005; P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1610.

50/11. Penalties; liability; fund

§ 11. Penalties; liability; fund.

(a) Every person who, while engaging in excavation or demolition, wilfully fails to comply with the Act by failing to provide the notice to the owners or operators of the underground facilities near the excavation or demolition area through the State–Wide One–Call Notice System as required by Section 4 or 6 of this Act shall be subject to a penalty of up to $5,000 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility. Every person who fails to provide notice and willfully fails to comply with other provisions of this Act shall be subject to additional penalties of up to $2,500 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility.

(b) Every person who has provided the notice to the owners or operators of the underground utility facilities in and near the excavation or demolition area through the State–Wide One–Call Notice System as required by Section 4 or 6 of this Act, but otherwise wilfully fails to comply with this Act, shall be subject to a penalty of up to $2,500 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility.

(c) Every person who, while engaging in excavation or demolition, has provided the notice to the owners or operators of the underground utility facilities in and near the excavation or demolition area through the State–Wide One–Call Notice System as required by Section 4 or 6 of this Act, but otherwise, while acting reasonably, damages any underground utility facilities, shall not be subject to a penalty, but shall be liable for the damage caused to the owners or operators of the facility provided the underground utility facility is properly marked as provided in Section 10 of this Act.

(d) Every person who provides notice to the owners or operators of the underground utility facilities through the State–Wide One–Call Notice System as an emergency locate request and the locate request is not an emergency locate request as defined in Section 2.6 of this Act shall be subject to a penalty of up to $2,500 for each separate offense.

(e) Owners and operators of underground utility facilities who willfully fail to comply with this Act by a failure to respond or mark the approximate location of an underground utility as required by subsection (h) of Section 4, subsection (a) of Section 6, or Section 10 of this Act after being notified of planned excavation or demolition through the State–Wide One–Call Notice System, shall be subject to a penalty of up to $5,000 for each separate offense.

(f) As provided in Section 3 of this Act, all owners or operators of underground utility facilities who fail to join the State–Wide One–Call Notice System by January 1, 2003 shall be subject to a penalty of $100 per day for each separate offense. Every day an owner or operator fails to join the State–Wide One–Call Notice System is a separate offense. This subsection (f) does not apply to utilities operating facilities exclusively within the boundaries of a municipality with a population of at least 1,000,000 persons.

(g) No owner or operator of underground utility facilities shall be subject to a penalty where a delay in marking or a failure to mark or properly mark the location of an underground utility is caused by conditions beyond the reasonable control of such owner or operator.

(h) Any person who is neither an agent, employee, or authorized locating contractor of the owner or operator of the underground utility facility nor an excavator involved in the excavation activity who removes, alters, or otherwise damages markings, flags, or stakes used to mark the location of an underground utility other than during the course of the excavation for which the markings were made or before completion of the project shall be subject to a penalty up to $1,000 for each separate offense.

(i) (Blank).

(j) The Illinois Commerce Commission shall have the power and jurisdiction to, and shall, enforce the provisions of this Act. The Illinois Commerce Commission may impose administrative penalties as provided in this Section. The Illinois Commerce Commission may promulgate rules and develop enforcement policies in the manner provided by the Public Utilities Act [1] in order to implement compliance with this Act. When a penalty is warranted, the following criteria shall be used in determining the magnitude of the penalty:

(1) gravity of noncompliance;

(2) culpability of offender;

(3) history of noncompliance for the 18 months prior to the date of the incident; however, when determining noncompliance the alleged violator's roles as operator or owner and the person engaged in excavating shall be treated separately;

(4) ability to pay penalty;

(5) show of good faith of offender;

(6) ability to continue business; and

(7) other special circumstances.

(k) There is hereby created in the State treasury a special fund to be known as the Illinois Underground Utility Facilities Damage Prevention Fund. All penalties recovered in any action under this Section shall be paid into the Fund and shall be distributed annually as a grant to the State–Wide One–Call Notice System to be used in safety and informational programs to reduce the number of incidents of damage to underground utility facilities in Illinois. The distribution shall be made during January of each calendar year based on the balance in the Illinois Underground Utility Facilities Damage Prevention Fund as of December 31 of the previous calendar year. In all such actions under this Section, the procedure and rules of evidence shall conform with the Code of Civil Procedure, [2] and with rules of courts governing civil trials.

(*l*) The Illinois Commerce Commission shall establish an Advisory Committee consisting of a representative from each of the following: utility operator, JULIE, excavator, municipality, and the general public. The Advisory Committee shall serve as a peer review panel for any contested penalties resulting from the enforcement of this Act.

The members of the Advisory Committee shall be immune, individually and jointly, from civil liability for any act or omission done or made in performance of their duties while serving as members of such Advisory Committee, unless the act or omission was the result of willful and wanton misconduct.

(m) If, after the Advisory Committee has considered a particular contested penalty and performed its review functions under this Act and the Commission's rules, there remains a dispute as to whether the Commission should impose a penalty under this Act, the matter shall proceed in the manner set forth in Article X of the Public Utilities Act, [3] including the provisions governing judicial review.

P.A. 86–674, § 11, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002; P.A. 94–623, § 5, eff. Aug. 18, 2005; P.A. 96–714, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1611.

[1] 220 ILCS 5/1–101 et seq.

[2] 735 ILCS 5/1–101 et seq.

[3] 220 ILCS 5/10–101 et seq.

50/11.3. Emergency telephone system outages; reimbursement

§ 11.3. Emergency telephone system outages; reimbursement. Any person who negligently damages an underground facility or CATS facility causing an emergency telephone system outage must reimburse the public safety agency that provides personnel to answer calls or to maintain or operate an emergency telephone system during the outage for the agency's costs associated with answering calls or maintaining or operating the system during the outage. For the purposes of this Section, "public safety agency" means the same as in Section 2.02 of the Emergency Telephone System Act.[1]

P.A. 86–674, § 11.3, added by P.A. 92–149, § 5, eff. Jan. 1, 2002.

[1] 50 ILCS 750/2.02.

50/11.5. Limitation on liability

§ 11.5. Limitation on liability.

(a) In joining the State-Wide One-Call Notice System, a municipality's liability, under any membership agreement rules and regulations, for the indemnification of (i) the entity that is in charge of or managing the System or any officer, agent, or employee of that entity or (ii) a member of the System or any officer, agent, or employee of a member of the System shall be limited to claims arising as a result of the acts or omissions of the municipality or its officers, agents, or employees or arising out of the operations of the municipality's underground utility facilities.

(b) Subsection (a) shall not be construed to create any additional liability for a municipality in relation to any member of the System with which the municipality may have entered into a franchise agreement. If a municipality's liability for indemnification under a franchise agreement is

narrower than under this Section, the franchise agreement controls.

P.A. 86–674, § 11.5, added by P.A. 90–481, § 25, eff. Aug. 17, 1997.

50/12. Limitations

§ 12. No action may be brought under Section 11 of this Act unless commenced within 2 years after the date of violation of this Act.

P.A. 86–674, § 12, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1612.

50/13. Mandamus or injunction

§ 13. Mandamus or injunction. Where public safety or the preservation of uninterrupted, necessary utility service or community antenna television system service is endangered by any person engaging in excavation or demolition in a negligent or unsafe manner which has resulted in or is likely to result in damage to underground utility facilities or CATS facilities or proposing to use procedures for excavation or demolition which are likely to result in damage to underground utility facilities or CATS facilities, or where the owner or operator of underground utility facilities or CATS facilities endangers an excavator by willfully failing to respond to a locate request, the owner or operator of such facilities or the excavator or the State's Attorney or the Illinois Commerce Commission at the request of the owner or operator of such facilities or the excavator may commence an action in the circuit court for the county in which the excavation or demolition is occurring or is to occur, or in which the person complained of has his principal place of business or resides, for the purpose of having such negligent or unsafe excavation or demolition stopped and prevented or to compel the marking of underground utilities facilities or CATS facilities, either by mandamus or injunction.

P.A. 86–674, § 13, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1613.

50/14. Home rule

§ 14. Home rule. The regulation of underground utility facilities and CATS facilities damage prevention, as provided for in this Act, is an exclusive power and function of the State. A home rule unit may not regulate underground utility facilities and CATS facilities damage prevention, as provided for in this Act. All units of local government, including home rule units, must comply with the provisions of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

P.A. 86–674, § 14, eff. Jan. 1, 1991. Amended by P.A. 92–179, § 5, eff. July 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111 ⅔, ¶ 1614.

ACT 55. TELEGRAPH ACT

55/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Telegraph Act.

R.S.1874, p. 1052, § 0.01, added by P.A. 86–1324, § 1076, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 134, ¶ 0.01.

55/1. Application of Act

§ 1. Every company heretofore incorporated under any general or special law, or which may be incorporated under any general law of this state for the construction or operation of any telegraph line through or in this state, shall possess the powers and privileges and be subject to the duties, restrictions and liabilities prescribed in this act.

R.S.1874, p. 1052, § 1, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 134, ¶ 1.

55/3.5. Eminent domain

§ 3.5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

R.S.1874, p. 1052, § 3.5, added by P.A. 94–1055, Art. 95, § 95–5–570, eff. Jan. 1, 2007.

55/4. Consent in writing necessary to erect poles, etc., on roads, streets, etc.; record; alteration in location or height of wires

§ 4. No such company shall have the right to erect any poles, posts, piers, abutments, wires or other fixtures of their lines along or upon any public ground outside the corporate limits of a city, town or village, without the consent of the county board of the county in which such public ground is situated, nor upon any public ground within any incorporated city, town or village, without the consent of the corporate authorities of such city, town or village. The consent herein required must be in writing, and shall be recorded in the recorder's office of the county. And such county board, or the city council, or board of trustees of such city, town or village, as the case may be, shall have power to direct any alteration in the location or erection of any such poles, posts, piers or abutments, and also in the height of the wires, having first given the company or its agent opportunity to be heard in regard to such alteration.

The right of any such company to erect such structures, wires or fixtures within the right of way of any public highway is subject to the provisions of Section 9–113 of the "Illinois Highway Code" as the same may from time to time be amended.[1]

R.S.1874, p. 1052, § 4, eff. July 1, 1874. Amended by Laws 1959, p. 187, § 1, eff. July 1, 1959.

Formerly Ill.Rev.Stat.1991, ch. 134, ¶ 4.

[1] 605 ILCS 5/9–113.

ACT 65. TELEPHONE COMPANY ACT

65/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Telephone Company Act.

Laws 1903, p. 350, § 0.01, added by P.A. 86–1324, § 1086, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 134, ¶ 16.90.

65/1. Application of Act

§ 1. That each corporation heretofore or hereafter having power under its charter, or under any special or general law of the State of Illinois to construct or operate telephone lines or exchanges in or through Illinois, shall possess the powers

and privileges and be subject to the duties, restrictions and liabilities prescribed in this act.

Laws 1903, p. 350, § 1, eff. July 1, 1903.

Formerly Ill.Rev.Stat.1991, ch. 134, ¶ 17.

65/4. Right of condemnation

§ 4. Right of condemnation. Every telecommunications carrier as defined in the Telecommunications Infrastructure Maintenance Fee Act [1] may, when it shall be necessary for the construction, maintenance, alteration or extension of its telecommunications system, or any part thereof, enter upon, take or damage private property in the manner provided for in, and the compensation therefor shall be ascertained and made in conformity to the provisions of the Telegraph Act [2] and every telecommunications carrier is authorized to construct, maintain, alter and extend its poles, wires, and other appliances as a proper use of highways, along, upon, under and across any highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water in this State, but so as not to incommode the public in the use thereof: Provided, that nothing in this act shall interfere with the control now vested in cities, incorporated towns and villages in relation to the regulation of the poles, wires, cables and other appliances, and provided, that before any such lines shall be constructed along any such highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water it shall be the duty of the telecommunications carrier proposing to construct any such line, to give (in the case of cities, villages, and incorporated towns) to the corporate authorities of the municipality or their designees (hereinafter, municipal corporate authorities) or (in other cases) to the highway commissioners having jurisdiction and control over the road or part thereof along and over which such line is proposed to be constructed, notice in writing in the form of plans, specifications, and documentation of the purpose and intention of the company to construct such line over and along the highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water, which notice shall be served at least 10 days before the line shall be placed or constructed over and along the highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water (30 days in the case of any notice providing for excavation relating to new construction in a public highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water); and upon the giving of the notice it shall be the duty of the municipal corporate authorities or the highway commissioners to specify the portion of such highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water upon which the line may be placed, used, and constructed, and it shall thereupon be the duty of the telecommunications retailer to provide the municipal authorities or highway commissioners with any and all plans, specifications, and documentation available and to construct its line in accordance with such specifications; but in the event that the municipal corporate authorities or the highway commissioners fail to provide such specification within 10 days after the service of such notice, (25 days in the case of excavation relating to new construction) then the telecommunications retailer, without such specification having been made, may proceed to place and erect its line along the highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water by placing its posts, poles and abutments so as not to interfere with other proper uses of the highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, or water. The telecommunications carrier proposing to construct any such line shall comply with the provisions of Section 9–113 of the Illinois Highway Code. [3] Provided, that the telecommunications carrier shall not have the right to condemn any portion of the right-of-way of any railroad company except as much thereof as is necessary to cross the same.

The Illinois Commerce Commission may adopt reasonable rules governing the negotiation procedures that are used by a telecommunications carrier during precondemnation negotiations for the purchase of land rights-of-way and easements, including procedures for providing information to the public and affected landowners concerning the project and the right-of-way easements sought in connection therewith.

Such rules may be made applicable to interstate, competitive intrastate and noncompetitive intrastate facilities, without regard to whether such facilities or the telecommunications carrier proposing to construct and operate them would otherwise be subject to the Illinois Commerce Commission's jurisdiction under the Public Utilities Act, [4] as now or hereafter amended. However, as to facilities used to provide exclusively interstate services or competitive intrastate services or both, nothing in this Section confers any power upon the Commission (i) to require the disclosure of proprietary, competitively sensitive, or cost information or information not known to the telecommunications carrier, (ii) to determine whether, or conduct hearings regarding whether, any proposed fiber optic or other facilities should or should not be constructed and operated, or (iii) to determine or specify, or conduct hearings concerning, the price or other terms or conditions of the purchase of the right-of-way easements sought. With respect to facilities used to provide any intrastate services classified in the condemnor's tariff as noncompetitive under Section 13–502 of the Public Utilities Act, [5] the rulemaking powers conferred upon the Commission under this Section are in addition to any rulemaking powers arising under the Public Utilities Act.

No telecommunications carrier shall exercise the power to condemn private property until it has first substantially complied with such rules with respect to the property sought to be condemned. If such rules call for providing notice or information before or during negotiations, a failure to provide such notice or information shall not constitute a waiver of the rights granted in this Section, but the telecommunications carrier shall be liable for all reasonable attorney's fees of that landowner resulting from such failure.

Laws 1903, p. 350, § 4, eff. July 1, 1903. Amended by Laws 1959, p. 188, § 1, eff. July 1, 1959; Laws 1961, p. 2836, § 1, eff. Aug. 4, 1961; P.A. 86–221, § 1, eff. Dec. 13, 1989; P.A. 90–154, § 920, eff. Jan. 1, 1998; P.A. 92–526, § 90–40, eff. Jan. 1, 2003; P.A. 92–651, § 51, eff. July 11, 2002.

Formerly Ill.Rev.Stat.1991, ch. 134, ¶ 20.

[1] 35 ILCS 635/1 et seq.

[2] 220 ILCS 55/0.01 et seq.

[3] 605 ILCS 5/9–113.

[4] 220 ILCS 5/1–101 et seq.

[5] 220 ILCS 5/13–502.

P.A. 92–526, in the first sentence of the first paragraph, deleted "municipal" preceding "Infrastructure"; and made a nonsubstantive change.

P.A. 92–651, the First 2002 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to resolve multiple actions in the 91st and 92nd General Assemblies and to make certain technical corrections in P.A. 91–937 through P.A. 92–520.

See 5 ILCS 70/6 as to the effect of (1) more than one amendment of a section at the same General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

65/4.5. Eminent domain

§ 4.5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1903, p. 350, § 4.5, added by P.A. 94–1055, Art. 95, § 95–5–575, eff. Jan. 1, 2007.

CHAPTER 225

PROFESSIONS AND OCCUPATIONS

DESIGN AND CONSTRUCTION

ACT 325. PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

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DESIGN AND CONSTRUCTION

ACT 325. PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

Repeal of Act

Section 4.30 of the Regulatory Sunset Act (5 ILCS 80/4.30) provides for the repeal of the Professional Engineering Practice Act of 1989 effective January 1, 2020, unless, under 5 ILCS 80/4, the General Assembly enacts legislation providing for its continuation.

325/14. Seal

§ 14. Seal. Every professional engineer shall have a seal or stamp, the print of which shall be reproducible and contain the name of the professional engineer, the profession-

al engineer's license number, and the words "Licensed Professional Engineer of Illinois". Any reproducible stamp heretofore authorized under the laws of this state for use by a professional engineer, including those with the words "Registered Professional Engineer of Illinois", shall serve the same purpose as the seal provided for by this Act. The engineer shall be responsible for his seal and signature as defined by rule. When technical submissions are prepared utilizing a computer or other electronic means, the seal may be generated by the computer. The licensee may provide, at his or her sole discretion, an original signature in the licensee's handwriting, a scanned copy of the technical submission bearing an original signature, or a signature generated by a computer.

The use of a professional engineer's seal on technical submissions constitutes a representation by the professional engineer that the work has been prepared by or under the personal supervision of the professional engineer or developed in conjunction with the use of accepted engineering standards. The use of the seal further represents that the work has been prepared and administered in accordance with the standards of reasonable professional skill and diligence.

It is unlawful to affix one's seal to technical submissions if it masks the true identity of the person who actually exercised direction, control and supervision of the preparation of such work. A professional engineer who seals and signs technical submissions is not responsible for damage caused by subsequent changes to or uses of those technical submissions, where the subsequent changes or uses, including changes or uses made by State or local governmental agencies, are not authorized or approved by the professional engineer who originally sealed and signed the technical submissions.

P.A. 86–667, § 14, eff. Jan. 1, 1990. Amended by P.A. 88–372, § 5, eff. Jan. 1, 1994; P.A. 91–92, § 10, eff. Jan. 1, 2000; P.A. 92–145, § 5, eff. Jan. 1, 2002; P.A. 96–626, § 10, eff. Aug. 24, 2009; P.A. 98–289, § 15, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 111, ¶ 5214.

Repeal of Act

For repeal of Act, see note preceding 225 ILCS 325/1.

325/15. Technical submissions

§ 15. Technical submissions. All technical submissions prepared by or under the personal supervision of a professional engineer shall bear that professional engineer's seal, signature, and license expiration date. The licensee's written signature and date of signing, along with the date of license expiration, shall be placed adjacent to the seal. Computer generated signatures are not permitted.

The professional engineer who has contract responsibility shall seal a cover sheet of the technical submissions, and those individual portions of the technical submissions for which the professional engineer is legally and professionally responsible. The professional engineer practicing as the support design professional shall seal those individual portions of technical submissions for which the professional engineer is legally and professionally responsible.

All technical submissions intended for use in construction in the State of Illinois shall be prepared and administered in accordance with standards of reasonable professional skill and diligence. Care shall be taken to reflect the requirements of State statutes and, where applicable, county and municipal ordinances in such documents. In recognition that professional engineers are licensed for the protection of the public health, safety and welfare, documents shall be of such quality and scope, and be so administered as to conform to professional standards.

P.A. 86–667, § 15, eff. Jan. 1, 1990. Amended by P.A. 89–61, § 15, eff. June 30, 1995; P.A. 91–92, § 10, eff. Jan. 1, 2000; P.A. 92–145, § 5, eff. Jan. 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111, ¶ 5215.

Repeal of Act

For repeal of Act, see note preceding 225 ILCS 325/1.

325/23. Professional design firm registration

§ 23. Professional design firm registration.

(a) Nothing in this Act shall prohibit the formation, under the provisions of the Professional Service Corporation Act, as amended, of a corporation to practice professional engineering.

Any business, including a Professional Service Corporation, that includes within its stated purposes or practices, or holds itself out as available to practice, professional engineering shall be registered with the Department pursuant to the provisions set forth in this Section.

Any sole proprietorship not owned and operated by an Illinois licensed design professional licensed under this Act shall be prohibited from offering professional engineering services to the public. Any sole proprietorship owned and operated by a professional engineer with an active license issued under this Act and conducting or transacting such business under an assumed name in accordance with the provisions of the Assumed Business Name Act [1] shall comply with the registration requirements of a professional design firm. Any sole proprietorship owned and operated by a professional engineer with an active license issued under this Act and conducting or transacting such business under the real name of the sole proprietor is exempt from the registration requirements of a professional design firm. "Illinois licensed design professional" means a person who holds an active license as a professional engineer under this Act, as an architect under the Illinois Architecture Practice Act of 1989, [2] or as a structural engineer under the Structural Engineering Practice Act of 1989.[3]

(b) Any professional design firm seeking to be registered pursuant to the provisions of this Section shall not be registered unless one or more managing agents in charge of professional engineering activities in this State are designated by the professional design firm. Each managing agent must at all times maintain a valid, active license to practice professional engineering in Illinois.

No individual whose license to practice professional engineering in this State is currently in a suspended or revoked status shall act as a managing agent for a professional design firm.

(c) Any business seeking to be registered under this Section shall make application on a form provided by the Department and shall provide such information as requested by the Department, which shall include, but not be limited to:

(1) the name and license number of the person designated as the managing agent in responsible charge of the practice of professional engineering in Illinois. In the case of a corporation, the corporation shall also submit a certified copy of the resolution by the board of directors designating the managing agent. In the case of a limited liability company, the company shall submit a certified copy of either its articles of organization or operating agreement designating the managing agent;

(2) the names and license numbers of the directors, in the case of a corporation, the members, in the case of a limited liability company, or general partners, in the case of a partnership;

(3) a list of all office locations at which the professional design firm provides professional engineering services to the public; and

(4) a list of all assumed names of the business. Nothing in this Section shall be construed to exempt a professional design firm, sole proprietorship, or professional service corporation from compliance with the requirements of the Assumed Business Name Act.

It is the responsibility of the professional design firm to provide the Department notice, in writing, of any changes in the information requested on the application.

(d) The Department shall issue to each business a certificate of registration to practice professional engineering or offer the services of its licensees in this State upon submittal of a proper application for registration and payment of fees. The expiration date and renewal period for each registration and renewal procedures shall be established by rule.

(e) In the event a managing agent is terminated or terminates his or her status as managing agent of the professional design firm, the managing agent and professional design firm shall notify the Department of this fact in writing, by certified mail, within 10 business days of such termination. Thereafter, the professional design firm, if it has so informed the Department, shall have 30 days in which to notify the Department of the name and license number of a newly designated managing agent. If a corporation, the corporation shall also submit a certified copy of a resolution by the board of directors designating the new managing agent. If a limited liability company, the company shall also submit a certified copy of either its articles of organization or operating agreement designating the new managing agent. The Department may, upon good cause shown, extend the original 30 day period.

If the professional design firm has not notified the Department in writing, by certified mail within the specified time, the registration shall be terminated without prior hearing. Notification of termination shall be sent by certified mail to the last known address of the business. If the professional design firm continues to operate and offer professional engineering services after the termination, the Department may seek prosecution under Sections 24, 39, and 40 of this Act for the unlicensed practice of professional engineering.

(f) No professional design firm shall be relieved of responsibility for the conduct or acts of its agent, employees, members, managers, or officers by reason of its compliance with this Section, nor shall any individual practicing professional engineering be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a professional design firm registered under this Section.

(g) Disciplinary action against a professional design firm registered under this Section shall be administered in the same manner and on the same grounds as disciplinary action against a licensed professional engineer. All disciplinary action taken or pending against a corporation or partnership before the effective date of this amendatory Act of 1993 shall be continued or remain in effect without the Department filing separate actions.

P.A. 86–667, § 23, eff. Jan. 1, 1990. Amended by P.A. 88–428, § 15, eff. Aug. 20, 1993; P.A. 89–594, § 340, eff. Aug. 1, 1996; P.A. 91–91, § 40, eff. Jan. 1, 2000; P.A. 91–92, § 10, eff. Jan. 1, 2000; P.A. 92–16, § 68, eff. June 28, 2001.

Formerly Ill.Rev.Stat.1991, ch. 111, ¶ 5223.

[1] 805 ILCS 405/0.01 et seq.

[2] 225 ILCS 305/1 et seq.

[3] 225 ILCS 340/1 et seq.

Repeal of Act

For repeal of Act, see note preceding 225 ILCS 325/1.

325/24. Rules of professional conduct; disciplinary or administrative action

§ 24. Rules of professional conduct; disciplinary or administrative action.

(a) The Department shall adopt rules setting standards of professional conduct and establish appropriate penalties for the breach of such rules.

(a–1) The Department may, singularly or in combination, refuse to issue, renew, or restore a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to a person licensed under this Act, including but not limited to, the imposition of a fine not to exceed $10,000 per violation upon any person, corporation, partnership, or professional design firm licensed or registered under this Act, for any one or combination of the following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act or any of its rules.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of engineering.

(4) Making any misrepresentation for the purpose of obtaining, renewing, or restoring a license or violating any provision of this Act or the rules promulgated under this Act pertaining to advertising.

(5) Willfully making or signing a false statement, certificate, or affidavit to induce payment.

(6) Negligence, incompetence or misconduct in the practice of professional engineering as a licensed professional engineer or in working as an engineer intern.

(7) Aiding or assisting another person in violating any provision of this Act or its rules.

(8) Failing to provide information in response to a written request made by the Department within 30 days after receipt of such written request.

(9) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(10) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or mental illness or disability.

(11) Discipline by the United States Government, another state, District of Columbia, territory, foreign nation or government agency, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate or other form of compensation

for any professional services not actually or personally rendered.

(13) A finding by the Department that an applicant or registrant has failed to pay a fine imposed by the Department, a registrant whose license has been placed on probationary status has violated the terms of probation, or a registrant has practiced on an expired, inactive, suspended, or revoked license.

(14) Signing, affixing the professional engineer's seal or permitting the professional engineer's seal to be affixed to any technical submissions not prepared as required by Section 14 or completely reviewed by the professional engineer or under the professional engineer's direct supervision.

(15) Inability to practice the profession with reasonable judgment, skill or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

(16) The making of a statement pursuant to the Environmental Barriers Act that a plan for construction or alteration of a public facility or for construction of a multistory housing unit is in compliance with the Environmental Barriers Act [1] when such plan is not in compliance.

(17) (Blank).

(a–2) The Department shall deny a license or renewal authorized by this Act to a person who has failed to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105–15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105–15).

(a–3) The Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State in accordance with subdivision (a)(5) of Section 2105–15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105–15).

(a–4) In cases where the Department of Healthcare and Family Services (formerly the Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department shall refuse to issue or renew or shall revoke or suspend that person's license or shall take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with subdivision (a)(5) of Section 2105–15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105–15).

(a–5) In enforcing this Section, the Department or Board, upon a showing of a possible violation, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning his or her examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The licensee or applicant may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of a licensee or applicant to submit to any such examination when directed, without reasonable cause as defined by rule, shall be grounds for either the immediate suspension of his or her license or immediate denial of his or her application.

If the Secretary immediately suspends the license of a licensee for his or her failure to submit to a mental or physical examination when directed, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

If the Secretary otherwise suspends a license pursuant to the results of the licensee's mental or physical examination, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

Any licensee suspended under this subsection (a–5) shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with the acceptable and prevailing standards under the provisions of his or her license.

(b) The determination by a circuit court that a registrant is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, [2] as now or hereafter amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the recommendation of the Board to the Director that the registrant be allowed to resume practice.

P.A. 86–667, § 24, eff. Jan. 1, 1990. Amended by P.A. 88–372, § 5, eff. Jan. 1, 1994; P.A. 88–428, § 15, eff. Aug. 20, 1993; P.A. 88–670, Art. 2, § 2–44, eff. Dec. 2, 1994; P.A. 89–61, § 15, eff. June 30, 1995; P.A. 91–92, § 10, eff. Jan. 1, 2000; P.A. 92–145, § 5, eff. Jan. 1, 2002; P.A. 96–626, § 10, eff. Aug. 24, 2009; P.A. 98–756, § 460, eff. July 16, 2014.

Formerly Ill.Rev.Stat.1991, ch. 111, ¶ 5224.

[1] 410 ILCS 25/1 et seq.

[2] 405 ILCS 5/1–100 et seq.

Repeal of Act

For repeal of Act, see note preceding 225 ILCS 325/1.

325/41. Violation; Political subdivisions, County, City or Town; Construction without professional engineer

§ 41. Violation; Political subdivisions, County, City or Town; Construction without professional engineer. It is unlawful for the State or any of its political subdivisions, or any county, city or town to engage in the construction of any public work involving professional engineering, unless the engineering plan, specifications and estimates have been prepared by, and the construction is executed under, the guidance of a professional engineer licensed under this Act.

P.A. 86–667, § 41, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 111, ¶ 5241.

Repeal of Act

For repeal of Act, see note preceding 225 ILCS 325/1.

ACT 340. STRUCTURAL ENGINEERING PRACTICE ACT OF 1989

Repeal of Act

Section 4.30 of the Regulatory Sunset Act (5 ILCS 80/4.30) provides for the repeal of the Structural Engineering Practice Act of 1989 effective January 1, 2020, unless, under 5 ILCS 80/4, the General Assembly enacts legislation providing for its continuation.

340/12. Posting license; seal

§ 12. Every holder of a license as a structural engineer shall display it in a conspicuous place in the holder's principal office, place of business or employment.

Every licensed structural engineer shall have a reproducible seal or facsimile, the print of which shall contain the name and license number of the structural engineer, and the words "Licensed Structural Engineer," "State of Illinois." The licensed structural engineer shall seal all plans, drawings, and specifications prepared by or under the engineer's supervision.

A licensed structural engineer may seal documents not produced by the licensed structural engineer when the documents have either been produced by others working under the licensed structural engineer's personal supervision and control or when the licensed structural engineer has sufficiently reviewed the documents to ensure that they have met the standards of reasonable professional skill and diligence. In reviewing the work of others, the licensed structural engineer shall, where necessary, do calculations, redesign, or any other work necessary to be done to meet such standards and should retain evidence of having done such review. The documents sealed by the licensed structural engineer shall be of no lesser quality than if they had been produced by the licensed structural engineer. The licensed structural engineer who seals the work of others is obligated to provide sufficient supervision and review of such work so that the public is protected.

The licensed structural engineer shall affix the signature, current date, date of license expiration and seal to the first sheet of any bound set or loose sheets prepared by the licensed structural engineer or under that licensed structural engineer's immediate supervision.

P.A. 86–711, § 12, eff. Jan. 1, 1990. Amended by P.A. 91–91, § 50, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 111, ¶ 6612.

Repeal of Act

For repeal of Act, see note preceding 225 ILCS 340/1.

SERVICE AND SALES

ACT 440. HIGHWAY ADVERTISING CONTROL ACT OF 1971

440/1. Legislative finding and declaration

§ 1. The General Assembly finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to Interstate highways and primary highways should be regulated in order to protect the public investment in such highways, to promote the recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of such signs, displays and devices.

The General Assembly further finds and declares that outdoor advertising is a legitimate, commercial use of private property adjacent to roads and highways; that outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy which serves to promote and protect private investments in commerce and industry and should be allowed to operate in business areas; and that the regulatory standards set forth in Section 6 of this Act are consistent with customary use in this State and will properly and adequately carry out each and all of the purposes of this Act, more severe restrictions being inconsistent with customary use and ineffective to accomplish the purposes of this Act.

P.A. 77–1815, § 1, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 501.

440/2. Short title

§ 2. This Act shall be known and may be cited as the "Highway Advertising Control Act of 1971".

P.A. 77–1815, § 2, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 502.

440/3. Definitions

§ 3. As used in this Act, unless the context otherwise requires, the terms defined in the Sections following this Section and preceding Section 4 have the meanings ascribed to them in those Sections.

P.A. 77–1815, § 3, eff. July 1, 1972. Amended by P.A. 92–651, § 59, eff. July 11, 2002; P.A. 98–756, § 490, eff. July 16, 2014.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.

440/3.01. Department defined

§ 3.01. "Department" means the Department of Transportation of the State of Illinois.

P.A. 77–1815, § 3.01, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.01.

440/3.02. Interstate highway defined

§ 3.02. "Interstate highway" means any highway designated by the Department and approved by the United States Department of Transportation as a part of the National System of Interstate and Defense Highways on the effective date of this Act or thereafter. A highway constructed after the effective date of this Act shall become a part of the National System of Interstate and Defense Highways upon the date of approval of the Route Location Decision and the approval of the addition of the highway to the National System of Interstate and Defense Highways by the Governor and the United States Department of Transportation.

P.A. 77–1815, § 3.02, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.02.

440/3.03. Primary highway defined

§ 3.03. "Primary highway" means any highway, other than an Interstate highway, designated by the Department and approved by the United States Department of Transportation as a part of the Federal–Aid Primary System in existence on June 1, 1991 or any highway other than an

Interstate highway that is not on such system that is on the National Highway System.

P.A. 77–1815, § 3.03, eff. July 1, 1972. Amended by P.A. 89–605, § 10, eff. Aug. 2, 1996.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.03.

440/3.04. Expressway defined

§ 3.04. "Expressway" means a primary highway constructed as a freeway which has complete control of access.

P.A. 77–1815, § 3.04, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.04.

440/3.05. Main-traveled way defined

§ 3.05. "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

P.A. 77–1815, § 3.05, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.05.

440/3.06. Maintain defined

§ 3.06. "Maintain" means to allow to exist and includes the periodic changing of advertising messages as well as the normal maintenance or repair of signs and sign structures.

P.A. 77–1815, § 3.06, eff. July 1, 1972. Amended by P.A. 96–919, § 5, eff. June 9, 2010.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.06.

440/3.07. Sign defined

§ 3.07. "Sign" means any outdoor sign, display, device, notice, figure painting, drawing, message, placard, poster, billboard, or other thing, which is designated, intended, or used to advertise or inform, and of which any part of the existing or intended advertising or informative contents is or will be visible from any place on the main-traveled way of any portion of an Interstate or primary highway and which is within 660 feet of the nearest edge of the right-of-way of such highway.

"Sign" also means any sign described in paragraph one of this Section which is more than 660 feet from the nearest edge of such highway, outside of an urban area, visible from any place on the main-traveled way of any portion of such highway and erected with the purpose of its message being read from such main-traveled way.

P.A. 77–1815, § 3.07, eff. July 1, 1972. Amended by P.A. 79–1009, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.07.

440/3.08. Erect defined

§ 3.08. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish; but does not include any of the foregoing activities when performed as an incident to the change of advertising message or normal maintenance or repair of a sign or sign structure. For the purposes of this definition, the following shall not constitute normal maintenance or repair of a sign or sign structure: replacing more than 60% of the uprights, in whole or in part, of a wooden sign structure; replacing more than 30% of the length above ground of each broken, bent, or twisted support of a metal sign structure; raising the height above ground of a sign or sign structure; making a sign bigger; adding lighting; or similar activities that substantially change a sign or make a sign more valuable.

P.A. 77–1815, § 3.08, eff. July 1, 1972. Amended by P.A. 96–919, § 5, eff. June 9, 2010.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.08.

440/3.09. Municipality defined

§ 3.09. "Municipality" means a city, village, or incorporated town in the State of Illinois, but, unless the context otherwise provides, "municipal" or "municipality" does not include a township, town when used as the equivalent of a township, incorporated town which has superseded a civil township, county, school district, park district, sanitary district or any other similar governmental district.

P.A. 77–1815, § 3.09, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.09.

440/3.10. Commercial or industrial activities defined

§ 3.10. "Commercial or industrial activities" means those activities located within 660 feet of the nearest edge of the right-of-way generally recognized as commercial or industrial by zoning authorities in this State, but does not include the following:

(a) Agricultural, forestry, ranging, grazing and farming activities, including wayside fresh produce stands and grain storage bins;

(b) Railroad tracks and minor sidings;

(c) Transient or temporary activities not involving permanent buildings or structures;

(d) Outdoor advertising structures;

(e) Activities not visible from a main-traveled way;

(f) Activities conducted in a building principally used as a residence.

P.A. 77–1815, § 3.10, eff. July 1, 1972. Amended by P.A. 79–1009, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.10.

440/3.11. Unzoned commercial or industrial areas defined

§ 3.11. "Unzoned commercial or industrial area" means any area adjacent to the right-of-way of a primary highway not zoned by any county or municipality and which lies within 600 feet of any commercial or industrial activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway. On primary highways other than expressways where there is an unzoned commercial or industrial area on one side of the road in accordance with the preceding, the unzoned commercial or industrial area shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions except where such lands are publicly owned or controlled for scenic or recreational purposes.

P.A. 77–1815, § 3.11, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.11.

440/3.12. Business area

§ 3.12. Business area. "Business area" means any part of an area adjacent to and within 660 feet of the right-of-way which is zoned for business, commercial or industrial activi-

ties under the authority of any law of this State; or not so zoned, but which constitutes an unzoned commercial or industrial area as defined in Section 3.11. However, as to signs along Interstate highways, the term "business area" includes only areas which are within incorporated limits of any city, village, or incorporated town, as such limits existed on September 21, 1959, and which are zoned for industrial or commercial use, or both, or to portions of Interstate highways which traverse other areas where the land use, as of September 21, l959, was established by State law as industrial or commercial, or both.

With respect to signs owned or leased by the State or a political subdivision, an area zoned for business, commercial, or industrial activities that is adjacent to and within 660 feet of an Interstate highway and that is in Township 41 North, Range 10 East of the Third Principal Meridian, shall be deemed a "business area" for purposes of this Act. This zoning must have been a part of comprehensive zoning and not have been created primarily to permit outdoor advertising structures as described in 23 CFR 750.

P.A. 77–1815, § 3.12, eff. July 1, 1972. Amended by P.A. 79–1009, § 1, eff. Oct. 1, 1975; P.A. 95–340, § 5, eff. Jan. 1, 2008; P.A. 98–56, § 5, eff. July 5, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.12.

440/3.13. Visible defined

§ 3.13. "Visible" means capable of being seen (whether or not legible) without visual aid by persons of normal visual acuity.

P.A. 77–1815, § 3.13, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.13.

440/3.14. Urban area defined

§ 3.14. For purposes of this Act, "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each such state, or an urban place as designated by the Bureau of the Census of the United States having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

P.A. 77–1815, § 3.14, added by P.A. 79–1009, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 503.14.

440/3.15. National Highway System defined

§ 3.15. "National Highway System" is a designation provided to certain highways by the Department, which designation must be approved by the United States Department of Transportation and the United States Congress for the purpose of providing an interconnected system of principal arterial routes that serve major population centers, international border crossings, ports, airports, public transportation facilities, other major travel destinations, and interstate and interregional travel and meet national defense requirements.

P.A. 77–1815, § 3.15, added by P.A. 89–605, § 10, eff. Aug. 2, 1996.

440/3.16. Scenic byway defined

§ 3.16. "Scenic byway" means that portion of a highway that has been nominated by the Department to the United States Department of Transportation for designation as a national scenic byway or All–American Road, and that has received national designation. "Scenic byway" does not include a section of primary or Interstate highway that traverses a business area at the time of nomination, except in accordance with Section 14.02(a)(5).

P.A. 77–1815, § 3.16, added by P.A. 89–605, § 10, eff. Aug. 2, 1996.

440/3.17. On-premise sign

§ 3.17. On-premise sign. "On-premise sign" means any sign advertising a business or activity conducted on the property on which they are located.

P.A. 77–1815, § 3.17, added by P.A. 98–56, § 5, eff. July 5, 2013.

440/3.18. Off-premise sign

§ 3.18. Off-premise sign. "Off-premise sign" means any sign advertising a business or activity not being conducted on the same property as the sign.

P.A. 77–1815, § 3.18, added by P.A. 98–56, § 5, eff. July 5, 2013.

440/3.19. Real estate sign

§ 3.19. Real estate sign. "Real estate sign" means any sign advertising solely the sale or lease of the property on which the sign is located.

P.A. 77–1815, § 3.19, added by P.A. 98–56, § 5, eff. July 5, 2013.

440/3.20. Municipal network sign

§ 3.20. Municipal network sign. "Municipal network sign" means an official sign or a sign that:

(1) is located on property owned or controlled by a local government that has a population of 2,000,000 or more and that has adopted zoning regulations consistent with this Act;

(2) is controlled under the direction of the local government;

(3) complies with zoning regulations consistent with this Act;

(4) is placed within a business area as defined in Section 3.12 of this Act;

(5) is used to communicate emergency, public, and commercial information; and

(6) is consistent with the intent of this Act and with customary use of the local government as to the sign's installation and operation, including the size, lighting, and spacing of signs.

P.A. 77–1815, § 3.20, added by P.A. 98–56, § 5, eff. July 5, 2013.

440/4. Erection and maintenance of signs prohibited; exceptions

§ 4. Signs shall not be erected or maintained along primary or Interstate highways except those described in Sections 4.01 through 4.08.

P.A. 77–1815, § 4, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.

440/4.01. Directional and official signs

§ 4.01. Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with regulations which shall be promulgated by the Department relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement this Act, but such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the Secretary of the Department of Transportation of the United States, under subsection (c) of Section 131 of Title 23 of the United States Code.[1]

P.A. 77–1815, § 4.01, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.01.

[1] 23 U.S.C.A. § 131.

440/4.02. Real estate signs

§ 4.02. Real estate signs. Real estate signs as defined in Section 3.19 of this Act. However, real estate signs must comply only with the provisions in Section 5 of this Act.

P.A. 77–1815, § 4.02, eff. July 1, 1972. Amended by P.A. 98–56, § 5, eff. July 5, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.02.

440/4.03. On-premise signs

§ 4.03. On-premise signs. On-premise signs as defined in Section 3.17 of this Act. However, on-premise signs must comply only with the provisions in Section 5 of this Act.

P.A. 77–1815, § 4.03, eff. July 1, 1972. Amended by P.A. 81–550, § 1, eff. Jan. 1, 1980; P.A. 98–56, § 5, eff. July 5, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.03.

440/4.04. Off-premise signs

§ 4.04. Off-premise signs. Off-premise signs which are erected in business areas after the effective date of this Act and which comply, when erected, with Sections 5, 6 (subject to provisions of Section 7) and 8 of this Act.

P.A. 77–1815, § 4.04, eff. July 1, 1972. Amended by P.A. 98–56, § 5, eff. July 5, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.04.

440/4.05. Existing signs; existence defined

§ 4.05. Signs in existence in a "business area", except signs which do not comply with Section 5, subsection (b) of Section 6.02, subsection (a) of Section 6.03 or Section 8 of this Act. For purposes of this Section, to be "in existence" the supports and frame of a sign must be physically in place: (a) on the effective date of this Act; or (b) on the date subsequent to the passage of this Act when the area in which the sign is located becomes subject to this Act or within six months thereafter, provided the sign is located on property leased prior to the date the area becomes subject to this Act and a copy of the lease is filed with the Department within 30 days following such date, except that the six month period shall not apply to those portions of a highway constructed on new alignment.

P.A. 77–1815, § 4.05, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.05.

440/4.06. Public utility facility identification signs

§ 4.06. Signs affixed by public utilities to their poles and other facilities for identification.

P.A. 77–1815, § 4.06, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.06.

440/4.07. § 4.07. Repealed by P.A. 98–56, § 10, eff. July 5, 2013

440/4.08. Signs, etc., giving information in interest of traveling public

§ 4.08. Signs, displays and devices giving specific information in the interest of the traveling public may be erected and maintained by the Department within the right-of-way on the Interstate System and on other freeways with full control of access in areas designated by the United States Secretary of Transportation, pursuant to Title 23, U.S. Code, Section 131(f). Signs giving specific information regarding tourist oriented businesses in the interest of the traveling public may also be erected and maintained by the Department within the right-of-way on rural non-interstate and non-freeway State highways. Such signs, displays and devices shall conform to national standards promulgated by the Secretary pursuant to such authority.

P.A. 77–1815, § 4.08, eff. July 1, 1972. Amended by P.A. 86–1340, § 3, eff. Sept. 7, 1990; P.A. 90–272, § 10, eff. July 30, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 504.08.

440/5. Erection or maintenance of signs; prohibitions

§ 5. No sign may be erected or maintained that:

(a) Imitates or resembles an official traffic sign, signal or device;

(b) Is erected, painted or drawn upon trees, rocks or other natural features;

(c) Is structurally unsafe or in disrepair; or

(d) Is erected adjacent to a scenic byway that is a primary or Interstate highway after the effective date of this amendatory Act of 1996, except those signs described in Sections 4.01, 4.02, 4.03, 4.06, and 4.08 of this Act.

P.A. 77–1815, § 5, eff. July 1, 1972. Amended by P.A. 79–1009, § 1, eff. Oct. 1, 1975; P.A. 89–605, § 10, eff. Aug. 2, 1996.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 505.

440/6. Signs complying with sections 5, 6 and 8; additional requirements

§ 6. Signs permitted under Section 4.04 must comply with the requirements of Sections 6.01, 6.02 and 6.03.

P.A. 77–1815, § 6, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 506.

440/6.01. Size of signs

§ 6.01. Size of signs. No sign may be erected which exceeds 1,200 square feet in area, 30 feet in height and 60 feet in length, including border and trim, but excluding ornamental base or apron, supports and other structural members. Except with respect to the repair, rebuilding, or replacement of any sign lawfully erected before January 1, 1993, no sign may be erected after the effective date of this amendatory Act of 1992 in any county with a population under 2,000,000 that exceeds 800 square feet in area, exclud-

ing extensions and cut-outs; the extensions and cut-outs may account for no more than an additional 20% in sign surface area. The maximum size limitation shall apply to each side of a sign or sign structure. A maximum of 2 signs may be erected in a facing, in which event the facing shall be deemed to be one sign, the size of which may not exceed the dimensions listed in this Section. Signs may be double faced or be placed back to back or V-type or triangular, provided that the angle between sign faces shall not exceed 90 degrees. The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.

P.A. 77–1815, § 6.01, eff. July 1, 1972. Amended by P.A. 87–1205, § 2, eff. July 1, 1993; P.A. 91–774, § 5, eff. Jan. 1, 2001.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 506.01.

440/6.02. Lighting

§ 6.02. Lighting. (a) No sign may be erected which contains, includes or is illuminated by any flashing, intermittent or moving light or lights, except those giving public service information such as, without limiting the generality of the foregoing, time, weather, date and temperature.

(b) No sign may be erected or maintained which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any Interstate or primary highway or which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle.

P.A. 77–1815, § 6.02, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 506.02.

440/6.03. Spacing

§ 6.03. Spacing.

(a) No sign may be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic within 1000 feet of such sign, signal, device or point of intersecting or merging traffic.

(b) Along interstate highways and expressways no two sign structures on the same side of the highway shall be erected less than 500 feet apart. Along primary highways other than expressways no 2 sign structures on the same side of the highway shall be erected less than 300 feet apart (100 feet inside incorporated municipalities). Except with respect to the repair, rebuilding, or replacement of any sign lawfully erected before January 1, 1993, after the effective date of this amendatory Act of 1992, along primary highways other than expressways, no 2 sign structures on the same side of the highway shall be erected less than 500 feet apart (300 feet inside incorporated municipalities). A sign structure may have one or two facings with a maximum of two signs per facing. Back to back, V-type, and side by side signs shall be treated as single sign structures. Provided, however, that the foregoing spacing between structures requirements shall not apply to structures which are separated or screened by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time.

(c) Outside incorporated municipalities, no sign structure may be erected along an interstate highway or expressway adjacent to, or within 500 feet of an interchange, rest area, or weigh station, such 500 feet to be measured along the main-traveled way from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

P.A. 77–1815, § 6.03, eff. July 1, 1972. Amended by P.A. 87–1205, § 2, eff. July 1, 1993.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 506.03.

440/6.04. Application of size, lighting and spacing provisions

§ 6.04. The size, lighting and spacing provisions of Section 6 shall not be construed to apply to, or to impose additional limitations upon, signs of the types described in Sections 4.01, 4.02 and 4.03, nor shall such signs be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

P.A. 77–1815, § 6.04, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 506.04.

440/7. Zoned commercial and industrial areas; application of size, lighting and spacing provisions

§ 7. In zoned commercial and industrial areas, whenever a State, county or municipal zoning authority has adopted laws or ordinances, which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of this Act and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of Section 6 shall not apply to the erection of signs in such areas.

P.A. 77–1815, § 7, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 507.

440/8. Registration of signs; permits for erection of signs; change of ownership; identification of signs

§ 8. Within 90 days after the effective date of this Act, each sign, except signs described by Sections 4.01, 4.02, and 4.03, must be registered with the Department by the owner of the sign, on forms obtained from the Department. Within 90 days after the effective date of this amendatory Act of 1975, each sign located beyond 660 feet of the right-of-way located outside of urban areas, visible from the main-traveled way of the highway and erected with the purpose of the message being read from such traveled way, must be registered with the Department by the owner of the sign on forms obtained from the Department. The Department shall require reasonable information to be furnished including the name of the owner of the land on which the sign is located and a statement that the owner has consented to the erection or maintenance of the sign. Registration must be made of each sign and shall be accompanied by a registration fee of $5.

No sign, except signs described by Sections 4.01, 4.02, and 4.03, may be erected after the effective date of this Act without first obtaining a permit from the Department. The application for permit shall be on a form provided by the Department and shall contain such information as the Department may reasonably require. Upon receipt of an application containing all required information and appropriately executed and upon payment of the fee required under this Section, the Department then issues a permit to the applicant for the erection of the sign, provided such sign will not violate any provision of this Act. The application fee shall be as follows:

(1) for signs of less than 150 square feet, $50;

(2) for signs of at least 150 but less than 300 square feet, $100; and

(3) for signs of 300 or more square feet, $200.

In determining the appropriateness of issuing a permit for a municipal network sign, the Department shall waive any provision or requirement of this Act or administrative rule adopted under the authority of this Act to the extent that the waiver does not contravene the federal Highway Beautification Act of 1965, 23 U.S.C. 131, and the regulations promulgated under that Act by the Secretary of the United States Department of Transportation. Any municipal network sign applications pending on May 1, 2013 that are not affected by compliance with the federal Highway Beautification Act of 1965 shall be issued within 10 days after the effective date of this amendatory Act of the 98th General Assembly. The determination of the balance of pending municipal network sign applications and issuance of approved permits shall be completed within 30 days after the effective date of this amendatory Act of the 98th General Assembly. To the extent that the Secretary of the United States Department of Transportation or any court finds any permit granted pursuant to such a waiver to be inconsistent with or preempted by the federal Highway Beautification Act of 1965, 23 U.S.C. 131, and the regulations promulgated under that Act, that permit shall be void.

Upon change of sign ownership the new owner of the sign shall notify the Department and supply the necessary information to renew the permit for such sign at no cost within 60 days after the change of ownership. Any permit not so renewed shall become void.

Owners of registered signs shall be issued an identifying tag, which must remain securely affixed to the front face of the sign or sign structure in a conspicuous position by the owner within 60 days after receipt of the tag; owners of signs erected by permit shall be issued an identifying tag which must remain securely affixed to the front face of the sign or sign structure in a conspicuous position by the owner upon completion of the sign erection or within 10 days after receipt of the tag, whichever is the later.

P.A. 77–1815, § 8, eff. July 1, 1972. Amended by P.A. 79–1009, § 1, eff. Oct. 1, 1975; P.A. 87–1205, § 2, eff. July 1, 1993; P.A. 98–56, § 5, eff. July 5, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 508.

440/9. Enforcement of Act; compensation for removal of signs

§ 9. In order to obtain compliance with this Act, the Department may after July 1, 1973 acquire property and other rights by purchase, gift, condemnation or otherwise. Just compensation shall be paid for the removal of signs lawfully erected or lawfully in existence but not permitted to be maintained under this Act. Just compensation shall include payment for the taking from the owner of any sign required to be removed under this Act of all right, title, leasehold and interest in such sign and for the taking from the owner of the real property on which the sign is located of the right to erect and maintain such sign. Nor does anything in this Section require payment of compensation for the right to erect and maintain signs to owners of real property on which no signs are located. Nothing in this Act requires the Department to proceed to acquire property or other rights, including signs, until federal funds to reimburse the State for not less than 75% of the cost of acquisition of property or other rights for which a federal share is payable are appropriated and allocated to the State for that purpose.

P.A. 77–1815, § 9, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 509.

440/9.5. Eminent domain

§ 9.5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

P.A. 77–1815, § 9.5, added by P.A. 94–1055, Art. 95, § 95–5–585, eff. Jan. 1, 2007.

440/10. Unlawful signs as public nuisance

§ 10. The following signs are unlawful and a public nuisance:

(a) Signs erected after the effective date of this Act in violation of this Act;

(b) Signs not registered in accordance with this Act or in accordance with the regulations established by the Department;

(c) Signs without valid permits, as required by this Act or by regulations established by the Department.

Each sign declared by this Section to be unlawful and a public nuisance shall be removed or brought into compliance with this Act by the owner, without compensation, within 30 days after receipt of notice by certified mail from the Department, such notice period to be computed from the date of mailing. If the unlawful sign is affixed to a motor vehicle or a trailer or other vehicle capable of being propelled by a motor vehicle, it shall be removed by the owner, without compensation, within 24 hours after verbal notice by the Department. Any signs not so removed by the owners or any such signs which are removed and re-erected illegally by the owners shall become the property of the State and shall be removed and disposed of by the Department or may be painted over by the Department. The Department is also granted authority to enter upon private property for these purposes. If the name and address of the owner of the sign cannot be ascertained from the records of the Department or from a visual inspection of the sign foregoing notice provisions are not required and the Department shall take immediate action to remove or paint over the sign.

P.A. 77–1815, § 10, eff. July 1, 1972. Amended by P.A. 79–1009, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 510.

440/11. Agreement with Secretary of Transportation

§ 11. The Department, on behalf of the State of Illinois, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended,[1] that this Act is in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the Attorney General of this State shall institute proceedings described in subsection (1) of that Section 131.

P.A. 77–1815, § 11, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 511.

[1] 23 U.S.C.A. § 131.

440/12. Acceptance of federal funds

§ 12. The Department may accept any allotment of funds by the United States, or by any agency thereof, appropriated to carry out the purposes of Section 131 of Title 23, United States Code, as amended [1] from time to time. The Department shall take such steps as may be necessary from time to time to obtain from the United States, the appropriate agency thereof, funds allotted and appropriated under that Section, for the purpose of paying the federal share of the just compensation to be paid to sign owners and owners of real property under the terms of subsection (g) of that Section 131 and under this Act.

P.A. 77–1815, § 12, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 512.

[1] 23 U.S.C.A. § 131.

440/13. Severability of invalid provisions

§ 13. If any provision of this Act or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or application of this Act which can be given effect without the invalid application or provisions, and to this end the provisions of this Act are declared to be severable.

P.A. 77–1815, § 13, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 513.

440/14. Application to state highways

§ 14. Nothing contained in this Act shall change, alter or otherwise affect the power of the Department to provide for the preservation of the natural beauty of areas through which highways are constructed as provided by Section 4–201.15 of the "Illinois Highway Code", approved June 8, 1959, as amended,[1] including, but not limited to, removal of signs under that Code.

P.A. 77–1815, § 14, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 514.

[1] 605 ILCS 5/4–201.15.

440/14.01. Rules and regulations

§ 14.01. The Department may establish rules and regulations regarding implementation and enforcement of this Act, which regulations are not inconsistent with the terms of this Act; provided however, that the Department may not add to, or increase the severity of the regulatory standards set forth in Section 6 of the Act, as now or hereafter amended.

P.A. 77–1815, § 14.01, added by P.A. 79–1009, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 514.01.

440/14.02. Scenic byways; nomination

§ 14.02. Scenic byways; nomination.

(a) The Department shall limit its nominations for national designation of scenic byways to roads or highways that:

(1) possess any of 6 intrinsic qualities as specified by the United States Department of Transportation, including scenic beauty, natural quality, historic quality, cultural quality, archeological quality, or recreational quality;

(2) accommodate 2–wheel drive automobiles and, wherever feasible, bicycle and pedestrian travel;

(3) are the subject of a complete corridor management plan consistent with requirements of the United States Department of Transportation and developed with community involvement, which provides for the conservation and enhancement of the byway's intrinsic qualities as well as promotion of tourism and economic development;

(4) are the subject of written notice of pending nomination given by a unit of local government of appropriate jurisdiction to businesses and property owners to be directly affected by national designation, which notice shall include the opportunity to submit written comments to the local government; and

(5) do not include sections of primary or Interstate highways that, at the time of nomination, traverse business areas, unless the Department determines that any such section possesses one or more intrinsic qualities in such exceptional measure as to merit nomination for national designation.

(b) Before forwarding a nomination to the United States Department of Transportation, the Department may request the appropriate unit of local government to conduct a public hearing if it is determined that sufficient numbers of property owners and businesses may be affected adversely by national designation.

(c) The Department may request the United States Department of Transportation to de-designate all or part of a scenic byway (i) if it is determined that the intrinsic qualities that led to designation no longer exist, (ii) if the approved corridor management plan is not being implemented in accordance with its provisions, or (iii) in the event of termination of the national scenic byways program or the absence of Congressional authorization for funding of that program. Before making such request, the Department or the appropriate unit of local government petitioning for de-designation shall hold a public hearing for the purpose of obtaining public comment on the proposed de-designation.

P.A. 77–1815, § 14.02, added by P.A. 89–605, § 10, eff. Aug. 2, 1996.

440/16. Effective date

§ 16. This Act takes effect July 1, 1972.

P.A. 77–1815, § 16, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 516.

CHAPTER 310

HOUSING

ACT 35. HOUSE RELOCATION ACT

Section

35/0.01. Short title.

35/1. Declaration of necessity.

35/2. Relocation of houses on property condemned for highways; acquisition for real property therefor.

35/2.5. Eminent domain.

35/3. Agreements for work and material.

35/4. Sale of property after relocation.

ACT 40. DISPLACED PERSON RELOCATION ACT

40/0.01. Short title.

40/1. State agency.

40/1a. Displaced person.

40/2. Matching federal funds for direct financial assistance.

40/2a. Matching federal funds for certain expenses.

40/3. Direct financial assistance; limitation of assistance.

40/4. Rules and regulations.

40/5. Review under Administrative Review Law.

ACT 35. HOUSE RELOCATION ACT

35/0.01. Short title

§ 0.01. Short title. This Act may be cited as the House Relocation Act.

Laws 1949, p. 1023, § 0.01, added by P.A. 86–1324, § 521, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 102.9.

35/1. Declaration of necessity

§ 1. It is hereby declared that there exists an acute shortage of housing in the State of Illinois; that this condition requires that provision be made for the relocation of dwellings on real property acquired for highway rights-of-way; that the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Laws 1949, p. 1023, § 1, eff. Aug. 3, 1949.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 103.

35/2. Relocation of houses on property condemned for highways; acquisition for real property therefor

§ 2. Where real property has been acquired for highway purposes by any political subdivision or municipal corporation of the State and is improved with a dwelling or dwellings which otherwise must be removed or demolished in order to construct such highway, any such political subdivision or municipal corporation may acquire other real property by purchase, gift, legacy or pursuant to the provisions for the exercise of the right of eminent domain under the Eminent Domain Act [1] for the purpose of providing a site on which such dwelling or dwellings may be relocated in order that it or they may continue to be used for housing purposes and may cause any such dwelling to be moved to such a site, provide it with a suitable foundation and restore and rehabilitate the dwelling in its entirety.

Laws 1949, p. 1023, § 2, eff. Aug. 3, 1949. Amended by P.A. 82–783, Art. XI, § 114, eff. July 13, 1982; P.A. 83–388, § 41, eff. Sept. 16, 1983; P.A. 94–1055, Art. 95, § 95–10–335, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 104.

[1] 735 ILCS 30/1–1–1 et seq.

35/2.5. Eminent domain

§ 2.5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1949, p. 1023, § 2.5, added by P.A. 94–1055, Art. 95, § 95–5–620, eff. Jan. 1, 2007.

35/3. Agreements for work and material

§ 3. Notwithstanding any provision of this statute or of any other statute, general or special, any political subdivision or municipal corporation of the State, in order to effect the purposes of this statute, may enter into an agreement or agreements for the work and materials necessary therefor with the State, with any other political subdivision or municipal corporation thereof, with any private person, firm or corporation or with any public utility.

Laws 1949, p. 1023, § 3, eff. Aug. 3, 1949.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 105.

35/4. Sale of property after relocation

§ 4. After the relocation or relocation and rehabilitation of any such dwelling, such political subdivision or municipal corporation so relocating the dwelling thereafter by action of its corporate authorities may sell such dwelling and the real property on which it is located in the manner provided by law.

Laws 1949, p. 1023, § 4, eff. Aug. 3, 1949.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 106.

ACT 40. DISPLACED PERSON RELOCATION ACT

40/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Displaced Person Relocation Act.

P.A. 77–1571, § 0.01, added by P.A. 86–1324, § 522, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.

40/1. State agency

§ 1. "State agency" means any department, agency or instrumentality of the State of Illinois or unit of local government or school district, or any department, agency or instrumentality of the State of Illinois and one or more other states or two or more units of local government or school districts of the State of Illinois and one or more other states, or any person who has the authority to acquire property by eminent domain under State Law.

P.A. 77–1571, § 1, eff. Sept. 17, 1971. Amended by P.A. 85–1407, § 1, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.1.

40/1a. Displaced person

§ 1a. "Displaced person" shall have the same meaning as provided in Section 101 of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.[1]

P.A. 77–1571, § 1a, added by P.A. 77–1977, § 1, eff. July 7, 1972. Amended by P.A. 85–1407, § 1, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.1a.

[1] 42 U.S.C.A. § 4601.

40/2. Matching federal funds for direct financial assistance

§ 2. When Federal funds are available for payment of direct financial assistance to persons displaced by acquisition of real property by a State agency, the displacing agency may match such Federal funds to the extent provided by Federal law and may provide such direct financial assistance in the instances and on the conditions set forth by Federal law and regulations.

P.A. 77–1571, § 2, eff. Sept. 17, 1971.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.2.

40/2a. Matching federal funds for certain expenses

§ 2a. When Federal funds are available for payment of the items specified in this Section, the displacing agency may match such Federal funds to the extent provided by Federal law and may make such payments in the instances and on the conditions set forth by Federal law and regulations.

When such Federal funds are available and as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, the State agency shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes and similar expenses incidental to conveying such real property to the State agency;

(2) penalty costs for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the State agency, or the effective date of possession of such real property by the State agency, whichever is the earlier.

P.A. 77–1571, § 2a, added by P.A. 77–1977, § 1, eff. July 7, 1972.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.2a.

40/3. Direct financial assistance; limitation of assistance

§ 3. When Federal funds are not available or used for payment of direct financial assistance to persons displaced by the acquisition of real property by the State agency, the displacing agency may provide direct financial assistance to such persons. Financial assistance authorized by this section shall not exceed the total amount that would have been payable under Section 2 of this Act if Federal funds had been available or used.

P.A. 77–1571, § 3, eff. Sept. 17, 1971.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.3.

40/4. Rules and regulations

§ 4. (a) The State agency shall adopt such rules and regulations as may be necessary to assure:

(1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this Act shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this Act, or the amount of a payment, may have his application reviewed by the State agency.

(b) The State agency may prescribe such other regulations and procedures, consistent with the provisions of this Act, as is deemed necessary or appropriate to carry out the provisions of this Act.

P.A. 77–1571, § 4, eff. Sept. 17, 1971.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.4.

40/5. Review under Administrative Review Law

§ 5. The provisions of the Administrative Review Law[1] and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of the final administrative decision of the State agency hereunder. The term "administrative decision" is defined as in Section 3–101 of the Code of Civil Procedure.[2]

P.A. 77–1571, § 5, eff. Sept. 17, 1971. Amended by P.A. 82–783, Art. XI, § 115, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 67 ½, ¶ 107.5.

[1] 735 ILCS 5/3–101 et seq.

[2] 735 ILCS 5/3–101.

CHAPTER 415

ENVIRONMENTAL SAFETY

ACT 5. ENVIRONMENTAL PROTECTION ACT

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ACT 5. ENVIRONMENTAL PROTECTION ACT

TITLE I: GENERAL PROVISIONS

5/3.78. § 3.78. Renumbered as § 3.160 by P.A. 92–574, § 5, eff. June 26, 2002

5/3.78a. § 3.78a. Renumbered as § 3.160 by P.A. 92–574, § 5, eff. June 26, 2002

5/3.160. Construction or demolition debris

§ 3.160. Construction or demolition debris.

(a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non–asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

To the extent allowed by federal law, uncontaminated concrete with protruding rebar shall be considered clean construction or demolition debris and shall not be considered "waste" if it is separated or processed and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) in subsection (b) of this Section.

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed or other asphalt pavement, or soil generated from construction or demolition activities.

Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any clean construction or demolition debris or other waste.

To the extent allowed by federal law, clean construction or demolition debris shall not be considered "waste" if it is (i) used as fill material outside of a setback zone if the fill is placed no higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area, and if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or structure, and, if used as fill material in a current or former quarry, mine, or other excavation, is used in accordance with the requirements of Section 22.51 of this Act and the rules adopted thereunder or (ii) separated or processed and returned to the economic mainstream in the form of raw materials or products, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i), or (iii) solely broken concrete without protruding metal bars used for erosion control, or (iv) generated from the construction or demolition of a building, road, or other structure and used to construct, on

the site where the construction or demolition has taken place, a manmade functional structure not to exceed 20 feet above the highest point of elevation of the property immediately adjacent to the new manmade functional structure as that elevation existed prior to the creation of that new structure, provided that the structure shall be covered with sufficient soil materials to sustain vegetation or by a road or structure, and further provided that no such structure shall be constructed within a home rule municipality with a population over 500,000 without the consent of the municipality.

For purposes of this subsection (b), reclaimed or other asphalt pavement shall not be considered speculatively accumulated if: (i) it is not commingled with any other clean construction or demolition debris or any waste; (ii) it is returned to the economic mainstream in the form of raw materials or products within 4 years after its generation; (iii) at least 25% of the total amount present at a site during a calendar year is transported off of the site during the next calendar year; and (iv) if used as a fill material, it is used in accordance with item (i) of the second paragraph of this subsection (b).

(c) For purposes of this Section, the term "uncontaminated soil" means soil that does not contain contaminants in concentrations that pose a threat to human health and safety and the environment.

(1) No later than one year after the effective date of this amendatory Act of the 96th General Assembly, the Agency shall propose, and, no later than one year after receipt of the Agency's proposal, the Board shall adopt, rules specifying the maximum concentrations of contaminants that may be present in uncontaminated soil for purposes of this Section. For carcinogens, the maximum concentrations shall not allow exposure to exceed an excess upper-bound lifetime risk of 1 in 1,000,000; provided that if the most stringent remediation objective or applicable background concentration for a contaminant set forth in 35 Ill. Adm. Code 742 is greater than the concentration that would allow exposure at an excess upper-bound lifetime risk of 1 in 1,000,000, the Board may consider allowing that contaminant in concentrations up to its most stringent remediation objective or applicable background concentration set forth in 35 Ill. Adm. Code 742 in soil used as fill material in a current or former quarry, mine, or other excavation in accordance with Section 22.51 or 22.51a of this Act and rules adopted under those Sections. Any background concentration set forth in 35 Ill. Adm. Code 742 that is adopted as a maximum concentration must be based upon the location of the quarry, mine, or other excavation where the soil is used as fill material.

(2) To the extent allowed under federal law and regulations, uncontaminated soil shall not be considered a waste.

P.A. 76–2429, § 3.76, added by P.A. 86–633, § 1, eff. Sept. 1, 1989. Renumbered § 3.78 and amended by P.A. 86–1028, Art. II, § 2–61, eff. Feb. 5, 1990. Amended by P.A. 87–1171, § 1, eff. Sept. 18, 1992; P.A. 90–475, § 5, eff. Aug. 17, 1997; P.A. 90–761, § 10, eff. Aug. 14, 1998. Renumbered § 3.160 and amended by P.A. 92–574, § 5, eff. June 26, 2002. Amended by P.A. 93–179, § 5, eff. July 11, 2003; P.A. 94–272, § 10, eff. July 19, 2005; P.A. 95–121, § 5, eff. Aug. 13, 2007; P.A. 96–235, § 5, eff. Aug. 11, 2009; P.A. 96–1416, § 5, eff. July 30, 2010; P.A. 97–137, § 5, eff. July 14, 2011. **Formerly** Ill.Rev.Stat.1991, ch. 111½, ¶ 1003.78.

TITLE II: AIR POLLUTION

5/8. Legislative declaration

§ 8. The General Assembly finds that pollution of the air of this State constitutes a menace to public health and welfare, creates public nuisances, adds to cleaning costs, accelerates the deterioration of materials, adversely affects agriculture, business, industry, recreation, climate, and visibility, depresses property values, and offends the senses.

It is the purpose of this Title to restore, maintain, and enhance the purity of the air of this State in order to protect health, welfare, property, and the quality of life and to assure that no air contaminants are discharged into the atmosphere without being given the degree of treatment or control necessary to prevent pollution.

P.A. 76–2429, § 8, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1008.

5/9. Acts prohibited

§ 9. Acts prohibited. No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

(c) Cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act; except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning.

(d) Sell, offer, or use any fuel or other article in any areas in which the Board may by regulation forbid its sale, offer, or use for reasons of air-pollution control.

(e) Use, cause or allow the spraying of loose asbestos for the purpose of fireproofing or insulating any building or building material or other constructions, or otherwise use asbestos in such unconfined manner as to permit asbestos fibers or particles to pollute the air.

(f) Commencing July 1, 1985, sell any used oil for burning or incineration in any incinerator, boiler, furnace, burner or other equipment unless such oil meets standards based on virgin fuel oil or re-refined oil, as defined in ASTM D–396 or specifications under VV–F–815C promulgated pursuant to the federal Energy Policy and Conservation Act, [1] and meets the manufacturer's and current NFDA code standards for which such incinerator, boiler, furnace, burner or other equipment was approved, except that this prohibition does not apply to a sale to a permitted used oil re-refining or reprocessing facility or sale to a facility permitted by the Agency to burn or incinerate such oil.

Nothing herein shall limit the effect of any section of this Title with respect to any form of asbestos, or the spraying of any form of asbestos, or limit the power of the Board under this Title to adopt additional and further regulations with respect to any form of asbestos, or the spraying of any form of asbestos.

This Section shall not limit the burning of landscape waste upon the premises where it is produced or at sites provided and supervised by any unit of local government, except within any county having a population of more than 400,000. Nothing in this Section shall prohibit the burning of landscape waste for agricultural purposes, habitat management (including but not limited to forest and prairie reclamation), or firefighter training. For the purposes of this Act, the burning of landscape waste by production nurseries shall be considered to be burning for agricultural purposes.

Any grain elevator located outside of a major population area, as defined in Section 211.3610 of Title 35 of the Illinois Administrative Code, shall be exempt from the requirements of Section 212.462 of Title 35 of the Illinois Administrative Code provided that the elevator: (1) does not violate the prohibitions of subsection (a) of this Section or have a certified investigation, as defined in Section 211.970 of Title 35 of the Illinois Administrative Code, on file with the Agency and (2) is not required to obtain a Clean Air Act Permit Program permit pursuant to Section 39.5. Notwithstanding the above exemption, new stationary source performance standards for grain elevators, established pursuant to Section 9. 1 of this Act and Section 111 of the federal Clean Air Act, [2] shall continue to apply to grain elevators.

P.A. 76–2429, § 9, eff. July 1, 1970. Amended by P.A. 77–1684, § 1, eff. July 1, 1972; P.A. 82–678, § 1, eff. Jan. 1, 1982; P.A. 83–691, § 1, eff. Jan. 1, 1984; P.A. 84–705, § 1, eff. Jan. 1, 1986; P.A. 88–488, § 10, eff. Sept. 10, 1993; P.A. 89–328, § 5, eff. Aug. 17, 1995; P.A. 89–491, § 5, eff. June 21, 1996; P.A. 97–95, § 20, eff. July 12, 2011.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.

[1] 42 U.S.C.A. § 6201 et seq.

[2] 42 U.S.C.A. § 7411.

5/9.1. State and federal cooperation; regulations; permit

§ 9.1. (a) The General Assembly finds that the federal Clean Air Act, as amended, [1] and regulations adopted pursuant thereto establish complex and detailed provisions for State-federal cooperation in the field of air pollution control, provide for a Prevention of Significant Deterioration program to regulate the issuance of preconstruction permits to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and also provide for plan requirements for nonattainment areas to regulate the construction, modification and operation of sources of air pollution to insure that economic growth will occur in a manner consistent with the goal of achieving the national ambient air quality standards, and that the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

It is the purpose of this Section to avoid the existence of duplicative, overlapping or conflicting State and federal regulatory systems.

(b) The provisions of Section 111 of the federal Clean Air Act (42 USC 7411), as amended, relating to standards of performance for new stationary sources, and Section 112 of the federal Clean Air Act (42 USC 7412), as amended, relating to the establishment of national emission standards for hazardous air pollutants are applicable in this State and are enforceable under this Act. Any such enforcement shall be stayed consistent with any stay granted in any federal judicial action to review such standards. Enforcement shall be consistent with the results of any such judicial review.

(c) The Board may adopt regulations establishing permit programs meeting the requirements of Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The Agency may adopt procedures for the administration of such programs.

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, [2] or federal regulations adopted pursuant thereto; or

(2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken (A) without a permit granted by the Agency whenever a permit is required pursuant to (i) this Act or Board regulations or (ii) Section 111, 112, 165, or 173 of the Clean Air Act or federal regulations adopted pursuant thereto or (B) in violation of any conditions imposed by such permit. Any denial of such a permit or any conditions imposed in such a permit shall be reviewable by the Board in accordance with Section 40 of this Act.

(e) The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S. Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity. In accordance with subsection (b) of Section 7.2, the Board shall adopt regulations identical in substance to the U.S. Environmental Protection Agency exemptions or deletion of exemptions published in policy statements on the control of volatile organic compounds in the Federal Register by amending the list of exemptions to the Board's definition of volatile organic material found at 35 Ill. Adm. Code Part 211. The provisions and requirements of Title VII of this Act [3] shall not apply to regulations adopted under this subsection. Section 5–35 of the Illinois Administrative Procedure Act, [4] relating to procedures for rulemaking, does not apply to regulations adopted under this subsection. However, the Board shall provide for notice, a hearing if required by the U.S. Environmental Protection Agency, and public comment before adopted rules are filed with the Secretary of State. The Board may consolidate into a single rulemaking under this subsection all such federal policy statements published in the Federal Register within a period of time not to exceed 6 months.

(f) (Blank).

P.A. 76–2429, § 9.1, added by P.A. 80–1299, § 1, eff. Aug. 2, 1978. Amended by P.A. 81–1444, § 2, eff. Sept. 4, 1980; P.A. 85–719, § 1, eff. Jan. 1, 1988; P.A. 86–366, § 1, eff. Jan. 1, 1990; P.A. 87–555, § 1, eff. Sept. 17, 1991; P.A. 87–1213, § 50, eff. Sept. 26, 1992; P.A. 88–45, Art. III, § 3–108, eff. July 6, 1993; P.A. 97–95, § 20, eff. July 12, 2011; P.A. 98–284, § 5, eff. Aug. 9, 2013.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.1.

[1] 42 U.S.C.A. § 7401 et seq.

[2] 42 U.S.C.A. §§ 7411, 7412, 7475 or 7503.

[3] 415 ILCS 5/26 et seq.

[4] 5 ILCS 100/5–35.

5/9.2. Sulfur dioxide emission standards

§ 9.2. Sulfur dioxide emission standards.

(a) (Blank.)

(b) In granting any alternative emission standard or variance relating to sulfur dioxide emissions from a coal-burning stationary source, the Board may require the use of Illinois coal as a condition of such alternative standard or variance, provided that the Board determines that Illinois coal of the proper quality is available and competitive in price; such determination shall include consideration of the cost of pollution control equipment and the economic impact on the Illinois coal mining industry.

P.A. 76–2429, § 9.2, added by P.A. 81–1023, § 1, eff. Sept. 24, 1979. Amended by P.A. 81–1370, § 1, eff. Aug. 8, 1980; P.A. 81–1371, § 1, eff. Aug. 8, 1980; P.A. 81–1372, § 1, eff. Aug. 8, 1980; P.A. 84–585, § 1, eff. Jan. 1, 1986; P.A. 92–574, § 5, eff. June 26, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.2.

5/9.3. Alternative control strategies

§ 9.3. Alternative control strategies.

(a) The General Assembly finds that control strategies, including emission limitations, alternative but environmentally equivalent to those required by Board regulations or the terms of this Act, can assure equivalent protection of the environment and that the use of such alternative control strategies can encourage technological innovation, reduce the likelihood of shutdown of older sources, and can result in decreased costs of compliance and increased availability of resources for use in productive capital investments.

(b) (Blank.)

(c) On or before December 31, 1982, the Board shall adopt regulations establishing a permit program pursuant to Section 39.1 in accordance with Title VII of this Act.[1]

(d) Board rules pursuant to this Section 9.3 shall set forth reasonable requirements for issuance of an alternative control strategy permit, provided that the Board may not impose any condition or requirement more stringent than required by the Clean Air Act [2] or for compliance with this Act or other Board regulations thereunder. The Agency shall promptly adopt any necessary procedures for the administration of such permit programs. The burden of establishing that any procedure, condition or requirement imposed by the Agency in or for the issuance of a permit is more stringent than required by applicable law shall be upon the permit applicant.

P.A. 76–2429, § 9.3, added by P.A. 82–540, § 1, eff. Sept. 16, 1981. Amended by P.A. 88–45, Art. III, § 3–108, eff. July 6, 1993; P.A. 92–574, § 5, eff. June 26, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.3.

[1] 415 ILCS 5/26 et seq.

[2] 42 U.S.C.A. § 7401 et seq.

5/9.4. Municipal waste incineration emission standards.

§ 9.4. Municipal waste incineration emission standards.

(a) The General Assembly finds:

(1) That air pollution from municipal waste incineration may constitute a threat to public health, welfare and the environment. The amounts and kinds of pollutants depend on the nature of the waste stream, operating conditions of the incinerator, and the effectiveness of emission controls. Under normal operating conditions, municipal waste incinerators produce pollutants such as organic compounds, metallic compounds and acid gases which may be a threat to public health, welfare and the environment.

(2) That a combustion and flue-gas control system, which is properly designed, operated and maintained, can substantially reduce the emissions of organic materials, metallic compounds and acid gases from municipal waste incineration.

(b) It is the purpose of this Section to insure that emissions from new municipal waste incineration facilities which burn a total of 25 tons or more of municipal waste per day are adequately controlled.

Such facilities shall be subject to emissions limits and operating standards based upon the application of Best Available Control Technology, as determined by the Agency, for emissions of the following categories of pollutants:

(1) particulate matter, sulfur dioxide and nitrogen oxides;

(2) acid gases;

(3) heavy metals; and

(4) organic materials.

(c) The Agency shall issue permits, pursuant to Section 39, to new municipal waste incineration facilities only if the Agency finds that such facilities are designed, constructed and operated so as to comply with the requirements prescribed by this Section.

Prior to adoption of Board regulations under subsection (d) of this Section the Agency may issue permits for the construction of new municipal waste incineration facilities. The Agency determination of Best Available Control Technology shall be based upon consideration of the specific pollutants named in subsection (d), and emissions of particulate matter, sulfur dioxide and nitrogen oxides.

Nothing in this Section shall limit the applicability of any other Sections of this Act, or of other standards or regulations adopted by the Board, to municipal waste incineration facilities. In issuing such permits, the Agency may prescribe those conditions necessary to assure continuing compliance with the emission limits and operating standards determined pursuant to subsection (b); such conditions may include the monitoring and reporting of emissions.

(d) Within one year after July 1, 1986, the Board shall adopt regulations pursuant to Title VII of this Act,[1] which define the terms in items (2), (3) and (4) of subsection (b) of this Section which are to be used by the Agency in making its determination pursuant to this Section. The provisions of Section 27(b) of this Act shall not apply to this rulemaking.

Such regulations shall be written so that the categories of pollutants include, but need not be limited to, the following specific pollutants:

(1) hydrogen chloride in the definition of acid gases;

(2) arsenic, cadmium, mercury, chromium, nickel and lead in the definition of heavy metals; and

(3) polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and polynuclear aromatic hydrocarbons in the definition of organic materials.

(e) For the purposes of this Section, the term "Best Available Control Technology" means an emission limitation (including a visible emission standard) based on the maximum degree of pollutant reduction which the Agency, on a case-by-case basis, taking into account energy, environmental and economic impacts, determines is achievable through the application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques. If the Agency determines that technological or economic limitations on the application of measurement methodology to a particular class

of sources would make the imposition of an emission standard not feasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results.

(f) "Municipal waste incineration" means the burning of municipal waste or fuel derived therefrom in a combustion apparatus designed to burn municipal waste that may produce electricity or steam as a by-product. A "new municipal waste incinerator" is an incinerator initially permitted for development or construction after January 1, 1986.

(g) The provisions of this Section shall not apply to industrial incineration facilities that burn waste generated at the same site.

P.A. 74–2429, § 9.4, added by P.A. 84–957, § 1, eff. July 1, 1986. Amended by P.A. 91–357, § 199, eff. July 29, 1999; P.A. 92–574, § 5, eff. June 26, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.4.

[1] 415 ILCS 5/26 et seq.

5/9.5. Legislative findings; toxic air contaminants; regulations

§ 9.5. (a) The General Assembly finds that:

(1) The public health and welfare may be endangered by the release of toxic contaminants into the air which are carcinogenic, teratogenic, mutagenic or otherwise injurious to humans or the environment.

(2) Existing federal programs may not be adequate to protect the public and the environment from low-level, chronic exposure to toxic air contaminants.

(b) It is the purpose of this Section to establish a State program to identify and adopt regulations for toxic air contaminants in Illinois.

(c) The Board, pursuant to Title VII,[1] shall promulgate a list of toxic air contaminants. The list published under this subsection shall include any air contaminant which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a significant threat to human health or the environment. The Agency shall propose to the Board for adoption a list which meets the requirement of this subsection.

The provisions of subsection (b) of Section 27 of this Act shall not apply to rulemakings under this subsection (c).

(d) The Board, pursuant to Title VII, shall adopt regulations establishing a program to control toxic contaminants released into the air in a manner that protects the public health and the environment. The Agency shall propose regulations to the Board for adoption which meet the requirements of this subsection.

(e) The requirements of this Section shall not apply to the following:

(1) retail dry cleaning operations;

(2) retail and noncommercial storage and handling of motor fuels;

(3) combustion processes using only commercial fuel, including internal combustion engines;

(4) incidental or minor sources including laboratory-scale operations, and such other sources or categories of sources which are determined by the Board to be of minor significance.

P.A. 76–2429, § 9.5, added by P.A. 85–752, § 1, eff. Jan. 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.5.

[1] 415 ILCS 5/26 et seq.

5/9.6. Air pollution operating permit fee

§ 9.6. Air pollution operating permit fee.

(a) For any site for which an air pollution operating permit is required, other than a site permitted solely as a retail liquid dispensing facility that has air pollution control equipment or an agrichemical facility with an endorsed permit pursuant to Section 39.4, the owner or operator of that site shall pay an initial annual fee to the Agency within 30 days of receipt of the permit and an annual fee each year thereafter for as long as a permit is in effect. The owner or operator of a portable emission unit, as defined in 35 Ill. Adm. Code 201.170, may change the site of any unit previously permitted without paying an additional fee under this Section for each site change, provided that no further change to the permit is otherwise necessary or requested.

(b) The following fee amounts shall apply:

(1) The fee for a site permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, except greenhouse gases, is $200 per year beginning July 1, 2003, and increases, beginning January 1, 2012, to $235 per year for lifetime operating permits and $235 per year for federally enforceable state operating permits, except as provided in subsection (c) of this Section.

(2) The fee for a site permitted to emit at least 25 tons per year but less than 100 tons per year of any combination of regulated air pollutants, as defined in Section 39.5. of this Act, except greenhouse gases, is $1,800 per year beginning July 1, 2003, and increases, beginning January 1, 2012, to $2,150 per year, except as provided in subsection (c) of this Section.

(3) The fee for a site permitted to emit at least 100 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, except greenhouse gases, is $18 per ton, per year, beginning July 1, 2003, and increases, beginning January 1, 2012 to $21.50 per ton, per year, except as provided in subsection (c) of this Section. However, the maximum fee under this paragraph (3) is $3,500 before January 1, 2012, and is $4,112 beginning January 1, 2012.

(c) The owner or operator of any site subject to subsection (b) of this Section that becomes subject to Section 39.5 of this Act shall continue to pay the fee set forth in this Section until the site becomes subject to the CAAPP fee set forth within subsection 18 of Section 39.5 of this Act. If an owner or operator has paid a fee under this Section during the 12–month period following the effective date of the CAAPP for that site, the amount of that fee shall be deducted from the amount due under subsection 18 of Section 39.5 of this Act.

(d) Only one air pollution site fee may be collected from any site, even if such site receives more than one air pollution control permit.

(e) The Agency shall establish procedures for the collection of air pollution site fees. Air pollution site fees may be paid annually, or in advance for the number of years for which the permit is issued, at the option of the owner or operator. Payment in advance does not exempt the owner or operator from paying any increase in the fee that may occur

during the term of the permit; the owner or operator must pay the amount of the increase upon and from the effective date of the increase.

(f) The Agency may deny an application for the issuance, transfer, or renewal of an air pollution operating permit if any air pollution site fee owed by the applicant has not been paid within 60 days of the due date, unless the applicant, at the time of application, pays to the Agency in advance the air pollution site fee for the site that is the subject of the operating permit, plus any other air pollution site fees then owed by the applicant. The denial of an air pollution operating permit for failure to pay an air pollution site fee shall be subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

(g) If the Agency determines that an owner or operator of a site was required, but failed, to timely obtain an air pollution operating permit, and as a result avoided the payment of permit fees, the Agency may collect the avoided permit fees with or without pursuing enforcement under Section 31 of this Act. The avoided permit fees shall be calculated as double the amount that would have been owed had a permit been timely obtained. Fees collected pursuant to this subsection (g) shall be deposited into the Environmental Protection Permit and Inspection Fund.

(h) If the Agency determines that an owner or operator of a site was required, but failed, to timely obtain an air pollution operating permit and as a result avoided the payment of permit fees, an enforcement action may be brought under Section 31 of this Act. In addition to any other relief that may be obtained as part of this action, the Agency may seek to recover the avoided permit fees. The avoided permit fees shall be calculated as double the amount that would have been owed had a permit been timely obtained. Fees collected pursuant to this subsection (h) shall be deposited into the Environmental Protection Permit and Inspection Fund.

(i) If a permittee subject to a fee under this Section fails to pay the fee within 90 days of its due date, or makes the fee payment from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution operating permit. Failure of the Agency to notify the permittee of failure to pay a fee due under this Section, or the payment of the fee from an account with insufficient funds to cover the amount of the fee payment, does not excuse or alter the duty of the permittee to comply with the provisions of this Section.

P.A. 76–2429, § 9.6, added by P.A. 85–1343, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–671, § 1, eff. Sept. 1, 1989; P.A. 86–1409, § 1, eff. Jan. 1, 1991; P.A. 88–496, § 15, eff. Sept. 13, 1993; P.A. 88–690, § 10, eff. Jan. 24, 1995; P.A. 90–367, § 5, eff. Aug. 10, 1997; P.A. 93–32, Art. 75, § 75–52, eff. July 1, 2003; P.A. 97–95, § 20, eff. July 12, 2011.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.6.

5/9.7. CFC's

§ 9.7. CFC's. The General Assembly hereby finds that the manufacture and use of chlorofluorocarbons (CFCs) present a serious threat to the environment, and declares it to be the public policy of this State to discourage the unnecessary use of CFCs, to encourage producers of CFCs to replace them with alternative substances that have a less deleterious impact on the environment, and to promote the use of equipment to recover and recycle existing CFCs.

P.A. 76–2429, § 9.7, added by P.A. 86–756, § 1, eff. Jan. 1, 1990. Amended by P.A. 90–372, Art. 5, § 5–373, eff. July 1, 1998.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1009.7.

5/9.8. Emissions reductions market system

§ 9.8. Emissions reductions market system.

(a) The General Assembly finds:

(1) That achieving compliance with the ozone attainment provisions of federal Clean Air Act Amendments (CAAA) of 1990 [1] calls for innovative and cost-effective implementation strategies.

(2) That economic incentives and market-based approaches can be used to achieve clean air compliance in an innovative and cost-effective manner.

(3) That development and operation of an emissions market system should significantly lessen the economic impacts associated with implementation of the federal Clean Air Act Amendments of 1990 and still achieve the desired air quality for the area.

(b) The Agency shall design an emissions market system that will assist the State in meeting applicable post–1996 provisions under the CAAA of 1990, provide maximum flexibility for designated sources that reduce emissions, and that takes into account the findings of the national ozone transport assessment, existing air quality conditions, and resultant emissions levels necessary to achieve or maintain attainment.

(c) The Agency may develop proposed rules for a market-based emissions reduction, banking, and trading system that will enable stationary sources to implement cost-effective, compliance options. In developing such a market system, the Agency may take into consideration a suitable ozone control season and related reconciliation period, seasonal allotments of actual emissions and adjustments thereto, phased participation by size of source, suitable emissions and compliance monitoring provisions, an annual allotment set-aside for market assurance, and suitable means for the market system to be provided for in an appropriate State implementation plan. The proposal shall be filed with the Board and shall be subject to the rulemaking provisions of Sections 27 and 28 of this Act. The rules adopted by the Board shall include provisions that:

(1) Assure that compliance with the required emissions reductions under the market system shall be, at a minimum, as cost-effective as the traditional regulatory control requirements in the State of Illinois.

(2) Assure that emissions reductions under the market system will not be mandated unless it is necessary for the attainment and maintenance of the National Ambient Air Quality Standard for ozone in the Chicago nonattainment area, as required of this State by applicable federal law or regulation.

(3) Assure that sources subject to the program will not be required to reduce emissions to an extent that exceeds their proportionate share of the total emission reductions required of all emission sources, including mobile and area sources, to attain and maintain the National Ambient Air Quality Standard for ozone in the Chicago nonattainment area.

(4) Assure that credit is given or exclusion is granted for those emission units which have reduced emissions, either voluntarily or through the application of maximum available control technology or national emissions stan-

dards for hazardous air pollutants, such that those reductions would be counted as if they had occurred after the initiation of the program.

(5) Assure that unusual or abnormal operational patterns can be accounted for in the determination of any source's baseline from which reductions would be made.

(6) Assure that relative economic impact and technical feasibility of emissions reductions under the banking and trading program, as compared to other alternatives, is considered.

(7) Assure that the feasibility of measuring and quantifying emissions is considered in developing and adopting the banking and trading program.

(d) Notwithstanding the other provisions of this Act, any source or other authorized person that participates in an emissions market system shall be eligible to exchange allotment trading units with other sources provided that established rules are followed.

(e) There is hereby created within the State Treasury an interest-bearing special fund to be known as the Alternative Compliance Market Account Fund, which shall be used and administered by the Agency for the following public purposes:

(1) To accept and retain funds from persons who purchase allotment trading units from the Agency pursuant to regulatory provisions and payments of interest and principal.

(2) To purchase services, equipment, or commodities that help generate emissions reductions in or around the ozone nonattainment area in Northeastern Illinois.

P.A. 76–2429, § 9.8, added by P.A. 89–173, § 5, eff. July 19, 1995. Amended by P.A. 89–465, § 10, eff. June 13, 1996.

[1] 42 U.S.C.A. § 7505a et seq.

5/9.9. Nitrogen oxides trading system

§ 9.9. Nitrogen oxides trading system.

(a) The General Assembly finds:

(1) That USEPA has issued a Final Rule published in the Federal Register on October 27, 1998, entitled "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone", hereinafter referred to as the "NOx SIP Call", compliance with which will require reducing emissions of nitrogen oxides("NOx");

(2) That reducing emissions of NOx in the State helps the State to meet the national ambient air quality standard for ozone;

(3) That emissions trading is a cost-effective means of obtaining reductions of NOx emissions.

(b) The Agency shall propose and the Board shall adopt regulations to implement an interstate NOx trading program (hereinafter referred to as the "NOx Trading Program") as provided for in 40 CFR Part 96, including incorporation by reference of appropriate provisions of 40 CFR Part 96 and regulations to address 40 CFR Section 96.4(b), Section 96.55(c), Subpart E, and Subpart I. In addition, the Agency shall propose and the Board shall adopt regulations to implement NOx emission reduction programs for cement kilns and stationary internal combustion engines.

(c) Allocations of NOx allowances to large electric generating units ("EGUs") and large non-electric generating units ("non–EGUs"), as defined by 40 CFR Part 96.4(a), shall not exceed the State's trading budget for those source categories to be included in the State Implementation Plan for NOx.

(d) In adopting regulations to implement the NOx Trading Program, the Board shall:

(1) assure that the economic impact and technical feasibility of NOx emissions reductions under the NOx Trading Program are considered relative to the traditional regulatory control requirements in the State for EGUs and non–EGUs;

(2) provide that emission units, as defined in Section 39.5(1) of this Act, may opt into the NOx Trading Program;

(3) provide for voluntary reductions of NOx emissions from emission units, as defined in Section 39.5(1) of this Act, not otherwise included under paragraph (c) or (d)(2) of this Section to provide additional allowances to EGUs and non–EGUs to be allocated by the Agency. The regulations shall further provide that such voluntary reductions are verifiable, quantifiable, permanent, and federally enforceable;

(4) provide that the Agency allocate to non–EGUs allowances that are designated in the rule, unless the Agency has been directed to transfer the allocations to another unit subject to the requirements of the NOx Trading Program, and that upon shutdown of a non–EGU, the unit may transfer or sell the NOx allowances that are allocated to such unit;

(5) provide that the Agency shall set aside annually a number of allowances, not to exceed 5% of the total EGU trading budget, to be made available to new EGUs; and

(6) provide that those EGUs that commence commercial operation, as defined in 40 CFR Section 96.2, at a time that is more than half way through the control period in 2003 shall return to the Agency any allowances that were issued to it by the Agency and were not used for compliance in 2004.

(d–5) The Agency may sell NOx allowances to sources in Illinois that are subject to 35 Ill. Adm. Code 217, either Subpart U or W, as follows:

(1) any unearned Early Reduction Credits set aside for non–EGUs under 35 Ill. Adm. Code 217, Subpart U, but only to those sources that make qualifying early reductions of NOx in 2003 pursuant to 35 Ill. Adm. Code 217 for which the source did not receive an allocation thereunder. If the Agency receives requests to purchase more ERCs than are available for sale, allowances shall be offered for sale to qualifying sources on a pro-rata basis;

(2) any remaining Early Reduction Credits allocated under 35 Ill. Adm. Code 217, Subpart U or W, that could not be allocated on a pro-rata, whole allowance basis, but only to those sources that made qualifying early reductions of NOx in 2003 pursuant to 35 Ill. Adm. Code 217 for which the source did not receive an allocation;

(3) any allowances under 35 Ill. Adm. Code 217, Subpart W, that remain after each 3–year allocation period that could not be allocated on a pro-rata, whole allowance basis pursuant to the provisions of Subpart W; and

(4) any allowances requested from the New Source Set Aside for those sources that commenced operation, as defined in 40 CFR Section 96.2, on or after January 1,2004.

(d–10) The selling price for ERC allowances shall be 70% of the market price index for 2005 NOx allowances, determined by the Agency as follows:

(1) using the mean of 2 or more published market price indexes for the 2005 NOx allowances as of October 6, 2003; or

(2) if there are not 2 published market price indexes for 2005 NOx allowances as of October 6, 2003, the Agency may use any reasonable indication of market price.

(e) The Agency may adopt procedural rules, as necessary, to implement the regulations promulgated by the Board pursuant to subsections (b) and (d) and to implement subsections (d–5), (d–10), (i), and (j) of this Section.

(f) Notwithstanding any provisions in subparts T, U, and W of Section 217 of Title 35 of the Illinois Administrative Code to the contrary, compliance with the regulations promulgated by the Board pursuant to subsections (b) and (d) of this Section is required by May 31, 2004.

(g) To the extent that a court of competent jurisdiction finds a provision of 40 CFR Part 96 invalid, the corresponding Illinois provision shall be stayed until such provision of 40 CFR Part 96 is found to be valid or is re-promulgated. To the extent that USEPA or any court of competent jurisdiction stays the applicability of any provision of the NOx SIP Call to any person or circumstance relating to Illinois, during the period of that stay, the effectiveness of the corresponding Illinois provision shall be stayed. To the extent that the invalidity of the particular requirement or application does not affect other provisions or applications of the NOx SIP Call pursuant to 40 CFR 51.121 or the NOx trading program pursuant to 40 CFR Part 96 or 40 CFR Part 97, this Section, and rules or regulations promulgated hereunder, will be given effect without the invalid provisions or applications.

(h) Notwithstanding any other provision of this Act, any source or other authorized person that participates in the NOx Trading Program shall be eligible to exchange NOx allowances with other sources in accordance with this Section and with regulations promulgated by the Board or the Agency.

(i) There is hereby created within the State Treasury an interest-bearing special fund to be known as the NOx Trading System Fund. Moneys generated from the sale of NOx allowances from the New Source Set Aside or the sale of allowances pursuant to subsection (d–5) of this Section shall be deposited into the Fund. This Fund shall be used and administered by the Agency for the purposes stated below:

(1) To accept funds from persons who purchase NOx allowances from the New Source Set Aside from the Agency;

(2) To disburse the proceeds of the sale of the NOx allowances from the New Source Set Aside, to the extent that proceeds remain after the Agency has recouped the reasonable costs incurred by the Agency in the administration of the NOx SIP Call Program, pro-rata to the owners or operators of the EGUs that received allowances from the Agency but not from the Agency's New Source Set Aside, in accordance with regulations that may be promulgated by the Agency; and

(3) To finance the reasonable costs incurred by the Agency in the administration of the NOx SIP Call Program.

(j) Moneys generated from the sale of early reduction credits shall be deposited into the Clean Air Act Permit Fund created pursuant to Section 39.5(18)(d) of this Act, and the proceeds shall be used and administered by the Agency to finance the costs associated with the Clean Air Act Permit Program.

P.A. 76–2429, § 9.9, added by P.A. 91–631, § 5, eff. Aug. 19, 1999. Amended by P.A. 92–12, § 950, eff. July 1, 2001; P.A. 92–279, § 5, eff. Aug. 7, 2001; P.A. 93–669, § 5, eff. Mar. 19, 2004.

5/9.10. Fossil fuel-fired electric generating plants

§ 9.10. Fossil fuel-fired electric generating plants.

(a) The General Assembly finds and declares that:

(1) fossil fuel-fired electric generating plants are a significant source of air emissions in this State and have become the subject of a number of important new studies of their effects on the public health;

(2) existing state and federal policies, that allow older plants that meet federal standards to operate without meeting the more stringent requirements applicable to new plants, are being questioned on the basis of their environmental impacts and the economic distortions such policies cause in a deregulated energy market;

(3) fossil fuel-fired electric generating plants are, or may be, affected by a number of regulatory programs, some of which are under review or development on the state and national levels, and to a certain extent the international level, including the federal acid rain program, tropospheric ozone, mercury and other hazardous pollutant control requirements, regional haze, and global warming;

(4) scientific uncertainty regarding the formation of certain components of regional haze and the air quality modeling that predict impacts of control measures requires careful consideration of the timing of the control of some of the pollutants from these facilities, particularly sulfur dioxides and nitrogen oxides that each interact with ammonia and other substances in the atmosphere;

(5) the development of energy policies to promote a safe, sufficient, reliable, and affordable energy supply on the state and national levels is being affected by the on-going deregulation of the power generation industry and the evolving energy markets;

(6) the Governor's formation of an Energy Cabinet and the development of a State energy policy calls for actions by the Agency and the Board that are in harmony with the energy needs and policy of the State, while protecting the public health and the environment;

(7) Illinois coal is an abundant resource and an important component of Illinois' economy whose use should be encouraged to the greatest extent possible consistent with protecting the public health and the environment;

(8) renewable forms of energy should be promoted as an important element of the energy and environmental policies of the State and that it is a goal of the State that at least 5% of the State's energy production and use be derived from renewable forms of energy by 2010 and at least 15% from renewable forms of energy by 2020;

(9) efforts on the state and federal levels are underway to consider the multiple environmental regulations affecting electric generating plants in order to improve the ability of government and the affected industry to engage in effective planning through the use of multi-pollutant strategies; and

(10) these issues, taken together, call for a comprehensive review of the impact of these facilities on the public health, considering also the energy supply, reliability, and costs, the role of renewable forms of energy, and the developments in federal law and regulations that may

affect any state actions, prior to making final decisions in Illinois.

(b) Taking into account the findings and declarations of the General Assembly contained in subsection (a) of this Section, the Agency shall, before September 30, 2004, but not before September 30, 2003, issue to the House and Senate Committees on Environment and Energy findings that address the potential need for the control or reduction of emissions from fossil fuel-fired electric generating plants, including the following provisions:

(1) reduction of nitrogen oxide emissions, as appropriate, with consideration of maximum annual emissions rate limits or establishment of an emissions trading program and with consideration of the developments in federal law and regulations that may affect any State action, prior to making final decisions in Illinois;

(2) reduction of sulfur dioxide emissions, as appropriate, with consideration of maximum annual emissions rate limits or establishment of an emissions trading program and with consideration of the developments in federal law and regulations that may affect any State action, prior to making final decisions in Illinois;

(3) incentives to promote renewable sources of energy consistent with item (8) of subsection (a) of this Section;

(4) reduction of mercury as appropriate, consideration of the availability of control technology, industry practice requirements, or incentive programs, or some combination of these approaches that are sufficient to prevent unacceptable local impacts from individual facilities and with consideration of the developments in federal law and regulations that may affect any state action, prior to making final decisions in Illinois; and

(5) establishment of a banking system, consistent with the United States Department of Energy's voluntary reporting system, for certifying credits for voluntary offsets of emissions of greenhouse gases, as identified by the United States Environmental Protection Agency, or other voluntary reductions of greenhouse gases. Such reduction efforts may include, but are not limited to, carbon sequestration, technology-based control measures, energy efficiency measures, and the use of renewable energy sources.

The Agency shall consider the impact on the public health, considering also energy supply, reliability and costs, the role of renewable forms of energy, and developments in federal law and regulations that may affect any state actions, prior to making final decisions in Illinois.

(c) Nothing in this Section is intended to or should be interpreted in a manner to limit or restrict the authority of the Illinois Environmental Protection Agency to propose, or the Illinois Pollution Control Board to adopt, any regulations applicable or that may become applicable to the facilities covered by this Section that are required by federal law.

(d) The Agency may file proposed rules with the Board to effectuate its findings provided to the Senate Committee on Environment and Energy and the House Committee on Environment and Energy in accordance with subsection (b) of this Section. Any such proposal shall not be submitted sooner than 90 days after the issuance of the findings provided for in subsection (b) of this Section. The Board shall take action on any such proposal within one year of the Agency's filing of the proposed rules.

(e) This Section shall apply only to those electrical generating units that are subject to the provisions of Subpart W of Part 217 of Title 35 of the Illinois Administrative Code, as promulgated by the Illinois Pollution Control Board on December 21, 2000.

P.A. 76–2429, § 9.10, added by P.A. 92–12, § 950, eff. July 1, 2001; P.A. 92–279, § 5, eff. Aug. 7, 2001.

P.A. 92–12 and P.A. 92–279 added identical versions of this section.

5/9.11. Great Lakes Areas of Concern; mercury

§ 9.11. Great Lakes Areas of Concern; mercury.

(a) The General Assembly finds that:

(1) The government of the United States of America and the government of Canada have entered into agreements on Great Lakes water quality by signature of the Great Lakes Water Quality Agreement of 1978, which was amended by Protocol signed on November 18, 1987.

(2) The government of the United States of America and the government of Canada, in cooperation with the state and provincial governments, were required to designate geographic areas, called Areas of Concern, that fail to meet the general or specific objectives of the Great Lakes Water Quality Agreement, and where such failure has caused or is likely to cause impairment of beneficial use or failure of the ability of the area to support aquatic life.

(3) The government of the United States of America and the government of Canada have identified 43 Areas of Concern, 26 of which are in waters of the United States of America and 17 of which are in the waters of Canada.

(4) Waukegan Harbor in Illinois was designated an Area of Concern in 1981 by the International Joint Commission, the United States Environmental Protection Agency, and the Illinois Environmental Protection Agency as a result of the discovery of 5 beneficial use impairments, as defined in Annex 2 of the Great Lakes Water Quality Agreement. Beneficial use impairments at the Waukegan Harbor Area of Concern were identified as the restrictions on fish consumption, degradation of benthos, restrictions on dredging activities, degradation of phytoplankton and zooplankton populations, and loss of fish and wildlife habitat.

(5) The government of the United States of America and the government of Canada cooperate with the state and provincial governments to ensure that remedial action plans are developed to restore all impaired uses to the Areas of Concern.

(6) Mercury has been identified as a persistent bioaccumulative contaminant of concern throughout the Great Lakes, including Lake Michigan, resulting in health advisories and restrictions on fish consumption.

(7) The thermal treatment of sludge creates mercury emissions.

(b) The Agency shall not issue any permit to develop, construct, or operate, within one mile of any portion of Lake Michigan that has been designated an Area of Concern under the Great Lakes Water Quality Agreement as of the effective date of this Section, any site or facility for the thermal treatment of sludge, unless the applicant submits to the Agency proof that the site or facility has received local siting approval from the governing body of the municipality in which the site or facility is proposed to be located (or from the county board if located in an unincorporated area), in accordance with Section 39.2 of this Act. For the purposes of this Section, "thermal treatment" includes, without limitation, drying, incinerating, and any other processing that subjects the sludge to an elevated temperature.

P.A. 76–2429, § 9.11, added by P.A. 93–202, § 5, eff. July 14, 2003.

5/9.12. Construction permit fees for air pollution sources

§ 9.12. Construction permit fees for air pollution sources.

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

(b) The fee amounts in this subsection (b) apply to construction permit applications relating to (i) a source subject to Section 39.5 of this Act (the Clean Air Act Permit Program); (ii) a source that, upon issuance of the requested construction permit, will become a major source subject to Section 39.5;. or (iii) a source that has or will require a federally enforceable State operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) If the construction permit application relates to one or more new emission units or to a combination of new and modified emission units, a fee of $4,000 for the first new emission unit and a fee of $1,000 for each additional new or modified emission unit; provided that the total base fee under this subdivision (A) shall not exceed $10,000.

(B) If the construction permit application relates to one or more modified emission units but not to any new emission unit, a fee of $2,000 for the first modified emission unit and a fee of $1,000 for each additional modified emission unit; provided that the total base fee under this subdivision (B) shall not exceed $5,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If, based on the construction permit application, the source will be, but is not currently, subject to Section 39.5 of this Act, a CAAPP entry fee of $5,000.

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial incinerator or other municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) one or more other emission units designated as a complex source by Agency rulemaking, a fee of $25,000.

(C) If the construction permit application involves an emissions netting exercise or reliance on a contemporaneous emissions decrease for a pollutant to avoid application of the federal PSD program (40 CFR 52.21) or nonattainment new source review (35 Ill. Adm. Code 203), a fee of $3,000 for each such pollutant.

(D) If the construction permit application is for a new major source subject to the federal PSD program, a fee of $12,000.

(E) If the construction permit application is for a new major source subject to nonattainment new source review, a fee of $20,000.

(F) If the construction permit application is for a major modification subject to the federal PSD program, a fee of $6,000.

(G) If the construction permit application is for a major modification subject to nonattainment new source review, a fee of $12,000.

(H) (Blank).

(I) If the construction permit application review involves a determination of the Maximum Achievable Control Technology standard for a pollutant and the project is not otherwise subject to BACT or LAER for a related pollutant under the federal PSD program or nonattainment new source review, a fee of $5,000 per unit for which a determination is requested or otherwise required.

(J) (Blank).

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000. This fee shall be submitted at the time the applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held.

(c) The fee amounts in this subsection (c) apply to construction permit applications relating to a source that, upon issuance of the construction permit, will not (i) be or become subject to Section 39.5 of this Act (the Clean Air Act Permit Program) or (ii) have or require a federally enforceable state operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) For a construction permit application involving a single new emission unit, a fee of $500.

(B) For a construction permit application involving more than one new emission unit, a fee of $1,000.

(C) For a construction permit application involving no more than 2 modified emission units, a fee of $500.

(D) For a construction permit application involving more than 2 modified emission units, a fee of $1,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If the source is a new source, i.e., does not currently have an operating permit, an entry fee of $500;

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2. of this Act, (ii) a commercial incinerator or a municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) an emission unit designated as a complex source by Agency rulemaking, a fee of $15,000.

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000. This fee shall be submitted at the time the applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held.

(d) If no other fee is applicable under this Section, a construction permit application addressing one or more of the following shall be subject to a filing fee of $500:

(1) A construction permit application to add or replace a control device on a permitted emission unit.

(2) A construction permit application to conduct a pilot project or trial burn for a permitted emission unit.

(3) A construction permit application for a land remediation project.

(4) (Blank).

(5) A construction permit application to revise an emissions testing methodology or the timing of required emissions testing.

(6) A construction permit application that provides for a change in the name, address, or phone number of any person identified in the permit, or for a change in the

stated ownership or control, or for a similar minor administrative permit change at the source.

(e) No fee shall be assessed for a request to correct an issued permit that involves only an Agency error, if the request is received within the deadline for a permit appeal to the Pollution Control Board.

(f) The applicant for a new or revised air pollution construction permit shall submit to the Agency, with the construction permit application, both a certification of the fee that he or she estimates to be due under this Section and the fee itself.

(g) Notwithstanding the requirements of subsection (a) of Section 39 of this Act, the application for an air pollution construction permit shall not be deemed to be filed with the Agency until the Agency receives the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section. Unless the Agency has received the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section, the Agency is not required to review or process the application.

(h) If the Agency determines at any time that a construction permit application is subject to an additional fee under this Section that the applicant has not submitted, the Agency shall notify the applicant in writing of the amount due under this Section. The applicant shall have 60 days to remit the assessed fee to the Agency.

If the proper fee established under this Section is not submitted within 60 days after the request for further remittance:

(1) If the construction permit has not yet been issued, the Agency is not required to further review or process, and the provisions of subsection (a) of Section 39 of this Act do not apply to, the application for a construction permit until such time as the proper fee is remitted.

(2) If the construction permit has been issued, the Agency may, upon written notice, immediately revoke the construction permit.

The denial or revocation of a construction permit does not excuse the applicant from the duty of paying the fees required under this Section.

(i) The Agency may deny the issuance of a pending air pollution construction permit or the subsequent operating permit if the applicant has not paid the required fees by the date required for issuance of the permit. The denial or revocation of a permit for failure to pay a construction permit fee is subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

(k) If an air pollution construction permittee makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution construction permit. Failure of the Agency to notify the permittee of the permittee's failure to make payment does not excuse or alter the duty of the permittee to comply with the provisions of this Section.

(*l*) The Agency may establish procedures for the collection of air pollution construction permit fees.

(m) Fees collected pursuant to this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

P.A. 76–2429, § 9.12, added by P.A. 93–32, Art. 75, § 75–52, eff. July 1, 2003. Amended by P.A. 97–95, § 20, eff. July 12, 2011.

5/9.13. Asbestos fees

§ 9.13. Asbestos fees.

(a) For any site for which the owner or operator must file an original 10–day notice of intent to renovate or demolish pursuant to 40 CFR 61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air Pollutants or NESHAP), the owner or operator shall pay to the Agency with the filing of each 10–day Notice a fee of $150.

(b) If demolition or renovation of a site has commenced without proper filing of the 10-day Notice, the fee is double the amount otherwise due. This doubling of the fee is in addition to any other penalties under this Act, the federal NESHAP, or otherwise, and does not preclude the Agency, the Attorney General, or other authorized persons from pursuing an enforcement action against the owner or operator for failure to file a 10-day Notice prior to commencing demolition or renovation activities.

(c) In the event that an owner or operator makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the 10-day Notice shall be deemed improperly filed. The Agency shall so notify the owner or operator within 60 days of receiving the notice of insufficient funds. Failure of the Agency to so notify the owner or operator does not excuse or alter the duty of the owner or operator to comply with the requirements of this Section.

(d) Where asbestos remediation or demolition activities have not been conducted in accordance with the asbestos NESHAP, in addition to the fees imposed by this Section, the Agency may also collect its actual costs incurred for asbestos-related activities at the site, including without limitation costs of sampling, sample analysis, remediation plan review, and activity oversight for demolition or renovation.

(e) Fees and cost recovery amounts collected under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

P.A. 76–2429, § 9.13, added by P.A. 93–32, Art. 75, § 75–52, eff. July 1, 2003.

5/9.14. Registration of smaller sources

§ 9.14. Registration of smaller sources.

(a) After the effective date of rules implementing this Section, the owner or operator of an eligible source shall annually register with the Agency instead of complying with the requirement to obtain an air pollution construction or operating permit under this Act. The criteria for determining an eligible source shall include the following:

(1) the source must not be required to obtain a permit pursuant to the Illinois Clean Air Act Permit Program or Federally Enforceable State Operating Permit program, or under regulations promulgated pursuant to Section 111 or 112 of the Clean Air Act;

(2) the USEPA has not otherwise determined that a permit is required;

(3) the source emits less than an actual 5 tons per year of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions;

(4) the source emits less than an actual 0.5 tons per year of combined hazardous air pollutant emissions;

(5) the source emits less than an actual 0.05 tons per year of lead air emissions;

(6) the source emits less than an actual 0.05 tons per year of mercury air emissions; and

(7) the source does not have an emission unit subject to a standard pursuant to 40 CFR Part 61 Maximum Achievable Control Technology, or 40 CFR Part 63 National Emissions Standards for Hazardous Air Pollutants other than those regulations that the USEPA has categorized as "area source".

(b) Complete registration of an eligible source, including payment of the required fee as specified in subsection (c) of this Section, shall provide the owner or operator of the eligible source with an exemption from the requirement to obtain an air pollution construction or operating permit under this Act. The registration of smaller sources program does not relieve an owner or operator from the obligation to comply with any other applicable rules or regulations.

(c) The owner or operator of an eligible source shall pay an annual registration fee of $235 to the Agency at the time of registration submittal and each year thereafter. Fees collected under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

(d) The Agency shall propose rules to implement the registration of smaller sources program. Within 120 days after the Agency proposes those rules, the Board shall adopt rules to implement the registration of smaller sources program. These rules may be subsequently amended from time to time pursuant to a proposal filed with the Board by any person, and any necessary amendments shall be adopted by the Board within 120 days after proposal. Such amendments may provide for the alteration or revision of the initial criteria included in subsection (a) of this Section.

P.A. 76–2429, § 9.14, added by P.A. 97–95, § 20, eff. July 12, 2011. Amended by P.A. 97–1081, § 20, eff. Aug. 24, 2012.

P.A. 97–1081 incorporated the section as enacted by P.A. 97–95.

5/9.15. Greenhouse gases

§ 9.15. Greenhouse gases.

(a) An air pollution construction permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by 40 CFR 52.21, as now or hereafter amended, for greenhouse gases. This exemption does not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(b) An air pollution operating permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by Section 39.5 of this Act, for greenhouse gases. This exemption does not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(c) Notwithstanding any provision to the contrary in this Section, an air pollution construction or operating permit shall not be required due to emissions of greenhouse gases if any of the following events occur:

(1) enactment of federal legislation depriving the Administrator of the USEPA of authority to regulate greenhouse gases under the Clean Air Act;

(2) the issuance of any opinion, ruling, judgment, order, or decree by a federal court depriving the Administrator of the USEPA of authority to regulate greenhouse gases under the Clean Air Act; or

(3) action by the President of the United States or the President's authorized agent, including the Administrator of the USEPA, to repeal or withdraw the Greenhouse Gas Tailoring Rule (75 Fed. Reg. 31514, June 3, 2010).

This subsection (c) does not relieve an owner or operator from the obligation to comply with applicable rules or regulations other than those relating to greenhouse gases.

(d) If any event listed in subsection (c) of this Section occurs, permits issued after such event shall not impose permit terms or conditions addressing greenhouse gases during the effectiveness of any event listed in subsection (c).

(e) If an event listed in subsection (c) of this Section occurs, any owner or operator with a permit that includes terms or conditions addressing greenhouse gases may elect to submit an application to the Agency to address a revision or repeal of such terms or conditions. The Agency shall expeditiously process such permit application in accordance with applicable laws and regulations.

P.A. 76–2429, § 9.15, added by P.A. 97–95, § 20, eff. July 12, 2011.

5/10. Regulations

§ 10. Regulations.

(A) The Board, pursuant to procedures prescribed in Title VII of this Act, [1] may adopt regulations to promote the purposes of this Title. Without limiting the generality of this authority, such regulations may among other things prescribe:

(a) (Blank);

(b) Emission standards specifying the maximum amounts or concentrations of various contaminants that may be discharged into the atmosphere;

(c) Standards for the issuance of permits for construction, installation, or operation of any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution;

(d) Standards and conditions regarding the sale, offer, or use of any fuel, vehicle, or other article determined by the Board to constitute an air- pollution hazard;

(e) Alert and abatement standards relative to air-pollution episodes or emergencies constituting an acute danger to health or to the environment;

(f) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel, or aircraft that may cause or contribute to air pollution;

(g) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their sources, the collection of samples and the collection, reporting and retention of data resulting from such monitoring.

(B) The Board may adopt regulations and emission standards that are applicable or that may become applicable to stationary emission sources located in all areas of the State in accordance with any of the following:

(1) that are required by federal law;

(2) that are otherwise part of the State's attainment plan and are necessary to attain the national ambient air quality standards; or

(3) that are necessary to comply with the requirements of the federal Clean Air Act.

(C) The Board may not adopt any regulation banning the burning of landscape waste throughout the State generally. The Board may, by regulation, restrict or prohibit the burning of landscape waste within any geographical area of the State if it determines based on medical and biological evidence generally accepted by the scientific community that such burning will produce in the atmosphere of that geographical area contaminants in sufficient quantities and of such characteristics and duration as to be injurious to humans, plant, or animal life, or health.

(D) The Board shall adopt regulations requiring the owner or operator of a gasoline dispensing system that dispenses more than 10,000 gallons of gasoline per month to install and operate a system for the recovery of gasoline vapor emissions arising from the fueling of motor vehicles that meets the requirements of Section 182 of the federal Clean Air Act (42 USC 7511a). These regulations shall apply only in areas of the State that are classified as moderate, serious, severe or extreme nonattainment areas for ozone pursuant to Section 181 of the federal Clean Air Act (42 USC 7511), but shall not apply in such areas classified as moderate nonattainment areas for ozone if the Administrator of the U.S. Environmental Protection Agency promulgates standards for vehicle-based (onboard) systems for the control of vehicle refueling emissions pursuant to Section 202(a)(6) of the federal Clean Air Act (42 USC 7521(a)(6)) by November 15, 1992.

(E) The Board shall not adopt or enforce any regulation requiring the use of a tarpaulin or other covering on a truck, trailer, or other vehicle that is stricter than the requirements of Section 15–109.1 of the Illinois Vehicle Code.[2] To the extent that it is in conflict with this subsection, the Board's rule codified as 35 Ill. Admin. Code, Section 212.315 is hereby superseded.

(F) Any person who prior to June 8, 1988, has filed a timely Notice of Intent to Petition for an Adjusted RACT Emissions Limitation and who subsequently timely files a completed petition for an adjusted RACT emissions limitation pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be subject to the procedures contained in Subpart I but shall be excluded by operation of law from 35 Ill. Adm. Code, Part 215, Subparts PP, QQ and RR, including the applicable definitions in 35 Ill. Adm. Code, Part 211. Such persons shall instead be subject to a separate regulation which the Board is hereby authorized to adopt pursuant to the adjusted RACT emissions limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I. In its final action on the petition, the Board shall create a separate rule which establishes Reasonably Available Control Technology (RACT) for such person. The purpose of this procedure is to create separate and independent regulations for purposes of SIP submittal, review, and approval by USEPA.

(G) Subpart FF of Subtitle B, Title 35 Ill. Adm. Code, Sections 218.720 through 218.730 and Sections 219.720 through 219.730, are hereby repealed by operation of law and are rendered null and void and of no force and effect.

(H) In accordance with subsection (b) of Section 7.2, the Board shall adopt ambient air quality standards specifying the maximum permissible short- term and long-term concentrations of various contaminants in the atmosphere; those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act. The Board may consolidate into a single rulemaking under this subsection all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act and Section 5–35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, shall not apply to identical in substance regulations adopted pursuant to this subsection. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State. Nothing in this subsection shall be construed to limit the right of any person to submit a proposal to the Board, or the authority of the Board to adopt, air quality standards more stringent than the standards promulgated by the Administrator, pursuant to the rulemaking requirements of Title VII of this Act and Section 5–35 of the Illinois Administrative Procedure Act.

P.A. 76–2429, § 10, eff. July 1, 1970. Amended by P.A. 78–243, § 1, eff. Oct. 1, 1973; P.A. 79–1099, § 1, eff. Sept. 26, 1975; P.A. 81–1370, § 1, eff. Aug. 8, 1980; P.A. 81–1371, § 1, eff. Aug. 8, 1980; P.A. 81–1372, § 1, eff. Aug. 8, 1980; P.A. 81–1550, Art. I, § 29, eff. Jan. 8, 1981; P.A. 82–678, § 1, eff. Jan. 1, 1982; P.A. 83–1494, § 1, eff. Dec. 11, 1984; P.A. 85–1321, § 1, eff. Aug. 31, 1988; P.A. 87–133, § 1, eff. Jan. 1, 1992; P.A. 88–381, § 5, eff. Jan. 1, 1994; P.A. 89–79, § 5, eff. June 30, 1995; P.A. 95–460, § 5, eff. Aug. 27, 2007; P.A. 97–945, § 10, eff. Aug. 10, 2012.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1010.

[1] 415 ILCS 5/26 et seq.

[2] 625 ILCS 5/15–109.1.

TITLE III: WATER POLLUTION

5/11. Legislative declaration

§ 11. (a) The General Assembly finds:

(1) that pollution of the waters of this State constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish, and aquatic life, impairs domestic, agricultural, industrial, recreational, and other legitimate beneficial uses of water, depresses property values, and offends the senses;

(2) that the Federal Water Pollution Control Act, as now or hereafter amended,[1] provides for a National Pollutant Discharge Elimination System (NPDES) to regulate the discharge of contaminants to the waters of the United States;

(3) that the Safe Drinking Water Act (P.L. 93–523), as amended,[2] provides for an Underground Injection Control (UIC) program to regulate the underground injection of contaminants;

(4) that it would be inappropriate and misleading for the State of Illinois to issue permits to contaminant sources subject to such federal law, as well as State law, which do not contain such terms and conditions as are required by federal law, or the issuance of which is contrary to federal law;

(5) that the Federal Water Pollution Control Act, as now or hereafter amended, provides that NPDES permits shall be issued by the United States Environmental Protection Agency unless (a) the State is authorized by and under its law to establish and administer its own permit program for discharges into waters within its jurisdiction, and (b) pursuant to such federal Act, the Administrator of the United States Environmental Protection Agency approves such State program to issue permits which will implement the provisions of such federal Act;

(6) that Part C of the Safe Drinking Water Act (P.L. 93–523), as amended, provides that the United States Environmental Protection Agency shall implement the UIC program authorized therein unless (a) the State is authorized by and under its law to establish and administer its own UIC program, and (b) pursuant to such federal Act, the Administrator of the United States Environmental Protection Agency

approves such State program which will implement the provisions of such federal Act;

(7) that it is in the interest of the People of the State of Illinois for the State to authorize such NPDES and UIC programs and secure federal approval thereof, and thereby to avoid the existence of duplicative, overlapping or conflicting state and federal statutory permit systems;

(8) that the federal requirements for the securing of such NPDES and UIC permit program approval, as set forth in the Federal Water Pollution Control Act, as now or hereafter amended, and in the Safe Drinking Water Act (P.L. 93–523), as amended, respectively, and in regulations promulgated by the Administrator of the United States Environmental Protection Agency pursuant thereto are complex and detailed, and the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

(b) It is the purpose of this Title to restore, maintain and enhance the purity of the waters of this State in order to protect health, welfare, property, and the quality of life, and to assure that no contaminants are discharged into the waters of the State, as defined herein, including, but not limited to, waters to any sewage works, or into any well, or from any source within the State of Illinois, without being given the degree of treatment or control necessary to prevent pollution, or without being made subject to such conditions as are required to achieve and maintain compliance with State and federal law; and to authorize, empower, and direct the Board to adopt such regulations and the Agency to adopt such procedures as will enable the State to secure federal approval to issue NPDES permits pursuant to the provisions of the Federal Water Pollution Control Act, as now or hereafter amended, and federal regulations pursuant thereto and to authorize, empower, and direct the Board to adopt such regulations and the Agency to adopt such procedures as will enable the State to secure federal approval of the State UIC program pursuant to the provisions of Part C of the Safe Drinking Water Act (P.L. 93–523), as amended, and federal regulations pursuant thereto.

(c) The provisions of this Act authorizing implementation of the regulations pursuant to an NPDES program shall not be construed to limit, affect, impair, or diminish the authority, duties and responsibilities of the Board, Agency, Department or any other governmental agency or officer, or of any unit of local government, to regulate and control pollution of any kind, to restore, to protect or to enhance the quality of the environment, or to achieve all other purposes, or to enforce provisions, set forth in this Act or other State law or regulation.

P.A. 76–2429, § 11, eff. July 1, 1970. Amended by P.A. 78–862, § 1, eff. Sept. 14, 1973; P.A. 82–380, § 1, eff. Sept. 3, 1981; P.A. 84–1308, Art. III, § 54, eff. Aug. 25, 1986; P.A. 86–671, § 1, eff. Sept. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1011.

[1] 33 U.S.C.A. § 1251 et seq.

[2] 42 U.S.C.A. § 300h et seq.

5/12. Actions prohibited

§ 12. Actions prohibited. No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

(b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

(c) Increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State, without a permit granted by the Agency.

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

(e) Sell, offer, or use any article in any area in which the Board has by regulation forbidden its sale, offer, or use for reasons of water pollution control.

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

No permit shall be required under this subsection and under Section 39(b) of this Act for any discharge for which a permit is not required under the Federal Water Pollution Control Act, as now or hereafter amended, [1] and regulations pursuant thereto.

For all purposes of this Act, a permit issued by the Administrator of the United States Environmental Protection Agency under Section 402 of the Federal Water Pollution Control Act, [2] as now or hereafter amended, shall be deemed to be a permit issued by the Agency pursuant to Section 39(b) of this Act. However, this shall not apply to the exclusion from the requirement of an operating permit provided under Section 13(b)(i).

Compliance with the terms and conditions of any permit issued under Section 39(b) of this Act shall be deemed compliance with this subsection except that it shall not be deemed compliance with any standard or effluent limitation imposed for a toxic pollutant injurious to human health.

In any case where a permit has been timely applied for pursuant to Section 39(b) of this Act but final administrative disposition of such application has not been made, it shall not be a violation of this subsection to discharge without such permit unless the complainant proves that final administrative disposition has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(g) Cause, threaten or allow the underground injection of contaminants without a UIC permit issued by the Agency under Section 39(d) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any regulations or standards adopted by the Board or of any order adopted by the Board with respect to the UIC program.

No permit shall be required under this subsection and under Section 39(d) of this Act for any underground injection of contaminants for which a permit is not required under Part C of the Safe Drinking Water Act (P.L. 93–523), as amended, [3] unless a permit is authorized or required under

regulations adopted by the Board pursuant to Section 13 of this Act.

(h) Introduce contaminants into a sewage works from any nondomestic source except in compliance with the regulations and standards adopted by the Board under this Act.

(i) Beginning January 1, 2013 or 6 months after the date of issuance of a general NPDES permit for surface discharging private sewage disposal systems by the Illinois Environmental Protection Agency or by the United States Environmental Protection Agency, whichever is later, construct or install a surface discharging private sewage disposal system that discharges into the waters of the United States, as that term is used in the Federal Water Pollution Control Act, unless he or she has a coverage letter under a NPDES permit issued by the Illinois Environmental Protection Agency or by the United States Environmental Protection Agency or he or she is constructing or installing the surface discharging private sewage disposal system in a jurisdiction in which the local public health department has a general NPDES permit issued by the Illinois Environmental Protection Agency or by the United States Environmental Protection Agency and the surface discharging private sewage disposal system is covered under the general NPDES permit.

P.A. 76–2429, § 12, eff. July 1, 1970. Amended by P.A. 78–862, § 1, eff. Sept. 14, 1973; P.A. 82–380, § 1, eff. Sept. 3, 1981; P.A. 84–1320, § 30, eff. Sept. 4, 1986; P.A. 86–671, § 1, eff. Sept. 1, 1989; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 96–801, § 10, eff. Jan. 1, 2010; P.A. 97–1081, § 20, eff. Aug. 24, 2012.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1012.

[1] 33 U.S.C.A. § 1251 et seq.

[2] 33 U.S.C.A. § 1342.

[3] 42 U.S.C.A. § 300h et seq.

5/12.1. § 12.1. Repealed by P.A. 92–574, § 10, eff. June 26, 2002

5/12.2. Water pollution construction permit fees

§ 12.2. Water pollution construction permit fees.

(a) Beginning July 1, 2003, the Agency shall collect a fee in the amount set forth in this Section:

(1) for any sewer which requires a construction permit under paragraph (b) of Section 12, from each applicant for a sewer construction permit under paragraph (b) of Section 12 or regulations adopted hereunder; and

(2) for any treatment works, industrial pretreatment works, or industrial wastewater source that requires a construction permit under paragraph (b) of Section 12, from the applicant for the construction permit. However, no fee shall be required for a treatment works or wastewater source directly covered and authorized under an NPDES permit issued by the Agency, nor for any treatment works, industrial pretreatment works, or industrial wastewater source (i) that is under or pending construction authorized by a valid construction permit issued by the Agency prior to July 1, 2003, during the term of that construction permit, or (ii) for which a completed construction permit application has been received by the Agency prior to July 1, 2003, with respect to the permit issued under that application.

(b) Each applicant or person required to pay a fee under this Section shall submit the fee to the Agency along with the permit application. The Agency shall deny any construction permit application for which a fee is required under this Section that does not contain the appropriate fee.

(c) The amount of the fee is as follows:

(1) A $100 fee shall be required for any sewer constructed with a design population of 1.

(2) A $400 fee shall be required for any sewer constructed with a design population of 2 to 20.

(3) A $800 fee shall be required for any sewer constructed with a design population greater than 20 but less than 101.

(4) A $1200 fee shall be required for any sewer constructed with a design population greater than 100 but less than 500.

(5) A $2400 fee shall be required for any sewer constructed with a design population of 500 or more.

(6) A $1,000 fee shall be required for any industrial wastewater source that does not require pretreatment of the wastewater prior to discharge to the publicly owned treatment works or publicly regulated treatment works.

(7) A $3,000 fee shall be required for any industrial wastewater source that requires pretreatment of the wastewater for non-toxic pollutants prior to discharge to the publicly owned treatment works or publicly regulated treatment works.

(8) A $6,000 fee shall be required for any industrial wastewater source that requires pretreatment of the wastewater for toxic pollutants prior to discharge to the publicly owned treatment works or publicly regulated treatment works.

(9) A $2,500 fee shall be required for construction relating to land application of industrial sludge or spray irrigation of industrial wastewater.

All fees collected by the Agency under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund in accordance with Section 22.8.

(d) Prior to a final Agency decision on a permit application for which a fee has been paid under this Section, the applicant may propose modification to the application in accordance with this Act and regulations adopted hereunder without any additional fee becoming due, unless the proposed modifications cause an increase in the design population served by the sewer specified in the permit application before the modifications or the modifications cause a change in the applicable fee category stated in subsection (c). If the modifications cause such an increase or change the fee category and the increase results in additional fees being due under subsection (c), the applicant shall submit the additional fee to the Agency with the proposed modifications.

(e) No fee shall be due under this Section from:

(1) any department, agency or unit of State government for installing or extending a sewer;

(2) any unit of local government with which the Agency has entered into a written delegation agreement under Section 4 which allows such unit to issue construction permits under this Title, or regulations adopted hereunder, for installing or extending a sewer; or

(3) any unit of local government or school district for installing or extending a sewer where both of the following conditions are met:

(i) the cost of the installation or extension is paid wholly from monies of the unit of local government or school district, State grants or loans, federal grants or loans, or any combination thereof; and

(ii) the unit of local government or school district is not given monies, reimbursed or paid, either in whole or in part, by another person (except for State grants or loans or federal grants or loans) for the installation or extension.

(f) The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this Section. Notwithstanding the provisions of any rule adopted before July 1, 2003 concerning fees under this Section, the Agency shall assess and collect the fees imposed under subdivision (a)(2) of this Section and the increases in the fees imposed under subdivision (a)(1) of this Section beginning on July 1, 2003, for all completed applications received on or after that date.

(g) Notwithstanding any other provision of this Act, the Agency shall, not later than 45 days following the receipt of both an application for a construction permit and the fee required by this Section, either approve that application and issue a permit or tender to the applicant a written statement setting forth with specificity the reasons for the disapproval of the application and denial of a permit. If the Agency takes no final action within 45 days after the filing of the application for a permit, the applicant may deem the permit issued.

(h) For purposes of this Section:

"Toxic pollutants" means those pollutants defined in Section 502(13) of the federal Clean Water Act and regulations adopted pursuant to that Act.

"Industrial" refers to those industrial users referenced in Section 502(13) of the federal Clean Water Act and regulations adopted pursuant to that Act.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing those pollutants into a publicly owned treatment works or publicly regulated treatment works.

P.A. 76–2429, § 12.2, added by P.A. 86–1362, § 1, eff. Jan. 1, 1991. Amended by P.A. 87–843, § 1, eff. Jan. 29, 1992; P.A. 88–488, § 10, eff. Sept. 10, 1993; P.A. 93–32, Art. 75, § 75–52, eff. July 1, 2003.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1012.2.

5/12.3. Septic system sludge

§ 12.3. Septic system sludge. Beginning January 1, 1993, any wastewater treatment facility or other appropriate waste disposal facility owned or operated by a unit of local government located in a county with a population of less than 3,000,000 may accept, for appropriate treatment or disposal, any septic system sludge generated by any private residence within that unit of local government or within any other unit of local government that is located within the same county and not served by its own wastewater treatment facility. The unit of local government may establish and charge reasonable fees for the acceptance, handling, treatment, and disposal of the sludge to defray any additional capital costs incurred specifically to comply with this Section.

This Section does not limit any power exercised by a unit of local government under any other law.

P.A. 76–2429, § 12.3, added by P.A. 87–1138, § 1, eff. Jan. 1, 1993.

Formerly Ill.Rev.Stat., ch. 111½, ¶ 1012.3.

5/12.4. Vegetable by-product; land application; report

§ 12.4. Vegetable by-product; land application; report. In addition to any other requirements of this Act, a generator of vegetable by-products utilizing land application shall file an annual report with the Agency identifying the quantity of vegetable by-products transported for land application during the reporting period, the hauler or haulers utilized for the transportation, and the sites to which the vegetable by-products were transported.

P.A. 76–2429, § 12.4, added by P.A. 88–454, § 5, eff. Jan. 1, 1994.

5/12.5. NPDES discharge fees; sludge permit fees

§ 12.5. NPDES discharge fees; sludge permit fees.

(a) Beginning July 1, 2003, the Agency shall assess and collect annual fees (i) in the amounts set forth in subsection (e) for all discharges that require an NPDES permit under subsection (f) of Section 12, from each person holding an NPDES permit authorizing those discharges (including a person who continues to discharge under an expired permit pending renewal), and (ii) in the amounts set forth in subsection (f) of this Section for all activities that require a permit under subsection (b) of Section 12, from each person holding a domestic sewage sludge generator or user permit.

Each person subject to this Section must remit the applicable annual fee to the Agency in accordance with the requirements set forth in this Section and any rules adopted pursuant to this Section.

(b) Within 30 days after the effective date of this Section, and each year thereafter, except when a fee is not due because of the operation of subsection (c), the Agency shall send a fee notice by mail to each existing permittee subject to a fee under this Section at his or her address of record. The notice shall state the amount of the applicable annual fee and the date by which payment is required.

Except as provided in subsection (c) with respect to initial fees under new permits and certain modifications of existing permits, fees payable under this Section are due by the date specified in the fee notice, which shall be no less than 30 days after the date the fee notice is mailed by the Agency.

(c) The initial annual fee for discharges under a new NPDES permit or for activity under a new sludge generator or sludge user permit must be remitted to the Agency prior to the issuance of the permit. The Agency shall provide notice of the amount of the fee to the applicant during its review of the application. In the case of a new NPDES or sludge permit issued during the months of January through June, the Agency may prorate the initial annual fee payable under this Section.

The initial annual fee for discharges or other activity under a general NPDES permit must be remitted to the Agency as part of the application for coverage under that general permit.

Beginning January 1, 2010, in the case of construction site storm water discharges for which a coverage letter under a general NPDES permit or individual NPDES permit has been issued or for which the application for coverage under an NPDES permit has been filed with the Agency, no annual fee shall be due after payment of an initial annual fee in the amount provided in subsection (e)(10) of this Section.

If a requested modification to an existing NPDES permit causes a change in the applicable fee categories under subsection (e) that results in an increase in the required fee, the permittee must pay to the Agency the amount of the in-

crease, prorated for the number of months remaining before the next July 1, before the modification is granted.

(d) Failure to submit the fee required under this Section by the due date constitutes a violation of this Section. Late payments shall incur an interest penalty, calculated at the rate in effect from time to time for tax delinquencies under subsection (a) of Section 1003 of the Illinois Income Tax Act, [1] from the date the fee is due until the date the fee payment is received by the Agency.

(e) The annual fees applicable to discharges under NPDES permits are as follows:

(1) For NPDES permits for publicly owned treatment works, other facilities for which the wastewater being treated and discharged is primarily domestic sewage, and wastewater discharges from the operation of public water supply treatment facilities, the fee is:

(i) $1,500 for the 12 months beginning July 1, 2003 and $500 for each subsequent year, for facilities with a Design Average Flow rate of less than 100,000 gallons per day;

(ii) $5,000 for the 12 months beginning July 1, 2003 and $2,500 for each subsequent year, for facilities with a Design Average Flow rate of at least 100,000 gallons per day but less than 500,000 gallons per day;

(iii) $7,500 for facilities with a Design Average Flow rate of at least 500,000 gallons per day but less than 1,000,000 gallons per day;

(iv) $15,000 for facilities with a Design Average Flow rate of at least 1,000,000 gallons per day but less than 5,000,000 gallons per day;

(v) $30,000 for facilities with a Design Average Flow rate of at least 5,000,000 gallons per day but less than 10,000,000 gallons per day; and

(vi) $50,000 for facilities with a Design Average Flow rate of 10,000,000 gallons per day or more.

(2) For NPDES permits for treatment works or sewer collection systems that include combined sewer overflow outfalls, the fee is:

(i) $1,000 for systems serving a tributary population of 10,000 or less;

(ii) $5,000 for systems serving a tributary population that is greater than 10,000 but not more than 25,000; and

(iii) $20,000 for systems serving a tributary population that is greater than 25,000.

The fee amounts in this subdivision (e)(2) are in addition to the fees stated in subdivision (e)(1) when the combined sewer overflow outfall is contained within a permit subject to subsection (e)(1) fees.

(3) For NPDES permits for mines producing coal, the fee is $5,000.

(4) For NPDES permits for mines other than mines producing coal, the fee is $5,000.

(5) For NPDES permits for industrial activity where toxic substances are not regulated, other than permits covered under subdivision (e)(3) or (e)(4), the fee is:

(i) $1,000 for a facility with a Design Average Flow rate that is not more than 10,000 gallons per day;

(ii) $2,500 for a facility with a Design Average Flow rate that is more than 10,000 gallons per day but not more than 100,000 gallons per day; and

(iii) $10,000 for a facility with a Design Average Flow rate that is more than 100,000 gallons per day.

(6) For NPDES permits for industrial activity where toxic substances are regulated, other than permits covered under subdivision (e)(3) or (e)(4), the fee is:

(i) $15,000 for a facility with a Design Average Flow rate that is not more than 250,000 gallons per day; and

(ii) $20,000 for a facility with a Design Average Flow rate that is more than 250,000 gallons per day.

(7) For NPDES permits for industrial activity classified by USEPA as a major discharge, other than permits covered under subdivision (e)(3) or (e)(4), the fee is:

(i) $30,000 for a facility where toxic substances are not regulated; and

(ii) $50,000 for a facility where toxic substances are regulated.

(8) For NPDES permits for municipal separate storm sewer systems, the fee is $1,000.

(9) For NPDES permits for industrial storm water, the fee is $500.

(10) For NPDES permits for construction site storm water, the fee

(A) for applications received before January 1, 2010 is $500;

(B) for applications received on or after January 1, 2010 is:

(i) $250 if less than 5 acres are disturbed; and

(ii) $750 if 5 or more acres are disturbed.

(11) For an NPDES permit for a Concentrated Animal Feeding Operation (CAFO), the fee is:

(A) $750 for a Large CAFO, as defined in 40 C.F.R. 122.23(b)(4);

(B) $350 for a Medium CAFO, as defined in 40 C.F.R. 122.23(b)(6); and

(C) $150 for a Small CAFO, as defined in 40 C.F.R. 122.23(b)(9).

(f) The annual fee for activities under a permit that authorizes applying sludge on land is $2,500 for a sludge generator permit and $5,000 for a sludge user permit.

(g) More than one of the annual fees specified in subsections (e) and (f) may be applicable to a permit holder. These fees are in addition to any other fees required under this Act.

(h) The fees imposed under this Section do not apply to the State or any department or agency of the State, nor to any school district, or to any private sewage disposal system as defined in the Private Sewage Disposal Licensing Act (225 ILCS 225/).

(i) The Agency may adopt rules to administer the fee program established in this Section. The Agency may include provisions pertaining to invoices, notice of late payment, refunds, and disputes concerning the amount or timeliness of payment. The Agency may set forth procedures and criteria for the acceptance of payments. The absence of such rules does not affect the duty of the Agency to immediately begin the assessment and collection of fees under this Section.

(j) All fees and interest penalties collected by the Agency under this Section shall be deposited into the Illinois Clean Water Fund, which is hereby created as a special fund in the State treasury. Gifts, supplemental environmental project funds, and grants may be deposited into the Fund. Investment earnings on moneys held in the Fund shall be credited to the Fund.

Subject to appropriation, the moneys in the Fund shall be used by the Agency to carry out the Agency's clean water activities.

(k) Except as provided in subsection (*l*) or Agency rules, fees paid to the Agency under this Section are not refundable.

(*l*) The Agency may refund the difference between (a) the amount paid by any person under subsection (e)(1)(i) or (e)(1)(ii) of this Section for the 12 months beginning July 1, 2004 and (b) the amount due under subsection (e) (1)(i) or (e)(1)(ii) as established by this amendatory Act of the 93rd General Assembly.

P.A. 76–2429, § 12.5, added by P.A. 93–32, Art. 75, § 75–52, eff. July 1, 2003. Amended by P.A. 93–840, Art. 45, § 45–5, eff. July 30, 2004; P.A. 95–516, § 5, eff. Aug. 28, 2007; P.A. 96–245, § 5, eff. Aug. 11, 2009; P.A. 97–962, § 5, eff. Aug. 15, 2012.

[1] 35 ILCS 5/1003.

5/12.6. Certification fees

§ 12.6. Certification fees.

(a) Beginning July 1, 2003, the Agency shall collect a fee in the amount set forth in subsection (b) from each applicant for a state water quality certification required by Section 401 of the federal Clean Water Act prior to a federal authorization pursuant to Section 404 of that Act; except that the fee does not apply to the State or any department or agency of the State, nor to any school district.

(b) The amount of the fee for a State water quality certification is $350 or 1% of the gross value of the proposed project, whichever is greater, but not to exceed $10,000.

(c) Each applicant seeking a federal authorization of an action requiring a Section 401 state water quality certification by the Agency shall submit the required fee to the Agency prior to the issuance of the certification. The Agency shall provide notice of the amount of the fee to the applicant during its review of the application. The Agency shall not issue a Section 401 state water quality certification until the appropriate fee has been received from the applicant.

(d) The Agency may establish procedures relating to the collection of fees under this Section. Notwithstanding the adoption of any rules establishing such procedures, the Agency may begin collecting fees under this Section on July 1, 2003 for all complete applications received on or after that date.

All fees collected by the Agency under this Section shall be deposited into the Illinois Clean Water Fund. Fees paid under this Section are not refundable.

P.A. 76–2429, § 12.6, added by P.A. 93–32, Art. 75, § 75–52, eff. July 1, 2003. Amended by P.A. 95–516, § 5, eff. Aug. 28, 2007.

5/13. Regulations

§ 13. Regulations.

(a) The Board, pursuant to procedures prescribed in Title VII of this Act,[1] may adopt regulations to promote the purposes and provisions of this Title. Without limiting the generality of this authority, such regulations may among other things prescribe:

(1) Water quality standards specifying among other things, the maximum short-term and long-term concentrations of various contaminants in the waters, the minimum permissible concentrations of dissolved oxygen and other desirable matter in the waters, and the temperature of such waters;

(2) Effluent standards specifying the maximum amounts or concentrations, and the physical, chemical, thermal, biological and radioactive nature of contaminants that may be discharged into the waters of the State, as defined herein, including, but not limited to, waters to any sewage works, or into any well, or from any source within the State;

(3) Standards for the issuance of permits for construction, installation, or operation of any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution or designed to prevent water pollution or for the construction or installation of any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State;

(4) The circumstances under which the operators of sewage works are required to obtain and maintain certification by the Agency under Section 13. 5 and the types of sewage works to which those requirements apply, which may, without limitation, include wastewater treatment works, pretreatment works, and sewers and collection systems;

(5) Standards for the filling or sealing of abandoned water wells and holes, and holes for disposal of drainage in order to protect ground water against contamination;

(6) Standards and conditions regarding the sale, offer, or use of any pesticide, detergent, or any other article determined by the Board to constitute a water pollution hazard, provided that any such regulations relating to pesticides shall be adopted only in accordance with the "Illinois Pesticide Act", approved August 14, 1979 as amended;[2]

(7) Alert and abatement standards relative to water-pollution episodes or emergencies which constitute an acute danger to health or to the environment;

(8) Requirements and procedures for the inspection of any equipment, facility, or vessel that may cause or contribute to water pollution;

(9) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their sources, the collection of samples and the collection, reporting and retention of data resulting from such monitoring.

(b) Notwithstanding other provisions of this Act and for purposes of implementing an NPDES program, the Board shall adopt:

(1) Requirements, standards, and procedures which, together with other regulations adopted pursuant to this Section 13, are necessary or appropriate to enable the State of Illinois to implement and participate in the National Pollutant Discharge Elimination System (NPDES) pursuant to and under the Federal Water Pollution Control Act, as now or hereafter amended.[3] All regulations adopted by the Board governing the NPDES program shall be consistent with the applicable provisions of such federal Act and regulations pursuant thereto, and otherwise shall be consistent with all other provisions of this Act, and shall exclude from the requirement to obtain any operating permit otherwise required under this Title a facility for which an NPDES permit has been issued under Section 39(b); provided, however, that for purposes of this paragraph, a UIC permit, as required under Section 12(g) and 39(d) of this Act, is not an operating permit.

(2) Regulations for the exemption of any category or categories of persons or contaminant sources from the

requirement to obtain any NPDES permit prescribed or from any standards or conditions governing such permit when the environment will be adequately protected without the requirement of such permit, and such exemption is either consistent with the Federal Water Pollution Control Act, as now or hereafter amended, or regulations pursuant thereto, or is necessary to avoid an arbitrary or unreasonable hardship to such category or categories of persons or sources.

(c) In accordance with Section 7.2, and notwithstanding any other provisions of this Act, for purposes of implementing a State UIC program, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 1421 of the Safe Drinking Water Act (P.L. 93–523), as amended.[4] The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5–35 of the Illinois Administrative Procedure Act[5] relating to procedures for rulemaking shall not apply to regulations adopted under this subsection.

(d) The Board may adopt regulations relating to a State UIC program that are not inconsistent with and are at least as stringent as the Safe Drinking Water Act (P.L. 93–523), as amended,[6] or regulations adopted thereunder. Regulations adopted pursuant to this subsection shall be adopted in accordance with the provisions and requirements of Title VII of this Act and the procedures for rulemaking in Section 5–35 of the Illinois Administrative Procedure Act.

P.A. 76–2429, § 13, eff. July 1, 1970. Amended by P.A. 78–862, § 1, eff. Sept. 14, 1973; P.A. 82–380, § 1, eff. Sept. 3, 1981; P.A. 83–333, § 62, eff. Sept. 14, 1983; P.A. 85–177, § 3, eff. Jan. 1, 1988; P.A. 85–1048, § 2, eff. Jan. 1, 1989; P.A. 86–671, § 1, eff. Sept. 1, 1989; P.A. 88–45, Art. III, § 3–108, eff. July 6, 1993; P.A. 93–170, § 5, eff. July 10, 2003.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1013.

[1] 415 ILCS 5/26 et seq.

[2] 415 ILCS 60/1 et seq.

[3] 33 U.S.C.A. § 1251 et seq.

[4] 42 U.S.C.A. § 300h.

[5] 5 ILCS 100/5–35.

[6] 42 U.S.C.A. § 300f et seq.

5/13.1. Groundwater monitoring network

§ 13.1. Groundwater monitoring network.

(a) (Blank.)

(b) The Agency shall establish a Statewide groundwater monitoring network. Such network shall include a sufficient number of testing wells to assess the current levels of contamination in the groundwaters of the State and to detect any future degradation of groundwater resources. The monitoring network shall give special emphasis to critical groundwater areas and to locations near hazardous waste disposal facilities. To the extent possible, the network shall utilize existing publicly or privately operated drinking water or monitoring wells.

(c) (Blank.)

(d) (Blank.)

P.A. 76–2429, § 13.1, added by P.A. 83–1268, § 1, eff. Jan. 1, 1985. Amended by P.A. 89–445, § 9B–50, eff. Feb. 7, 1996; P.A. 92–574, § 5, eff. June 26, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1013.1.

5/13.2. Annual testing of private well water

§ 13.2. At the request of the owner or user of a private well, the Agency shall provide for annual testing of water from private wells located within ½ mile of any active or inactive sanitary landfill or hazardous waste disposal facility at no charge to the owner of the well.

Before obtaining a sample for testing, the Agency shall, not less than 5 business days prior to obtaining the sample, notify the owner or operator of the sanitary landfill or hazardous waste disposal facility of the opportunity to obtain a split sample and specify the sampling procedure, testing procedure and analytical parameters to be evaluated.

Sample collection shall be conducted in cooperation with the Illinois Department of Public Health and the recognized local health department, where one exists, in whose jurisdiction the well is located. The Illinois Department of Public Health and the local health department shall be provided with a written report of results upon completion of sample testing.

P.A. 76–2429, § 13.1, added by P.A. 83–1356, § 1, eff. Jan. 1, 1985. Renumbered § 13.2 and amended by P.A. 83–1528, Art. II, § 33, eff. Jan. 17, 1985.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1013.2.

5/13.3. Regulations; implementation of Federal Water Pollution Control Act

§ 13.3. In accordance with Section 7.2, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 307(b), (c), (d), 402(b)(8) and 402(b)(9) of the Federal Water Pollution Control Act, as amended.[1] The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act[2] shall not apply to regulations adopted under this Section. Sections 5–35 and 5–75 of the Illinois Administrative Procedure Act[3] relating to procedures for rulemaking shall not apply to regulations adopted under this Section. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State.

P.A. 76–2429, § 13.3, added by P.A. 84–1320, § 30, eff. Sept. 4, 1986. Amended by P.A. 85–1048, § 2, eff. Jan. 1, 1989; P.A. 88–45, Art. III, § 3–108, eff. July 6, 1993; P.A. 89–445, § 9G–23, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1013.3.

[1] 33 U.S.C.A. §§ 1317, 1342.

[2] 415 ILCS 5/26 et seq.

[3] 5 ILCS 100/5–35 and 100/5–75.

5/13.4. Pretreatment market system

§ 13.4. Pretreatment market system.

(a) The General Assembly finds:

(1) That achieving compliance with federal, State, and local pretreatment regulatory requirements calls for innovative and cost-effective implementation strategies.

(2) That economic incentives and market-based approaches can be used to achieve pretreatment compliance in an innovative and cost-effective manner.

(3) That development and operation of a pretreatment market system should significantly lessen the economic impacts associated with implementation of the pretreatment requirements and still achieve the desired water

quality, sludge quality, and protection of the sewers and treatment system.

(b) The Agency shall design a pretreatment market system that will provide more flexibility for municipalities and their tributary dischargers to develop cost-effective solutions and will result in at least the total pollutant reduction as achieved by the current application of federal categorical standards, State pretreatment limits, and locally derived limits, as applicable. Such a system should also assist publicly-owned treatment works in meeting applicable NPDES permit limits and in preventing the discharge of pollutants in quantities that would interfere with the operation of the municipal sewer system. In developing this system, the Agency shall consult with interested publicly-owned treatment works and tributary dischargers to ensure that relevant economic, environmental, and administrative factors are taken into account. As necessary, the Agency shall also consult with the United States Environmental Protection Agency regarding the suitability of such a system.

(c) The Agency may adopt proposed rules for a market-based pretreatment pollutant reduction, banking, and trading system that will enable publicly-owned treatment works and their tributary dischargers to implement cost-effective compliance options. Any proposal shall be adopted in accordance with the provisions of the Illinois Administrative Procedure Act.[1]

(d) Notwithstanding the other provisions of this Act, a publicly-owned treatment works may implement a pretreatment market system that is consistent with subsection (b) of this Section, provided that the publicly-owned treatment works:

(1) operates an approved local pretreatment program pursuant to State and federal NPDES regulations;

(2) is not currently subject to enforcement action for violation of NPDES requirements;

(3) receives wastewater from tributary dischargers that are subject to federal categorical pretreatment standards or approved local pretreatment limits; and

(4) has modified, as appropriate, the local pretreatment program to incorporate such market system.

(e) Prior to implementation of any pretreatment market system, a publicly-owned treatment works shall notify the Agency in writing of its intention and request the Agency to make a consistency determination regarding the local system's conformance with the rules promulgated pursuant to subsection (c) of this Section. Within 120 days, the Agency shall provide the determination in writing to the publicly-owned treatment works.

(f) Notwithstanding the other provisions of this Act, any discharger that is tributary to a publicly-owned treatment works with a pretreatment market system shall be eligible to exchange trading units with dischargers tributary to the same publicly-owned treatment works or with the publicly-owned treatment works to which it is tributary.

(g) Nothing in this Section shall be deemed to authorize a publicly-owned treatment works:

(1) to mandate the exchange of trading units by a tributary discharger in a pretreatment market system implemented pursuant to this Section; or

(2) to mandate reductions in pollutants from any tributary discharger beyond that otherwise required by federal categorical and State pretreatment standards or approved local pretreatment limits.

P.A. 76–2429, § 13.4, added by P.A. 90–773, § 5, eff. Aug. 14, 1998.

[1] 5 ILCS 100/1–1 et seq.

5/13.5. Sewage works; operator certification

§ 13.5. Sewage works; operator certification.

(a) For the purposes of this Section, the term "sewage works" includes, without limitation, wastewater treatment works, pretreatment works, and sewers and collection systems.

(b) The Agency may establish and enforce standards for the definition and certification of the technical competency of personnel who operate sewage works, and for ascertaining that sewage works are under the supervision of trained individuals whose qualifications have been approved by the Agency.

(c) The Agency may issue certificates of competency to persons meeting the standards of technical competency established by the Agency under this Section, and may promulgate and enforce regulations pertaining to the issuance and use of those certificates.

(d) The Agency shall administer the certification program established under this Section. The Agency may enter into formal working agreements with other departments or agencies of State or local government under which all or portions of its authority under this Section may be delegated to the cooperating department or agency.

(e) This Section and the changes made to subdivision (a)(4) of Section 13 by this amendatory Act of the 93rd General Assembly do not invalidate the operator certification rules previously adopted by the Agency and codified as Part 380 of Title 35, Subtitle C, Chapter II of the Illinois Administrative Code. Those rules, as amended from time to time, shall continue in effect until they are superseded or repealed.

P.A. 76–2429, § 13.5, added by P.A. 93–170, § 5, eff. July 10, 2003.

5/13.6. Release of radionuclides at nuclear power plants

§ 13.6. Release of radionuclides at nuclear power plants.

(a) The purpose of this Section is to require the detection and reporting of unpermitted releases of any radionuclides into groundwater, surface water, or soil at nuclear power plants, to the extent that federal law or regulation does not preempt such requirements.

(b) No owner or operator of a nuclear power plant shall violate any rule adopted under this Section.

(c) Within 24 hours after an unpermitted release of a radionuclide from a nuclear power plant, the owner or operator of the nuclear power plant where the release occurred shall report the release to the Agency and the Illinois Emergency Management Agency. For purposes of this Section, "unpermitted release of a radionuclide" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a radionuclide into groundwater, surface water, or soil that is not permitted under State or federal law or regulation.

(d) The Agency and the Illinois Emergency Management Agency shall inspect each nuclear power plant for compliance with the requirements of this Section and rules adopted pursuant to this Section no less than once each calendar quarter. Nothing in this Section shall limit the Agency's

authority to make inspections under Section 4 or any other provision of this Act.

(e) No later than one year after the effective date of this amendatory Act of the 94th General Assembly, the Agency, in consultation with the Illinois Emergency Management Agency, shall propose rules to the Board prescribing standards for detecting and reporting unpermitted releases of radionuclides. No later than one year after receipt of the Agency's proposal, the Board shall adopt rules prescribing standards for detecting and reporting unpermitted releases of radionuclides.

P.A. 94–2429, § 13.6, added by P.A. 94–849, § 5, eff. June 12, 2006. Amended by P.A. 95–66, § 5, eff. Aug. 13, 2007.

5/13.7. Carbon dioxide sequestration sites

§ 13.7. Carbon dioxide sequestration sites.

(a) For purposes of this Section, the term "carbon dioxide sequestration site" means a site or facility for which the Agency has issued a permit for the underground injection of carbon dioxide.

(b) The Agency shall inspect carbon dioxide sequestration sites for compliance with this Act, rules adopted under this Act, and permits issued by the Agency.

(c) If the Agency issues a seal order under Section 34 of this Act in relation to a carbon dioxide sequestration site, or if a civil action for an injunction to halt activity at a carbon dioxide sequestration site is initiated under Section 43 of this Act at the request of the Agency, then the Agency shall post notice of such action on its website.

(d) Persons seeking a permit or permit modification for the underground injection of carbon dioxide shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with review and issuance of the permit, including, but not limited to, costs associated with public hearings and the review of permit applications. Once a permit is issued, the permittee shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with inspections and other oversight of the carbon dioxide sequestration site. Persons liable for costs under this subsection (d) must pay the costs upon invoicing, or other request or demand for payment, by the Agency. Costs for which a person is liable under this subsection (d) are in addition to any other fees, penalties, or other relief provided under this Act or any other law.

Moneys collected under this subsection (d) shall be deposited into the Environmental Protection Permit and Inspection Fund established under Section 22.8 of this Act. The Agency may adopt rules relating to the collection of costs due under this subsection (d).

(e) The Agency shall not issue a permit or permit modification for the underground injection of carbon dioxide unless all costs for which the permittee is liable under subsection (d) of this Section have been paid.

(f) No person shall fail or refuse to pay costs for which the person is liable under subsection (d) of this Section.

P.A. 76–2429, § 13.7, added by P.A. 97–96, § 20, eff. July 13, 2011; P.A. 97–239, § 25, eff. Aug. 2, 2011.

The additions by P.A. 97–96 and P.A. 97–239 were identical.

TITLE V: LAND POLLUTION AND REFUSE DISPOSAL

5/21. Prohibited acts

§ 21. Prohibited acts. No person shall:

(a) Cause or allow the open dumping of any waste.

(b) Abandon, dump, or deposit any waste upon the public highways or other public property, except in a sanitary landfill approved by the Agency pursuant to regulations adopted by the Board.

(c) Abandon any vehicle in violation of the "Abandoned Vehicles Amendment to the Illinois Vehicle Code",[1] as enacted by the 76th General Assembly.

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; provided, however, that, except for municipal solid waste landfill units that receive waste on or after October 9, 1993, no permit shall be required for (i) any person conducting a waste-storage, waste-treatment, or waste-disposal operation for wastes generated by such person's own activities which are stored, treated, or disposed within the site where such wastes are generated, or (ii) a facility located in a county with a population over 700,000 as of January 1, 2000, operated and located in accordance with Section 22.38 of this Act, and used exclusively for the transfer, storage, or treatment of general construction or demolition debris, provided that the facility was receiving construction or demolition debris on the effective date of this amendatory Act of the 96th General Assembly;

(2) in violation of any regulations or standards adopted by the Board under this Act; or

(3) which receives waste after August 31, 1988, does not have a permit issued by the Agency, and is (i) a landfill used exclusively for the disposal of waste generated at the site, (ii) a surface impoundment receiving special waste not listed in an NPDES permit, (iii) a waste pile in which the total volume of waste is greater than 100 cubic yards or the waste is stored for over one year, or (iv) a land treatment facility receiving special waste generated at the site; without giving notice of the operation to the Agency by January 1, 1989, or 30 days after the date on which the operation commences, whichever is later, and every 3 years thereafter. The form for such notification shall be specified by the Agency, and shall be limited to information regarding: the name and address of the location of the operation; the type of operation; the types and amounts of waste stored, treated or disposed of on an annual basis; the remaining capacity of the operation; and the remaining expected life of the operation.

Item (3) of this subsection (d) shall not apply to any person engaged in agricultural activity who is disposing of a substance that constitutes solid waste, if the substance was acquired for use by that person on his own property, and the substance is disposed of on his own property in accordance with regulations or standards adopted by the Board.

This subsection (d) shall not apply to hazardous waste.

(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

(1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, includ-

ing periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or

(2) in violation of any regulations or standards adopted by the Board under this Act; or

(3) in violation of any RCRA permit filing requirement established under standards adopted by the Board under this Act; or

(4) in violation of any order adopted by the Board under this Act.

Notwithstanding the above, no RCRA permit shall be required under this subsection or subsection (d) of Section 39 of this Act for any person engaged in agricultural activity who is disposing of a substance which has been identified as a hazardous waste, and which has been designated by Board regulations as being subject to this exception, if the substance was acquired for use by that person on his own property and the substance is disposed of on his own property in accordance with regulations or standards adopted by the Board.

(g) Conduct any hazardous waste-transportation operation:

(1) without registering with and obtaining a special waste hauling permit from the Agency in accordance with the regulations adopted by the Board under this Act; or

(2) in violation of any regulations or standards adopted by the Board under this Act.

(h) Conduct any hazardous waste-recycling or hazardous waste-reclamation or hazardous waste-reuse operation in violation of any regulations, standards or permit requirements adopted by the Board under this Act.

(i) Conduct any process or engage in any act which produces hazardous waste in violation of any regulations or standards adopted by the Board under subsections (a) and (c) of Section 22.4 of this Act.

(j) Conduct any special waste transportation operation in violation of any regulations, standards or permit requirements adopted by the Board under this Act. However, sludge from a water or sewage treatment plant owned and operated by a unit of local government which (1) is subject to a sludge management plan approved by the Agency or a permit granted by the Agency, and (2) has been tested and determined not to be a hazardous waste as required by applicable State and federal laws and regulations, may be transported in this State without a special waste hauling permit, and the preparation and carrying of a manifest shall not be required for such sludge under the rules of the Pollution Control Board. The unit of local government which operates the treatment plant producing such sludge shall file a semiannual report with the Agency identifying the volume of such sludge transported during the reporting period, the hauler of the sludge, and the disposal sites to which it was transported. This subsection (j) shall not apply to hazardous waste.

(k) Fail or refuse to pay any fee imposed under this Act.

(*l*) Locate a hazardous waste disposal site above an active or inactive shaft or tunneled mine or within 2 miles of an active fault in the earth's crust. In counties of population less than 225,000 no hazardous waste disposal site shall be located (1) within 1 1/2 miles of the corporate limits as defined on June 30, 1978, of any municipality without the approval of the governing body of the municipality in an official action; or (2) within 1000 feet of an existing private well or the existing source of a public water supply measured from the boundary of the actual active permitted site and excluding existing private wells on the property of the permit applicant. The provisions of this subsection do not apply to publicly-owned sewage works or the disposal or utilization of sludge from publicly-owned sewage works.

(m) Transfer interest in any land which has been used as a hazardous waste disposal site without written notification to the Agency of the transfer and to the transferee of the conditions imposed by the Agency upon its use under subsection (g) of Section 39.

(n) Use any land which has been used as a hazardous waste disposal site except in compliance with conditions imposed by the Agency under subsection (g) of Section 39.

(*o*) Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

(1) refuse in standing or flowing waters;

(2) leachate flows entering waters of the State;

(3) leachate flows exiting the landfill confines (as determined by the boundaries established for the landfill by a permit issued by the Agency);

(4) open burning of refuse in violation of Section 9 of this Act;

(5) uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit;

(6) failure to provide final cover within time limits established by Board regulations;

(7) acceptance of wastes without necessary permits;

(8) scavenging as defined by Board regulations;

(9) deposition of refuse in any unpermitted portion of the landfill;

(10) acceptance of a special waste without a required manifest;

(11) failure to submit reports required by permits or Board regulations;

(12) failure to collect and contain litter from the site by the end of each operating day;

(13) failure to submit any cost estimate for the site or any performance bond or other security for the site as required by this Act or Board rules.

The prohibitions specified in this subsection (*o*) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to sanitary landfills.

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

(2) scavenging;

(3) open burning;

(4) deposition of waste in standing or flowing waters;

(5) proliferation of disease vectors;

(6) standing or flowing liquid discharge from the dump site;

(7) deposition of:

(i) general construction or demolition debris as defined in Section 3.160(a) of this Act; or

(ii) clean construction or demolition debris as defined in Section 3.160(b) of this Act.

The prohibitions specified in this subsection (p) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to open dumping.

(q) Conduct a landscape waste composting operation without an Agency permit, provided, however, that no permit shall be required for any person:

(1) conducting a landscape waste composting operation for landscape wastes generated by such person's own activities which are stored, treated, or disposed of within the site where such wastes are generated; or

(1.5) conducting a landscape waste composting operation that (i) has no more than 25 cubic yards of landscape waste, composting additives, composting material, or end-product compost on-site at any one time and (ii) is not engaging in commercial activity; or

(2) applying landscape waste or composted landscape waste at agronomic rates; or

(2.5) operating a landscape waste composting facility at a site having 10 or more occupied non-farm residences within 1/2 mile of its boundaries, if the facility meets all of the following criteria:

(A) the composting facility is operated by the farmer on property on which the composting material is utilized, and the composting facility constitutes no more than 2% of the site's total acreage;

(A–5) any composting additives that the composting facility accepts and uses at the facility are necessary to provide proper conditions for composting and do not exceed 10% of the total composting material at the facility at any one time;

(B) the property on which the composting facility is located, and any associated property on which the compost is used, is principally and diligently devoted to the production of agricultural crops and is not owned, leased, or otherwise controlled by any waste hauler or generator of nonagricultural compost materials, and the operator of the composting facility is not an employee, partner, shareholder, or in any way connected with or controlled by any such waste hauler or generator;

(C) all compost generated by the composting facility is applied at agronomic rates and used as mulch, fertilizer, or soil conditioner on land actually farmed by the person operating the composting facility, and the finished compost is not stored at the composting site for a period longer than 18 months prior to its application as mulch, fertilizer, or soil conditioner;

(D) no fee is charged for the acceptance of materials to be composted at the facility; and

(E) the owner or operator, by January 1, 2014 (or the January 1 following commencement of operation, whichever is later) and January 1 of each year thereafter, registers the site with the Agency, (ii) reports to the Agency on the volume of composting material received and used at the site; (iii) certifies to the Agency that the site complies with the requirements set forth in subparagraphs (A), (A–5), (B), (C), and (D) of this paragraph (2.5); and (iv) certifies to the Agency that all composting material was placed more than 200 feet from the nearest potable water supply well, was placed outside the boundary of the 10–year floodplain or on a part of the site that is floodproofed, was placed at least 1/4 mile from the nearest residence (other than a residence located on the same property as the facility) or a lesser distance from the nearest residence (other than a residence located on the same property as the facility) if the municipality in which the facility is located has by ordinance approved a lesser distance than 1/4 mile, and was placed more than 5 feet above the water table; any ordinance approving a residential setback of less than 1/4 mile that is used to meet the requirements of this subparagraph (E) of paragraph (2.5) of this subsection must specifically reference this paragraph; or

(3) operating a landscape waste composting facility on a farm, if the facility meets all of the following criteria:

(A) the composting facility is operated by the farmer on property on which the composting material is utilized, and the composting facility constitutes no more than 2% of the property's total acreage, except that the Board may allow a higher percentage for individual sites where the owner or operator has demonstrated to the Board that the site's soil characteristics or crop needs require a higher rate;

(A–1) the composting facility accepts from other agricultural operations for composting with landscape waste no materials other than uncontaminated and source-separated (i) crop residue and other agricultural plant residue generated from the production and harvesting of crops and other customary farm practices, including, but not limited to, stalks, leaves, seed pods, husks, bagasse, and roots and (ii) plant-derived animal bedding, such as straw or sawdust, that is free of manure and was not made from painted or treated wood;

(A–2) any composting additives that the composting facility accepts and uses at the facility are necessary to provide proper conditions for composting and do not exceed 10% of the total composting material at the facility at any one time;

(B) the property on which the composting facility is located, and any associated property on which the compost is used, is principally and diligently devoted to the production of agricultural crops and is not owned, leased or otherwise controlled by any waste hauler or generator of nonagricultural compost materials, and the operator of the composting facility is not an employee, partner, shareholder, or in any way connected with or controlled by any such waste hauler or generator;

(C) all compost generated by the composting facility is applied at agronomic rates and used as mulch, fertilizer or soil conditioner on land actually farmed by the person operating the composting facility, and the finished compost is not stored at the composting site for a period longer than 18 months prior to its application as mulch, fertilizer, or soil conditioner;

(D) the owner or operator, by January 1 of each year, (i) registers the site with the Agency, (ii) reports to the Agency on the volume of composting material received and used at the site, (iii) certifies to the Agency that the site complies with the requirements set forth in subparagraphs (A), (A–1), (A–2), (B), and (C) of this paragraph (q)(3), and (iv) certifies to the Agency that all composting material:

(I) was placed more than 200 feet from the nearest potable water supply well;

(II) was placed outside the boundary of the 10–year floodplain or on a part of the site that is floodproofed;

(III) was placed either (aa) at least 1/4 mile from the nearest residence (other than a residence located on the same property as the facility) and there are not more than 10 occupied non-farm residences within 1/2

mile of the boundaries of the site on the date of application or (bb) a lesser distance from the nearest residence (other than a residence located on the same property as the facility) provided that the municipality or county in which the facility is located has by ordinance approved a lesser distance than 1/4 mile and there are not more than 10 occupied non-farm residences within 1/2 mile of the boundaries of the site on the date of application; and

(IV) was placed more than 5 feet above the water table.

Any ordinance approving a residential setback of less than 1/4 mile that is used to meet the requirements of this subparagraph (D) must specifically reference this subparagraph.

For the purposes of this subsection (q), "agronomic rates" means the application of not more than 20 tons per acre per year, except that the Board may allow a higher rate for individual sites where the owner or operator has demonstrated to the Board that the site's soil characteristics or crop needs require a higher rate.

(r) Cause or allow the storage or disposal of coal combustion waste unless:

(1) such waste is stored or disposed of at a site or facility for which a permit has been obtained or is not otherwise required under subsection (d) of this Section; or

(2) such waste is stored or disposed of as a part of the design and reclamation of a site or facility which is an abandoned mine site in accordance with the Abandoned Mined Lands and Water Reclamation Act;[2] or

(3) such waste is stored or disposed of at a site or facility which is operating under NPDES and Subtitle D permits issued by the Agency pursuant to regulations adopted by the Board for mine-related water pollution and permits issued pursuant to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95–87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto, and the owner or operator of the facility agrees to accept the waste; and either

(i) such waste is stored or disposed of in accordance with requirements applicable to refuse disposal under regulations adopted by the Board for mine-related water pollution and pursuant to NPDES and Subtitle D permits issued by the Agency under such regulations; or

(ii) the owner or operator of the facility demonstrates all of the following to the Agency, and the facility is operated in accordance with the demonstration as approved by the Agency: (1) the disposal area will be covered in a manner that will support continuous vegetation, (2) the facility will be adequately protected from wind and water erosion, (3) the pH will be maintained so as to prevent excessive leaching of metal ions, and (4) adequate containment or other measures will be provided to protect surface water and groundwater from contamination at levels prohibited by this Act, the Illinois Groundwater Protection Act,[3] or regulations adopted pursuant thereto.

Notwithstanding any other provision of this Title, the disposal of coal combustion waste pursuant to item (2) or (3) of this subdivision (r) shall be exempt from the other provisions of this Title V, and notwithstanding the provisions of Title X of this Act, the Agency is authorized to grant experimental permits which include provision for the disposal of wastes from the combustion of coal and other materials pursuant to items (2) and (3) of this subdivision (r).

(s) After April 1, 1989, offer for transportation, transport, deliver, receive or accept special waste for which a manifest is required, unless the manifest indicates that the fee required under Section 22.8 of this Act has been paid.

(t) Cause or allow a lateral expansion of a municipal solid waste landfill unit on or after October 9, 1993, without a permit modification, granted by the Agency, that authorizes the lateral expansion.

(u) Conduct any vegetable by-product treatment, storage, disposal or transportation operation in violation of any regulation, standards or permit requirements adopted by the Board under this Act. However, no permit shall be required under this Title V for the land application of vegetable by-products conducted pursuant to Agency permit issued under Title III of this Act to the generator of the vegetable by-products. In addition, vegetable by-products may be transported in this State without a special waste hauling permit, and without the preparation and carrying of a manifest.

(v) (Blank).

(w) Conduct any generation, transportation, or recycling of construction or demolition debris, clean or general, or uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads that is not commingled with any waste, without the maintenance of documentation identifying the hauler, generator, place of origin of the debris or soil, the weight or volume of the debris or soil, and the location, owner, and operator of the facility where the debris or soil was transferred, disposed, recycled, or treated. This documentation must be maintained by the generator, transporter, or recycler for 3 years. This subsection (w) shall not apply to (1) a permitted pollution control facility that transfers or accepts construction or demolition debris, clean or general, or uncontaminated soil for final disposal, recycling, or treatment, (2) a public utility (as that term is defined in the Public Utilities Act)[1] or a municipal utility, (3) the Illinois Department of Transportation, or (4) a municipality or a county highway department, with the exception of any municipality or county highway department located within a county having a population of over 3,000,000 inhabitants or located in a county that is contiguous to a county having a population of over 3,000,000 inhabitants; but it shall apply to an entity that contracts with a public utility, a municipal utility, the Illinois Department of Transportation, or a municipality or a county highway department. The terms "generation" and "recycling" as used in this subsection do not apply to clean construction or demolition debris when (i) used as fill material below grade outside of a setback zone if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or structure, (ii) solely broken concrete without protruding metal bars is used for erosion control, or (iii) milled asphalt or crushed concrete is used as aggregate in construction of the shoulder of a roadway. The terms "generation" and "recycling", as used in this subsection, do not apply to uncontaminated soil that is not commingled with any waste when (i) used as fill material below grade or contoured to grade, or (ii) used at the site of generation.

P.A. 76–2429, § 21, eff. July 1, 1970. Amended by P.A. 79–762, § 1, eff. Oct. 1, 1975; P.A. 81–856, § 1, eff. Jan. 1, 1980; P.A. 81–1186, § 1, eff. Jan. 1, 1981; P.A. 81–1484, § 1, eff. July 1, 1980; P.A. 81–1509, Art. I, § 71, eff. Sept. 26, 1980; P.A. 82–380, § 1, eff. Sept. 3, 1981; P.A. 83–386, § 1, eff. Jan. 1, 1984; P.A. 83–983, § 1, eff. Dec. 12, 1983; P.A. 83–1235, § 1, eff. July 30, 1984; P.A. 83–1268, § 1, eff. Jan. 1, 1985; P.A. 83–1362, Art. II, § 120, eff. Sept. 11, 1984; P.A. 84–1320, § 30, eff. Sept. 4, 1986; P.A. 85–810, § 1, eff. Jan. 1,

1988; P.A. 85–1325, § 2, eff. Aug. 31, 1988; P.A. 85–1343, § 1, eff. Jan. 1, 1989; P.A. 85–1346, § 2, eff. Aug. 31, 1988; P.A. 85–1400, § 1, eff. Sept. 12, 1988; P.A. 85–1429, § 1, eff. July 1, 1989; P.A. 86–364, Art. 6, § 6003, eff. Jan. 1, 1990; P.A. 86–633, § 1, eff. Sept. 1, 1989; P.A. 86–671, § 1, eff. Sept. 1, 1989; P.A. 86–820, Art. II, § 2–9, eff. Sept. 7, 1989; P.A. 86–1026, § 2, eff. Jan. 24, 1990; P.A. 86–1195, § 3, eff. Aug. 29, 1990; P.A. 87–608, § 1, eff. Nov. 17, 1991; P.A. 87–752, § 1, eff. Jan. 1, 1992; P.A. 87–895, Art. 2, § 2–55, eff. Aug. 14, 1992; P.A. 88–454, § 5, eff. Jan. 1, 1994; P.A. 88–496, § 15, eff. Sept. 13, 1993; P.A. 88–670, Art. 2, § 2–57, eff. Dec. 2, 1994; P.A. 89–93, § 20, eff. July 6, 1995; P.A. 89–535, § 5, eff. July 19, 1996; P.A. 90–219, § 5, eff. July 25, 1997; P.A. 90–344, § 5, eff. Jan. 1, 1998; P.A. 90–475, § 5, eff. Aug. 17, 1997; P.A. 90–655, § 133, eff. July 30, 1998; P.A. 90–761, § 10, eff. Aug. 14, 1998; P.A. 91–72, § 5, eff. July 9, 1999; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 93–179, § 5, eff. July 11, 2003; P.A. 94–94, § 5, eff. July 1, 2005; P.A. 96–611, § 5, eff. Aug. 24, 2009; P.A. 97–220, § 10, eff. July 28, 2011; P.A. 98–239, § 5, eff. Aug. 9, 2013; P.A. 98–484, § 5, eff. Aug. 16, 2013; P.A. 98–756, § 590, eff. July 16, 2014.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1021.

[1] 625 ILCS 5/1–100 et seq.

[2] 20 ILCS 1920/1.01 et seq.

[3] 415 ILCS 55/1 et seq.

[4] 220 ILCS 5/1–101 et seq.

5/22.12. Leaking underground storage tank program

§ 22.12. (a) The Agency shall coordinate with the Office of the State Fire Marshal in the administration of the Leaking Underground Storage Tank program, as established in Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98–616), as amended, of the Resource Conservation and Recovery Act of 1976 (P.L. 94–580).[1] The Agency shall act as the lead agency in the formulation of regulations and policies, and shall be responsible for groundwater monitoring and any necessary site cleanup requirements encountered under the Resource Conservation and Recovery Act of 1976, the Comprehensive Environmental Response Compensation and Liability Act,[2] or the State "Clean Illinois" program.

(b) By May 8, 1986, a person who is the owner of an underground storage tank containing hazardous waste on July 1, 1986 shall register the tank with the Agency on the form provided by the Agency pursuant to Subtitle I of The Hazardous and Solid Waste Amendments of 1984 (P.L. 98–616) of the Resource Conservation and Recovery Act of 1976 (P.L. 94–580), as amended.

(c) A person who is the owner of an underground storage tank containing hazardous waste installed or replaced after July 1, 1986 shall register prior to the installation of the tank.

(d) Except as otherwise provided in subsection (e), a person who is the owner of an underground storage tank containing hazardous waste registered under subsection (b) or (c) shall notify the Agency of any change in the information required under this Section or of the removal of an underground storage tank from service.

(e) A person who is the owner of an underground storage tank containing hazardous waste the contents of which are changed routinely shall indicate all the materials which are stored in the tank on the registration form. A person providing the information described in this subsection is not required to notify the Agency of changes in the contents of the tank unless the material to be stored in the tank differs from the information provided on the registration form.

P.A. 76–2429, § 22.12, added by P.A. 84–1072, § 1, eff. July 1, 1986. Amended by P.A. 85–293, Art. III, § 28, eff. Sept. 8, 1987; P.A. 85–861, § 1, eff. Sept. 24, 1987; P.A. 88–496, § 15, eff. Sept. 13, 1993.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 1022.12.

[1] 42 U.S.C.A. 6901 et seq.

[2] 42 U.S.C.A. § 9601 et seq.

TITLE XVI: PETROLEUM UNDERGROUND STORAGE TANKS

Date Effective

Title XVI was added by P.A. 88–496, § 15, eff. Sept. 13, 1993.

5/57. Intent and purpose

§ 57. Intent and purpose. This Title shall be known and may be cited as the Leaking Underground Storage Tank Program (LUST). The purpose of this Title is to, in accordance with the requirements of the Hazardous and Solid Waste Amendments of 1984 of the Resource Conservation and Recovery Act of 1976[1] and in accordance with the State's interest in the protection of Illinois' land and water resources: (1) to adopt procedures for the remediation of underground storage tank sites due to the release of petroleum and other substances regulated under this Title from certain underground storage tanks or related tank systems; (2) to establish and provide procedures for a Leaking Underground Storage Tank Program which will oversee and review any remediation required for leaking underground storage tanks, and administer the Underground Storage Tank Fund; (3) to establish an Underground Storage Tank Fund intended to be a State fund by which persons who qualify for access to the Underground Storage Tank Fund may satisfy the financial responsibility requirements under applicable State law and regulations; (4) to establish requirements for eligible owners and operators of underground storage tanks to seek payment for any costs associated with physical soil classification, groundwater investigation, site classification and corrective action from the Underground Storage Tank Fund; and (5) to audit and approve corrective action efforts performed by Licensed Professional Engineers.

P.A. 76–2429, § 57, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 91–357, § 199, eff. July 29, 1999.

[1] 42 U.S.C.A. § 6901 et seq.

5/57.1. Applicability

§ 57.1. Applicability.

(a) An owner or operator of an underground storage tank who meets the definition of this Title shall be required to conduct tank removal, abandonment and repair, site investigation, and corrective action in accordance with the requirements of the Leaking Underground Storage Tank Program.

(b) An owner or operator of a heating oil tank as defined by this Title may elect to perform tank removal, abandonment or repair, site investigation, or corrective action, unless the provisions of subsection (g) of Section 57.5 are applicable.

(c) All owners or operators who conduct tank removal, repair or abandonment, site investigation, or corrective action may be eligible for the relief provided for under Section 57.10 of this Title.

(d) The owners or operators, or both, of underground storage tanks containing regulated substances other than petroleum shall undertake corrective action in conformance with regulations promulgated by the Illinois Pollution Control Board.

P.A. 76–2429, § 57.1, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 92–554, § 5, eff. June 24, 2002.

5/57.2. Definitions

§ 57.2. Definitions. As used in this Title:

"Audit" means a systematic inspection or examination of plans, reports, records, or documents to determine the completeness and accuracy of the data and conclusions contained therein.

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils.

"Fill material" means non-native or disturbed materials used to bed and backfill around an underground storage tank.

"Fund" means the Underground Storage Tank Fund.

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4—light, No. 4—heavy, No. 5—light, No. 5—heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including Navy Special Fuel Oil and Bunker C.

"Indemnification" means indemnification of an owner or operator for the amount of any judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator.

"Corrective action" means activities associated with compliance with the provisions of Sections 57.6 and 57.7 of this Title.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank.

When used in connection with, or when otherwise relating to, underground storage tanks, the terms "facility", "owner", "operator", "underground storage tank", "(UST)", "petroleum" and "regulated substance" shall have the meanings ascribed to them in Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98–616), of the Resource Conservation and Recovery Act of 1976 (P.L. 94–580) [1]; provided however that the term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit; provided further however that the term "owner" shall also mean any person who has submitted to the Agency a written election to proceed under this Title and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency pursuant to this Title.

"Licensed Professional Engineer" means a person, corporation, or partnership licensed under the laws of the State of Illinois to practice professional engineering.

"Licensed Professional Geologist" means a person licensed under the laws of the State of Illinois to practice as a professional geologist.

"Site" means any single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way.

"Site investigation" means activities associated with compliance with the provisions of subsection (a) of Section 57.7.

"Property damage" means physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed, or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank.

"Class I Groundwater" means groundwater that meets the Class I: Potable Resource Groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act.

"Class III Groundwater" means groundwater that meets the Class III: Special Resource Groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act.[2]

P.A. 76–2429, § 57.2, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 92–554, § 5, eff. June 24, 2002; P.A. 92–735, § 5, eff. July 25, 2002; P.A. 94–274, § 5, eff. Jan. 1, 2006.

[1] 42 U.S.C.A. § 6901 et seq.

[2] 415 ILCS 55/1 et seq.

5/57.3. Underground Storage Tank Program

§ 57.3. Underground Storage Tank Program. The General Assembly hereby establishes the Illinois Leaking Underground Storage Tank Program (LUST Program). The LUST Program shall be administered by the Office of the State Fire Marshal and the Illinois Environmental Protection Agency.

P.A. 76–2429, § 57.3, added by P.A. 88–496, § 15, eff. Sept. 13, 1993.

5/57.4. State Agencies

§ 57.4. State Agencies. The Office of State Fire Marshal and the Illinois Environmental Protection Agency shall administer the Leaking Underground Storage Tank Program in accordance with the terms of this Title.

P.A. 76–2429, § 57.4, added by P.A. 88–496, § 15, eff. Sept. 13, 1993.

5/57.5. Underground Storage Tanks; removal; repair; abandonment

§ 57.5. Underground Storage Tanks; removal; repair; abandonment.

(a) Notwithstanding the eligibility or the level of deductibility of an owner or operator under the Underground Storage Tank Fund, any owner or operator of an Underground Storage Tank may seek to remove or abandon such tank under the provisions of this Title. In order to be reimbursed under Section 57.8, the owner or operator must comply with

the provisions of this Title. In no event will an owner or operator be reimbursed for any costs which exceed the minimum requirements necessary to comply with this Title.

(b) Removal or abandonment of an Underground Storage Tank must be carried out in accordance with regulations adopted by the Office of State Fire Marshal.

(c) The Office of the State Fire Marshal or a designated agent shall have an inspector on site at the time of removal, abandonment, or such other times the Office of State Fire Marshal deems appropriate. At such time, the inspector shall, upon preliminary excavation of the tank site, render an opinion as to whether a release of petroleum has occurred and, if so, the owner or operator shall report the known or suspected release to the Illinois Emergency Management Agency. The owner or operator shall determine whether or not a release has occurred in conformance with the regulations adopted by the Board and the Office of the State Fire Marshal. Except that if the opinion of the Office of the State Fire Marshal inspector is that a release of petroleum has occurred and the owner or operator has reported the release to the Illinois Emergency Management Agency within 24 hours of removal of the tank, no such determination is required under this subsection. In the event the owner or operator confirms the presence of a release of petroleum, the owner or operator shall comply with Section 57.6. The inspector shall provide the owner or operator, or a designated agent, with an "Eligibility and Deductibility Determination" form. The Office of the State Fire Marshal shall provide on-site assistance to the owner or operator or a designated agent with regard to the eligibility and deductibility procedures as provided in Section 57.9. If the Office of the State Fire Marshal is not on site, the Office of the State Fire Marshal shall provide the owner or operator with an "Eligibility and Deductibility Determination" form within 15 days after receiving notice that the confirmed release was reported by the owner or operator.

(d) In the event that a release of petroleum is confirmed under subsection (c) of this Section, the owner or operator may elect to backfill the preliminary excavation and proceed under Section 57.6.

(e) In the event that an Underground Storage Tank is found to be ineligible for payment from the Underground Storage Tank Fund, the owner or operator shall proceed under Sections 57.6 and 57.7.

(f) In the event that no release of petroleum is confirmed, the owner or operator shall proceed to complete the removal of the underground storage tank, and when appropriate, dispose of the tank and backfill the excavation or, in the alternate, abandon the underground storage tank in place. Either option shall be in accordance with regulations adopted by the Office of the State Fire Marshal. The owner or operator shall certify to the Office of the State Fire Marshal that the tank removal or abandonment was conducted in accordance with all applicable rules and regulations, and the Office of the State Fire Marshal shall then issue a certificate of removal or abandonment to the owner or operator. If the Office of the State Fire Marshal fails to issue a certificate of removal or abandonment within 30 days of receipt of the certification, the certification shall be considered rejected by operation of law and a final action appealable to the Board. Nothing in this Title shall prohibit the Office of the State Fire Marshal from making an independent inspection of the site and challenging the veracity of the owner or operator certification.

(g) The owner or operator of an underground storage tank taken out of operation before January 2, 1974, or an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit shall not be required to remove or abandon in place such underground storage tank except in the case in which the Office of the State Fire Marshal has determined that a release from the underground storage tank poses a current or potential threat to human health and the environment. In that case, and upon receipt of an order from the Office of the State Fire Marshal, the owner or operator of such underground storage tank shall conduct removal and, if necessary, site investigation and corrective action in accordance with this Title and regulations promulgated by the Office of State Fire Marshal and the Board.

(h) In the event that a release of petroleum occurred between September 13, 1993, and August 1, 1994, for which the Office of the State Fire Marshal issued a certificate of removal or abandonment based on its determination of "no release" or "minor release," and the Office of the State Fire Marshal subsequently has rescinded that determination and required a report of a confirmed release to the Illinois Emergency Management Agency, the owner or operator may be eligible for reimbursement for the costs of site investigation and corrective action incurred on or after the date of the release but prior to the notification of the Illinois Emergency Management Agency. The date of the release shall be the date of the initial inspection by the Office of the State Fire Marshal as recorded in its inspection log. Eligibility and deductibility shall be determined in accordance with this Title, the owner or operator must comply with the provisions of this Act and its rules, and in no case shall the owner or operator be reimbursed for costs exceeding the minimum requirements of this Act and its rules.

P.A. 76–2429, § 57.5, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 92–554, § 5, eff. June 24, 2002.

5/57.6. Underground storage tanks; early action

§ 57.6. Underground storage tanks; early action.

(a) Owners and operators of underground storage tanks shall, in response to all confirmed releases, comply with all applicable statutory and regulatory reporting and response requirements.

(b) Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal. The owner or operator may also remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment for early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank.

P.A. 76–2429, § 57.6, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 92–554, § 5, eff. June 24, 2002.

5/57.7. Leaking underground storage tanks; site investigation and corrective action

§ 57.7. Leaking underground storage tanks; site investigation and corrective action.

(a) Site investigation.

(1) For any site investigation activities required by statute or rule, the owner or operator shall submit to the Agency for approval a site investigation plan designed to determine the nature, concentration, direction of movement, rate of movement, and extent of the contamination as well as the significant physical features of the site and surrounding area that may affect contaminant transport and risk to human health and safety and the environment.

(2) Any owner or operator intending to seek payment from the Fund shall submit to the Agency for approval a site investigation budget that includes, but is not limited to, an accounting of all costs associated with the implementation and completion of the site investigation plan.

(3) Remediation objectives for the applicable indicator contaminants shall be determined using the tiered approach to corrective action objectives rules adopted by the Board pursuant to this Title and Title XVII of this Act. For the purposes of this Title, "Contaminant of Concern" or "Regulated Substance of Concern" in the rules means the applicable indicator contaminants set forth in subsection (d) of this Section and the rules adopted thereunder.

(4) Upon the Agency's approval of a site investigation plan, or as otherwise directed by the Agency, the owner or operator shall conduct a site investigation in accordance with the plan.

(5) Within 30 days after completing the site investigation, the owner or operator shall submit to the Agency for approval a site investigation completion report. At a minimum the report shall include all of the following:

(A) Executive summary.

(B) Site history.

(C) Site-specific sampling methods and results.

(D) Documentation of all field activities, including quality assurance.

(E) Documentation regarding the development of proposed remediation objectives.

(F) Interpretation of results.

(G) Conclusions.

(b) Corrective action.

(1) If the site investigation confirms none of the applicable indicator contaminants exceed the proposed remediation objectives, within 30 days after completing the site investigation the owner or operator shall submit to the Agency for approval a corrective action completion report in accordance with this Section.

(2) If any of the applicable indicator contaminants exceed the remediation objectives approved for the site, within 30 days after the Agency approves the site investigation completion report the owner or operator shall submit to the Agency for approval a corrective action plan designed to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release. The plan shall describe the selected remedy and evaluate its ability and effectiveness to achieve the remediation objectives approved for the site. At a minimum, the report shall include all of the following:

(A) Executive summary.

(B) Statement of remediation objectives.

(C) Remedial technologies selected.

(D) Confirmation sampling plan.

(E) Current and projected future use of the property.

(F) Applicable preventive, engineering, and institutional controls including long-term reliability, operating, and maintenance plans, and monitoring procedures.

(G) A schedule for implementation and completion of the plan.

(3) Any owner or operator intending to seek payment from the Fund shall submit to the Agency for approval a corrective action budget that includes, but is not limited to, an accounting of all costs associated with the implementation and completion of the corrective action plan.

(4) Upon the Agency's approval of a corrective action plan, or as otherwise directed by the Agency, the owner or operator shall proceed with corrective action in accordance with the plan.

(5) Within 30 days after the completion of a corrective action plan that achieves applicable remediation objectives the owner or operator shall submit to the Agency for approval a corrective action completion report. The report shall demonstrate whether corrective action was completed in accordance with the approved corrective action plan and whether the remediation objectives approved for the site, as well as any other requirements of the plan, have been achieved.

(6) If within 4 years after the approval of any corrective action plan the applicable remediation objectives have not been achieved and the owner or operator has not submitted a corrective action completion report, the owner or operator must submit a status report for Agency review. The status report must include, but is not limited to, a description of the remediation activities taken to date, the effectiveness of the method of remediation being used, the likelihood of meeting the applicable remediation objectives using the current method of remediation, and the date the applicable remediation objectives are expected to be achieved.

(7) If the Agency determines any approved corrective action plan will not achieve applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit to the Agency for approval a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator must also submit a revised budget.

(c) Agency review and approval.

(1) Agency approval of any plan and associated budget, as described in this subsection (c), shall be considered final approval for purposes of seeking and obtaining payment from the Underground Storage Tank Fund if the costs associated with the completion of any such plan are less than or equal to the amounts approved in such budget.

(2) In the event the Agency fails to approve, disapprove, or modify any plan or report submitted pursuant to this Title in writing within 120 days of the receipt by the Agency, the plan or report shall be considered to be rejected by operation of law for purposes of this Title and rejected for purposes of payment from the Underground Storage Tank Fund.

(A) For purposes of those plans as identified in paragraph (5) of this subsection (c), the Agency's review may be an audit procedure. Such review or audit shall be consistent with the procedure for such review or audit as promulgated by the Board under Section 57.14. The Agency has the authority to establish an auditing program to verify compliance of such plans with the provisions of this Title.

(B) For purposes of corrective action plans submitted pursuant to subsection (b) of this Section for which payment from the Fund is not being sought, the Agency

need not take action on such plan until 120 days after it receives the corrective action completion report required under subsection (b) of this Section. In the event the Agency approved the plan, it shall proceed under the provisions of this subsection (c).

(3) In approving any plan submitted pursuant to subsection (a) or (b) of this Section, the Agency shall determine, by a procedure promulgated by the Board under Section 57.14, that the costs associated with the plan are reasonable, will be incurred in the performance of site investigation or corrective action, and will not be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of this Title. The Agency shall also determine, pursuant to the Project Labor Agreements Act, whether the corrective action shall include a project labor agreement if payment from the Underground Storage Tank Fund is to be requested.

(A) For purposes of payment from the Fund, corrective action activities required to meet the minimum requirements of this Title shall include, but not be limited to, the following use of the Board's Tiered Approach to Corrective Action Objectives rules adopted under Title XVII of this Act:

(i) For the site where the release occurred, the use of Tier 2 remediation objectives that are no more stringent than Tier 1 remediation objectives.

(ii) The use of industrial/commercial property remediation objectives, unless the owner or operator demonstrates that the property being remediated is residential property or being developed into residential property.

(iii) The use of groundwater ordinances as institutional controls in accordance with Board rules.

(iv) The use of on-site groundwater use restrictions as institutional controls in accordance with Board rules.

(B) Any bidding process adopted under Board rules to determine the reasonableness of costs of corrective action must provide for a publicly-noticed, competitive, and sealed bidding process that includes, at a minimum, the following:

(i) The owner or operator must issue invitations for bids that include, at a minimum, a description of the work being bid and applicable contractual terms and conditions. The criteria on which the bids will be evaluated must be set forth in the invitation for bids. The criteria may include, but shall not be limited to, criteria for determining acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Criteria that will affect the bid price and be considered in the evaluation of a bid, such as discounts, shall be objectively measurable.

(ii) At least 14 days prior to the date set in the invitation for the opening of bids, public notice of the invitation for bids must be published in a local paper of general circulation for the area in which the site is located.

(iii) Bids must be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as specified in Board rules must be recorded and submitted to the Agency in the applicable budget. After selection of the winning bid, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(iv) Bids must be unconditionally accepted without alteration or correction. Bids must be evaluated based on the requirements set forth in the invitation for bids, which may include criteria for determining acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Criteria that will affect the bid price and be considered in the evaluation of a bid, such as discounts, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(v) Correction or withdrawal of inadvertently erroneous bids before or after selection of the winning bid, or cancellation of winning bids based on bid mistakes, shall be allowed in accordance with Board rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the owner or operator or fair competition shall be allowed. All decisions to allow the correction or withdrawal of bids based on bid mistakes shall be supported by a written determination made by the owner or operator.

(vi) The owner or operator shall select the winning bid with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. The winning bid and other relevant information as specified in Board rules must be recorded and submitted to the Agency in the applicable budget.

(vii) All bidding documentation must be retained by the owner or operator for a minimum of 3 years after the costs bid are submitted in an application for payment, except that documentation relating to an appeal, litigation, or other disputed claim must be maintained until at least 3 years after the date of the final disposition of the appeal, litigation, or other disputed claim. All bidding documentation must be made available to the Agency for inspection and copying during normal business hours.

(C) Any bidding process adopted under Board rules to determine the reasonableness of costs of corrective action shall (i) be optional and (ii) allow bidding only if the owner or operator demonstrates that corrective action cannot be performed for amounts less than or equal to maximum payment amounts adopted by the Board.

(4) For any plan or report received after June 24, 2002, any action by the Agency to disapprove or modify a plan submitted pursuant to this Title shall be provided to the owner or operator in writing within 120 days of the receipt by the Agency or, in the case of a site investigation plan or corrective action plan for which payment is not being sought, within 120 days of receipt of the site investigation completion report or corrective action completion report, respectively, and shall be accompanied by:

(A) an explanation of the Sections of this Act which may be violated if the plans were approved;

(B) an explanation of the provisions of the regulations, promulgated under this Act, which may be violated if the plan were approved;

(C) an explanation of the specific type of information, if any, which the Agency deems the applicant did not provide the Agency; and

(D) a statement of specific reasons why the Act and the regulations might not be met if the plan were approved.

Any action by the Agency to disapprove or modify a plan or report or the rejection of any plan or report by operation of law shall be subject to appeal to the Board in accordance with the procedures of Section 40. If the owner or operator elects to incorporate modifications required by the Agency rather than appeal, an amended plan shall be submitted to the Agency within 35 days of receipt of the Agency's written notification.

(5) For purposes of this Title, the term "plan" shall include:

(A) Any site investigation plan submitted pursuant to subsection (a) of this Section;

(B) Any site investigation budget submitted pursuant to subsection (a) of this Section;

(C) Any corrective action plan submitted pursuant to subsection (b) of this Section; or

(D) Any corrective action plan budget submitted pursuant to subsection (b) of this Section.

(d) For purposes of this Title, the term "indicator contaminant" shall mean, unless and until the Board promulgates regulations to the contrary, the following: (i) if an underground storage tank contains gasoline, the indicator parameter shall be BTEX and Benzene; (ii) if the tank contained petroleum products consisting of middle distillate or heavy ends, then the indicator parameter shall be determined by a scan of PNA's taken from the location where contamination is most likely to be present; and (iii) if the tank contained used oil, then the indicator contaminant shall be those chemical constituents which indicate the type of petroleum stored in an underground storage tank. All references in this Title to groundwater objectives shall mean Class I groundwater standards or objectives as applicable.

(e)(1) Notwithstanding the provisions of this Section, an owner or operator may proceed to conduct site investigation or corrective action prior to the submittal or approval of an otherwise required plan. If the owner or operator elects to so proceed, an applicable plan shall be filed with the Agency at any time. Such plan shall detail the steps taken to determine the type of site investigation or corrective action which was necessary at the site along with the site investigation or corrective action taken or to be taken, in addition to costs associated with activities to date and anticipated costs.

(2) Upon receipt of a plan submitted after activities have commenced at a site, the Agency shall proceed to review in the same manner as required under this Title. In the event the Agency disapproves all or part of the costs, the owner or operator may appeal such decision to the Board. The owner or operator shall not be eligible to be reimbursed for such disapproved costs unless and until the Board determines that such costs were eligible for payment.

(f) All investigations, plans, and reports conducted or prepared under this Section shall be conducted or prepared under the supervision of a licensed professional engineer and in accordance with the requirements of this Title.

P.A. 76–2429, § 57.7, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 88–668, § 10, eff. Sept. 16, 1994; P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 92–554, § 5, eff. June 24, 2002; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 92–651, § 71, eff. July 11, 2002; P.A. 92–735, § 5, eff. July 25, 2002; P.A. 95–331, § 950, eff. Aug. 21, 2007; P.A. 96–908, § 5, eff. June 8, 2010; P.A. 98–109, § 5–73, eff. July 25, 2013.

5/57.8. Underground Storage Tank Fund; payment; options for State payment; deferred correction election to commence corrective action upon availability of funds

§ 57.8. Underground Storage Tank Fund; payment; options for State payment; deferred correction election to commence corrective action upon availability of funds. If an owner or operator is eligible to access the Underground Storage Tank Fund pursuant to an Office of State Fire Marshal eligibility/deductible final determination letter issued in accordance with Section 57.9, the owner or operator may submit a complete application for final or partial payment to the Agency for activities taken in response to a confirmed release. An owner or operator may submit a request for partial or final payment regarding a site no more frequently than once every 90 days.

(a) Payment after completion of corrective action measures. The owner or operator may submit an application for payment for activities performed at a site after completion of the requirements of Sections 57.6 and 57.7, or after completion of any other required activities at the underground storage tank site.

(1) In the case of any approved plan and budget for which payment is being sought, the Agency shall make a payment determination within 120 days of receipt of the application. Such determination shall be considered a final decision. The Agency's review shall be limited to generally accepted auditing and accounting practices. In no case shall the Agency conduct additional review of any plan which was completed within the budget, beyond auditing for adherence to the corrective action measures in the proposal. If the Agency fails to approve the payment application within 120 days, such application shall be deemed approved by operation of law and the Agency shall proceed to reimburse the owner or operator the amount requested in the payment application. However, in no event shall the Agency reimburse the owner or operator an amount greater than the amount approved in the plan.

(2) If sufficient funds are available in the Underground Storage Tank Fund, the Agency shall, within 60 days, forward to the Office of the State Comptroller a voucher in the amount approved under the payment application.

(3) In the case of insufficient funds, the Agency shall form a priority list for payment and shall notify persons in such priority list monthly of the availability of funds and when payment shall be made. Payment shall be made to the owner or operator at such time as sufficient funds become available for the costs associated with site investigation and corrective action and costs expended for activities performed where no proposal is required, if applicable. Such priority list shall be available to any owner or operator upon request. Priority for payment shall be determined by the date the Agency receives a complete request for partial or final payment. Upon receipt of notification from the Agency that the requirements of this Title have been met, the Comptroller shall make payment to the owner or operator of the amount approved by the Agency, if sufficient money exists in the Fund. If there is insufficient money in the Fund, then payment shall not be made. If the owner or operator appeals a final Agency payment determination and it is determined that the owner or

operator is eligible for payment or additional payment, the priority date for the payment or additional payment shall be the same as the priority date assigned to the original request for partial or final payment.

(4) Any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9, shall be subtracted from any payment invoice paid to an eligible owner or operator. Only one deductible shall apply per underground storage tank site.

(5) In the event that costs are or will be incurred in addition to those approved by the Agency, or after payment, the owner or operator may submit successive plans containing amended budgets. The requirements of Section 57.7 shall apply to any amended plans.

(6) For purposes of this Section, a complete application shall consist of:

(A) A certification from a Licensed Professional Engineer or Licensed Professional Geologist as required under this Title and acknowledged by the owner or operator.

(B) A statement of the amounts approved in the budget and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought were expended in conformance with the approved budget.

(C) A copy of the Office of the State Fire Marshal's eligibility and deductibility determination.

(D) Proof that approval of the payment requested will not result in the limitations set forth in subsection (g) of this Section being exceeded.

(E) A federal taxpayer identification number and legal status disclosure certification on a form prescribed and provided by the Agency.

(F) If the Agency determined under subsection (c)(3) of Section 57.7 of this Act that corrective action must include a project labor agreement, a certification from the owner or operator that the corrective action was (i) performed under a project labor agreement that meets the requirements of Section 25 of the Project Labor Agreements Act and (ii) implemented in a manner consistent with the terms and conditions of the Project Labor Agreements Act and in full compliance with all statutes, regulations, and Executive Orders as required under that Act and the Prevailing Wage Act.

(b) Commencement of site investigation or corrective action upon availability of funds. The Board shall adopt regulations setting forth procedures based on risk to human health or the environment under which the owner or operator who has received approval for any budget plan submitted pursuant to Section 57.7, and who is eligible for payment from the Underground Storage Tank Fund pursuant to an Office of the State Fire Marshal eligibility and deductibility determination, may elect to defer site investigation or corrective action activities until funds are available in an amount equal to the amount approved in the budget. The regulations shall establish criteria based on risk to human health or the environment to be used for determining on a site-by-site basis whether deferral is appropriate. The regulations also shall establish the minimum investigatory requirements for determining whether the risk based criteria are present at a site considering deferral and procedures for the notification of owners or operators of insufficient funds, Agency review of request for deferral, notification of Agency final decisions, returning deferred sites to active status, and earmarking of funds for payment.

(c) When the owner or operator requests indemnification for payment of costs incurred as a result of a release of petroleum from an underground storage tank, if the owner or operator has satisfied the requirements of subsection (a) of this Section, the Agency shall forward a copy of the request to the Attorney General. The Attorney General shall review and approve the request for indemnification if:

(1) there is a legally enforceable judgment entered against the owner or operator and such judgment was entered due to harm caused by a release of petroleum from an underground storage tank and such judgment was not entered as a result of fraud; or

(2) a settlement with a third party due to a release of petroleum from an underground storage tank is reasonable.

(d) Notwithstanding any other provision of this Title, the Agency shall not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following aggregate amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois.

Amount	Number of Tanks
$2,000,000	fewer than 101
$3,000,000	101 or more

(1) Costs incurred in excess of the aggregate amounts set forth in paragraph (1) of this subsection shall not be eligible for payment in subsequent years.

(2) For purposes of this subsection, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator.

(3) For purposes of this subsection, owner or operator includes (i) any subsidiary, parent, or joint stock company of the owner or operator and (ii) any company owned by any parent, subsidiary, or joint stock company of the owner or operator.

(e) Costs of corrective action or indemnification incurred by an owner or operator which have been paid to an owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for payment under this Section. An owner or operator who receives payment under a policy of insurance, another written agreement, or a court order shall reimburse the State to the extent such payment covers costs for which payment was received from the Fund. Any monies received by the State under this subsection (e) shall be deposited into the Fund.

(f) (Blank.)

(g) The Agency shall not approve any payment from the Fund to pay an owner or operator:

(1) for costs of corrective action incurred by such owner or operator in an amount in excess of $1,500,000 per occurrence; and

(2) for costs of indemnification of such owner or operator in an amount in excess of $1,500,000 per occurrence.

(h) Payment of any amount from the Fund for corrective action or indemnification shall be subject to the State acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or indemnification for which the Fund has compensated such owner, operator, or person from the person responsible or liable for the release.

(i) If the Agency refuses to pay or authorizes only a partial payment, the affected owner or operator may petition the Board for a hearing in the manner provided for the review of permit decisions in Section 40 of this Act.

(j) Costs of corrective action or indemnification incurred by an owner or operator prior to July 28, 1989, shall not be eligible for payment or reimbursement under this Section.

(k) The Agency shall not pay costs of corrective action or indemnification incurred before providing notification of the release of petroleum in accordance with the provisions of this Title.

(*l*) Corrective action does not include legal defense costs. Legal defense costs include legal costs for seeking payment under this Title unless the owner or operator prevails before the Board in which case the Board may authorize payment of legal fees.

(m) The Agency may apportion payment of costs for plans submitted under Section 57.7 if:

(1) the owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and

(2) the owner or operator failed to justify all costs attributable to each underground storage tank at the site.

(n) The Agency shall not pay costs associated with a corrective action plan incurred after the Agency provides notification to the owner or operator pursuant to item (7) of subsection (b) of Section 57.7 that a revised corrective action plan is required. Costs associated with any subsequently approved corrective action plan shall be eligible for reimbursement if they meet the requirements of this Title.

P.A. 76–2429, § 57.8, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 88–668, § 10, eff. Sept. 16, 1994; P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 91–357, § 199, eff. July 29, 1999; P.A. 92–554, § 5, eff. June 24, 2002; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 92–735, § 5, eff. July 25, 2002; P.A. 95–331, § 950, eff. Aug. 21, 2007; P.A. 98–109, § 5–73, eff. July 25, 2013.

5/57.8a. Assignment of payments from the Underground Storage Tank Fund

§ 57.8a. Assignment of payments from the Underground Storage Tank Fund.

(a) If the Agency has formed a priority list for payment under Section 57.8(a)(3) of this Act, an owner or operator on the priority list may assign to any bank, financial institution, lender, or other person that provides factoring or financing to an owner or operator or to a consultant of an owner or operator a full approved payment amount on the priority list for which the owner or operator is awaiting payment. The assignment must be made on an approved payment-by-approved payment basis and must be made on forms prescribed by the Agency. No assignment under this Section prevents or affects the right of the State Comptroller to make the deductions and off-sets provided in Section 10.05 of the State Comptroller Act.

(b) The making of an assignment under this Section shall not affect an owner's or operator's right to appeal an Agency decision as provided in this Title. No assignee shall have a right to appeal an Agency decision as provided in this Title.

(c) An owner's or operator's assignment under this Section is irrevocable and may be made to only one assignee. The State shall pay the assigned amount, subject to right of the State Comptroller to make the deductions and off-sets provided in Section 10.05 of the State Comptroller Act, to this one assignee only and shall not pay the assigned amount to any subsequent assignee of the one assignee.

(d) The State and its officers and employees are discharged of all liability upon payment of the assigned amount to the assignee. The assignor and assignee shall hold harmless and indemnify the State and its officers and employees from all claims, actions, suits, complaints, and liabilities related to the assignment.

(e) An assignee may use funds received for any purpose including, without limitation, paying principal, interest, or other costs due on any financing made by the assignee. To the extent an owner or operator incurs costs associated with making an assignment under this Section, the owner or operator may not seek reimbursement of those costs from the Fund.

P.A. 76–2429, § 57.8a, added by P.A. 95–403, § 5, eff. Aug. 24, 2007.

5/57.9. Underground Storage Tank Fund; eligibility and deductibility

§ 57.9. Underground Storage Tank Fund; eligibility and deductibility.

(a) The Underground Storage Tank Fund shall be accessible by owners and operators who have a confirmed release from an underground storage tank or related tank system of a substance listed in this Section. The owner or operator is eligible to access the Underground Storage Tank Fund if the eligibility requirements of this Title are satisfied and:

(1) Neither the owner nor the operator is the United States Government.

(2) The tank does not contain fuel which is exempt from the Motor Fuel Tax Law. [1]

(3) The costs were incurred as a result of a confirmed release of any of the following substances:

(A) "Fuel", as defined in Section 1.19 of the Motor Fuel Tax Law. [2]

(B) Aviation fuel.

(C) Heating oil.

(D) Kerosene.

(E) Used oil which has been refined from crude oil used in a motor vehicle, as defined in Section 1.3 of the Motor Fuel Tax Law. [3]

(4) The owner or operator registered the tank and paid all fees in accordance with the statutory and regulatory requirements of the Gasoline Storage Act.

(5) The owner or operator notified the Illinois Emergency Management Agency of a confirmed release, the costs were incurred after the notification and the costs were a result of a release of a substance listed in this Section. Costs of corrective action or indemnification incurred before providing that notification shall not be eligible for payment.

(6) The costs have not already been paid to the owner or operator under a private insurance policy, other written agreement, or court order.

(7) The costs were associated with "corrective action" of this Act.

If the underground storage tank which experienced a release of a substance listed in this Section was installed after July 28, 1989, the owner or operator is eligible to access the Underground Storage Tank Fund if it is demonstrated to the Office of the State Fire Marshal the tank was installed and operated in accordance with Office of the

State Fire Marshal regulatory requirements. Office of the State Fire Marshal certification is prima facie evidence the tank was installed pursuant to the Office of the State Fire Marshal regulatory requirements.

(b) For releases reported prior to the effective date of this amendatory Act of the 96th General Assembly, an owner or operator may access the Underground Storage Tank Fund for costs associated with an Agency approved plan and the Agency shall approve the payment of costs associated with corrective action after the application of a $10,000 deductible, except in the following situations:

(1) A deductible of $100,000 shall apply when none of the underground storage tanks were registered prior to July 28, 1989, except in the case of underground storage tanks used exclusively to store heating oil for consumptive use on the premises where stored and which serve other than farms or residential units, a deductible of $100,000 shall apply when none of these tanks were registered prior to July 1, 1992.

(2) A deductible of $50,000 shall apply if any of the underground storage tanks were registered prior to July 28, 1989, and the State received notice of the confirmed release prior to July 28, 1989.

(3) A deductible of $15,000 shall apply when one or more, but not all, of the underground storage tanks were registered prior to July 28, 1989, and the State received notice of the confirmed release on or after July 28, 1989.

For releases reported on or after the effective date of this amendatory Act of the 96th General Assembly, an owner or operator may access the Underground Storage Tank Fund for costs associated with an Agency approved plan, and the Agency shall approve the payment of costs associated with corrective action after the application of a $5,000 deductible.

A deductible shall apply annually for each site at which costs were incurred under a claim submitted pursuant to this Title, except that if corrective action in response to an occurrence takes place over a period of more than one year, in subsequent years, no deductible shall apply for costs incurred in response to such occurrence.

(c) Eligibility and deductibility determinations shall be made by the Office of the State Fire Marshal.

(1) When an owner or operator reports a confirmed release of a regulated substance, the Office of the State Fire Marshal shall provide the owner or operator with an "Eligibility and Deductibility Determination" form. The form shall either be provided on-site or within 15 days of the Office of the State Fire Marshal receipt of notice indicating a confirmed release. The form shall request sufficient information to enable the Office of the State Fire Marshal to make a final determination as to owner or operator eligibility to access the Underground Storage Tank Fund pursuant to this Title and the appropriate deductible. The form shall be promulgated as a rule or regulation pursuant to the Illinois Administrative Procedure Act [4] by the Office of the State Fire Marshal. Until such form is promulgated, the Office of State Fire Marshal shall use a form which generally conforms with this Act.

(2) Within 60 days of receipt of the "Eligibility and Deductibility Determination" form, the Office of the State Fire Marshal shall issue one letter enunciating the final eligibility and deductibility determination, and such determination or failure to act within the time prescribed shall be a final decision appealable to the Illinois Pollution Control Board.

P.A. 76–2429, § 57.9, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 96–908, § 5, eff. June 8, 2010.

[1] 35 ILCS 505/1 et seq.

[2] 35 ILCS 505/1.19.

[3] 35 ILCS 505/1.3.

[4] 5 ILCS 100/1–1 et seq.

5/57.10. Professional Engineer or Professional Geologist certification; presumptions against liability

§ 57.10. Professional Engineer or Professional Geologist certification; presumptions against liability.

(a) Within 120 days of the Agency's receipt of a corrective action completion report, the Agency shall issue to the owner or operator a "no further remediation letter" unless the Agency has requested a modification, issued a rejection under subsection (d) of this Section, or the report has been rejected by operation of law.

(b) By certifying such a statement, a Licensed Professional Engineer or Licensed Professional Geologist shall in no way be liable thereon, unless the engineer or geologist gave such certification despite his or her actual knowledge that the performed measures were not in compliance with applicable statutory or regulatory requirements or any plan submitted to the Agency.

(c) The Agency's issuance of a no further remediation letter shall signify, based on the certification of the Licensed Professional Engineer, that:

(1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;

(2) all corrective action concerning the remediation of the occurrence has been completed; and

(3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment.

This subsection (c) does not apply to off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property.

(d) The no further remediation letter issued under this Section shall apply in favor of the following parties:

(1) The owner or operator to whom the letter was issued.

(2) Any parent corporation or subsidiary of such owner or operator.

(3) Any co-owner or co-operator, either by joint tenancy, right-of-survivorship, or any other party sharing a legal relationship with the owner or operator to whom the letter is issued.

(4) Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.

(5) Any mortgagee or trustee of a deed of trust of such owner or operator.

(6) Any successor-in-interest of such owner or operator.

(7) Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest.

(8) Any heir or devisee or such owner or operator.

(9) An owner of a parcel of real property to the extent that the no further remediation letter under subsection (c) of this Section applies to the occurrence on that parcel.

(e) If the Agency notifies the owner or operator that the "no further remediation" letter has been rejected, the grounds for such rejection shall be described in the notice.

Such a decision shall be a final determination which may be appealed by the owner or operator.

(f) The Board shall adopt rules setting forth the criteria under which the Agency may require an owner or operator to conduct further investigation or remediation related to a release for which a no further remediation letter has been issued.

(g) Holders of security interests in sites subject to the requirements of this Title XVI shall be entitled to the same protections and subject to the same responsibilities provided under general regulations promulgated under Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98–616) of the Resource Conservation and Recovery Act of 1976 (P.L. 94–580).[1]

P.A. 76–2429, § 57.10, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996; P.A. 92–554, § 5, eff. June 24, 2002; P.A. 92–735, § 5, eff. July 25, 2002; P.A. 94–276, § 5, eff. Jan. 1, 2006.

[1] 42 U.S.C.A. § 6901 et seq.

5/57.11. Underground Storage Tank Fund; creation

§ 57.11. Underground Storage Tank Fund; creation.

(a) There is hereby created in the State Treasury a special fund to be known as the Underground Storage Tank Fund. There shall be deposited into the Underground Storage Tank Fund all monies received by the Office of the State Fire Marshal as fees for underground storage tanks under Sections 4 and 5 of the Gasoline Storage Act, fees pursuant to the Motor Fuel Tax Law, and beginning July 1, 2013, payments pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. All amounts held in the Underground Storage Tank Fund shall be invested at interest by the State Treasurer. All income earned from the investments shall be deposited into the Underground Storage Tank Fund no less frequently than quarterly. Moneys in the Underground Storage Tank Fund, pursuant to appropriation, may be used by the Agency and the Office of the State Fire Marshal for the following purposes:

(1) To take action authorized under Section 57.12 to recover costs under Section 57.12.

(2) To assist in the reduction and mitigation of damage caused by leaks from underground storage tanks, including but not limited to, providing alternative water supplies to persons whose drinking water has become contaminated as a result of those leaks.

(3) To be used as a matching amount towards federal assistance relative to the release of petroleum from underground storage tanks.

(4) For the costs of administering activities of the Agency and the Office of the State Fire Marshal relative to the Underground Storage Tank Fund.

(5) For payment of costs of corrective action incurred by and indemnification to operators of underground storage tanks as provided in this Title.

(6) For a total of 2 demonstration projects in amounts in excess of a $10,000 deductible charge designed to assess the viability of corrective action projects at sites which have experienced contamination from petroleum releases. Such demonstration projects shall be conducted in accordance with the provision of this Title.

(7) Subject to appropriation, moneys in the Underground Storage Tank Fund may also be used by the Department of Revenue for the costs of administering its activities relative to the Fund and for refunds provided for in Section 13a.8 of the Motor Fuel Tax Act.

(b) Moneys in the Underground Storage Tank Fund may, pursuant to appropriation, be used by the Office of the State Fire Marshal or the Agency to take whatever emergency action is necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release or substantial threat of a release of petroleum from an underground storage tank and for the costs of administering its activities relative to the Underground Storage Tank Fund.

(c) Beginning July 1, 1993, the Governor shall certify to the State Comptroller and State Treasurer the monthly amount necessary to pay debt service on State obligations issued pursuant to Section 6 of the General Obligation Bond Act. On the last day of each month, the Comptroller shall order transferred and the Treasurer shall transfer from the Underground Storage Tank Fund to the General Obligation Bond Retirement and Interest Fund the amount certified by the Governor, plus any cumulative deficiency in those transfers for prior months.

(d) Except as provided in subsection (c) of this Section, the Underground Storage Tank Fund is not subject to administrative charges authorized under Section 8h of the State Finance Act that would in any way transfer any funds from the Underground Storage Tank Fund into any other fund of the State.

(e) Each fiscal year, subject to appropriation, the Agency may commit up to $10,000,000 of the moneys in the Underground Storage Tank Fund to the payment of corrective action costs for legacy sites that meet one or more of the following criteria as a result of the underground storage tank release: (i) the presence of free product, (ii) contamination within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well, (iii) contamination extending beyond the boundaries of the site where the release occurred, or (iv) such other criteria as may be adopted in Agency rules.

(1) Fund moneys committed under this subsection (e) shall be held in the Fund for payment of the corrective action costs for which the moneys were committed.

(2) The Agency may adopt rules governing the commitment of Fund moneys under this subsection (e).

(3) This subsection (e) does not limit the use of Fund moneys at legacy sites as otherwise provided under this Title.

(4) For the purposes of this subsection (e), the term "legacy site" means a site for which (i) an underground storage tank release was reported prior to January 1, 2005, (ii) the owner or operator has been determined eligible to receive payment from the Fund for corrective action costs, and (iii) the Agency did not receive any applications for payment prior to January 1, 2010.

(f) Beginning July 1, 2013, if the amounts deposited into the Fund from moneys received by the Office of the State Fire Marshal as fees for underground storage tanks under Sections 4 and 5 of the Gasoline Storage Act and as fees pursuant to the Motor Fuel Tax Law during a State fiscal year are sufficient to pay all claims for payment by the fund received during that State fiscal year, then the amount of any payments into the fund pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act during that State fiscal year shall be deposited as follows: 75% thereof shall be paid into the State treasury and 25% shall be reserved in a special

account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

P.A. 76–2429, § 57.11, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 90–491, § 80, eff. Jan. 1, 1998; P.A. 96–34, § 950, eff. July 13, 2009; P.A. 96–908, § 5, eff. June 8, 2010; P.A. 98–109, § 5–73, eff. July 25, 2013.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

5/57.12. Underground storage tanks; enforcement; liability

§ 57.12. Underground storage tanks; enforcement; liability.

(a) Notwithstanding any other provision or rule of law, the owner or operator, or both, of an underground storage tank shall be liable for all costs of investigation, preventive action, corrective action and enforcement action incurred by the State of Illinois resulting from an underground storage tank. Nothing in this Section shall affect or modify in any way:

(1) The obligations or liability of any person under any other provision of this Act or State or federal law, including common law, for damages, injury or loss resulting from a release or substantial threat of a release as described above; or

(2) the liability of any person under this Section for costs incurred by the State of Illinois for preventive action, corrective action and enforcement action that are not paid with monies from the Underground Storage Tank Fund.

(b) Nothing in this Section shall affect or modify in any way the obligations or liability of any person under any other provision of this Act or State or federal law, including common law, to investigate, respond to, remediate, or clean up a release of a regulated substance from an underground storage tank.

(c) The Agency has the authority to do either of the following:

(1) Provide notice to the owner or operator, or both, of an underground storage tank whenever there is a release or substantial threat of a release of petroleum from such tank. Such notice shall include the identified investigation or response action and an opportunity for the owner or operator, or both, to perform the response action.

(2) Undertake investigative, preventive or corrective action whenever there is a release or a substantial threat of a release of petroleum from an underground storage tank.

(d) If notice has been provided under this Section, the Agency has the authority to require the owner or operator, or both, of an underground storage tank to undertake preventive or corrective action whenever there is a release or substantial threat of a release of petroleum from such tank.

(e) The Director of the Agency is authorized to enter into such contracts and agreements as may be necessary, and as expeditiously as necessary, to carry out the Agency's duties or responsibilities under this Title.

(f)(1) The owner or operator, or both, of an underground storage tank may be liable to the State of Illinois for punitive damages in an amount at least equal to, and not more than 3 times, the amount of any costs incurred by the State as a result of the State's response to a release or a substantial threat of a release of petroleum from the underground storage tank if the owner or operator failed, without sufficient cause, to respond to a release or a substantial threat of a release of a regulated substance from the underground storage tank upon, or in accordance with, a notice issued by the Agency under this Section.

(2) The punitive damages imposed under this subsection (f) shall be in addition to any costs recovered from that person pursuant to this Section and in addition to any other penalty or relief provided by this Act, or any other law.

(g) The standard of liability under this Section is the standard of liability under Section 22.2(f) of this Act.

(h) Neither the State of Illinois, nor the Director of the Agency, nor any State employee shall be liable for any damages or injuries arising out of or resulting from any action taken under this Section.

(i) The costs and damages provided for in this Section may be imposed by the Board or the Circuit Court in an action brought before the Board or the Circuit Court in accordance with Title VIII of this Act, except that Section 33(c) of this Act shall not apply to the action. Costs recovered pursuant to this Section shall be deposited in the fund from which the monies were expended. Damages recovered under this Section shall be deposited in the Underground Storage Tank Fund.

P.A. 76–2429, § 57.12, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 89–428, Art. 3, § 395, eff. Jan. 1, 1996; P.A. 89–457, Art. 3, § 395, eff. May 22, 1996.

5/57.12A. Lender liability; definitions

§ 57.12A. Lender liability; definitions.

(a) Notwithstanding any other provision or rule of law, the term "owner" or "operator" does not include a holder who, without participating in the management of a facility, underground storage tank, or underground storage tank system, holds any indicia of ownership primarily to protect its security interest in the facility, underground storage tank, or underground storage tank system.

(b) As used in this Section, and notwithstanding any other provision or rule of law:

(1) "Underground Storage Tank technical standards" refers to the underground storage tank preventative and operating requirements under the rules promulgated under subsection (a) of Section 57.1 of this Title.

(2) Petroleum production, refining, and marketing.

(A) "Petroleum production" means the production of crude oil or other forms of petroleum as well as the production of petroleum products from purchased materials.

(B) "Petroleum refining" means the cracking, distillation, separation, conversion, upgrading, and finishing of refined petroleum or petroleum products.

(C) "Petroleum marketing" means the distribution, transfer, or sale of petroleum or petroleum products for wholesale or retail purposes.

(3) "Indicia of ownership" means evidence of a secured interest, evidence of an interest in a security interest, or evidence of an interest in real or personal property securing a loan or other obligation, including any legal or equitable title to real or personal property acquired incident to foreclosure or its equivalents. Evidence of such interests includes, but is not limited to, mortgages, deeds

of trust, liens, surety bonds, and guarantees of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased property (lease financing transaction), legal or equitable title obtained pursuant to foreclosure, and their equivalents. Evidence of such interests also includes assignments, pledges, or other rights to or other forms of encumbrance against property that are held primarily to protect a security interest. A person is not required to hold title or a security interest in order to maintain indicia of ownership.

(4) A "holder" is a person who maintains indicia of ownership (as defined in item (3) of subsection (b)) primarily to protect a security interest (as defined in item (6)(A) of subsection (b)) in a petroleum underground storage tank or underground storage tank system. "Holder" includes the initial holder; any subsequent holder; a guarantor of an obligation; a surety; any other person who holds ownership indicia primarily to protect a security interest; or a receiver or other person who acts on behalf or for the benefit of a holder.

(5) A "borrower", "debtor", or "obligor" is a person whose underground storage tank or underground storage tank system is encumbered by a security interest. These terms may be used interchangeably.

(6) "Primarily to protect a security interest" means that the holder's indicia of ownership are held primarily for the purpose of securing payment or performance of an obligation.

(A) "Security interest" means an interest in a petroleum underground storage tank or underground storage tank system or in the facility or property on which the underground storage tank or underground storage tank system is located, created, or established for the purpose of securing a loan or other obligation. Security interests include but are not limited to mortgages, deeds of trusts, liens, and title pursuant to lease financing transactions. Security interests may also arise from transactions such as sale and leasebacks, conditional sales, installment sales, trust receipt transactions, certain assignments, factoring agreements, accounts receivable financing arrangements, and consignments, if the transaction creates or establishes an interest in an underground storage tank or underground storage tank system or in the facility or property on which the underground storage tank or underground storage tank system is located, for the purpose of securing a loan or other obligation.

(B) "Primarily to protect a security interest", as used in this Section, does not include indicia of ownership held primarily for investment purposes, nor ownership indicia held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons for maintaining indicia of ownership, but the primary reason why ownership indicia are held must be as protection for a security interest.

(c) Participation in management.

The term "participating in the management of an underground storage tank or underground storage tank system" means that the holder is engaging in acts of petroleum underground storage tank or underground storage tank system management, as defined herein.

(1) Actions that are participation in management pre-foreclosure.

Participation in the management of an underground storage tank or underground storage tank system means, for purposes of this Section, actual participation in the management or control of decision making related to the underground storage tank or underground storage tank system by the holder and does not include the mere capacity or ability to influence or the unexercised right to control underground storage tank or underground storage tank system operations. A holder is participating in management, while the borrower is still in possession of the underground storage tank or underground storage tank system encumbered by the security interest, only if the holder either:

(A) exercises decision making control over the borrower's environmental compliance, such that the holder has undertaken responsibility for the borrower's underground storage tank or underground storage tank system management; or

(B) exercises control at a level comparable to that of a manager of the borrower's enterprise, such that the holder has assumed or manifested responsibility for the overall management of the enterprise encompassing the day-to-day decision making of the enterprise with respect to (i) environmental compliance, or (ii) all, or substantially all, of the operational (as opposed to financial or administrative) aspects of the enterprise other than environmental compliance.

(2) Actions that are not participation in management pre-foreclosure.

(A) Actions at the inception of the loan or other transaction. No act or omission prior to the time that indicia of ownership are held primarily to protect a security interest constitutes evidence of participation in management within the meaning of this Section. A prospective holder who undertakes or requires an environmental investigation of the underground storage tank or underground storage tank system in which indicia of ownership are to be held or requires a prospective borrower to clean up contamination from the underground storage tank or underground storage tank system or to comply or come into compliance with any applicable law or regulation is not by that action considered to be participating in the management of the underground storage tank or underground storage tank system.

(B) Loan policing and workout. Actions that are consistent with holding ownership indicia primarily to protect a security interest do not constitute participation in management for purposes of this Section. The authority for the holder to take such actions may, but need not, be contained in contractual or other documents specifying requirements for financial, environmental, and other warranties, covenants, conditions, representations, or promises from the borrower. Loan policing and workout activities cover and include all such activities up to foreclosure or its equivalents, exclusive of any activities that constitute participation in management.

(i) Policing the security interest or loan. A holder who engages in policing activities prior to foreclosure shall remain within the exemption provided that the holder does not by such actions participate in the management of the underground storage tank or underground storage tank system as provided in item (1) of subsection (c). Such actions include, but are not limited to, requiring the borrower to clean up contamination from the underground storage tank or underground storage tank system during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, State, and local environmental and other laws, rules, and regulations during the term of the security interest;

securing or exercising authority to monitor or inspect the underground storage tank or underground storage tank system in which indicia of ownership are maintained or the borrower's business or financial condition during the term of the security interest; or taking other actions to adequately police the loan or security interest (such as requiring a borrower to comply with any warranties, covenants, conditions, representation, or promises from the borrower).

(ii) Loan workout. A holder who engages in workout activities prior to foreclosure or its equivalents will remain within the exemption of this Section provided that the holder does not by such action participate in the management of the underground storage tank or underground storage tank system as provided in item (1) of subsection (c). For purposes of this Section, "workout" refers to those actions by which a holder, at any time prior to foreclosure or its equivalents, seeks to prevent, cure, or mitigate a default by the borrower or obligor; or to preserve, or prevent the diminution of, the value of the security. Workout activities include, but are not limited to, restructuring or renegotiating the terms of the security interest; requiring payment of additional rent or interest; exercising forbearance; requiring or exercising rights under an assignment of accounts or other amounts owing to an obligor; requiring or exercising rights under an escrow agreement pertaining to amounts owing to an obligor; providing specific or general financial or other advice, suggestions, counseling, or guidance; and exercising any right or remedy the holder is entitled to by law or under any warranties, covenants, conditions, representations, or promises from the borrower.

(3) Foreclosure on an underground storage tank or underground storage tank system and participation in management activities; post-foreclosure.

(A) Foreclosure. Indicia of ownership that are held primarily to protect a security interest include legal or equitable title acquired through or incident to foreclosure or its equivalents. For purposes of this Section, the term foreclosure or its equivalents includes purchase at foreclosure sale; acquisition or assignment of title in lieu of foreclosure; termination of a lease or other repossession; acquisition of a right to title or possession; an agreement in satisfaction of the obligation; or any other formal or informal manner by which the holder acquires title to or possession of the secured underground storage tank or underground storage tank system. The indicia of ownership held after foreclosure continues to be maintained primarily as protection for a security interest provided that the holder undertakes to sell, re-lease an underground storage tank or underground storage tank system held pursuant to a lease financing transaction, or otherwise divest itself or the underground storage tank or underground storage tank system in a reasonably expeditious manner, using whatever commercially reasonable means are relevant or appropriate with respect to the underground storage tank or underground storage tank system, taking all facts and circumstances into consideration, and provided that the holder did not participate in management, as defined in item (1) of subsection (c), prior to foreclosure or its equivalents. For purposes of establishing that a holder is seeking to sell, re-lease an underground storage tank or underground storage tank system held pursuant to a lease financing transaction, or divest an underground storage tank or underground storage tank system in a reasonably expeditious manner, the holder may use whatever commercially reasonable means as are relevant or appropriate with respect to the underground storage tank or underground storage tank system, or may employ the means specified in item (3)(B) of subsection (c). A holder that outbids, rejects, or fails to act upon a written bona fide, firm offer of fair consideration for the underground storage tank or underground storage tank system, as provided in item (3)(B) of subsection (b), is not considered to hold indicia of ownership primarily to protect a security interest.

(B) Holding foreclosed property for disposition and liquidation. A holder who did not participate in management prior to foreclosure or its equivalents may sell, release an underground storage tank or underground storage tank system held pursuant to a lease financing transaction, liquidate, wind up operations, and take measures to preserve, protect, or prepare the secured underground storage tank or underground storage tank system prior to sale or other disposition. The holder may conduct these activities without voiding the exemption, subject to the requirements of this Section.

(i) A holder establishes that the ownership indicia maintained following foreclosure or its equivalents continue to be held primarily to protect a security interest by listing, within 12 months from the time that the holder acquires marketable title, the underground storage tank or underground storage tank system or the facility or property on which the underground storage tank or underground storage tank system is located, with a broker, dealer, or agent who deals with the type of property in question or by advertising the underground storage tank or underground storage tank system as being for sale or disposition on at least a monthly basis in either a real estate publication or a trade or other publication suitable for the underground storage tank or underground storage tank system in question, or a newspaper of general circulation (defined as one with a circulation over 10,000, or one suitable under any applicable federal, State, or local rules of court for publication required by court order or rules of civil procedure) covering the area in which the underground storage tank or underground storage tank system is located.

If the holder fails to act diligently to acquire marketable title, the 12 month period begins to run on the date of the judgment of foreclosure or its equivalents.

(ii) A holder that outbids, rejects, or fails to act upon an offer of fair consideration for the underground storage tank or underground storage tank system or the facility or property on which the underground storage tank or underground storage tank system is located establishes by such outbidding, rejection, or failure to act, that the ownership indicia in the secured underground storage tank or underground storage tank system are not held primarily to protect the security interest, unless the holder is required, in order to avoid liability under federal or State law, to make a higher bid, to obtain a higher offer, or to seek or obtain an offer in a different manner.

(A) "Fair consideration", in the case of a holder maintaining indicia of ownership primarily to protect a senior security interest in the underground storage tank or underground storage tank system, is the value of the security interest as defined in this item (3)(B)(iii)(A) of subsection (c). The value of the security interest is

calculated as an amount equal to or in excess of the sum of the outstanding principal, or comparable amount in the case of a lease that constitutes a security interest, owed to the holder immediately preceding the acquisition of full title (or possession in the case of an underground storage tank or underground storage tank system subject to a lease financing transaction) pursuant to foreclosure or its equivalents, plus any unpaid interest, rent, or penalties (whether arising before or after foreclosure or its equivalents), plus all reasonable and necessary costs, fees, or other charges incurred by the holder incident to workout, foreclosure or its equivalent, retention, preserving, protecting, and preparing the underground storage tank or underground storage tank system prior to sale, re-lease of an underground storage tank or underground storage tank system held pursuant to a lease financing transaction or other disposition plus environmental investigation and corrective action costs incurred under any federal, State or local rule or regulation less any amounts received by the holder in connection with any partial disposition of the property and any amounts paid by the borrower subsequent to the acquisition of full title (or possession in the case of an underground storage tank or underground storage tank system subject to a lease financing transaction) pursuant to foreclosure or its equivalents. In the case of a holder maintaining indicia of ownership primarily to protect a junior security interest, fair consideration is the value of all outstanding higher priority security interests plus the value of the security interest held by the junior holder, each calculated as set forth in the preceding sentence.

(B) "Outbids, rejects, or fails to act upon an offer of fair consideration" means that the holder outbids, rejects, or fails to act upon within 90 days of receipt of a written, bona fide, firm offer of fair consideration for the underground storage tank or underground storage tank system received at any time after 6 months following foreclosure or its equivalents. A "written, bona fide, firm offer" means a legally enforceable, commercially reasonable, cash offer solely for foreclosed underground storage tank or underground storage tank system, including all material terms of the transaction, from a ready, willing, and able purchaser who demonstrates to the holder's satisfaction the ability to perform. For purposes of this provision, the 6 month period begins to run from the time that the holder acquires marketable title; otherwise, provided that the holder, after the expiration of any redemption or other waiting period provided by law, acted diligently to acquire marketable title; otherwise, the 6 month period begins to run on the date of foreclosure or its equivalents.

(d) Ownership of an underground storage tank and underground storage tank system.

(1) Ownership of an underground storage tank or underground storage tank system for purposes of corrective action. A holder is not an "owner" of a petroleum underground storage tank or underground storage tank system for purposes of compliance with the corrective action requirements of Section 57.12 of this Act, provided the person:

(A) does not participate in the management of the underground storage tank or underground storage tank system as defined in subsection (c); and

(B) does not engage in petroleum production, refining, and marketing.

(2) Ownership of an underground storage tank or underground storage tank system for purposes of the underground storage tank technical standards. A holder is not an owner of a petroleum underground storage tank or underground storage tank system for purposes of the underground storage tank technical standards provided that the holder:

(A) does not participate in the management of the underground storage tank or underground storage tank system as defined in subsection (c); and

(B) does not engage in petroleum production, refining, and marketing.

(e) Operating an underground storage tank or underground storage tank system.

(1) Operating an underground storage tank or underground storage tank system prior to foreclosure. A holder, prior to foreclosure or its equivalents, is not an operator of a petroleum underground storage tank or underground storage tank system for purposes of compliance with the corrective action requirements of Section 57.12 of this Act, or any other provision of this Act or of State or federal law, provided the holder is not in control of or does not have responsibility for the daily operation of the underground storage tank or underground storage tank system.

(2) Operating an underground storage tank or underground storage tank system after foreclosure.

(A) A holder who has not participated in management prior to foreclosure and who acquires a petroleum underground storage tank or underground storage tank system through foreclosure or its equivalents is not an operator of the underground storage tank or underground storage tank system for purposes of compliance with the corrective action requirements under Section 57.12 of this Act, or any other provision of this Act or of State or federal law, provided that the holder within 15 days following foreclosure or its equivalents, empties all of its underground storage tanks and underground storage tank systems so that no more than 2.5 centimeters (one inch) of residue, or 0.3% by weight of the total capacity of the underground storage tank system, remains in the system; leaves vent lines open and functioning; and caps and secures all other lines, pumps, manways, and ancillary equipment.

(B) In addition, the holder shall either:

(i) "permanently" close the underground storage tank or underground storage tank system in accordance with the regulations of the Office of the State Fire Marshal (41 Illinois Administrative Code Part 170, as amended); or

(ii) "temporarily" close the underground storage tank or underground storage tank system in accordance with the applicable provisions of the regulations of the Office of the State Fire Marshal (41 Illinois Administrative Code Part 170.620 and 170.670, as amended).

(C) A holder who acquires a petroleum underground storage tank or underground storage tank system through foreclosure or its equivalents is not an "operator" of the underground storage tank or underground storage tank system for purposes of this Act, the first 15 days following foreclosure or its equivalents, provided the holder complies with item (2) of Section (e).

(f) Actions taken to protect human health and the environment. A holder is not considered to be an operator of an underground storage tank or underground storage tank system or to be participating in the management of an underground storage tank or underground storage tank system

solely on the basis of undertaking actions under a federal or State law or regulation, provided that the holder does not otherwise participate in the management or daily operation of the underground storage tank or underground storage tank system. Such actions include, but are not limited to, release reporting, release response and corrective action, temporary or permanent closure of an underground storage tank or underground storage tank system, underground storage tank upgrading or replacement, and maintenance of corrosion protection. A holder who undertakes these actions must do so in compliance with the applicable requirements of this Act.

(g) Financial responsibility. A holder is exempt from the requirement to demonstrate financial responsibility under any State law or rule, provided the holder:

(1) does not participate in the management of the underground storage tank or underground storage tank system as defined in subsection (c);

(2) does not engage in petroleum production, refining, and marketing as defined in item (2) of subsection (b); and

(3) complies with the requirements of subsection (e).

P.A. 76–2429, § 57.12A, added by P.A. 89–200, § 5, eff. Jan. 1, 1996. Amended by P.A. 89–626, Art. 3, § 3–33, eff. Aug. 9, 1996.

5/57.13. Underground Storage Tank Program; transition

§ 57.13. Underground Storage Tank Program; transition. This Title applies to all underground storage tank releases for which a No Further Remediation Letter is issued on or after the effective date of this amendatory Act of the 96th General Assembly, provided that (i) costs incurred prior to the effective date of this amendatory Act shall be payable from the UST Fund in the same manner as allowed under the law in effect at the time the costs were incurred and (ii) releases for which corrective action was completed prior to the effective date of this amendatory Act shall be eligible for a No Further Remediation Letter in the same manner as allowed under the law in effect at the time the corrective action was completed.

P.A. 76–2429, § 57.13, added by P.A. 88–496, § 15, eff. Sept. 13, 1993. Amended by P.A. 92–554, § 5, eff. June 24, 2002; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 95–331, § 950, eff. Aug. 21, 2007; P.A. 96–908, § 5, eff. June 8, 2010.

5/57.14. § 57.14. Repealed by P.A. 91–798, § 200, eff. July 9, 2000

5/57.14A. Rules

§ 57.14A. Rules.

(a) The Agency shall propose and the Board shall adopt amendments to the rules governing the administration of this Title to make the rules consistent with the provisions herein.

(b) Until such time as the amended rules required under this Section take effect, the Agency shall administer this Title in accordance with the provisions herein.

P.A. 76–2429, § 57.14A, added by P.A. 92–554, § 5, eff. June 24, 2002.

5/57.15. Authority to audit

§ 57.15. Authority to audit. The Agency has the authority to audit all data, reports, plans, documents and budgets submitted pursuant to this Title. If the data, report, plan, document or budget audited by the Agency pursuant to this Section fails to conform to all applicable requirements of this Title, the Agency may take appropriate actions.

P.A. 76–2429, § 57.15, added by P.A. 88–496, § 15, eff. Sept. 13, 1993.

5/57.16. Severability

§ 57.16. Severability. The provisions of this Title are severable under Section 1.31 of the Statute on Statutes.[1]

P.A. 76–2429, § 57.16, added by P.A. 88–496, § 15, eff. Sept. 13, 1993.

[1] 5 ILCS 70/1.31.

5/57.17. § 57.17. Repealed by P.A. 98–822, § 8, eff. Aug. 1, 2014

5/57.18. Additional remedial action required by change in law; Agency's duty to propose amendment

§ 57.18. Additional remedial action required by change in law; Agency's duty to propose amendment. If a change in State or federal law requires additional remedial action in response to releases for which No Further Remediation Letters have been issued, the Agency shall propose in the next convening of a regular session of the current General Assembly amendments to this Title to allow owners and operators to perform the additional remedial action and seek payment from the Fund for the costs of the action.

P.A. 76–2429, § 57.18, added by P.A. 96–908, § 5, eff. June 8, 2010.

5/57.19. Costs incurred after the issuance of a No Further Remediation Letter

§ 57.19. Costs incurred after the issuance of a No Further Remediation Letter. The following shall be considered corrective action activities eligible for payment from the Fund even when an owner or operator conducts these activities after the issuance of a No Further Remediation Letter. Corrective action conducted under this Section and costs incurred under this Section must comply with the requirements of this Title and Board rules adopted under this Title.

(1) Corrective action to achieve residential property remediation objectives if the owner or operator demonstrates that property remediated to industrial/commercial property remediation objectives pursuant to subdivision (c)(3)(A)(ii) of Section 57.7 of this Act is being developed into residential property.

(2) Corrective action to address groundwater contamination if the owner or operator demonstrates that action is necessary because a groundwater ordinance used as an institutional control pursuant to subdivision (c)(3)(A)(iii) of Section 57.7 of this Act can no longer be used as an institutional control.

(3) Corrective action to address groundwater contamination if the owner or operator demonstrates that action is necessary because an on-site groundwater use restriction used as an institutional control pursuant to subdivision (c)(3)(A)(iv) of Section 57.7 of this Act must be lifted in order to allow the installation of a potable water supply well due to public water supply service no longer being available for reasons other than an act or omission of the owner or operator.

(4) The disposal of soil that does not exceed industrial/commercial property remediation objectives, but that does exceed residential property remediation objectives, if

industrial/commercial property remediation objectives were used pursuant to subdivision (c)(3)(A)(ii) of Section 57.7 of this Act and the owner or operator demonstrates that (i) the contamination is the result of the release for which the owner or operator is eligible to seek payment from the Fund and (ii) disposal of the soil is necessary as a result of construction activities conducted after the issuance of a No Further Remediation Letter on the site where the release occurred, including, but not limited to, the following: tank, line, or canopy repair, replacement, or removal; building upgrades; sign installation; and water or sewer line replacement.

(5) The disposal of water exceeding groundwater remediation objectives that is removed from an excavation on the site where the release occurred if a groundwater ordinance is used as an institutional control pursuant to subdivision (c)(3)(A)(iii) of Section 57.7 of this Act, or if an on-site groundwater use restriction is used as an institutional control pursuant to subdivision (c)(3)(A)(iv) of Section 57.7, and the owner or operator demonstrates that (i) the excavation is located within the measured or modeled extent of groundwater contamination resulting from the release for which the owner or operator is eligible to seek payment from the Fund and (ii) disposal of the groundwater is necessary as a result of construction activities conducted after the issuance of a No Further Remediation Letter on the site where the release occurred, including, but not limited to, the following: tank, line, or canopy repair, replacement, or removal; building upgrades; sign installation; and water or sewer line replacement.

P.A. 76–2429, § 57.19, added by P.A. 96–908, § 5, eff. June 8, 2010.

TITLE XVII: SITE REMEDIATION PROGRAM

Date Effective

Title XVII was added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996.

5/58. Intent

§ 58. Intent. It is the intent of this Title:

(1) To establish a risk-based system of remediation based on protection of human health and the environment relative to present and future uses of the site.

(2) To assure that the land use for which remedial action was undertaken will not be modified without consideration of the adequacy of such remedial action for the new land use.

(3) To provide incentives to the private sector to undertake remedial action.

(4) To establish expeditious alternatives for the review of site investigation and remedial activities, including a privatized review process.

(5) To assure that the resources of the Hazardous Waste Fund are used in a manner that is protective of human health and the environment relative to present and future uses of the site and surrounding area.

(6) To provide assistance to units of local government for remediation of properties contaminated or potentially contaminated by commercial, industrial, or other uses, to provide loans for the redevelopment of brownfields, and to establish and provide for the administration of the Brownfields Redevelopment Fund.

P.A. 76–2429, § 58, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 90–123, § 15, eff. July 21, 1997; P.A. 91–36, § 5, eff. June 15, 1999.

5/58.1. Applicability

§ 58.1. Applicability.

(a)(1) This Title establishes the procedures for the investigative and remedial activities at sites where there is a release, threatened release, or suspected release of hazardous substances, pesticides, or petroleum and for the review and approval of those activities.

(2) Any person, including persons required to perform investigations and remediations under this Act, may elect to proceed under this Title unless (i) the site is on the National Priorities List (Appendix B of 40 CFR 300), (ii) the site is a treatment, storage, or disposal site for which a permit has been issued, or that is subject to closure requirements under federal or State solid or hazardous waste laws, (iii) the site is subject to federal or State underground storage tank laws, or (iv) investigation or remedial action at the site has been required by a federal court order or an order issued by the United States Environmental Protection Agency. To the extent allowed by federal law and regulations, the sites listed under items (i), (ii), (iii), and (iv) may utilize the provisions of this Title, including the procedures for establishing risk-based remediation objectives under Section 58.5.

(b) Except for sites excluded under subdivision (a)(2) of this Section, the Remediation Applicant (RA) for any site that has not received an Agency letter under subsection (y) of Section 4 of this Act may elect to proceed under the provisions of this Title by submitting a written statement of the election to the Agency. In the absence of such election, the RA shall continue under the provisions of this Act as applicable prior to the effective date of this amendatory Act of 1995.

(c) Except for sites excluded under subdivision (a)(2) of this Section, agrichemical facilities may elect to undertake corrective action in conformance with this Title and rules promulgated by the Board thereunder and land application programs administered by the Department of Agriculture as provided under Section 19 of the Illinois Pesticide Act,[1] and shall be eligible for the relief provided under Section 58.10.

P.A. 76–2429, § 58.1, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996.

[1] 415 ILCS 60/19.

5/58.2. Definitions

§ 58.2. Definitions. The following words and phrases when used in this Title shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

"Agrichemical facility" means a site on which agricultural pesticides are stored or handled, or both, in preparation for end use, or distributed. The term does not include basic manufacturing facility sites.

"ASTM" means the American Society for Testing and Materials.

"Area background" means concentrations of regulated substances that are consistently present in the environment in the vicinity of a site that are the result of natural conditions or human activities, and not the result solely of releases at the site.

"Brownfields site" or "brownfields" means a parcel of real property, or a portion of the parcel, that has actual or perceived contamination and an active potential for redevelopment.

"Class I groundwater" means groundwater that meets the Class I Potable Resource groundwater criteria set forth in the Board rules adopted under the Illinois Groundwater Protection Act.[1]

"Class III groundwater" means groundwater that meets the Class III Special Resource Groundwater criteria set forth in the Board rules adopted under the Illinois Groundwater Protection Act.

"Carcinogen" means a contaminant that is classified as a Category A1 or A2 Carcinogen by the American Conference of Governmental Industrial Hygienists; or a Category 1 or 2A/2B Carcinogen by the World Health Organizations International Agency for Research on Cancer; or a "Human Carcinogen" or "Anticipated Human Carcinogen" by the United States Department of Health and Human Service National Toxicological Program; or a Category A or B1/B2 Carcinogen by the United States Environmental Protection Agency in Integrated Risk Information System or a Final Rule issued in a Federal Register notice by the USEPA as of the effective date of this amendatory Act of 1995.

"Licensed Professional Engineer" (LPE) means a person, corporation, or partnership licensed under the laws of this State to practice professional engineering.

"Licensed Professional Geologist" means a person licensed under the laws of the State of Illinois to practice as a professional geologist.

"RELPEG" means a Licensed Professional Engineer or a Licensed Professional Geologist engaged in review and evaluation under this Title.

"Man-made pathway" means constructed routes that may allow for the transport of regulated substances including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches, or previously excavated and filled areas.

"Municipality" means an incorporated city, village, or town in this State. "Municipality" does not mean a township, town when that term is used as the equivalent of a township, incorporated town that has superseded a civil township, county, or school district, park district, sanitary district, or similar governmental district.

"Natural pathway" means natural routes for the transport of regulated substances including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Person" means individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body including the United States Government and each department, agency, and instrumentality of the United States.

"Regulated substance" means any hazardous substance as defined under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96–510) [2] and petroleum products including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

"Remedial action" means activities associated with compliance with the provisions of Sections 58.6 and 58.7.

"Remediation Applicant" (RA) means any person seeking to perform or performing investigative or remedial activities under this Title, including the owner or operator of the site or persons authorized by law or consent to act on behalf of or in lieu of the owner or operator of the site.

"Remediation costs" means reasonable costs paid for investigating and remediating regulated substances of concern consistent with the remedy selected for a site.

For purposes of Section 58.14, "remediation costs" shall not include costs incurred prior to January 1, 1998, costs incurred after the issuance of a No Further Remediation Letter under Section 58.10 of this Act, or costs incurred more than 12 months prior to acceptance into the Site Remediation Program.

For the purpose of Section 58.14a, "remediation costs" do not include any costs incurred before January 1, 2007, any costs incurred after the issuance of a No Further Remediation Letter under Section 58.10, or any costs incurred more than 12 months before acceptance into the Site Remediation Program.

"Residential property" means any real property that is used for habitation by individuals and other property uses defined by Board rules such as education, health care, child care and related uses.

"River Edge Redevelopment Zone" has the meaning set forth under the River Edge Redevelopment Zone Act.

"Site" means any single location, place, tract of land or parcel of property, or portion thereof, including contiguous property separated by a public right-of-way.

"Regulated substance of concern" means any contaminant that is expected to be present at the site based upon past and current land uses and associated releases that are known to the Remediation Applicant based upon reasonable inquiry. P.A. 76–2429, § 58.2, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 90–123, § 15, eff. July 21, 1997; P.A. 92–735, § 5, eff. July 25, 2002; P.A. 95–454, § 10, eff. Aug. 27, 2007.

[1] 415 ILCS 55/1 et seq.

[2] 42 U.S.C.A. § 9601 et seq.

5/58.3. Site Investigation and Remedial Activities Program; Brownfields Redevelopment Fund

§ 58.3. Site Investigation and Remedial Activities Program; Brownfields Redevelopment Fund.

(a) The General Assembly hereby establishes by this Title a Site Investigation and Remedial Activities Program for sites subject to this Title. This program shall be administered by the Illinois Environmental Protection Agency under this Title XVII and rules adopted by the Illinois Pollution Control Board.

(b)(1) The General Assembly hereby creates within the State Treasury a special fund to be known as the Brownfields Redevelopment Fund, consisting of 2 programs to be known as the "Municipal Brownfields Redevelopment Grant Program" and the "Brownfields Redevelopment Loan Program", which shall be used and administered by the Agency as provided in Sections 58.13 and 58.15 of this Act and the rules adopted under those Sections. The Brownfields Redevelopment Fund ("Fund") shall contain moneys transferred from the Response Contractors Indemnification Fund and other moneys made available for deposit into the Fund.

(2) The State Treasurer, ex officio, shall be the custodian of the Fund, and the Comptroller shall direct payments

from the Fund upon vouchers properly certified by the Agency. The Treasurer shall credit to the Fund interest earned on moneys contained in the Fund. The Agency shall have the authority to accept, receive, and administer on behalf of the State any grants, gifts, loans, reimbursements or payments for services, or other moneys made available to the State from any source for purposes of the Fund. Those moneys shall be deposited into the Fund, unless otherwise required by the Environmental Protection Act or by federal law.

(3) Pursuant to appropriation, all moneys in the Fund shall be used by the Agency for the purposes set forth in subdivision (b)(4) of this Section and Sections 58.13 and 58.15 of this Act and to cover the Agency's costs of program development and administration under those Sections.

(4) The Agency shall have the power to enter into intergovernmental agreements with the federal government or the State, or any instrumentality thereof, for purposes of capitalizing the Brownfields Redevelopment Fund. Moneys on deposit in the Brownfields Redevelopment Fund may be used for the creation of reserve funds or pledged funds that secure the obligations of repayment of loans made pursuant to Section 58.15 of this Act. For the purpose of obtaining capital for deposit into the Brownfields Redevelopment Fund, the Agency may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. The Agency shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this subsection and to allocate its available moneys into such funds and accounts. Investment earnings on moneys held in the Brownfields Redevelopment Fund, including any reserve fund or pledged fund, shall be deposited into the Brownfields Redevelopment Fund.

(5) The Agency is authorized to administer funds made available to the Agency under federal law, including but not limited to the Small Business Liability Relief and Brownfields Revitalization Act, related to brownfields cleanup and reuse in accordance with that law and this Title.

P.A. 76–2429, § 58.3, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 90–123, § 15, eff. July 21, 1997; P.A. 91–36, § 5, eff. June 15, 1999; P.A. 92–486, § 10, eff. Jan. 1, 2002; P.A. 92–715, § 10, eff. July 23, 2002; P.A. 95–331, § 950, eff. Aug. 21, 2007.

5/58.4. Permit waiver

§ 58.4. Permit waiver. A State permit or permit revision which is not otherwise required by federal law or regulations shall not be required for remedial action activities undertaken pursuant to the provisions of this Title that occur entirely on the site.

P.A. 76–2429, § 58.4, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996.

5/58.5. Risk-based remediation objectives

§ 58.5. Risk-based remediation objectives.

(a) Determination of remediation objectives. This Section establishes the procedures for determining risk-based remediation objectives.

(b) Background area remediation objectives.

(1) Except as provided in subdivisions (b)(2) or (b)(3) of this Section, remediation objectives established under this Section shall not require remediation of regulated substances to levels that are less than area background levels.

(2) In the event that the concentration of a regulated substance of concern on the site exceeds a remediation objective adopted by the Board for residential land use, the property may not be converted to residential use unless such remediation objective or an alternate risk-based remediation objective for that regulated substance of concern is first achieved.

(3) In the event that the Agency has determined in writing that the background level for a regulated substance poses an acute threat to human health or the environment at the site when considering the post-remedial action land use, the RA shall develop appropriate risk-based remediation objectives in accordance with this Section.

(c) Regulations establishing remediation objectives and methodologies for deriving remediation objectives for individual or classes of regulated substances shall be adopted by the Board in accordance with this Section and Section 58.11.

(1) The regulations shall provide for the adoption of a three-tiered process for a RA to establish remediation objectives protective of human health and the environment based on identified risks and specific site characteristics at and around the site.

(2) The regulations shall provide procedures for using alternative tiers in developing remediation objectives for multiple regulated substances.

(3) The regulations shall provide procedures for determining area background contaminant levels.

(4) The methodologies adopted under this Section shall ensure that the following factors are taken into account in determining remediation objectives:

(A) potential risks posed by carcinogens and noncarcinogens; and

(B) the presence of multiple substances of concern and multiple exposure pathways.

(d) In developing remediation objectives under subsection (c) of this Section, the methodology proposed and adopted shall establish tiers addressing manmade and natural pathways of exposure, including but not limited to human ingestion, human inhalation, and groundwater protection. For carcinogens, soil and groundwater remediation objectives shall be established at exposures that represent an excess upper-bound lifetime risk of between 1 in 10,000 and 1 in 1,000,000 as appropriate for the post-remedial action use, except that remediation objectives protecting residential use shall be based on exposures that represent an excess upper-bound lifetime risk of 1 in 1,000,000. No groundwater remediation objective adopted pursuant to this Section shall be more restrictive than the applicable Class I or Class III Groundwater Quality Standard adopted by the Board. At a minimum, the objectives shall include the following:

(1) Tier I remediation objectives expressed as a table of numeric values for soil and groundwater. Such objectives may be of different values dependent on potential pathways at the site and different land uses, including residential and nonresidential uses.

(2) Tier II remediation objectives shall include the formulae and equations used to derive the Tier II objectives and input variables for use in the formulae. The RA may alter the input variables when it is demonstrated that the

specific circumstances at and around the site including land uses warrant such alternate variables.

(3) Tier III remediation objectives shall include methodologies to allow for the development of site-specific risk-based remediation objectives for soil or groundwater, or both, for regulated substances. Such methodology shall allow for different remediation objectives for residential and various categories of non-residential land uses. The Board's future adoption of a methodology pursuant to this Section shall in no way preclude the use of a nationally recognized methodology to be used for the development of site-specific risk-based objectives for regulated substances under this Section. In determining Tier III remediation objectives under this subsection, all of the following factors shall be considered:

(A) The use of specific site characteristic data.

(B) The use of appropriate exposure factors for the current and currently planned future land use of the site and adjacent property and the effectiveness of engineering, institutional, or legal controls placed on the current or future use of the site.

(C) The use of appropriate statistical methodologies to establish statistically valid remediation objectives.

(D) The actual and potential impact of regulated substances to receptors.

(4) For regulated substances that have a groundwater quality standard established pursuant to the Illinois Groundwater Protection Act [1] and rules promulgated thereunder, site specific groundwater remediation objectives may be proposed under the methodology established in subdivision (d) (3) of this Section at values greater than the groundwater quality standards.

(A) The RA proposing any site specific groundwater remediation objective at a value greater than the applicable groundwater quality standard shall demonstrate:

(i) To the extent practical, the exceedance of the groundwater quality standard has been minimized and beneficial use appropriate to the groundwater that was impacted has been returned; and

(ii) Any threat to human health or the environment has been minimized.

(B) The rules proposed by the Agency and adopted by the Board under this Section shall include criteria required for the demonstration of the suitability of groundwater objectives proposed under subdivision (b) (4) (A) of this Section.

(e) The rules proposed by the Agency and adopted by the Board under this Section shall include conditions for the establishment and duration of groundwater management zones by rule, as appropriate, at sites undergoing remedial action under this Title.

(f) Until such time as the Board adopts remediation objectives under this Section, the remediation objectives adopted by the Board under Title XVI of this Act [2] shall apply to all environmental assessments and soil or groundwater remedial action conducted under this Title.

P.A. 76–2429, § 58.5, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 89–626, Art. 2, § 2–62, eff. Aug. 9, 1996; P.A. 91–909, § 5, eff. July 7, 2000.

[1] 415 ILCS 55/1 et seq.

[2] 415 ILCS 5/57 et seq.

5/58.6. Remedial investigations and reports

§ 58.6. Remedial investigations and reports.

(a) Any RA who proceeds under this Title may elect to seek review and approval for any of the remediation objectives provided in Section 58.5 for any or all regulated substances of concern. The RA shall conduct investigations and remedial activities for regulated substances of concern and prepare plans and reports in accordance with this Section and rules adopted hereunder. The RA shall submit the plans and reports for review and approval in accordance with Section 58.7. All investigations, plans, and reports conducted or prepared under this Section shall be under the supervision of a Licensed Professional Engineer (LPE) or, in the case of a site investigation only, a Licensed Professional Geologist in accordance with the requirements of this Title.

(b) (1) Site investigation and Site Investigation Report. The RA shall conduct a site investigation to determine the significant physical features of the site and vicinity that may affect contaminant transport and risk to human health, safety, and the environment and to determine the nature, concentration, direction and rate of movement, and extent of the contamination at the site.

(2) The RA shall compile the results of the investigations into a Site Investigation Report. At a minimum, the reports shall include the following, as applicable:

(A) Executive summary;

(B) Site history;

(C) Site–specific sampling methods and results;

(D) Documentation of field activities, including quality assurance project plan;

(E) Interpretation of results; and

(F) Conclusions.

(c) Remediation Objectives Report.

(1) If a RA elects to determine remediation objectives appropriate for the site using the Tier II or Tier III procedures under subsection (d) of Section 58.5, the RA shall develop such remediation objectives based on site-specific information. In support of such remediation objectives, the RA shall prepare a Remediation Objectives Report demonstrating how the site-specific objectives were calculated or otherwise determined.

(2) If a RA elects to determine remediation objectives appropriate for the site using the area background procedures under subsection (b) of Section 58.5, the RA shall develop such remediation objectives based on site-specific literature review, sampling protocol, or appropriate statistical methods in accordance with Board rules. In support of such remediation objectives, the RA shall prepare a Remediation Objectives Report demonstrating how the area background remediation objectives were determined.

(d) Remedial Action Plan. If the approved remediation objectives for any regulated substance established under Section 58.5 are less than the levels existing at the site prior to any remedial action, the RA shall prepare a Remedial Action Plan. The Remedial Action Plan shall describe the selected remedy and evaluate its ability and effectiveness to achieve the remediation objectives approved for the site. At a minimum, the reports shall include the following, as applicable:

(1) Executive summary;

(2) Statement of remediation objectives;

(3) Remedial technologies selected;

(4) Confirmation sampling plan;

(5) Current and projected future use of the property; and

(6) Applicable preventive, engineering, and institutional controls including long-term reliability, operating, and maintenance plans, and monitoring procedures.

(e) Remedial Action Completion Report.

(1) Upon completion of the Remedial Action Plan, the RA shall prepare a Remedial Action Completion Report. The report shall demonstrate whether the remedial action was completed in accordance with the approved Remedial Action Plan and whether the remediation objectives, as well as any other requirements of the plan, have been attained.

(2) If the approved remediation objectives for the regulated substances of concern established under Section 58.5 are equal to or above the levels existing at the site prior to any remedial action, notification and documentation of such shall constitute the entire Remedial Action Completion Report for purposes of this Title.

(f) Ability to proceed. The RA may elect to prepare and submit for review and approval any and all reports or plans required under the provisions of this Section individually, following completion of each such activity; concurrently, following completion of all activities; or in any other combination. In any event, the review and approval process shall proceed in accordance with Section 58.7 and rules adopted thereunder.

(g) Nothing in this Section shall prevent an RA from implementing or conducting an interim or any other remedial measure prior to election to proceed under Section 58.6.

(h) In accordance with Section 58.11, the Agency shall propose and the Board shall adopt rules to carry out the purposes of this Section.

P.A. 76–2429, § 58.6, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 92–735, § 5, eff. July 25, 2002.

5/58.7. Review and approvals

§ 58.7. Review and approvals.

(a) Requirements. All plans and reports that are submitted pursuant to this Title shall be submitted for review or approval in accordance with this Section.

(b) Review and evaluation by the Agency.

(1) Except for sites excluded under subdivision (a)(2) of Section 58.1, the Agency shall, subject to available resources, agree to provide review and evaluation services for activities carried out pursuant to this Title for which the RA requested the services in writing. As a condition for providing such services, the Agency may require that the RA for a site:

(A) Conform with the procedures of this Title;

(B) Allow for or otherwise arrange site visits or other site evaluation by the Agency when so requested;

(C) Agree to perform the Remedial Action Plan as approved under this Title;

(D) Agree to pay any reasonable costs incurred and documented by the Agency in providing such services;

(E) Make an advance partial payment to the Agency for such anticipated services in an amount, acceptable to the Agency, but not to exceed $5,000 or one-half of the total anticipated costs of the Agency, whichever sum is less; and

(F) Demonstrate, if necessary, authority to act on behalf of or in lieu of the owner or operator.

(2) Any moneys received by the State for costs incurred by the Agency in performing review or evaluation services for actions conducted pursuant to this Title shall be deposited in the Hazardous Waste Fund.

(3) An RA requesting services under subdivision (b)(1) of this Section may, at any time, notify the Agency, in writing, that Agency services previously requested are no longer wanted. Within 180 days after receipt of the notice, the Agency shall provide the RA with a final invoice for services provided until the date of such notifications.

(4) The Agency may invoice or otherwise request or demand payment from a RA for costs incurred by the Agency in performing review or evaluation services for actions by the RA at sites only if:

(A) The Agency has incurred costs in performing response actions, other than review or evaluation services, due to the failure of the RA to take response action in accordance with a notice issued pursuant to this Act;

(B) The RA has agreed in writing to the payment of such costs;

(C) The RA has been ordered to pay such costs by the Board or a court of competent jurisdiction pursuant to this Act; or

(D) The RA has requested or has consented to Agency review or evaluation services under subdivision (b)(1) of this Section.

(5) The Agency may, subject to available resources, agree to provide review and evaluation services for response actions if there is a written agreement among parties to a legal action or if a notice to perform a response action has been issued by the Agency.

(c) Review and evaluation by a Licensed Professional Engineer or Licensed Professional Geologist. A RA may elect to contract with a Licensed Professional Engineer or, in the case of a site investigation report only, a Licensed Professional Geologist, who will perform review and evaluation services on behalf of and under the direction of the Agency relative to the site activities.

(1) Prior to entering into the contract with the RELPEG, the RA shall notify the Agency of the RELPEG to be selected. The Agency and the RA shall discuss the potential terms of the contract.

(2) At a minimum, the contract with the RELPEG shall provide that the RELPEG will submit any reports directly to the Agency, will take his or her directions for work assignments from the Agency, and will perform the assigned work on behalf of the Agency.

(3) Reasonable costs incurred by the Agency shall be paid by the RA directly to the Agency in accordance with the terms of the review and evaluation services agreement entered into under subdivision (b)(1) of Section 58.7.

(4) In no event shall the RELPEG acting on behalf of the Agency be an employee of the RA or the owner or operator of the site or be an employee of any other person the RA has contracted to provide services relative to the site.

(d) Review and approval. All reviews required under this Title shall be carried out by the Agency or a RELPEG, both under the direction of a Licensed Professional Engineer or, in the case of the review of a site investigation only, a Licensed Professional Geologist.

(1) All review activities conducted by the Agency or a RELPEG shall be carried out in conformance with this Title and rules promulgated under Section 58.11.

(2) Subject to the limitations in subsection (c) and this subsection (d), the specific plans, reports, and activities that the Agency or a RELPEG may review include:

(A) Site Investigation Reports and related activities;

(B) Remediation Objectives Reports;

(C) Remedial Action Plans and related activities; and

(D) Remedial Action Completion Reports and related activities.

(3) Only the Agency shall have the authority to approve, disapprove, or approve with conditions a plan or report as a result of the review process including those plans and reports reviewed by a RELPEG. If the Agency disapproves a plan or report or approves a plan or report with conditions, the written notification required by subdivision (d)(4) of this Section shall contain the following information, as applicable:

(A) An explanation of the Sections of this Title that may be violated if the plan or report was approved;

(B) An explanation of the provisions of the rules promulgated under this Title that may be violated if the plan or report was approved;

(C) An explanation of the specific type of information, if any, that the Agency deems the applicant did not provide the Agency;

(D) A statement of specific reasons why the Title and regulations might not be met if the plan or report were approved; and

(E) An explanation of the reasons for conditions if conditions are required.

(4) Upon approving, disapproving, or approving with conditions a plan or report, the Agency shall notify the RA in writing of its decision. In the case of approval or approval with conditions of a Remedial Action Completion Report, the Agency shall prepare a No Further Remediation Letter that meets the requirements of Section 58.10 and send a copy of the letter to the RA.

(5) All reviews undertaken by the Agency or a RELPEG shall be completed and the decisions communicated to the RA within 60 days of the request for review or approval. The RA may waive the deadline upon a request from the Agency. If the Agency disapproves or approves with conditions a plan or report or fails to issue a final decision within the 60 day period and the RA has not agreed to a waiver of the deadline, the RA may, within 35 days, file an appeal to the Board. Appeals to the Board shall be in the manner provided for the review of permit decisions in Section 40 of this Act.

(e) Standard of review. In making determinations, the following factors, and additional factors as may be adopted by the Board in accordance with Section 58.11, shall be considered by the Agency when reviewing or approving plans, reports, and related activities, or the RELPEG, when reviewing plans, reports, and related activities:

(1) Site Investigation Reports and related activities: Whether investigations have been conducted and the results compiled in accordance with the appropriate procedures and whether the interpretations and conclusions reached are supported by the information gathered. In making the determination, the following factors shall be considered:

(A) The adequacy of the description of the site and site characteristics that were used to evaluate the site;

(B) The adequacy of the investigation of potential pathways and risks to receptors identified at the site; and

(C) The appropriateness of the sampling and analysis used.

(2) Remediation Objectives Reports: Whether the remediation objectives are consistent with the requirements of the applicable method for selecting or determining remediation objectives under Section 58.5. In making the determination, the following factors shall be considered:

(A) If the objectives were based on the determination of area background levels under subsection (b) of Section 58.5, whether the review of current and historic conditions at or in the immediate vicinity of the site has been thorough and whether the site sampling and analysis has been performed in a manner resulting in accurate determinations;

(B) If the objectives were calculated on the basis of predetermined equations using site specific data, whether the calculations were accurately performed and whether the site specific data reflect actual site conditions; and

(C) If the objectives were determined using a site specific risk assessment procedure, whether the procedure used is nationally recognized and accepted, whether the calculations were accurately performed, and whether the site specific data reflect actual site conditions.

(3) Remedial Action Plans and related activities: Whether the plan will result in compliance with this Title, and rules adopted under it and attainment of the applicable remediation objectives. In making the determination, the following factors shall be considered:

(A) The likelihood that the plan will result in the attainment of the applicable remediation objectives;

(B) Whether the activities proposed are consistent with generally accepted engineering practices; and

(C) The management of risk relative to any remaining contamination, including but not limited to, provisions for the long-term enforcement, operation, and maintenance of institutional and engineering controls, if relied on.

(4) Remedial Action Completion Reports and related activities: Whether the remedial activities have been completed in accordance with the approved Remedial Action Plan and whether the applicable remediation objectives have been attained.

(f) All plans and reports submitted for review shall include a Licensed Professional Engineer's certification that all investigations and remedial activities were carried out under his or her direction and, to the best of his or her knowledge and belief, the work described in the plan or report has been completed in accordance with generally accepted engineering practices, and the information presented is accurate and complete. In the case of a site investigation report prepared or supervised by a Licensed Professional Geologist, the required certification may be made by the Licensed Professional Geologist (rather than a Licensed Professional Engineer) and based upon generally accepted principles of professional geology.

(g) In accordance with Section 58.11, the Agency shall propose and the Board shall adopt rules to carry out the purposes of this Section. At a minimum, the rules shall detail the types of services the Agency may provide in response to requests under subdivision (b)(1) of this Section and the recordkeeping it will utilize in documenting to the

RA the costs incurred by the Agency in providing such services.

(h) Public participation.

(1) The Agency shall develop guidance to assist RA's in the implementation of a community relations plan to address activity at sites undergoing remedial action pursuant to this Title.

(2) The RA may elect to enter into a services agreement with the Agency for Agency assistance in community outreach efforts.

(3) The Agency shall maintain a registry listing those sites undergoing remedial action pursuant to this Title.

(4) Notwithstanding any provisions of this Section, the RA of a site undergoing remedial activity pursuant to this Title may elect to initiate a community outreach effort for the site.

P.A. 76–2429, § 58.7, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 89–626, Art. 2, § 2–62, eff. Aug. 9, 1996; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 92–735, § 5, eff. July 25, 2002; P.A. 95–331, § 950, eff. Aug. 21, 2007.

5/58.8. Duty to record; compliance

§ 58.8. Duty to record; compliance.

(a) The RA receiving a No Further Remediation Letter from the Agency pursuant to Section 58.10, shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days of receipt of the letter. The Office of the Recorder or the Registrar of Titles shall accept and record that letter in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(b) A No Further Remediation Letter shall not become effective until officially recorded in accordance with subsection (a) of this Section. The RA shall obtain and submit to the Agency a certified copy of the No Further Remediation Letter as recorded.

(c) (Blank).

(d) In the event that a No Further Remediation Letter issues by operation of law pursuant to Section 58.10, the RA may, for purposes of this Section, file an affidavit stating that the letter issued by operation of law. Upon receipt of the No Further Remediation Letter from the Agency, the RA shall comply with the requirements of subsections (a) and (b) of this Section.

P.A. 76–2429, § 58.8, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 92–574, § 5, eff. June 26, 2002; P.A. 94–272, § 10, eff. July 19, 2005; P.A. 94–314, § 5, eff. July 25, 2005.

P.A. 94–314 included the change made by P.A. 94–272.

5/58.9. Liability

§ 58.9. Liability.

(a) Cost assignment.

(1) Notwithstanding any other provisions of this Act to the contrary, including subsection (f) of Section 22.2, in no event may the Agency, the State of Illinois, or any person bring an action pursuant to this Act or the Groundwater Protection Act [1] to require any person to conduct remedial action or to seek recovery of costs for remedial activity conducted by the State of Illinois or any person beyond the remediation of releases of regulated substances that may be attributed to being proximately caused by such person's act or omission or beyond such person's proportionate degree of responsibility for costs of the remedial action of releases of regulated substances that were proximately caused or contributed to by 2 or more persons.

(2) Notwithstanding any provisions in this Act to the contrary, including subsection (f) of Section 22.2, in no event may the State of Illinois or any person require the performance of remedial action pursuant to this Act against any of the following:

(A) A person who neither caused nor contributed to in any material respect a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action taken pursuant to this Title.

(B) Notwithstanding a landlord's rights against a tenant, a landlord, if the landlord did not know, and could not have reasonably known, of the acts or omissions of a tenant that caused or contributed to, or were likely to have caused or contributed to, a release of regulated substances that resulted in the performance of remedial action at the site.

(C) The State of Illinois or any unit of local government if it involuntarily acquires ownership or control of the site by virtue of its function as a sovereign through such means as escheat, bankruptcy, tax delinquency, or abandonment, unless the State of Illinois or unit of local government takes possession of the site and exercises actual, direct, and continual or recurrent managerial control in the operation of the site that causes a release or substantial threat of a release of a regulated substance resulting in removal or remedial activity.

(D) The State of Illinois or any unit of local government if it voluntarily acquires ownership or control of the site through purchase, appropriation, or other means, unless the State of Illinois or the unit of local government takes possession of the site and exercises actual, direct, and continual or recurrent managerial control in the operation of the site that causes a release or substantial threat of a release of a regulated substance resulting in removal or remedial activity.

(E) A financial institution, as that term is defined in Section 2 of the Illinois Banking Act [2] and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of a site through foreclosure, a deed in lieu of foreclosure, receivership, by exercising of an assignment of rents, as mortgagee in possession or otherwise under the terms of a security interest held by the financial institution, or under the terms of an extension of credit made by the financial institution, unless the financial institution takes actual physical possession of the site and, in so doing, directly causes a release of a regulated substance that results in removal or remedial activity.

(F) A corporate fiduciary that has acquired ownership, operation, management, or control of a site through acceptance of a fiduciary appointment unless the corporate fiduciary directly causes a release of a regulated substance resulting in a removal or remedial activity.

(b) In the event that the State of Illinois seeks to require a person who may be liable pursuant to this Act to conduct remedial activities for a release or threatened release of a regulated substance, the Agency shall provide notice to such person. Such notice shall include the necessity to conduct remedial action pursuant to this Title and an opportunity for the person to perform the remedial action.

(c) In any instance in which the Agency has issued notice pursuant to subsection (b) of this Section, the Agency and

the person to whom such notice was issued may attempt to determine the costs of conducting the remedial action that are attributable to the releases to which such person or any other person caused or contributed. Determinations pursuant to this Section may be made in accordance with rules promulgated by the Board.

(d) The Board shall adopt, not later than January 1, 1999, pursuant to Sections 27 and 28 of this Act, rules and procedures for determining proportionate share. Such rules shall, at a minimum, provide for criteria for the determination of apportioned responsibility based upon the degree to which a person directly caused or contributed to a release of regulated substances on, in, or under the site identified and addressed in the remedial action; procedures to establish how and when such persons may file a petition for determination of such apportionment; and any other standards or procedures which the Board may adopt pursuant to this Section. In developing such rules, the Board shall take into consideration any recommendations and proposals of the Agency and the Site Remediation Advisory Committee established in Section 58.11 of this Act and other interested participants.

(e) Nothing in this Section shall limit the authority of the Agency to provide notice under subsection (q) of Section 4 or to undertake investigative, preventive, or corrective action under any other applicable provisions of this Act. The Director of the Agency is authorized to enter into such contracts and agreements as may be necessary to carry out the Agency's duties and responsibilities under this Section as expeditiously as possible.

(f) This Section does not apply to any cost recovery action brought by the State under Section 22.2 to recover costs incurred by the State prior to July 1, 1996.

P.A. 76–2429, § 58.9, added by P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 90–484, § 5, eff. Aug. 17, 1997.

[1] 415 ILCS 55/1 et seq.

[2] 205 ILCS 5/2.

5/58.10. Effect of completed remediation; liability releases

§ 58.10. Effect of completed remediation; liability releases.

(a) The Agency's issuance of the No Further Remediation Letter signifies a release from further responsibilities under this Act in performing the approved remedial action and shall be considered prima facie evidence that the site does not constitute a threat to human health and the environment and does not require further remediation under this Act, so long as the site is utilized in accordance with the terms of the No Further Remediation Letter.

(b) Within 30 days of the Agency's approval of a Remedial Action Completion Report, the Agency shall issue a No Further Remediation Letter applicable to the site. In the event that the Agency fails to issue the No Further Remediation Letter within 30 days after approval of the Remedial Action Completion Report, the No Further Remediation Letter shall issue by operation of law. A No Further Remediation Letter issued pursuant to this Section shall be limited to and shall include all of the following:

(1) An acknowledgment that the requirements of the Remedial Action Plan and the Remedial Action Completion Report were satisfied;

(2) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries;

(3) The level of the remediation objectives, specifying, as appropriate, any land use limitation imposed as a result of such remediation efforts;

(4) A statement that the Agency's issuance of the No Further Remediation Letter signifies a release from further responsibilities under this Act in performing the approved remedial action and shall be considered prima facie evidence that the site does not constitute a threat to human health and the environment and does not require further remediation under the Act, so long as the site is utilized in accordance with the terms of the No Further Remediation Letter;

(5) The prohibition against the use of any site in a manner inconsistent with any land use limitation imposed as a result of such remediation efforts without additional appropriate remedial activities;

(6) A description of any preventive, engineering, and institutional controls required in the approved Remedial Action Plan and notification that failure to manage the controls in full compliance with the terms of the Remedial Action Plan may result in voidance of the No Further Remediation Letter;

(7) The recording obligations pursuant to Section 58.8;

(8) The opportunity to request a change in the recorded land use pursuant to Section 58.8;

(9) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act (5 ILCS 140); and

(10) If only a portion of the site or only selected regulated substances at a site were the subject of corrective action, any other provisions agreed to by the Agency and the RA.

(c) The Agency may deny a No Further Remediation Letter if fees applicable under the review and evaluation services agreement have not been paid in full.

(d) The No Further Remediation Letter shall apply in favor of the following persons:

(1) The RA or other person to whom the letter was issued.

(2) The owner and operator of the site.

(3) Any parent corporation or subsidiary of the owner of the site.

(4) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a legal relationship with the owner of the site.

(5) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the site.

(6) Any mortgagee or trustee of a deed of trust of the owner of the site or any assignee, transferee, or any successor-in-interest thereto.

(7) Any successor-in-interest of the owner of the site.

(8) Any transferee of the owner of the site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest.

(9) Any heir or devisee of the owner of the site.

(10) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act [1] and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of a site through foreclosure or under the terms of a security interest held by the financial institution, under the terms

of an extension of credit made by the financial institution, or any successor in interest thereto.

(11) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.

(e) The No Further Remediation Letter shall be voidable if the site activities are not managed in full compliance with the provisions of this Title, any rules adopted under it, or the approved Remedial Action Plan or remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:

(1) Any violation of institutional controls or land use restrictions, if applicable;

(2) The failure of the owner, operator, RA, or any subsequent transferee to operate and maintain preventive or engineering controls or comply with a groundwater monitoring plan, if applicable;

(3) The disturbance or removal of contamination that has been left in place in accordance with the Remedial Action Plan;

(4) The failure to comply with the recording requirements of Section 58.8;

(5) Obtaining the No Further Remediation Letter by fraud or misrepresentation;

(6) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based, that pose a threat to human health or the environment; or

(7) The failure to pay the No Further Remediation Assessment required under subsection (g) of this Section.

(f) If the Agency seeks to void a No Further Remediation Letter, it shall provide notice by certified letter to the current title holder of the site and to the RA at his or her last known address. The notice shall specify the cause for the voidance and describe facts in support of that cause.

(1) Within 35 days of the receipt of the notice of voidance, the RA or current title holder may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act. If the Board fails to take final action on the petition within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act. The Agency shall have the burden of proof in any such action.

(2) If the Agency's action is not appealed, the Agency shall submit the notice of voidance to the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(3) If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision reached by the Board or courts.

(4) Upon receiving notice of appeal, the Agency shall file a notice of lis pendens with the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site. However, if the Agency's action is not upheld on appeal, the notice of lis pendens shall be removed in accordance with Illinois law within 45 days of receipt of the final decision of the Board or the courts.

(g) Within 30 days after the receipt of a No Further Remediation Letter issued by the Agency or by operation of law pursuant to this Section, the recipient of the letter shall forward to the Agency a No Further Remediation Assessment in the amount of the lesser of $2,500 or an amount equal to the costs incurred for the site by the Agency under Section 58.7. The assessment shall be made payable to the State of Illinois, for deposit in the Hazardous Waste Fund. The No Further Remediation Assessment is in addition to any other costs that may be incurred by the Agency pursuant to Section 58.7.

P.A. 76–2429, § 58.10, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 89–626, Art. 2, § 2–62, eff. Aug. 9, 1996.

[1] 205 ILCS 5/2.

5/58.11. Regulations and Site Remediation Advisory Committee

§ 58.11. Regulations and Site Remediation Advisory Committee.

(a) There is hereby established a 10–member Site Remediation Advisory Committee, which shall be appointed by the Governor. The Committee shall include one member recommended by the Illinois State Chamber of Commerce, one member recommended by the Illinois Manufacturers' Association, one member recommended by the Chemical Industry Council of Illinois, one member recommended by the Consulting Engineers Council of Illinois, one member recommended by the Illinois Bankers Association, one member recommended by the Community Bankers Association of Illinois, one member recommended by the National Solid Waste Management Association, and 3 other members as determined by the Governor. Members of the Advisory Committee may organize themselves as they deem necessary and shall serve without compensation.

(b) The Committee shall:

(1) Review, evaluate, and make recommendations regarding State laws, rules, and procedures that relate to site remediations.

(2) Review, evaluate, and make recommendations regarding the review and approval activities of the Agency and Review and Evaluation Licensed Professional Engineers and Geologists.

(3) Make recommendations relating to the State's efforts to implement this Title.

(4) Review, evaluate, and make recommendations regarding the procedures for determining proportionate degree of responsibility for a release of regulated substances.

(5) Review, evaluate, and make recommendations regarding the reports prepared by the Agency in accordance with subsection (e) of this Section.

(c) Within 9 months after the effective date of this amendatory Act of 1995, the Agency, after consideration of the recommendations of the Committee, shall propose rules prescribing procedures and standards for its administration of this Title. Within 9 months after receipt of the Agency's proposed rules, the Board shall adopt, pursuant to Sections 27 and 28 of this Act, rules that are consistent with this Title, including classifications of land use and provisions for the voidance of No Further Remediation Letters.

(d) Until such time as the rules required under this Section take effect, the Agency shall administer its activities under this Title in accordance with Agency procedures and applicable provisions of this Act.

(e) By July 1, 1997 and as deemed appropriate thereafter, the Agency shall prepare reports to the Governor and the General Assembly concerning the status of all sites for which the Agency has expended money from the Hazardous Waste Fund. The reports shall include specific information on the financial, technical, and cost recovery status of each site.

P.A. 76–2429, § 58.11, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996. Amended by P.A. 89–626, Art. 2, § 2–62, eff. Aug. 9, 1996; P.A. 92–735, § 5, eff. July 25, 2002.

5/58.12. Severability

§ 58.12. Severability. The provisions of this Title XVII are severable under Section 1.31 of the Statute on Statutes.[1]

P.A. 76–2429, § 58.12, added by P.A. 89–431, § 5, eff. Dec. 15, 1995; P.A. 89–443, § 5, eff. July 1, 1996.

[1] 5 ILCS 70/1.31.

5/58.13. Municipal Brownfields Redevelopment Grant Program

§ 58.13. Municipal Brownfields Redevelopment Grant Program.

(a)(1) The Agency shall establish and administer a program of grants, to be known as the Municipal Brownfields Redevelopment Grant Program, to provide municipalities in Illinois with financial assistance to be used for coordination of activities related to brownfields redevelopment, including but not limited to identification of brownfields sites, including those sites within River Edge Redevelopment Zones, site investigation and determination of remediation objectives and related plans and reports, development of remedial action plans, and implementation of remedial action plans and remedial action completion reports. The plans and reports shall be developed in accordance with Title XVII of this Act.

(2) Grants shall be awarded on a competitive basis subject to availability of funding. Criteria for awarding grants shall include, but shall not be limited to the following:

(A) problem statement and needs assessment;

(B) community-based planning and involvement;

(C) implementation planning; and

(D) long-term benefits and sustainability.

(3) The Agency may give weight to geographic location to enhance geographic distribution of grants across this State.

(4) Except for grants to municipalities with designated River Edge Redevelopment Zones, grants shall be limited to a maximum of $240,000, and no municipality shall receive more than this amount under this Section. For grants to municipalities with designated River Edge Redevelopment Zones and grants to municipalities awarded from funds provided under the American Recovery and Reinvestment Act of 2009, grants shall be limited to a maximum of $2,000,000 and no municipality shall receive more than this amount under this Section. For grants to municipalities awarded from funds provided under the American Recovery and Reinvestment Act of 2009, grants shall be limited to a maximum of $1,000,000 and no municipality shall receive more than this amount under this Section.

(5) Grant amounts shall not exceed 70% of the project amount, with the remainder to be provided by the municipality as local matching funds.

(b) The Agency shall have the authority to enter into any contracts or agreements that may be necessary to carry out its duties or responsibilities under this Section. The Agency shall have the authority to adopt rules setting forth procedures and criteria for administering the Municipal Brownfields Redevelopment Grant Program. The rules adopted by the Agency may include but shall not be limited to the following:

(1) purposes for which grants are available;

(2) application periods and content of applications;

(3) procedures and criteria for Agency review of grant applications, grant approvals and denials, and grantee acceptance;

(4) grant payment schedules;

(5) grantee responsibilities for work schedules, work plans, reports, and record keeping;

(6) evaluation of grantee performance, including but not limited to auditing and access to sites and records;

(7) requirements applicable to contracting and subcontracting by the grantee;

(8) penalties for noncompliance with grant requirements and conditions, including stop-work orders, termination of grants, and recovery of grant funds;

(9) indemnification of this State and the Agency by the grantee; and

(10) manner of compliance with the Local Government Professional Services Selection Act. [1]

(c) Moneys in the Brownfields Redevelopment Fund may be used by the Agency to take whatever preventive or corrective action, including but not limited to removal or remedial action, is necessary or appropriate in response to a release or substantial threat of a release of:

(1) a hazardous substance or pesticide; or

(2) petroleum from an underground storage tank.

The State, the Director, and any State employee shall be indemnified for any damages or injury arising out of or resulting from any action taken pursuant to this subsection (c) and subsection (d)(2) of Section 4 of this Act. The Agency has the authority to enter into such contracts and agreements as may be necessary, and as expeditiously as necessary, to carry out preventive or corrective action pursuant to this subsection (c) and subsection (d)(2) of Section 4 of this Act.

P.A. 76–2429, § 58.13, added by P.A. 90–123, § 15, eff. July 21, 1997. Amended by P.A. 92–486, § 10, eff. Jan. 1, 2002; P.A. 92–715, § 10, eff. July 23, 2002; P.A. 94–1021, Art. 90, § 90–45, eff. July 12, 2006; P.A. 96–45, § 5–55, eff. July 15, 2009.

[1] 50 ILCS 510/0.01 et seq.

5/58.14. Environmental Remediation Tax Credit review

§ 58.14. Environmental Remediation Tax Credit review.

(a) Prior to applying for the Environmental Remediation Tax Credit under Section 201 of the Illinois Income Tax Act,[1] Remediation Applicants shall first submit to the Agency an application for review of remediation costs. The application and review process shall be conducted in accordance with the requirements of this Section and the rules adopted under subsection (g). A preliminary review of the estimated

remediation costs for development and implementation of the Remedial Action Plan may be obtained in accordance with subsection (d).

(b) No application for review shall be submitted until a No Further Remediation Letter has been issued by the Agency and recorded in the chain of title for the site in accordance with Section 58.10. The Agency shall review the application to determine whether the costs submitted are remediation costs, and whether the costs incurred are reasonable. The application shall be on forms prescribed and provided by the Agency. At a minimum, the application shall include the following:

(1) information identifying the Remediation Applicant and the site for which the tax credit is being sought and the date of acceptance of the site into the Site Remediation Program;

(2) a copy of the No Further Remediation Letter with official verification that the letter has been recorded in the chain of title for the site and a demonstration that the site for which the application is submitted is the same site as the one for which the No Further Remediation Letter is issued;

(3) a demonstration that the release of the regulated substances of concern for which the No Further Remediation Letter was issued were not caused or contributed to in any material respect by the Remediation Applicant. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act [2] for the administration and enforcement of Section 58.9 of the Environmental Protection Act,[3] determinations as to credit availability shall be made consistent with those rules;

(4) an itemization and documentation, including receipts, of the remediation costs incurred;

(5) a demonstration that the costs incurred are remediation costs as defined in this Act and its rules;

(6) a demonstration that the costs submitted for review were incurred by the Remediation Applicant who received the No Further Remediation Letter;

(7) an application fee in the amount set forth in subsection (e) for each site for which review of remediation costs is requested and, if applicable, certification from the Department of Commerce and Economic Opportunity that the site is located in an enterprise zone;

(8) any other information deemed appropriate by the Agency.

(c) Within 60 days after receipt by the Agency of an application meeting the requirements of subsection (b), the Agency shall issue a letter to the applicant approving, disapproving, or modifying the remediation costs submitted in the application. If the remediation costs are approved as submitted, the Agency's letter shall state the amount of the remediation costs to be applied toward the Environmental Remediation Tax Credit. If an application is disapproved or approved with modification of remediation costs, the Agency's letter shall set forth the reasons for the disapproval or modification and state the amount of the remediation costs, if any, to be applied toward the Environmental Remediation Tax Credit.

If a preliminary review of a budget plan has been obtained under subsection (d), the Remediation Applicant may submit, with the application and supporting documentation under subsection (b), a copy of the Agency's final determination accompanied by a certification that the actual remediation costs incurred for the development and implementation of the Remedial Action Plan are equal to or less than the costs approved in the Agency's final determination on the budget plan. The certification shall be signed by the Remediation Applicant and notarized. Based on that submission, the Agency shall not be required to conduct further review of the costs incurred for development and implementation of the Remedial Action Plan and may approve costs as submitted.

Within 35 days after receipt of an Agency letter disapproving or modifying an application for approval of remediation costs, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act.

(d)(1) A Remediation Applicant may obtain a preliminary review of estimated remediation costs for the development and implementation of the Remedial Action Plan by submitting a budget plan along with the Remedial Action Plan. The budget plan shall be set forth on forms prescribed and provided by the Agency and shall include but shall not be limited to line item estimates of the costs associated with each line item (such as personnel, equipment, and materials) that the Remediation Applicant anticipates will be incurred for the development and implementation of the Remedial Action Plan. The Agency shall review the budget plan along with the Remedial Action Plan to determine whether the estimated costs submitted are remediation costs and whether the costs estimated for the activities are reasonable.

(2) If the Remedial Action Plan is amended by the Remediation Applicant or as a result of Agency action, the corresponding budget plan shall be revised accordingly and resubmitted for Agency review.

(3) The budget plan shall be accompanied by the applicable fee as set forth in subsection (e).

(4) Submittal of a budget plan shall be deemed an automatic 60–day waiver of the Remedial Action Plan review deadlines set forth in this Section and its rules.

(5) Within the applicable period of review, the Agency shall issue a letter to the Remediation Applicant approving, disapproving, or modifying the estimated remediation costs submitted in the budget plan. If a budget plan is disapproved or approved with modification of estimated remediation costs, the Agency's letter shall set forth the reasons for the disapproval or modification.

(6) Within 35 days after receipt of an Agency letter disapproving or modifying a budget plan, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act.

(e) The fees for reviews conducted under this Section are in addition to any other fees or payments for Agency services rendered pursuant to the Site Remediation Program and shall be as follows:

(1) The fee for an application for review of remediation costs shall be $1,000 for each site reviewed.

(2) The fee for the review of the budget plan submitted under subsection (d) shall be $500 for each site reviewed.

(3) In the case of a Remediation Applicant submitting for review total remediation costs of $100,000 or less for a site located within an enterprise zone (as set forth in paragraph (i) of subsection (*l*) of Section 201 of the Illinois Income Tax Act),[4] the fee for an application for review of remediation costs shall be $250 for each site reviewed. For those sites, there shall be no fee for review of a budget plan under subsection (d).

The application fee shall be made payable to the State of Illinois, for deposit into the Hazardous Waste Fund.

Pursuant to appropriation, the Agency shall use the fees collected under this subsection for development and administration of the review program.

(f) The Agency shall have the authority to enter into any contracts or agreements that may be necessary to carry out its duties and responsibilities under this Section.

(g) Within 6 months after July 21, 1997, the Agency shall propose rules prescribing procedures and standards for its administration of this Section. Within 6 months after receipt of the Agency's proposed rules, the Board shall adopt on second notice, pursuant to Sections 27 and 28 of this Act and the Illinois Administrative Procedure Act, rules that are consistent with this Section. Prior to the effective date of rules adopted under this Section, the Agency may conduct reviews of applications under this Section and the Agency is further authorized to distribute guidance documents on costs that are eligible or ineligible as remediation costs.

P.A. 76–2429, § 58.14, added by P.A. 90–123, § 15, eff. July 21, 1997. Amended by P.A. 90–792, § 10, eff. Jan. 1, 1999; P.A. 92–574, § 5, eff. June 26, 2002; P.A. 94–793, § 775, eff. May 19, 2006; P.A. 94–1021, Art. 90, § 90–45, eff. July 12, 2006; P.A. 95–454, § 10, eff. Aug. 27, 2007.

[1] 35 ILCS 5/201.

[2] 5 ILCS 100/1–1 et seq.

[3] 415 ILCS 5/58.9.

[4] 35 ILCS 5/201.

5/58.14a. River Edge Redevelopment Zone Site Remediation Tax Credit Review

§ 58.14a. River Edge Redevelopment Zone Site Remediation Tax Credit Review.

(a) Prior to applying for the River Edge Redevelopment Zone site remediation tax credit under subsection (n) of Section 201 of the Illinois Income Tax Act, a Remediation Applicant must first submit to the Agency an application for review of remediation costs. The Agency shall review the application in consultation with the Department of Commerce and Economic Opportunity. The application and review process must be conducted in accordance with the requirements of this Section and the rules adopted under subsection (g). A preliminary review of the estimated remediation costs for development and implementation of the Remedial Action Plan may be obtained in accordance with subsection (d).

(b) No application for review may be submitted until a No Further Remediation Letter has been issued by the Agency and recorded in the chain of title for the site in accordance with Section 58.10. The Agency shall review the application to determine whether the costs submitted are remediation costs and whether the costs incurred are reasonable. The application must be on forms prescribed and provided by the Agency. At a minimum, the application must include the following:

(1) information identifying the Remediation Applicant, the site for which the tax credit is being sought, and the date of acceptance of the site into the Site Remediation Program;

(2) a copy of the No Further Remediation Letter with official verification that the letter has been recorded in the chain of title for the site and a demonstration that the site for which the application is submitted is the same site as the one for which the No Further Remediation Letter is issued;

(3) a demonstration that the release of the regulated substances of concern for which the No Further Remediation Letter was issued were not caused or contributed to in any material respect by the Remediation Applicant. Determinations as to credit availability shall be made consistent with the Pollution Control Board rules for the administration and enforcement of Section 58.9 of this Act;

(4) an itemization and documentation, including receipts, of the remediation costs incurred;

(5) a demonstration that the costs incurred are remediation costs as defined in this Act and its rules;

(6) a demonstration that the costs submitted for review were incurred by the Remediation Applicant who received the No Further Remediation Letter;

(7) an application fee in the amount set forth in subsection (e) for each site for which review of remediation costs is requested and, if applicable, certification from the Department of Commerce and Economic Opportunity that the site is located in a River Edge Redevelopment Zone; and

(8) any other information deemed appropriate by the Agency.

(c) Within 60 days after receipt by the Agency of an application meeting the requirements of subsection (b), the Agency shall issue a letter to the applicant approving, disapproving, or modifying the remediation costs submitted in the application. If the remediation costs are approved as submitted, then the Agency's letter must state the amount of the remediation costs to be applied toward the River Edge Redevelopment Zone site remediation tax credit. If an application is disapproved or approved with modification of remediation costs, then the Agency's letter must set forth the reasons for the disapproval or modification and must state the amount of the remediation costs, if any, to be applied toward the River Edge Redevelopment Zone site remediation tax credit.

If a preliminary review of a budget plan has been obtained under subsection (d), then the Remediation Applicant may submit, with the application and supporting documentation under subsection (b), a copy of the Agency's final determination accompanied by a certification that the actual remediation costs incurred for the development and implementation of the Remedial Action Plan are equal to or less than the costs approved in the Agency's final determination on the budget plan. The certification must be signed by the Remediation Applicant and notarized. Based on that submission, the Agency is not required to conduct further review of the costs incurred for development and implementation of the Remedial Action Plan, and it may approve the costs as submitted. Within 35 days after the receipt of an Agency letter disapproving or modifying an application for approval of remediation costs, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits under Section 40 of this Act.

(d) A Remediation Applicant may obtain a preliminary review of estimated remediation costs for the development and implementation of the Remedial Action Plan by submitting a budget plan along with the Remedial Action Plan. The budget plan must be set forth on forms prescribed and provided by the Agency and must include, without limitation, line-item estimates of the costs associated with each line item (such as personnel, equipment, and materials) that the Remediation Applicant anticipates will be incurred for the development and implementation of the Remedial Action Plan. The Agency shall review the budget plan along with the Remedial Action Plan to determine whether the estimated costs submitted are remediation costs and whether the costs estimated for the activities are reasonable.

If the Remedial Action Plan is amended by the Remediation Applicant or as a result of Agency action, then the corresponding budget plan must be revised accordingly and resubmitted for Agency review.

The budget plan must be accompanied by the applicable fee as set forth in subsection (e).

The submittal of a budget plan is deemed to be an automatic 60–day waiver of the Remedial Action Plan review deadlines set forth in this Section and its rules.

Within the applicable period of review, the Agency shall issue a letter to the Remediation Applicant approving, disapproving, or modifying the estimated remediation costs submitted in the budget plan. If a budget plan is disapproved or approved with modification of estimated remediation costs, then the Agency's letter must set forth the reasons for the disapproval or modification.

Within 35 days after receipt of an Agency letter disapproving or modifying a budget plan, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits under Section 40 of this Act.

(e) Any fee for a review conducted under this Section is in addition to any other fees or payments for Agency services rendered under the Site Remediation Program. The fees under this Section are as follows:

(1) the fee for an application for review of remediation costs is $250 for each site reviewed; and

(2) there is no fee for the review of the budget plan submitted under subsection (d).

The application fee must be made payable to the State of Illinois, for deposit into the Hazardous Waste Fund. Pursuant to appropriation, the Agency shall use the fees collected under this subsection for development and administration of the review program.

(f) The Agency has the authority to enter into any contracts or agreements that may be necessary to carry out its duties and responsibilities under this Section.

(g) The Agency shall adopt rules prescribing procedures and standards for its administration of this Section. Prior to the effective date of rules adopted under this Section, the Agency may conduct reviews of applications under this Section. The Agency may publish informal guidelines concerning this Section to provide guidance.

P.A. 76–2429, § 58.14a, added by P.A. 95–454, § 10, eff. Aug. 27, 2007.

5/58.15. Brownfields Programs

§ 58.15. Brownfields Programs.

(A) Brownfields Redevelopment Loan Program.

(a) The Agency shall establish and administer a revolving loan program to be known as the "Brownfields Redevelopment Loan Program" for the purpose of providing loans to be used for site investigation, site remediation, or both, at brownfields sites. All principal, interest, and penalty payments from loans made under this subsection (A) shall be deposited into the Brownfields Redevelopment Fund and reused in accordance with this Section.

(b) General requirements for loans:

(1) Loans shall be at or below market interest rates in accordance with a formula set forth in regulations promulgated under subdivision (A)(c) of this subsection (A).

(2) Loans shall be awarded subject to availability of funding based on the order of receipt of applications satisfying all requirements as set forth in the regulations promulgated under subdivision (A)(c) of this subsection (A).

(3) The maximum loan amount under this subsection (A) for any one project is $1,000,000.

(4) In addition to any requirements or conditions placed on loans by regulation, loan agreements under the Brownfields Redevelopment Loan Program shall include the following requirements:

(A) the loan recipient shall secure the loan repayment obligation;

(B) completion of the loan repayment shall not exceed 15 years or as otherwise prescribed by Agency rule; and

(C) loan agreements shall provide for a confession of judgment by the loan recipient upon default.

(5) Loans shall not be used to cover expenses incurred prior to the approval of the loan application.

(6) If the loan recipient fails to make timely payments or otherwise fails to meet its obligations as provided in this subsection (A) or implementing regulations, the Agency is authorized to pursue the collection of the amounts past due, the outstanding loan balance, and the costs thereby incurred, either pursuant to the Illinois State Collection Act of 1986 or by any other means provided by law, including the taking of title, by foreclosure or otherwise, to any project or other property pledged, mortgaged, encumbered, or otherwise available as security or collateral.

(c) The Agency shall have the authority to enter into any contracts or agreements that may be necessary to carry out its duties or responsibilities under this subsection (A). The Agency shall have the authority to promulgate regulations setting forth procedures and criteria for administering the Brownfields Redevelopment Loan Program. The regulations promulgated by the Agency for loans under this subsection (A) shall include, but need not be limited to, the following elements:

(1) loan application requirements;

(2) determination of credit worthiness of the loan applicant;

(3) types of security required for the loan;

(4) types of collateral, as necessary, that can be pledged for the loan;

(5) special loan terms, as necessary, for securing the repayment of the loan;

(6) maximum loan amounts;

(7) purposes for which loans are available;

(8) application periods and content of applications;

(9) procedures for Agency review of loan applications, loan approvals or denials, and loan acceptance by the loan recipient;

(10) procedures for establishing interest rates;

(11) requirements applicable to disbursement of loans to loan recipients;

(12) requirements for securing loan repayment obligations;

(13) conditions or circumstances constituting default;

(14) procedures for repayment of loans and delinquent loans including, but not limited to, the initiation of principal and interest payments following loan acceptance;

(15) loan recipient responsibilities for work schedules, work plans, reports, and record keeping;

(16) evaluation of loan recipient performance, including auditing and access to sites and records;

(17) requirements applicable to contracting and subcontracting by the loan recipient, including procurement requirements;

(18) penalties for noncompliance with loan requirements and conditions, including stop-work orders, termination, and recovery of loan funds; and

(19) indemnification of the State of Illinois and the Agency by the loan recipient.

(d) Moneys in the Brownfields Redevelopment Fund may be used as a source of revenue or security for the principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or instrumentality thereof, if the proceeds of those bonds will be deposited into the Fund.

(B) Brownfields Site Restoration Program.

(a)(1) The Agency, with the assistance of the Department of Commerce and Economic Opportunity, must establish and administer a program for the payment of remediation costs to be known as the Brownfields Site Restoration Program. The Agency, through the Program, shall provide Remediation Applicants with financial assistance for the investigation and remediation of abandoned or underutilized properties. The investigation and remediation shall be performed in accordance with this Title XVII of this Act.

(2) For each State fiscal year in which funds are made available to the Agency for payment under this subsection (B), the Agency must, subject to the availability of funds, allocate 20% of the funds to be available to Remediation Applicants within counties with populations over 2,000,000. The remaining funds must be made available to all other Remediation Applicants in the State.

(3) The Agency must not approve payment in excess of $750,000 to a Remediation Applicant for remediation costs incurred at a remediation site. Eligibility must be determined based on a minimum capital investment in the redevelopment of the site, and payment amounts must not exceed the net economic benefit to the State of the remediation project. In addition to these limitations, the total payment to be made to an applicant must not exceed an amount equal to 20% of the capital investment at the site.

(4) Only those remediation projects for which a No Further Remediation Letter is issued by the Agency after December 31, 2001 are eligible to participate in the Brownfields Site Restoration Program. The program does not apply to any sites that have received a No Further Remediation Letter prior to December 31, 2001 or for costs incurred prior to the Department of Commerce and Economic Opportunity (formerly Department of Commerce and Community Affairs) approving a site eligible for the Brownfields Site Restoration Program.

(5) Brownfields Site Restoration Program funds shall be subject to availability of funding and distributed based on the order of receipt of applications satisfying all requirements as set forth in this Section.

(b) Prior to applying to the Agency for payment, a Remediation Applicant shall first submit to the Agency its proposed remediation costs. The Agency shall make a pre-application assessment, which is not to be binding upon the Department of Commerce and Economic Opportunity or upon future review of the project, relating only to whether the Agency has adequate funding to reimburse the applicant for the remediation costs if the applicant is found to be eligible for reimbursement of remediation costs. If the Agency determines that it is likely to have adequate funding to reimburse the applicant for remediation costs, the Remediation Applicant may then submit to the Department of Commerce and Economic Opportunity an application for review of eligibility. The Department must review the eligibility application to determine whether the Remediation Applicant is eligible for the payment. The application must be on forms prescribed and provided by the Department of Commerce and Economic Opportunity. At a minimum, the application must include the following:

(1) Information identifying the Remediation Applicant and the site for which the payment is being sought and the date of acceptance into the Site Remediation Program.

(2) Information demonstrating that the site for which the payment is being sought is abandoned or underutilized property. "Abandoned property" means real property previously used for, or that has the potential to be used for, commercial or industrial purposes that reverted to the ownership of the State, a county or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default, or settlement, including conveyance by deed in lieu of foreclosure; or privately owned property that has been vacant for a period of not less than 3 years from the time an application is made to the Department of Commerce and Economic Opportunity. "Underutilized property" means real property of which less than 35% of the commercially usable space of the property and improvements thereon are used for their most commercially profitable and economically productive uses.

(3) Information demonstrating that remediation of the site for which the payment is being sought will result in a net economic benefit to the State of Illinois. The "net economic benefit" must be determined based on factors including, but not limited to, the capital investment, the number of jobs created, the number of jobs retained if it is demonstrated the jobs would otherwise be lost, capital improvements, the number of construction-related jobs, increased sales, material purchases, other increases in service and operational expenditures, and other factors established by the Department of Commerce and Economic Opportunity. Priority must be given to sites located in areas with high levels of poverty, where the unemployment rate exceeds the State average, where an enterprise zone exists, or where the area is otherwise economically depressed as determined by the Department of Commerce and Economic Opportunity.

(4) An application fee in the amount set forth in subdivision (B)(c) for each site for which review of an application is being sought.

(c) The fee for eligibility reviews conducted by the Department of Commerce and Economic Opportunity under this subsection (B) is $1,000 for each site reviewed. The application fee must be made payable to the Department of Commerce and Economic Opportunity for deposit into the Workforce, Technology, and Economic Development Fund. These application fees shall be used by the Department for administrative expenses incurred under this subsection (B).

(d) Within 60 days after receipt by the Department of Commerce and Economic Opportunity of an application meeting the requirements of subdivision (B)(b), the Department of Commerce and Economic Opportunity must issue a letter to the applicant approving the application, approving the application with modifications, or disapproving the application. If the application is approved or approved with modifications, the Department of Commerce and Economic Opportunity's letter must also include its determination of the "net economic benefit" of the remediation project and the maximum amount of the payment to be made available to the applicant for remediation costs. The payment by the Agency

under this subsection (B) must not exceed the "net economic benefit" of the remediation project, as determined by the Department of Commerce and Economic Opportunity.

(e) An application for a review of remediation costs must not be submitted to the Agency unless the Department of Commerce and Economic Opportunity has determined the Remediation Applicant is eligible under subdivision (B)(d). If the Department of Commerce and Economic Opportunity has determined that a Remediation Applicant is eligible under subdivision (B)(d), the Remediation Applicant may submit an application for payment to the Agency under this subsection (B). Except as provided in subdivision (B)(f), an application for review of remediation costs must not be submitted until a No Further Remediation Letter has been issued by the Agency and recorded in the chain of title for the site in accordance with Section 58.10. The Agency must review the application to determine whether the costs submitted are remediation costs and whether the costs incurred are reasonable. The application must be on forms prescribed and provided by the Agency. At a minimum, the application must include the following:

(1) Information identifying the Remediation Applicant and the site for which the payment is being sought and the date of acceptance of the site into the Site Remediation Program.

(2) A copy of the No Further Remediation Letter with official verification that the letter has been recorded in the chain of title for the site and a demonstration that the site for which the application is submitted is the same site as the one for which the No Further Remediation Letter is issued.

(3) A demonstration that the release of the regulated substances of concern for which the No Further Remediation Letter was issued was not caused or contributed to in any material respect by the Remediation Applicant. The Agency must make determinations as to reimbursement availability consistent with rules adopted by the Pollution Control Board for the administration and enforcement of Section 58.9 of this Act.

(4) A copy of the Department of Commerce and Economic Opportunity's letter approving eligibility, including the net economic benefit of the remediation project.

(5) An itemization and documentation, including receipts, of the remediation costs incurred.

(6) A demonstration that the costs incurred are remediation costs as defined in this Act and rules adopted under this Act.

(7) A demonstration that the costs submitted for review were incurred by the Remediation Applicant who received the No Further Remediation Letter.

(8) An application fee in the amount set forth in subdivision (B)(j) for each site for which review of remediation costs is requested.

(9) Any other information deemed appropriate by the Agency.

(f) An application for review of remediation costs may be submitted to the Agency prior to the issuance of a No Further Remediation Letter if the Remediation Applicant has a Remedial Action Plan approved by the Agency under the terms of which the Remediation Applicant will remediate groundwater for more than one year. The Agency must review the application to determine whether the costs submitted are remediation costs and whether the costs incurred are reasonable. The application must be on forms prescribed and provided by the Agency. At a minimum, the application must include the following:

(1) Information identifying the Remediation Applicant and the site for which the payment is being sought and the date of acceptance of the site into the Site Remediation Program.

(2) A copy of the Agency letter approving the Remedial Action Plan.

(3) A demonstration that the release of the regulated substances of concern for which the Remedial Action Plan was approved was not caused or contributed to in any material respect by the Remediation Applicant. The Agency must make determinations as to reimbursement availability consistent with rules adopted by the Pollution Control Board for the administration and enforcement of Section 58.9 of this Act.

(4) A copy of the Department of Commerce and Economic Opportunity's letter approving eligibility, including the net economic benefit of the remediation project.

(5) An itemization and documentation, including receipts, of the remediation costs incurred.

(6) A demonstration that the costs incurred are remediation costs as defined in this Act and rules adopted under this Act.

(7) A demonstration that the costs submitted for review were incurred by the Remediation Applicant who received approval of the Remediation Action Plan.

(8) An application fee in the amount set forth in subdivision (B)(j) for each site for which review of remediation costs is requested.

(9) Any other information deemed appropriate by the Agency.

(g) For a Remediation Applicant seeking a payment under subdivision (B)(f), until the Agency issues a No Further Remediation Letter for the site, no more than 75% of the allowed payment may be claimed by the Remediation Applicant. The remaining 25% may be claimed following the issuance by the Agency of a No Further Remediation Letter for the site. For a Remediation Applicant seeking a payment under subdivision (B)(e), until the Agency issues a No Further Remediation Letter for the site, no payment may be claimed by the Remediation Applicant.

(h)(1) Within 60 days after receipt by the Agency of an application meeting the requirements of subdivision (B)(e) or (B)(f), the Agency must issue a letter to the applicant approving, disapproving, or modifying the remediation costs submitted in the application. If an application is disapproved or approved with modification of remediation costs, then the Agency's letter must set forth the reasons for the disapproval or modification.

(2) If a preliminary review of a budget plan has been obtained under subdivision (B)(i), the Remediation Applicant may submit, with the application and supporting documentation under subdivision (B)(e) or (B)(f), a copy of the Agency's final determination accompanied by a certification that the actual remediation costs incurred for the development and implementation of the Remedial Action Plan are equal to or less than the costs approved in the Agency's final determination on the budget plan. The certification must be signed by the Remediation Applicant and notarized. Based on that submission, the Agency is not required to conduct further review of the costs incurred for development and implementation of the Remedial Action Plan and may approve costs as submitted.

(3) Within 35 days after receipt of an Agency letter disapproving or modifying an application for approval of remediation costs, the Remediation Applicant may appeal

the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act.

(i)(1) A Remediation Applicant may obtain a preliminary review of estimated remediation costs for the development and implementation of the Remedial Action Plan by submitting a budget plan along with the Remedial Action Plan. The budget plan must be set forth on forms prescribed and provided by the Agency and must include, but is not limited to, line item estimates of the costs associated with each line item (such as personnel, equipment, and materials) that the Remediation Applicant anticipates will be incurred for the development and implementation of the Remedial Action Plan. The Agency must review the budget plan along with the Remedial Action Plan to determine whether the estimated costs submitted are remediation costs and whether the costs estimated for the activities are reasonable.

(2) If the Remedial Action Plan is amended by the Remediation Applicant or as a result of Agency action, the corresponding budget plan must be revised accordingly and resubmitted for Agency review.

(3) The budget plan must be accompanied by the applicable fee as set forth in subdivision (B)(j).

(4) Submittal of a budget plan must be deemed an automatic 60–day waiver of the Remedial Action Plan review deadlines set forth in this subsection (B) and rules adopted under this subsection (B).

(5) Within the applicable period of review, the Agency must issue a letter to the Remediation Applicant approving, disapproving, or modifying the estimated remediation costs submitted in the budget plan. If a budget plan is disapproved or approved with modification of estimated remediation costs, the Agency's letter must set forth the reasons for the disapproval or modification.

(6) Within 35 days after receipt of an Agency letter disapproving or modifying a budget plan, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act.

(j) The fees for reviews conducted by the Agency under this subsection (B) are in addition to any other fees or payments for Agency services rendered pursuant to the Site Remediation Program and are as follows:

(1) The fee for an application for review of remediation costs is $1,000 for each site reviewed.

(2) The fee for the review of the budget plan submitted under subdivision (B)(i) is $500 for each site reviewed.

The application fee and the fee for the review of the budget plan must be made payable to the State of Illinois, for deposit into the Brownfields Redevelopment Fund.

(k) Moneys in the Brownfields Redevelopment Fund may be used for the purposes of this Section, including payment for the costs of administering this subsection (B). Any moneys remaining in the Brownfields Site Restoration Program Fund on the effective date of this amendatory Act of the 92nd General Assembly shall be transferred to the Brownfields Redevelopment Fund. Total payments made to all Remediation Applicants by the Agency for purposes of this subsection (B) must not exceed $1,000,000 in State fiscal year 2002.

(*l*) The Department and the Agency are authorized to enter into any contracts or agreements that may be necessary to carry out their duties and responsibilities under this subsection (B).

(m) Within 6 months after the effective date of this amendatory Act of 2002, the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) and the Agency must propose rules prescribing procedures and standards for the administration of this subsection (B). Within 9 months after receipt of the proposed rules, the Board shall adopt on second notice, pursuant to Sections 27 and 28 of this Act and the Illinois Administrative Procedure Act,[1] rules that are consistent with this subsection (B). Prior to the effective date of rules adopted under this subsection (B), the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) and the Agency may conduct reviews of applications under this subsection (B) and the Agency is further authorized to distribute guidance documents on costs that are eligible or ineligible as remediation costs.

P.A. 76–2429, § 58.15, added by P.A. 91–36, § 5, eff. June 15, 1999. Amended by P.A. 92–16, § 80, eff. June 28, 2001; P.A. 92–715, § 10, eff. July 23, 2002; P.A. 94–793, § 775, eff. May 19, 2006; P.A. 97–333, § 485, eff. Aug. 12, 2011.

[1] 5 ILCS 100/1–1 et seq.

Another § 58.15, relating to construction of schools and requirements, was renumbered § 58.16 by P.A. 92–16, § 80.

5/58.16. Construction of school; requirements

§ 58.16. Construction of school; requirements. This Section applies only to counties with a population of more than 3,000,000. In this Section, "school" means any public school located in whole or in part in a county with a population of more than 3,000,000. No person shall commence construction on real property of a building intended for use as a school unless:

(1) a Phase I Environmental Audit, conducted in accordance with Section 22.2 of this Act, is obtained;

(2) if the Phase I Environmental Audit discloses the presence or likely presence of a release or a substantial threat of a release of a regulated substance at, on, to, or from the real property, a Phase II Environmental Audit, conducted in accordance with Section 22.2 of this Act, is obtained; and

(3) if the Phase II Environmental Audit discloses the presence or likely presence of a release or a substantial threat of a release of a regulated substance at, on, to, or from the real property: (i) the real property is enrolled in the Site Remediation Program, and (ii) the remedial action plan is approved by the Agency, if a remedial action plan is required by Board regulations.

No person shall cause or allow any person to occupy a building intended to be used as a school for which a remedial action plan is required by Board regulations unless all work pursuant to the remedial action plan is completed.

P.A. 76–2429, § 58.15, added by P.A. 91–442, § 5, eff. Jan. 1, 2000. Renumbered as § 58.16 and amended by P.A. 92–16, § 80, eff. June 28, 2001; P.A. 92–151, § 5, eff. July 24, 2001. Amended by P.A. 98–756, § 590, eff. July 16, 2014.

5/58.17. Environmental Land Use Control

§ 58.17. Environmental Land Use Control. No later than 2 months after July 7, 2000, the Agency, after consideration of the recommendations of the Regulations and Site Remediation Advisory Committee, shall propose rules creating an instrument to be known as the Environmental Land Use Control (ELUC). Within 6 months after receipt of the Agency's proposed rules, the Board shall adopt, pursuant to Sections 27 and 28 of this Act, rules creating the ELUC that establish land use limitations or obligations on the use of real property when necessary to manage risk to human health or the environment arising from contamination left in place

pursuant to the procedures set forth in Section 58.5 of this Act or 35 Ill. Adm. Code 742. The rules shall include provisions addressing establishment, content, recording, duration, and enforcement of ELUCs.

P.A. 76–2429, § 58.17, added by P.A. 91–909, § 5, eff. July 7, 2000. Amended by P.A. 92–574, § 5, eff. June 26, 2002.

5/58.18. § 58.18. Repealed by P.A. 92–715, § 20, eff. July 23, 2002

ACT 55. ILLINOIS GROUNDWATER PROTECTION ACT

55/1. Short title

§ 1. This Act shall be known as and may be cited as the "Illinois Groundwater Protection Act".

P.A. 85–863, § 1, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7451.

55/2. Legislative findings

§ 2. (a) The General Assembly finds that:

(i) a large portion of Illinois' citizens rely on groundwater for personal consumption, and industries use a significant amount of groundwater;

(ii) contamination of Illinois groundwater will adversely impact the health and welfare of its citizens and adversely impact the economic viability of the State;

(iii) contamination of Illinois' groundwater is occurring;

(iv) protection of groundwater is a necessity for future economic development in this State.

(b) Therefore, it is the policy of the State of Illinois to restore, protect, and enhance the groundwaters of the State, as a natural and public resource. The State recognizes the essential and pervasive role of groundwater in the social and economic well-being of the people of Illinois, and its vital importance to the general health, safety, and welfare. It is further recognized as consistent with this policy that the groundwater resources of the State be utilized for beneficial and legitimate purposes; that waste and degradation of the resources be prevented; and that the underground water resource be managed to allow for maximum benefit of the people of the State of Illinois.

P.A. 85–863, § 2, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7452.

55/3. Definitions

§ 3. As used in this Act, unless the context clearly requires otherwise:

(a) "Agency" means the Illinois Environmental Protection Agency.

(b) "Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients.

(c) "Board" means the Illinois Pollution Control Board.

(d) "Committee" means the Interagency Coordinating Committee on Groundwater as hereinafter created.

(e) "Council" means the Groundwater Advisory Council.

(f) "Department" means the Department of Natural Resources.

(g) "Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure.

(h) "Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices.

(i) "Regulated recharge area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination.

(j) "Resource groundwater" means groundwater that is presently being or in the future capable of being put to beneficial use by reason of being of suitable quality.

(k) "Underground water" means all water beneath the land surface.

P.A. 85–863, § 3, eff. Sept. 24, 1987. Amended by P.A. 89–445, § 9B–56, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7453.

55/4. Interagency committee

§ 4. (a) There shall be established within State government an interagency committee which shall be known as the Interagency Coordinating Committee on Groundwater. The Committee shall be composed of the Director, or his designee, of the following agencies:

(1) The Illinois Environmental Protection Agency, who shall chair the Committee.

(2) The Illinois Department of Natural Resources.

(3) The Illinois Department of Public Health.

(4) The Office of Mines and Minerals within the Department of Natural Resources.

(5) The Office of the State Fire Marshal.

(6) The Division of Water Resources of the Department of Natural Resources.

(7) The Illinois Department of Agriculture.

(8) The Illinois Emergency Management Agency.

(9) The Illinois Department of Nuclear Safety.

(10) The Illinois Department of Commerce and Economic Opportunity.

(b) The Committee shall meet not less than twice each calendar year and shall:

(1) Review and coordinate the State's policy on groundwater protection.

(2) Review and evaluate State laws, regulations and procedures that relate to groundwater protection.

(3) Review and evaluate the status of the State's efforts to improve the quality of the groundwater and of the State enforcement efforts for protection of the groundwater and make recommendations on improving the State efforts to protect the groundwater.

(4) Recommend procedures for better coordination among State groundwater programs and with local programs related to groundwater protection.

(5) Review and recommend procedures to coordinate the State's response to specific incidents of groundwater pollution and coordinate dissemination of information between agencies responsible for the State's response.

(6) Make recommendations for and prioritize the State's groundwater research needs.

(7) Review, coordinate and evaluate groundwater data collection and analysis.

(8) Beginning on January 1, 1990, report biennially to the Governor and the General Assembly on groundwater quality, quantity, and the State's enforcement efforts.

(c) The Chairman of the Committee shall propose a groundwater protection regulatory agenda for consideration by the Committee and the Council. The principal purpose of the agenda shall be to systematically consider the groundwater protection aspects of relevant federal and State regulatory programs and to identify any areas where improvements may be warranted. To the extent feasible, the agenda may also serve to facilitate a more uniform and coordinated approach toward protection of groundwaters in Illinois. Upon adoption of the final agenda by the Committee, the Chairman of the Committee shall assign a lead agency and any support agencies to prepare a regulatory assessment report for each item on the agenda. Each regulatory assessment report shall specify the nature of the groundwater protection provisions being implemented and shall evaluate the results achieved therefrom. Special attention shall be given to any preventive measures being utilized for protection of groundwaters. The reports shall be completed in a timely manner. After review and consideration by the Committee, the reports shall become the basis for recommending further legislative or regulatory action.

(d) No later than January 1, 1992, the Interagency Coordinating Committee on Groundwater shall provide a comprehensive status report to the Governor and the General Assembly concerning implementation of this Act.

(e) The Committee shall consider findings and recommendations that are provided by the Council, and respond in writing regarding such matters. The Chairman of the Committee shall designate a liaison person to serve as a facilitator of communications with the Council.

P.A. 85–863, § 4, eff. Sept. 24, 1987. Amended by P.A. 87–168, § 8, eff. Jan. 1, 1992; P.A. 89–445, § 9B–56, eff. Feb. 7, 1996; P.A. 94–793, § 790, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7454.

55/5. Advisory council

§ 5. (a) There shall be established a Groundwater Advisory Council. The Council shall be composed of 9 public members appointed by the Governor, including 2 persons representing environmental interests, 2 persons representing industrial and commercial interests, one person representing agricultural interests, one person representing local government interests, one person representing a regional planning agency, one person representing public water supplies, and one person representing the water well driller industry. From among these members, a chairperson shall be selected by majority vote and shall preside for a one-year term. The terms of memberships in the Council shall be for 3 years. The Council shall:

(1) review, evaluate and make recommendations regarding State laws, regulations and procedures that relate to groundwater protection;

(2) review, evaluate and make recommendations regarding the State's efforts to implement this Act and to generally protect the groundwater of the State;

(3) make recommendations relating to the State's needs for groundwater research; and

(4) review, evaluate and make recommendations regarding groundwater data collection and analyses.

(b) Members of the Groundwater Advisory Council shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties, except such reimbursement shall be limited to expenses associated with no more than 3 meetings per calendar year. The Agency shall provide the Council with such supporting services as are reasonable for the performance of its duties.

P.A. 85–863, § 5, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7455.

55/6. Education program

§ 6. (a) The Department with the cooperation of the Agency, the Department of Public Health, the Department of Agriculture and others as needed, shall develop, coordinate and conduct an education program for groundwater protection. The program shall include, but not be limited to, education for the general public, business, agriculture, government, and private water supply owners, users and operators.

(b) The education program shall address at least the following topics: hydrogeologic principles, groundwater protection issues, State groundwater policy, potential contamination sources, potential water quality problems, well protection measures, and the need for periodic well tests.

(c) The Department shall cooperate with local governments and regional planning agencies and committees to coordinate local and regional education programs and workshops, and to expedite the exchange of technical information.

P.A. 85–863, § 6, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7456.

55/7. Data collection and automation program

§ 7. (a) The Department, with the advice of the Committee and the Council, shall develop a coordinated groundwater data collection and automation program. The collected and automated data shall include but need not be limited to groundwater monitoring results, well logs, pollution source permits and water quality assessments. The Department shall act as the repository for such data and shall automate this data in a manner that is accessible and usable by all State agencies.

(b) The Department, in consultation with the Agency, the Committee and the Council, shall develop and administer an ongoing program of basic and applied research relating to groundwater. Information generated from this program will be made available to local governments seeking technical assistance from the Department. The research program shall include but need not be limited to:

(1) Long-term statewide groundwater quality monitoring. A statewide monitoring well network shall be composed of public water supply wells sampled by the Agency, noncommunity wells sampled by the Department of Public Health, and a representative sampling of other existing private wells and newly constructed, dedicated monitoring wells. The monitoring program shall be operated for the following purposes: to evaluate, over time, the appropriateness and effectiveness of groundwater quality protection measures; to determine regional trends in groundwater quality which may affect public health and welfare; and to help identify the need for corrective action. The Department shall periodically publish the results of groundwater quality monitoring activities.

(2) Statewide groundwater assessment. The Department shall conduct assessments to enhance the State's data base concerning groundwater resources. The assessments shall include location of groundwater resources, mapping of aquifers, identification of appropriate recharge areas, and evaluation of baseline groundwater quality. The Department shall complete the statewide mapping of appropriate recharge

areas within 18 months after the enactment of this Act at a level of detail suitable for guiding the Agency in establishing priority groundwater protection planning regions.

(3) Evaluation of pesticide impacts upon groundwater. Such evaluation shall include the general location and extent of any contamination of groundwaters resulting from pesticide use, determination of any practices which may contribute to contamination of groundwaters, and recommendations regarding measures which may help prevent degradation of groundwater quality by pesticides. Priority shall be given to those areas of the State where pesticides are utilized most intensively. The Department shall prepare an initial report by January 1, 1990.

(4) Other basic and applied research. The Department may conduct research in at least the following areas: groundwater hydrology and hydraulics, movement of contaminants through geologic materials, aquifer restoration, and remediation technologies.

(c) The Department is authorized to accept and expend, subject to appropriation by the General Assembly, any and all grants, matching funds, appropriations from whatever source, or other items of value from the federal or state governments or from any institution, person, partnership, joint venture, or corporation, public or private, for the purposes of fulfilling its obligations under this Act.

(d) Southern Illinois University is authorized to conduct basic and applied research relating to chemical contamination of groundwater. It may assist the Department in conducting research on any of the subjects included in subsection (b) of this Section, and may accept and expend grants and other support from the Department or other sources for that purpose.

P.A. 85–863, § 7, eff. Sept. 24, 1987. Amended by P.A. 87–479, § 1, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7457.

55/8. Regulations

§ 8. (a) The Agency, after consultation with the Committee and the Council, shall propose regulations establishing comprehensive water quality standards which are specifically for the protection of groundwater. In preparing such regulations, the Agency shall address, to the extent feasible, those contaminants which have been found in the groundwaters of the State and which are known to cause, or are suspected of causing, cancer, birth defects, or any other adverse effect on human health according to nationally accepted guidelines. Such regulations shall be submitted to the Board by July 1, 1989.

(b) Within 2 years after the date upon which the Agency files the proposed regulations, the Board shall promulgate the water quality standards for groundwater. In promulgating these regulations, the Board shall, in addition to the factors set forth in Title VII of the Environmental Protection Act,[1] consider the following:

(1) recognition that groundwaters differ in many important respects from surface waters, including water quality, rate of movement, direction of flow, accessibility, susceptibility to pollution, and use;

(2) classification of groundwaters on an appropriate basis, such as their utility as a resource or susceptibility to contamination;

(3) preference for numerical water quality standards, where possible, over narrative standards, especially where specific contaminants have been commonly detected in groundwaters or where federal drinking water levels or advisories are available;

(4) application of nondegradation provisions for appropriate groundwaters, including notification limitations to trigger preventive response activities;

(5) relevant experiences from other states where groundwater protection programs have been implemented; and

(6) existing methods of detecting and quantifying contaminants with reasonable analytical certainty.

(c) To provide a process to expedite promulgation of groundwater quality standards, the provisions of this Section shall be exempt from the requirements of subsection (b) of Section 27 of the Environmental Protection Act;[2] and shall be exempt from the provisions of Sections 4 and 5 of "An Act in relation to natural resources, research, data collection and environmental studies", approved July 1, 1978, as amended.[3]

(d) The Department of Natural Resources, with the cooperation of the Committee and the Agency, shall conduct a study of the economic impact of the regulations developed pursuant to this Section. The study shall include, but need not be limited to, consideration of the criteria established in subsection (a) of Section 4 of "An Act in relation to natural resources, research, data collection and environmental studies", approved July 1, 1978, as amended. This study shall be conducted concurrently with the development of the regulations developed pursuant to this Section. Work on this study shall commence as soon as is administratively practicable after the Agency begins development of the regulations. The study shall be submitted to the Board no later than 60 days after the proposed regulations are filed with the Board.

The Department shall consult with the Economic Technical Advisory Committee during the development of the regulations and the economic impact study required in this Section and shall consider the comments of the Committee in the study.

(e) The Board may combine public hearings on the economic impact study conducted by the Department with any hearings required under Board rules.

P.A. 85–863, § 8, eff. Sept. 24, 1987. Amended by P.A. 89–445, § 9B–56, eff. Feb. 7, 1996; P.A. 90–655, § 135, eff. July 30, 1998.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7458.

[1] 415 ILCS 5/26 et seq.

[2] 415 ILCS 5/27.

[3] 20 ILCS 1105/4 (repealed) and 20 ILCS 1105/5 (repealed).

55/9. Non-community, private and semi-private water systems

§ 9. (a) As used in this Section, unless the context clearly requires otherwise:

(1) "Community water system" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days per year.

(2) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(3) "Department" means the Illinois Department of Public Health.

(4) "Non-community water system" means a public water system which is not a community water system, and has at least 15 service connections used by nonresidents, or regularly serves 25 or more nonresident individuals daily for at least 60 days per year.

(4.5) "Non-transient, non-community water system" means a non-community water system that regularly serves the same 25 or more persons at least 6 months per year.

(5) "Private water system" means any supply which provides water for drinking, culinary, and sanitary purposes and serves an owner-occupied single family dwelling.

(6) "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. A public water system is either a community water system (CWS) or a non-community water system (non-CWS). The term "public water system" includes any collection, treatment, storage or distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(7) "Semi-private water system" means a water supply which is not a public water system, yet which serves a segment of the public other than an owner-occupied single family dwelling.

(8) "Supplier of water" means any person who owns or operates a water system.

(b) No non-community water system may be constructed, altered, or extended until plans, specifications, and other information relative to such system are submitted to and reviewed by the Department for conformance with the rules promulgated under this Section, and until a permit for such activity is issued by the Department. As part of the permit application, all new non-transient, non-community water systems must demonstrate technical, financial, and managerial capacity consistent with the federal Safe Drinking Water Act.[1]

(c) All private and semi-private water systems shall be constructed in accordance with the rules promulgated by the Department under this Section.

(d) The Department shall promulgate rules for the construction and operation of all non-community and semi-private water systems. Such rules shall include but need not be limited to: the establishment of maximum contaminant levels no more stringent than federally established standards where such standards exist; the maintenance of records; the establishment of requirements for the submission and frequency of submission of water samples by suppliers of water to determine the water quality; and the capacity demonstration requirements to ensure compliance with technical, financial, and managerial capacity provisions of the federal Safe Drinking Water Act.

(e) Borings, water monitoring wells, and wells subject to this Act shall, at a minimum, be abandoned and plugged in accordance with the requirements of Sections 16 and 19 of the Illinois Oil and Gas Act,[2] and such rules as are promulgated thereunder. Nothing herein shall preclude the Department from adopting plugging and abandonment requirements which are more stringent than the rules of the Department of Natural Resources where necessary to protect the public health.

(f) The Department shall inspect all non-community water systems for the purpose of determining compliance with the provisions of this Section and the regulations promulgated hereunder.

(g) The Department may inspect semi-private and private water systems for the purpose of determining compliance with the provisions of this Section and the regulations promulgated hereunder.

(h) The supplier of water shall be given written notice of all violations of this Section or the rules promulgated hereunder and all such violations shall be corrected in a manner and time specified by the Department.

(i) The Department may conduct inspections to investigate the construction or water quality of non-community or semi-private water systems, or the construction of private water systems. Upon request of the owner or user, the Department may also conduct investigations of the water quality of private water systems.

(j) The supplier of water for a private, semi-private, or non-community water system shall allow the Department and its authorized agents access to such premises at all reasonable times for the purpose of inspection.

(k) The Department may designate full-time county or multiple-county health departments as its agents to facilitate the implementation of this Section.

(*l*) The Department shall promulgate and publish rules necessary for the enforcement of this Section.

(m) Whenever a non-community or semi-private water system fails to comply with an applicable maximum contaminant level at the point of use, the supplier of water shall give public notification by the conspicuous posting of notice of such failure as long as the failure continues. The notice shall be written in a manner reasonably designed to fully inform users of the system that a drinking water regulation has been violated, and shall disclose all material facts. All non-transient, non-community water systems must demonstrate technical, financial, and managerial capacity consistent with the federal Safe Drinking Water Act.

(n) The provisions of the Illinois Administrative Procedure Act,[3] are hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Public Health under this Section, except that in case of conflict between the Illinois Administrative Procedure Act and this Section the provisions of this Section shall control; and except that Section 5–35 of the Illinois Administrative Procedure Act [4] relating to procedures for rulemaking shall not apply to the adoption of any rule required by federal law in connection with which the Department is precluded by law from exercising any discretion.

(*o*) All final administrative decisions of the Department issued pursuant to this Section shall be subject to judicial review pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3–101 of the Code of Civil Procedure.[5]

(p) The Director, after notice and opportunity for hearing to the applicant, may deny, suspend, or revoke a permit in any case in which he or she finds that there has been a substantial failure to comply with the provisions of this Section or the standards, rules and regulations established by virtue thereof.

Such notice shall be effected by certified mail or by personal service setting forth the particular reasons for the proposed action and fixing a date, not less than 15 days from the date of such mailing or service, at which time the applicant shall be given an opportunity to request hearing.

The hearing shall be conducted by the Director or by an individual designated in writing by the Director as Hearing Officer to conduct the hearing. On the basis of any such hearing, or upon default of the applicant, the Director shall

make a determination specifying his or her findings and conclusions. A copy of such determination shall be sent by certified mail or served personally upon the applicant.

(q) The procedure governing hearings authorized by this Section shall be in accordance with rules promulgated by the Department. A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the Director and Hearing Officer. All testimony shall be reported but need not be transcribed unless review of the decision is sought pursuant to the Administrative Review Law.[6] Copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copies. The Director or Hearing Officer shall, upon his or her own motion or on the written request of any party to the proceeding, issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas and subpoenas duces tecum issued under the terms of this Section may be served by any person of legal age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this State, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Director or Hearing Officer, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding, the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum so issued shall be served in the same manner as a subpoena issued by a circuit court.

(r) Any circuit court of this State, upon the application of the Director or upon the application of any other party to the proceeding, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Director or Hearing Officer conducting an investigation or holding a hearing authorized by this Section, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before the court.

(s) The Director or Hearing Officer, or any party in an investigation or hearing before the Department, may cause the depositions of witnesses within the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end compel the attendance of witnesses and the production of books, papers, records, or memoranda.

(t) Any person who violates this Section or any rule or regulation adopted by the Department, or who violates any determination or order of the Department under this Section, shall be guilty of a Class A misdemeanor and shall be fined a sum not less than $100. Each day's violation constitutes a separate offense. The State's Attorney of the county in which the violation occurs, or the Attorney General of the State of Illinois, may bring such actions in the name of the People of the State of Illinois; or may in addition to other remedies provided in this Section, bring action for an injunction to restrain such violation, or to enjoin the operation of any establishment.

(u) The State of Illinois, and all of its agencies, institutions, offices and subdivisions shall comply with all requirements, prohibitions and other provisions of this Section and regulations adopted thereunder.

(v) No agency of the State shall authorize, permit or license the construction or operation of any potential route, potential primary source, or potential secondary source, as those terms are defined in the Environmental Protection Act,[7] in violation of any provision of this Section or the regulations adopted hereunder.

(w) This Section shall not apply to any water supply which is connected to a community water supply which is regulated under the Environmental Protection Act, except as provided in Section 9.1.

P.A. 85–863, § 9, eff. Sept. 24, 1987. Amended by P.A. 88–45, Art. III, § 3–112, eff. July 6, 1993; P.A. 89–445, § 9C–22, eff. Feb. 7, 1996; P.A. 92–369, § 5, eff. Aug. 15, 2001; P.A. 92–652, § 5, eff. July 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 111½, ¶ 7459.

[1] 42 U.S.C.A. § 300f et seq.

[2] 225 ILCS 725/16 and 725/19.

[3] 5 ILCS 100/1–1 et seq.

[4] 5 ILCS 100/5–35.

[5] 735 ILCS 5/3–101.

[6] 735 ILCS 5/3–101 et seq.

[7] 415 ILCS 5/1 et seq.

P.A. 92–652 incorporated the amendment by P.A. 92–369.

55/9.1. Notification of actual or potential contamination

§ 9.1. Notification of actual or potential contamination.

(a) Whenever the Agency identifies any volatile organic compound in excess of the Board's Groundwater Quality Standards or the Safe Drinking Water Act[1] maximum contaminant level while performing its obligations under Section 7 of this Act, Section 13.1 of the Environmental Protection Act,[2] or the federal Safe Drinking Water Act, the Agency shall notify the Department, unless notification has already been provided, and the unit of local government affected.

(b) Within 60 days of receipt of notice provided for in subsection (a) of this Section, the Department, or the Department in coordination with the delegated county health department, shall provide notice to the public identifying the contaminants of concern. The notice shall be provided by means of electronic or print media and must be designed to inform the owner of any private water system, semi-private water system, or non-community public water system within an area potentially affected by the identified contamination of the need for the system owner to test the system for possible contamination. The notice shall appear in the media for 3 consecutive weeks.

(c) A unit of local government shall take any action that it deems appropriate, such as informing any homeowner who potentially could be adversely affected, within a reasonable time after notification by the Agency under subsection (a) of this Section.

P.A. 85–863, § 9.1, added by P.A. 92–652, § 5, eff. July 1, 2002.

[1] 42 U.S.C.A. § 300f et seq.

[2] 415 ILCS 5/13.1

ACT 56. GREEN INFRASTRUCTURE FOR CLEAN WATER ACT

56/1. Short title

§ 1. Short title. This Act may be cited as the Green Infrastructure for Clean Water Act.

P.A. 96–26, § 1, eff. June 30, 2009.

An Act concerning safety. P.A. 96–26, approved and effective June 30, 2009.

56/5. Definitions

§ 5. Definitions. As used in this Act:

"Agency" means the Illinois Environmental Protection Agency.

"Green infrastructure" means any storm water management technique or practice employed with the primary goal of preserving, restoring, or mimicking natural hydrology. Green infrastructure includes, but is not limited to, methods of using soil and vegetation to promote soil percolation, evapotranspiration, and filtration. Green infrastructure includes the preservation and restoration of natural landscape features, such as forests, floodplains, headwaters, and wetlands. Green infrastructure also includes rain gardens, permeable pavements, green roofs, infiltration planters, trees and tree boxes, and rainwater harvesting for non-potable uses, such as toilet flushing and landscape irrigation.

P.A. 96–26, § 5, eff. June 30, 2009.

56/10. Legislative findings

§ 10. Legislative findings.

(a) The General Assembly finds that:

(1) urban storm water, when not properly controlled and treated, can cause pollution of the waters of the State, threaten public health, and damage property by carrying pollutants from our highways, streets, roads, parking lots, driveways, sidewalks, alleys, lawns, and other surfaces of low permeability into lakes, rivers, streams, and ponds;

(2) development can increase storm water runoff by increasing the size and number of paved and other impervious surfaces within a watershed and decreasing the extent of vegetated and other permeable surface areas that control storm water runoff through natural infiltration and evapotranspiration and groundwater recharge;

(3) current urban storm water related threats to the State's water resources include pollution, increased water temperatures, flooding, groundwater depletion, loss of habitat, stream bank erosion, sewer overflows, basement backups, contaminated drinking water sources, and sedimentation of waterways; and

(4) some studies show that preserving and expanding natural and built green infrastructure can minimize negative impacts and enhance the resilience of water infrastructure and water bodies.

(b) The General Assembly also finds that there are a number of potential benefits from the use of green infrastructure, including:

(1) Cleaner Water. Green infrastructure can reduce the volume of storm water runoff in combined and separate sewer systems, and the concentrations of pollutants in those discharges.

(2) Enhanced Water Supplies. Most green infrastructure approaches allow at least a portion of storm water to infiltrate surrounding soil, where it recharges the groundwater and stream base flows, contributing to drinking water supplies and helping to stabilize aquatic ecosystems. Green infrastructure systems that capture and reuse storm water also help to conserve other water sources.

(3) Reduced Flooding. Green infrastructure can help control surface flooding and stabilize local hydrology by reducing peak flows.

(4) Cleaner Air. Trees and vegetation improve air quality by filtering many airborne pollutants, thereby helping to reduce the incidence of respiratory illness.

(5) Increased Energy Efficiency. Trees and other vegetation create shade, reduce the amount of heat absorbing materials, and emit water vapor, which controls surface temperature, thus helping to alleviate the urban heat island effect. Limiting impervious surface, using light colored impervious surfaces and green roofs also mitigates extreme urban temperatures. By helping to lower ambient temperatures and, when incorporated on and around buildings, helping to shade and insulate buildings from wide temperature swings, green infrastructure can reduce the energy needed for heating and cooling. Green roofs and shade can increase the life span of roofs, thus reducing the need for production and transportation of conventional roof materials. Energy use associated with pumping and treating can be reduced as storm water is diverted from wastewater collection, conveyance, and treatment systems.

(6) Mitigation of and Adaptation to Impacts of Climate Change. Green infrastructure strategies can reduce energy demands and, thus, greenhouse gas emissions by reducing storm water volume and the associated treatment required, reducing the amount of potable water needed, providing thermal insulation and shade for buildings, mitigating the urban heat island effect, and sequestering carbon. These strategies can also help with adaptation to projected climate change impacts, including increased storm intensity, flood potential, and impacts on the quantity of surface and ground water supplies.

(7) Wildlife Habitat. Stream buffers, wetlands, parks, meadows, and other forms of green infrastructure increase biodiversity within the urban environment.

(8) Community Benefits. Trees and plants improve urban aesthetics and community livability by providing recreational and scenic wildlife areas. Studies show that property values are higher, violence is reduced, and crime is reduced when trees and other vegetation are present.

(9) Health Benefits. Studies show that people who have access to the open space provided by green infrastructure in their communities get more exercise, live longer, and report better health in general. Exposure to green infrastructure (even through a window) improves mental functioning, reduces stress, and reduces recovery time from surgery.

(10) Green Jobs. Designing, installing, and maintaining green infrastructure creates new jobs for architects, designers, engineers, construction workers, maintenance workers, landscape architects, landscapers, nurseries, and related services.

(11) Cost Savings. Using green infrastructure in certain situations can save or reduce (i) capital costs associated with paving, constructing curbs and gutters, and building large collection and conveyance systems; (ii) operating and maintenance expenses for treatment plants, pumping stations, pipes, and other hard infrastructure; (iii) energy costs for pumping water; (iv) costs associated with treatment during wet weather; and (v) costs of repairing the damage caused by storm water, such as stream bank restoration and flood damage.

P.A. 96–26, § 10, eff. June 30, 2009.

56/15. IEPA Study

§ 15. IEPA Study. By June 30, 2010, the Illinois Environmental Protection Agency, in consultation with the Illinois Department of Natural Resources, the Illinois Department of

Transportation, the Capital Development Board, storm water management agencies, and other interested parties that the Agency deems appropriate to include, shall submit to the General Assembly and the Governor a report that reviews the latest available scientific research and institutional knowledge to evaluate and document the following:

(a) The nature and extent of urban storm water impacts on water quality in watersheds in Illinois;

(b) Potential urban storm water management performance standards to address flooding, water pollution, stream erosion, habitat quality, and the effectiveness of green infrastructure practices to achieve such standards;

(c) The prevalence of green infrastructure use in Illinois;

(d) The costs and benefits of green versus grey infrastructure;

(e) Existing and potential new urban storm water management regulatory programs and methods and feasibility of integrating a State program with existing and potential regional and local programs in Illinois;

(f) Findings and recommendations for adopting an urban storm water management regulatory program in Illinois which includes performance standards and encourages the use of green infrastructure to achieve those standards; and

(g) The feasibility and consequences of devoting 20% of the Water Revolving Fund to green infrastructure, water and energy efficiency improvements, and other environmentally innovative activities on a long-term basis.

P.A. 96–26, § 15, eff. June 30, 2009.

ACT 95. JUNKYARD ACT

95/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Junkyard Act.

Laws 1967, p. 1927, § 0.01, added by P.A. 86–1324, § 882, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 460.

95/1. Legislative declaration; public nuisances

§ 1. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards or scrap processing facilities in areas adjacent to the Federal-Aid Interstate and Federal-Aid Primary Systems of Highways within this State. Junkyards or scrap processing facilities which do not conform to the requirements of this Act are declared to be public nuisances.

Laws 1967, p. 1927, § 1, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 461.

95/2. Definitions

§ 2. Terms used in this Act, unless the context otherwise requires, are defined as follows:

(1) "junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills;

(2) "junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;

(3) "automobile graveyard" means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts;

(4) "scrap processing facility" means any establishment having facilities for processing iron, steel, nonferrous scrap, mineral wastes or slag, and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for remelting purposes only;

(5) "Department" means the Department of Transportation of the State of Illinois.

Laws 1967, p. 1927, § 2. Amended by P.A. 77–175, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 462.

95/3. Conditions for establishment

§ 3. No person may hereafter establish, operate, or maintain a junkyard or scrap processing facility, any portion of which is within 1,000 feet of the nearest edge of the right of way of any highway on the Federal-Aid Interstate or Federal-Aid Primary Systems, except the following:

a. those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the system, or otherwise removed from sight;

b. those located within areas which are zoned for industrial use, or those located within unzoned areas which are used for industrial activities, as determined by regulations to be promulgated by the Department;

c. those which are not visible from the main-traveled way of the highway system.

Laws 1967, p. 1927, § 3, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 463.

95/4. Screening of junkyards

§ 4. Any junkyard or scrap processing facility lawfully in existence on the effective date of this Act which is within 1,000 feet of the nearest edge of the right of way and visible from the main-traveled way of any highway on the Federal-Aid Interstate or Federal-Aid Primary Systems, shall be screened, if feasible, by the Department at locations on highway right of way or in areas acquired for such purposes outside the right of way so as not to be visible from the main-traveled way of such highway.

Laws 1967, p. 1927, § 4, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 464.

95/4.5. Automobile graveyards located near canals; inspection by EPA

§ 4.5. Automobile graveyards located near canals; inspection by EPA. The Environmental Protection Agency may inspect any automobile graveyard located within 1000 feet of a canal in Illinois to determine if any contaminates are entering canal waters from the automobile graveyard.

Laws 1967, p. 1927, § 4.5, added by P.A. 88–381, § 10, eff. Jan. 1, 1994.

95/5. Rules and regulations

§ 5. The Department shall promulgate regulations governing the location, planting, construction and maintenance,

including materials used in screening or fencing required by this Act.

Laws 1967, p. 1927, § 5, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 465.

95/6. Condemnation for screening of nonconforming junkyards; relocation

§ 6. When the Department determines that the topography of the land will not permit adequate screening of existing junkyards or scrap processing facilities or junkyards or scrap processing facilities lawfully established but which become nonconforming, the Department may acquire by gift, purchase or by the exercise of the right of eminent domain such junkyards or scrap processing facilities, or portions thereof, necessary to secure compliance with this Act. When it is more economical to move such junkyards or scrap processing facilities, or portions thereof, the Department may acquire by gift, purchase or by the exercise of the right of eminent domain such lands or interest in lands as may be necessary to secure the relocation of such junkyards or scrap processing facilities, or portions thereof, and pay the costs of such relocation. The Department may also acquire by gift, purchase or by the exercise of the right of eminent domain such land or interests in land as is necessary to effectively screen existing junkyards or scrap processing facilities or junkyards or scrap processing facilities lawfully established, but which become nonconforming.

Laws 1967, p. 1927, § 6, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 466.

95/6.5. Eminent domain

§ 6.5. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1967, p. 1927, § 6.5, added by P.A. 94–1055, Art. 95, § 95–5–670, eff. Jan. 1, 2007.

95/7. Actions to prevent unlawful establishment, operation or maintenance; restraining, correcting or abating violations; offense

§ 7. (a) The Department may, in addition to any other remedies, initiate an appropriate action in the circuit court of the county in which a junkyard or scrap processing facility is located, to prevent the unlawful establishment, operation or maintenance of a junkyard or scrap processing facility which is not in compliance with this Act, or to restrain, correct or abate a violation of this Act, or to prevent any illegal Act, conduct, business or use in or about the premises of such junkyard or scrap processing facility.

(b) Whoever violates any provision of this Act is guilty of a petty offense for a first violation, and of a Class C misdemeanor for second or subsequent violations.

Laws 1967, p. 1927, § 7, eff. July 24, 1967. Amended by P.A. 82–481, § 1, eff. Jan. 1, 1982; P.A. 84–1308, Art. III, § 65, eff. Aug. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 467.

95/8. Agreements with federal authorities

§ 8. The Department is authorized to enter into agreements with the designated authority of the United States Government relating to the control of junkyards or scrap processing facility in areas adjacent to the Federal-Aid Interstate and Federal-Aid Primary Systems, and to take such action as may be necessary to comply with the terms of such agreements.

Laws 1967, p. 1927, § 8, eff. July 24, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 468.

CHAPTER 430

PUBLIC SAFETY

ACT 70. ILLINOIS PUBLIC DEMONSTRATIONS LAW

Section

70/2. Declaration of purpose.

70/3. Unlawful action—Parade permit.

70/6. Time of holding.

70/7. Conflict with municipal ordinance.

70/8. Sentence.

ACT 105. ROAD WORKER SAFETY ACT

105/0.01. Short title.

105/1. Maintenance of traffic; manner.

105/2. Flagmen.

105/3. Drivers; duty to obey flagmen.

105/4. Marking of closed portions of highway; manner.

105/5. Violation of Act.

105/6. Accrual of action.

105/7. Non-compliance with Act; enforcement by director of labor.

105/8. Application of Act.

ACT 70. ILLINOIS PUBLIC DEMONSTRATIONS LAW

Validity

This act has been held unconstitutional in the case of People v. Bossie, 1985, 91 Ill.Dec. 634, 108 Ill.2d 236, 483 N.E.2d 1269.

70/2. Declaration of purpose

§ 2. Declaration of purpose. It is declared to be the public policy of this State: That the maintenance of good order on highways, as defined in Section 2–202 of the "Illinois Highway Code",[1] is a paramount responsibility of democratic government;

That the public health, welfare and safety of the community require that the movement of vehicular traffic on such roadways be lawfully conducted with a minimum of disruption;

That the practice of unhindered or unrestrained picketing or demonstrating on such roadways has caused disruption of police, fire and emergency services, and injury to persons regardless of participation in the march, assembly or demonstration;

That the practice of multiple demonstrations on the same day in different locations in municipalities and unincorporated areas of counties has unreasonably deprived the citizens of the police, fire and emergency services; and

That the provisions herein enacted are necessary for the protection of the health, welfare and safety of the public.

Laws 1967, p. 3613, § 2, eff. Sept. 5, 1967. Amended by P.A. 81–840, § 33, eff. Sept. 19, 1979.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 85–2.

[1] 605 ILCS 5/2–202.

Validity

This act has been held unconstitutional in the case of People v. Bossie, 1985, 91 Ill.Dec. 634, 108 Ill.2d 236, 483 N.E.2d 1269.

70/3. Unlawful action—Parade permit

§ 3. Unlawful action–Parade permit.

It is unlawful for any person, group or organization to conduct or participate in any march, assembly, meeting, parade, or gathering on roadways in more than one specific area of or location in, any municipality or the unincorporated area of a county, on any given day, unless it is acting under authority of a duly issued municipal or county parade or demonstration permit if local ordinance or regulation requires a permit, or, if not, with permission of the principal law enforcement officer for the area. Only the person, group, or organization responsible for organizing the march, assembly, meeting, parade, or gathering is required to obtain a permit or the permission of the principal law enforcement officer, which shall be sufficient to encompass all participants. If a march, assembly, meeting, parade, or gathering on roadways involves the act of crossing or traversing over or upon active railroad tracks, the municipal or county authority or principal law enforcement officer, as part of its permit or permission process, may prohibit any portion of the route that involves the act of crossing or traversing over or upon active railroad tracks.

Laws 1967, p. 3613, § 3, eff. Sept. 5, 1967. Amended by P.A. 98–320, § 5, eff. Aug. 12, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 85–3.

Validity

This act has been held unconstitutional in the case of People v. Bossie, 1985, 91 Ill.Dec. 634, 108 Ill.2d 236, 483 N.E.2d 1269.

70/6. Time of holding

§ 6. Time of holding.

It is unlawful for any group, organization, or any individual to conduct or participate in any march, assembly, meeting, parade, or gathering on roadways during peak traffic periods unless authorized by the principal law enforcement officer for the area in which the march, assembly, meeting, parade, or gathering is to be held. Peak traffic periods, unless otherwise set by municipal or county authority, are for the purposes of this Act declared to be 7:30 a.m. o'clock to 9:00 a.m. o'clock in the forenoon, and from 4:30 p.m. o'clock to 6:00

p.m. o'clock in the afternoon, Monday through Friday except for State and National holidays.

Laws 1967, p. 3613, § 6, eff. Sept. 5, 1967. Amended by P.A. 98–320, § 5, eff. Aug. 12, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 85–6.

Validity

This act has been held unconstitutional in the case of People v. Bossie, 1985, 91 Ill.Dec. 634, 108 Ill.2d 236, 483 N.E.2d 1269.

70/7. Conflict with municipal ordinance

§ 7. Conflict with municipal ordinance. Nothing in this Act shall be construed to invalidate or repeal by inference any local or municipal enactment in regard to parades or demonstrations, but if there is an unreconcilable conflict this Act shall prevail as to such portion or portions that are in direct conflict, except as to duly designated peak hours of traffic within its boundaries.

Laws 1967, p. 3613, § 7, eff. Sept. 5, 1967.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 85–7.

Validity

This act has been held unconstitutional in the case of People v. Bossie, 1985, 91 Ill.Dec. 634, 108 Ill.2d 236, 483 N.E.2d 1269.

70/8. Sentence

§ 8. Sentence. Violation of this Act is a Class A misdemeanor.

Laws 1967, p. 3613, § 8, eff. Sept. 5, 1967. Amended by P.A. 77–2646, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 85–8.

Validity

This act has been held unconstitutional in the case of People v. Bossie, 1985, 91 Ill.Dec. 634, 108 Ill.2d 236, 483 N.E.2d 1269.

ACT 105. ROAD WORKER SAFETY ACT

Validity

Public Act 89–7, which repealed this Act effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Road Worker Safety Act.

Laws 1959, p. 2044, § 0.01, added by P.A. 86–1324, § 873, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.01.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/1. Maintenance of traffic; manner

§ 1. All construction work upon bridges or highways within the State of Illinois shall be so performed and conducted that two-way traffic will be maintained when such is safe and practical, and when not safe and practical, or when any portion of the highway is obstructed, one-way traffic shall be maintained, unless the authorized agency in charge of said construction directs the road be closed to all traffic.

Laws 1959, p. 2044, § 1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.1.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/2. Flagmen

§ 2. At all times during which men are working where one-way traffic is utilized, the contractor or his authorized agent in charge of such construction will be required to furnish no fewer than two flagmen, one at each end of the portion of highway or bridge on which only one-way traffic is permitted, and at least 100 feet away from the nearest point of the highway or bridge on which only one-way traffic is safe and permitted. The flagmen shall be equipped with safe, suitable, and proper signal devices as prescribed in the Manual on Uniform Traffic Control Devices for Streets and Highways published by the Department of Transportation, and shall so use such devices as to inform approaching motorists to stop or proceed. In addition, safe, suitable, and proper signals and signs as prescribed in the Manual shall be so placed as to warn approaching persons of the existence of any portion of highway or bridge upon which only one-way traffic is safe and permitted. At bridge construction or bridge repair sites, where one-way traffic is utilized, traffic control signals conforming to the Manual may be installed and operated in lieu of, or in addition to, flagmen. Whenever the Department of Transportation or local authorities determine that a bridge or highway construction site requires the closing of a road to through traffic, the contract documents relating to such construction may specify alternate procedures for flagging and controlling traffic, when such procedures have been approved by the Department. When alternate procedures are not included, traffic control and flagging will be as prescribed in the first paragraph of this Section.

Laws 1959, p. 2044, § 2. Amended by Laws 1967, p. 468, § 1; P.A. 77–176, § 1, eff. Jan. 1, 1972; P.A. 81–683, § 1, eff. Jan. 1, 1980; P.A. 82–408, § 1, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.2.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the

case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/3. Drivers; duty to obey flagmen

§ 3. Drivers of any motor vehicle approaching any section of highway or bridge which is limited to only one-way traffic shall obey warning signs and shall stop their vehicles if signaled to do so by a flagman or a traffic control signal.

Laws 1959, p. 2044, § 3. Amended by Laws 1967, p. 468, § 1, eff. July 1, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.3.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/4. Marking of closed portions of highway; manner

§ 4. Any portion of highway or bridge which is closed to all traffic shall be marked at each place where vehicles have accessible approach to such portion of highway or bridge, and at a sufficient distance from the closed portion of such highway or bridge shall be marked with an adequate number of safe, suitable, and proper warning signs, signals or barricades as set forth in the Manual of Uniform Traffic Control Devices for Streets and Highways published by the Department of Transportation so as to give warning to approaching motorists that such portion of bridge or highway is closed and unsafe for travel.

Laws 1959, p. 2044, § 4. Amended by P.A. 77–176, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.4.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/5. Violation of Act

§ 5. Any contractor, subcontractor, or his authorized agent in charge of construction work on highways or bridges within the State of Illinois, or any driver of any motor vehicle, who knowingly or wilfully violates any provision of this Act, is guilty of a petty offense.

Laws 1959, p. 2044, § 5. Amended by P.A. 77–2242, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.5.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/6. Accrual of action

§ 6. Any contractor, subcontractor, or his or her authorized agent or driver of any motor vehicle who knowingly or wilfully violates any provision of this Act, shall be responsible for any injury to person or property occasioned by such violation, and a right of action shall accrue to any person injured for any damages sustained thereby; and in case of loss of life by reason of such violation, a right of action shall accrue to the surviving spouse of the person so killed, his or her heirs, or to any person or persons who were, before such loss of life, dependent for support on the person so killed, for a like recovery of damages sustained by reason of such loss of life.

Laws 1959, p. 2044, § 6. Amended by P.A. 80–1154, § 4, eff. July 1, 1978.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.6.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7

105/7. Non-compliance with Act; enforcement by director of labor

§ 7. In case of any failure to comply with any of the provisions of this Act, the Director of Labor may, through the State's Attorney, or any other attorney in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith.

Laws 1959, p. 2044, § 7.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.7.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

105/8. Application of Act

§ 8. The provisions of this Act shall not apply to employees or officials of the State of Illinois or any other public agency engaged in the construction or maintenance of highways and bridges.

Laws 1959, p. 2044, § 8.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 314.8.

Validity

Public Act 89–7, which repealed this section effective March 9, 1995, has been held unconstitutional in its entirety by the Illinois Supreme Court in the case of Best v. Taylor Machine Works, 1997, 689 N.E.2d 1057, 228 Ill.Dec. 636, 179 Ill.2d 367. As a result of the Supreme Court action, the text of this Act has been restored to how it read prior to the repeal by P.A. 89–7.

CHAPTER 505

AGRICULTURE

ACT 75. FARMLAND PRESERVATION ACT

Section

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ACT 75. FARMLAND PRESERVATION ACT

75/1. Short Title

§ 1. Short Title. This Act shall be known and may be cited as the "Farmland Preservation Act."

P.A. 82–945, § 1, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1301.

75/2. Legislative Findings and Intent

§ 2. Legislative Findings and Intent. The natural resources of Illinois—land, minerals, water, and air—are both finite and fragile. In the absence of wise use and consistent management practices, these resources are threatened by irreversible damage or loss. Protection of the State's natural resources is essential to guard the public health, safety, and welfare, and to assure an adequate natural resource supply and quality for use and enjoyment by future generations.

Since World War II, the amount of Illinois land dedicated to agriculture has steadily declined at an average rate of approximately 100,000 acres per year. This substantial loss of farmlands is the equivalent of eight average-sized Illinois counties. If this trend continues, the State will lose the equivalent of another five or six counties by the end of the century.

The conversion and loss of agricultural land has diminished Illinois' cropland base and affects environmental quality. The supply of land most suitable for farming is finite. Conversion of this land to urban development and other nonfarm uses reduces future food production capability and may ultimately undermine agriculture as a major economic activity in Illinois. With less prime farmland available there will tend to be greater reliance on marginally productive land, resulting in greater soil erosion, increased fertilizer requirements and increased environmental damage. Loss of agricultural land can also reduce the beneficial role which the land itself can play. Agricultural land reduces runoff by absorbing precipitation, aids in replenishing groundwater supplies and can buffer environmentally sensitive areas from encroaching development.

The importance of preserving our agricultural land base has been recognized by the Illinois Rural Planning Council, the Task Force on the Future of Illinois, and in the State's "Comprehensive Growth and Resource Conservation Policies." Each of these efforts recommends that the State minimize the conversion of prime farmland that results from the direct or indirect effects of State programs and also encourages the achievement of related goals, such as reducing the loss of soil through erosion.

P.A. 82–945, § 2, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1302.

75/3. Inter-Agency Committee on Farmland Preservation

§ 3. An Inter-Agency Committee on Farmland Preservation is created. The Directors or Chairpersons of the following agencies, or their representatives, shall serve as members of the Committee:

(a) the Capital Development Board;

(b) the Department of Natural Resources;

(c) the Department of Commerce and Economic Opportunity;

(d) the Environmental Protection Agency;

(e) the Department of Transportation;

(f) the Governor's Office of Management and Budget;

(g) the Illinois Commerce Commission; and

(h) the Department of Agriculture.

The Director of the Department of Agriculture, or his representative, shall serve as chairman.

P.A. 82–945, § 3, eff. Aug. 19, 1982. Amended by P.A. 89–445, § 9A–59, eff. Feb. 7, 1996; P.A. 94–793, § 830, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1303.

75/4. Policy statements; working agreements

§ 4. The Inter-Agency Committee on Farmland Preservation shall prepare policy statements and working agreements for each of the agencies named in Section 3 of this Act specifying the policy of that agency toward farmland preservation and the administrative process used to implement that policy. The policy statements and working agreements shall be prepared as rules for the administration of the program. The policy statement shall include, but not be limited to, an analysis of the impact of agricultural land conversions attributed to the agency's programs, regulations, procedures and operations. The policy statement shall also detail measures that can be implemented to mitigate conversions to the maximum extent practicable. The State Agency policy statements and working agreements on farmland preservation shall be submitted to the Governor and the General Assembly and shall be updated by the State agency, and reviewed and approved by the Department of Agriculture, every 3 years. State agency policy statements and working agreements prepared in response to Executive Order Number 4 on the Preservation of Farmland and submitted to the Governor shall remain in effect upon this Act becoming law.

P.A. 82–945, § 4, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1304.

75/5. Conversion of farmland to nonagricultural purposes; procedure

§ 5. Except as provided in the working agreement between the Director of Agriculture and each State agency listed in Section 3 of this Act, when any State agency participates in a State funded capital project which will lead to conversion of farmland to nonagricultural purposes, the agency shall deliver written notification of the project to the Director of the Department of Agriculture.

The Director of Agriculture shall determine whether the project is in compliance with the agency's policy statements and working agreements on farmland preservation and shall conduct a study of the agricultural impacts if the project is not in compliance.

No agency may commit State funds for land acquisition or construction unless it is provided for in an exception contained in that agency's working agreement or until the study of agricultural impacts has been completed by the Department of Agriculture.

If the Director of Agriculture determines that a study of the agricultural impacts is necessary, the Department of Agriculture shall complete the study within 30 days of written notification by a State agency that it is considering a project which will result in conversion of farmland to a nonagricultural purpose. If the study is not completed within 30 days that agency may proceed with its intended action without the benefit of the study.

A copy of any study of agricultural impacts made pursuant to this Section shall be submitted to the Governor, to the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives, to the Director of each State agency participating in the project, and to each member of the Inter-Agency Committee on Farmland Preservation.

P.A. 82–945, § 5, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1305.

75/6. Administration of Act; report; rules and regulations

§ 6. The Department of Agriculture shall administer this Act and report annually to the Governor and to the General Assembly the amount of farmland converted to nonagricultural uses as a result of State action.

The Department may seek the assistance and cooperation of other agencies of State government in compiling the data for this report.

The Department shall formulate rules and regulations for the implementation of this Act.

P.A. 82–945, § 6, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1306.

75/7. Exempt projects

§ 7. This Act shall not apply to those projects for which, on the effective date of this Act, (a) a final public hearing has been held or (b) design approval has been given by the responsible State agency or by the federal agency which is providing all or part of the project funds.

P.A. 82–945, § 7, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1307.

75/8. Effective date

§ 8. This Act shall take effect upon becoming law.

P.A. 82–945, § 8, eff. Aug. 19, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 1308.

ACT 100. ILLINOIS NOXIOUS WEED LAW

100/1. Short title

§ 1. This Act shall be known and may be cited as the Illinois Noxious Weed Law.

P.A. 77–1037, § 1, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 951.

100/2. Definitions

§ 2. As used in this Act: (1) "Person" means any individual, partnership, firm, corporation, company, society, association, the State or any department, agency, or subdivision thereof, or any other entity.

(2) "Control", "controlled" or "controlling" includes being in charge of or being in possession, whether as owner, lessee, renter, or tenant, under statutory authority, or otherwise.

(3) "Director" means the Director of the Department of Agriculture of the State of Illinois, or his duly appointed representative.

(4) "Department" means the Department of Agriculture of the State of Illinois.

(5) "Noxious weed" means any plant which is determined by the Director, the Dean of the College of Agriculture of the University of Illinois and the Director of the Agricultural Experiment Station at the University of Illinois, to be injurious to public health, crops, livestock, land or other property.

(6) "Control Authority" means the governing body of each county, and shall represent all rural areas and cities, villages and townships within the county boundaries.

(7) "Applicable fund" means the fund current at the time the work is performed or the money is received.

P.A. 77–1037, § 2, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 952.

100/3. Control and eradication of weeds

§ 3. Every person shall control the spread of and eradicate noxious weeds on lands owned or controlled by him and use such methods for that purpose and at such times as are approved and adopted by the Director of the Department of Agriculture.

P.A. 77–1037, § 3, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 953.

100/4. Enforcement of Act

§ 4. The duty of enforcing this Act and carrying out its provisions is vested in the Director, and the authorities designated in this Act acting under the supervision and direction of the Director. The Director, the Dean of the College of Agriculture of the University of Illinois and the Director of the Agricultural Experiment Station at the University of Illinois, shall determine what weeds are noxious for the purposes of this Act, and shall compile and keep current a list of such noxious weeds, which list shall be published and incorporated in the rules and regulations of the Department. The Director shall, from time to time, adopt and publish methods as official for control and eradication of noxious weeds and make and publish such rules and regulations as in his judgment are necessary to carry out the provisions of this Act.

P.A. 77–1037, § 4, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 954.

100/5. Powers of director

§ 5. The Director is authorized to investigate the subject of noxious weeds; to require information and reports from any Control Authority as to the presence of noxious weeds and other information relative to noxious weeds and the control and eradication thereof in localities where such Control Authority has jurisdiction; to cooperate with Control Authorities in carrying out other acts administered by him; to cooperate with agencies of Federal and State Governments and persons, in carrying out his duties under this Act, and, with the consent of the Governor, in the conduct of investigations outside this State in the interest of the protection of the agricultural industry of this State from noxious weeds not generally distributed therein; with the consent of the Federal agency involved, to control and eradicate noxious weeds on Federal lands within this State, with or without reimbursement, when deemed by him to be necessary to an effective weed control and eradication program; to advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control and eradication thereof; to call and attend meetings and conferences dealing with the subject of noxious weeds; to disseminate information and conduct educational campaigns with respect to control and eradication of noxious weeds; to procure materials and equipment and employ personnel necessary to carry out his duties and responsibilities; and to perform such other acts as may be necessary or appropriate to the administration of this Act.

P.A. 77–1037, § 5, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 955.

100/7. Control authority; duties and responsibilities

§ 7. Each Control Authority shall carry out the duties and responsibilities vested in it under this Act with respect to land under its jurisdiction in accordance with rules and regulations prescribed by the Department. Such duties shall include the establishment, under the general direction of the Control Authority, of a coordinated program for control and eradication of noxious weeds within the county.

A Control Authority may cooperate with any person in carrying out its duties and responsibilities under this Act.

P.A. 77–1037, § 7, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 957.

100/8. Weed control superintendents; qualifications; compensation; tenure; duties; examination of land; reports

§ 8. Each Control Authority may employ one or more Weed Control Superintendents who shall be certified by the Director to be qualified to detect and treat noxious weeds. The same person may be a Weed Control Superintendent for more than one Control Authority. Such employment may be for such tenure, and at such rates of compensation and reimbursement for travel expenses, as the Control Authority may prescribe. Each Weed Control Superintendent may be bonded for such sum as the Control Authority may prescribe.

Each Control Authority shall examine all land under its jurisdiction for the purpose of determining whether the provisions of this Act and the regulations of the Director have been complied with; compile such data on infested areas and areas eradicated and such other reports as the Director or Control Authority may require; consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and eradication, and render assistance and direction for the most effective control and eradication; investigate or aid in the investigation and prosecution of any violation of this Act. Control Authorities may cooperate and assist one another to the extent practicable in the carrying out of a coordinated control and eradication program within their counties.

P.A. 77–1037, § 8, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 958.

100/9. Notices for control and eradication of noxious weeds

§ 9. Notices for control and eradication of noxious weeds shall be on a form prescribed by the Director and shall consist of 2 kinds: general notices and individual notices. Failure to publish general weed notices or to serve individual notices as provided in this Section does not relieve any person from the necessity of full compliance with this Act and regulations thereunder. In all cases such published notice is legal and sufficient notice.

General notice shall be published by each Control Authority, or any combination of Control Authorities among counties, in one or more legal newspapers of general circulation throughout the area, or areas, over which the Control Authority, or Control Authorities, have jurisdiction at such times as the Director may direct or the Control Authority may determine.

Whenever any Control Authority finds it necessary to secure more prompt or definite control or eradication of noxious weeds than is accomplished by the general published notice, it shall serve individual notices upon the person owning and the person controlling such land, and give notification of such notice to the record owner of any encumbrance thereon, giving specific instructions and methods when and how certain named weeds are to be controlled or eradicated.

P.A. 77–1037, § 9, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 959.

100/10. Cost of control or eradication done by authority upon failure of owner to do so; lien

§ 10. Whenever the owner or person in control of the land on which noxious weeds are present has neglected or failed to control or eradicate them as required in this Act and any notice is given pursuant to Section 9, the Control Authority having jurisdiction shall have proper control and eradication methods used on such land, and shall advise the owner, person in control, and record holder of any encumbrance of the cost incurred in connection with such operation. The cost of any such control or eradication shall be at the expense of the owner. If unpaid for 6 months, or longer, the amount of such expense shall become a lien upon the property. Nothing contained in this Section shall be construed to require satisfaction of the obligation imposed hereby in whole or in part from the sale of the property or to bar the application of any other additional remedy otherwise available. Amounts collected under this Section shall be deposited in the Noxious Weed Control Fund or other appropriate general fund of the Control Authority.

P.A. 77–1037, § 10, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 960.

100/11. Quarantine of land with infestation beyond ability of owner to control; expense of quarantine and eradication

§ 11. When it appears to a Control Authority that upon any tract of land under its jurisdiction there is an infestation of noxious weeds beyond the ability of the owner and the person in control of such land to eradicate, the Control Authority, with the approval of the Director, may quarantine such land and put into immediate operation the necessary means for the eradication of such noxious weeds. The Control Authority shall, prior to the entry upon such land, serve individual notices on the owner and the person in control thereof and the record owner of any encumbrance thereon of such quarantine and entry, and shall also advise such persons of the completion of the eradication operation, and the cost thereof. The expense of such quarantine and eradication shall be borne as follows: ½ from the Noxious Weed Control Fund or other appropriate general fund of the Control Authority; and ½ from the person owning such land, which may be collected and deposited as provided in Section 10.

P.A. 77–1037, § 11, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 961.

100/12. Costs of controlling and eradicating noxious weeds on land owned or controlled by State department, agency, etc.; land owned by control authority; land owned by township, city, etc.

§ 12. The cost of controlling and eradicating noxious weeds on all land, including highways, roadways, streets, alleys and rights-of-way, owned or controlled by a State department, agency, commission or board shall be paid by the State department, agency, commission or board in control thereof out of funds appropriated to its use.

The cost of controlling and eradicating noxious weeds on all land including highways, roadways, streets, alleys and rights-of-way, owned or controlled by a Control Authority shall be paid by the Control Authority in control thereof out of the Noxious Weed Control Fund, and until the establishment of such Fund, out of the general funds of such Control Authority. Until the establishment of the Noxious Weed Control Fund by a Control Authority, the cost of controlling and eradicating noxious weeds on all land, including highways, roadways, streets, alleys and rights-of-way, owned or controlled by a township or city or other municipal corporation shall be paid by the township or city or other municipal corporation in control thereof out of the general funds of such township or city or other municipal corporation. After the establishment of the Noxious Weed Control Fund of the county in which such township or city is located, such cost shall be paid from the Noxious Weed Control Fund of such county.

P.A. 77–1037, § 12, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 962.

100/13. Control and eradication of weeds without cost to owner

§ 13. Notwithstanding any other provisions of this Act relating to payment of cost, when determined by a Control Authority to be justified in the interest of an effective weed control program, such Control Authority may control and eradicate noxious weeds on land under its jurisdiction, without cost to the owner or person in control thereof.

P.A. 77–1037, § 13, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 963.

100/14. Prevention of dissemination of noxious weeds

§ 14. To prevent the dissemination of noxious weeds through any article, including machinery, equipment, plants, materials and other things, the Director, in consultation with the Dean of the College of Agriculture of the University of Illinois and the Director of the Agricultural Experiment Station at the University of Illinois, shall, from time to time, publish a list of noxious weeds which may be disseminated through articles and a list of articles capable of disseminating such weeds, and designate treatment of such articles as, in

his opinion, would prevent such dissemination. Until such article is treated in accordance with the applicable regulations, it shall not be moved from such premises except under and in accordance with the written permission of the Control Authority having jurisdiction of the area in which such article is located, and the Control Authority may hold or prevent its movement from such premises. The movement of any such article which has not been so decontaminated, except in accordance with such written permission, may be stopped by the Control Authority having jurisdiction over the place in which such movement is taking place and further movement and disposition shall only be in accordance with such Control Authority's direction.

P.A. 77–1037, § 14, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 964.

100/15. Noxious Weed Control Fund

§ 15. A Noxious Weed Control Fund may be established as provided in Section 16 for each Control Authority, without fiscal year limitation, which shall be available for expenses authorized to be paid from such Fund, including the necessary expenses of the Control Authority in carrying out its duties and responsibilities under this Act. The Weed Control Superintendents within the county shall ascertain each year the approximate amount of land within the county infested with noxious weeds, and the location thereof, and transmit such information to the Director and the Control Authority. On the basis of such information the Control Authority shall make payments from the Noxious Weed Control Fund. If a Noxious Weed Control Fund is not established as provided in Section 16, the expenses authorized to be paid from such Fund shall be paid out of any other appropriate general fund of the Control Authority.

P.A. 77–1037, § 15, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 965.

100/17. Purchase of materials, machinery and equipment; deposit of funds from control and eradication; records; use of equipment to control weeds not noxious

§ 17. Control Authorities, independently or in combination, may purchase or provide for needed or necessary materials, machinery and equipment, including the cost of operation and depreciation of such machinery and equipment, for the control and eradication of weeds as provided in Sections 10 and 11, whether or not declared noxious on land owned or controlled by them or on other land under their jurisdiction. All funds received from such control and eradication of weeds shall be deposited in the Noxious Weed Control Fund or other appropriate general fund of the Control Authority. Each Control Authority shall keep a record showing the procurement, sale and rental of materials, machinery and equipment, which record shall be open to inspection by citizens of this State. A Control Authority may use any equipment or material procured as provided for in this Section upon lands owned or directly controlled by it, or owned or controlled by a township or city which is not a Control Authority, for the treatment and eradication of weeds which have not been declared noxious.

P.A. 77–1037, § 17, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 967.

100/18. Protest of charge made by control authority; hearing

§ 18. If any person is dissatisfied with the amount of any charge made against him by a Control Authority for control or eradication work, he may, within 5 days after being advised of the amount of the charge, file a protest with the Director. The Director shall hold a hearing thereon and has the power to adjust or affirm such charge.

P.A. 77–1037, § 18, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 968.

100/19. Review under Administrative Review Law

§ 19. All final administrative decisions of the Director or his representative are subject to judicial review under the Administrative Review Law.[1] The term "administrative decision" is defined as in Section 3–101 of the Code of Civil Procedure.[2] The filing for judicial review shall stay the order of the Director or his representative pending disposition of the order on judicial review. The court, upon its own initiative or upon motion by the Director, may in its discretion, when it deems it necessary to protect the interests involved, require the posting of additional bond in an amount it deems advisable, as a prerequisite to judicial review.

P.A. 77–1037, § 19, eff. July 1, 1972. Amended by P.A. 82–783, Art. XI, § 10, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 969.

[1] 735 ILCS 5/3–101 et seq.

[2] 735 ILCS 5/3–101.

100/20. Entry by director, control authority, weed control superintendent upon lands without consent of owner

§ 20. The Director, any Control Authority, Weed Control Superintendent, or anyone authorized thereby, may enter upon all land under their jurisdiction for the purpose of performing their duties and exercising their powers under this Act, including the taking of specimens of weeds or other materials, without the consent of the person owning or controlling such land and without being subject to any action for trespass or damages, if reasonable care is exercised.

P.A. 77–1037, § 20, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 970.

100/21. Notices to be written; service of notices

§ 21. All individual notices, service of which is provided for in this Act, shall be in writing. Service of such notices shall be in the same manner as service of a summons in a civil action in the circuit court or by certified mail to the last known address to be ascertained, if necessary, from the last tax list.

P.A. 77–1037, § 21, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 971.

100/22. Violations; penalties

§ 22. Any person violating any provision of this Act or any regulation issued hereunder is guilty of a petty offense and shall be fined not more than $100 for the first offense and not more than $200 for each subsequent offense.

P.A. 77–1037, § 22, eff. July 1, 1972. Amended by P.A. 77–2327, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 61, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 972.

100/23. Participation by director in control program; use of funds

§ 23. The Director may participate in any noxious weed control program and, when called upon to do so by any such program, may use any funds available to him for the purposes of this Act in the matching of any federal funds made available to this State.

P.A. 77–1037, § 23, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 973.

100/24. Severability of invalid section or provision

§ 24. If any Section or provision of this Act is declared invalid for any reason, such invalidity shall not affect or impair any of the remaining Sections or provisions of the Act which can be given effect without the invalid Section or provision, and to this end the Sections and provisions of this Act are declared to be severable.

P.A. 77–1037, § 24, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 5, ¶ 974.

CHAPTER 520

WILDLIFE

ACT 5. WILDLIFE CODE

ADDITIONAL PROVISIONS

Section

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ACT 10. ILLINOIS ENDANGERED SPECIES PROTECTION ACT

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ACT 5. WILDLIFE CODE

ADDITIONAL PROVISIONS

5/2.31. Hunting or trapping on highways

§ 2.31. Except as provided in Section 2.30, it shall be unlawful for any person to take or attempt to take wild birds or wild mammals along, upon, across, or from any public right-of-way or highway in this State.

P.A. 77–1781, § 2.31, eff. July 1, 1972. Amended by P.A. 97–628, § 5, eff. Nov. 10, 2011.

Formerly Ill.Rev.Stat.1991, ch. 61, ¶ 2.31.

5/2.33. Prohibitions

§ 2.33. Prohibitions.

(a) It is unlawful to carry or possess any gun in any State refuge unless otherwise permitted by administrative rule.

(b) It is unlawful to use or possess any snare or snare-like device, deadfall, net, or pit trap to take any species, except that snares not powered by springs or other mechanical devices may be used to trap fur-bearing mammals, in water sets only, if at least one-half of the snare noose is located underwater at all times.

(c) It is unlawful for any person at any time to take a wild mammal protected by this Act from its den by means of any mechanical device, spade, or digging device or to use smoke or other gases to dislodge or remove such mammal except as provided in Section 2.37.

(d) It is unlawful to use a ferret or any other small mammal which is used in the same or similar manner for which ferrets are used for the purpose of frightening or driving any mammals from their dens or hiding places.

(e) (Blank).

(f) It is unlawful to use spears, gigs, hooks or any like device to take any species protected by this Act.

(g) It is unlawful to use poisons, chemicals or explosives for the purpose of taking any species protected by this Act.

(h) It is unlawful to hunt adjacent to or near any peat, grass, brush or other inflammable substance when it is burning.

(i) It is unlawful to take, pursue or intentionally harass or disturb in any manner any wild birds or mammals by use or aid of any vehicle or conveyance, except as permitted by the Code of Federal Regulations for the taking of waterfowl. It is also unlawful to use the lights of any vehicle or conveyance or any light from or any light connected to the vehicle or conveyance in any area where wildlife may be found except in accordance with Section 2.37 of this Act; however, nothing in this Section shall prohibit the normal use of headlamps for the purpose of driving upon a roadway. Striped skunk, opossum, red fox, gray fox, raccoon and coyote may be taken during the open season by use of a small light which is worn on the body or hand-held by a person on foot and not in any vehicle.

(j) It is unlawful to use any shotgun larger than 10 gauge while taking or attempting to take any of the species protected by this Act.

(k) It is unlawful to use or possess in the field any shotgun shell loaded with a shot size larger than lead BB or steel T (.20 diameter) when taking or attempting to take any species of wild game mammals (excluding white-tailed deer), wild game birds, migratory waterfowl or migratory game birds protected by this Act, except white-tailed deer as provided for in Section 2.26 and other species as provided for by subsection (*l*) or administrative rule.

(*l*) It is unlawful to take any species of wild game, except white-tailed deer and fur-bearing mammals, with a shotgun loaded with slugs unless otherwise provided for by administrative rule.

(m) It is unlawful to use any shotgun capable of holding more than 3 shells in the magazine or chamber combined, except on game breeding and hunting preserve areas licensed under Section 3.27 and except as permitted by the Code of Federal Regulations for the taking of waterfowl. If the shotgun is capable of holding more than 3 shells, it shall, while being used on an area other than a game breeding and shooting preserve area licensed pursuant to Section 3.27, be fitted with a one piece plug that is irremovable without dismantling the shotgun or otherwise altered to render it incapable of holding more than 3 shells in the magazine and chamber, combined.

(n) It is unlawful for any person, except persons who possess a permit to hunt from a vehicle as provided in this Section and persons otherwise permitted by law, to have or carry any gun in or on any vehicle, conveyance or aircraft,

unless such gun is unloaded and enclosed in a case, except that at field trials authorized by Section 2.34 of this Act, unloaded guns or guns loaded with blank cartridges only, may be carried on horseback while not contained in a case, or to have or carry any bow or arrow device in or on any vehicle unless such bow or arrow device is unstrung or enclosed in a case, or otherwise made inoperable.

(*o*) It is unlawful to use any crossbow for the purpose of taking any wild birds or mammals, except as provided for in Section 2.5.

(p) It is unlawful to take game birds, migratory game birds or migratory waterfowl with a rifle, pistol, revolver or airgun.

(q) It is unlawful to fire a rifle, pistol, revolver or airgun on, over or into any waters of this State, including frozen waters.

(r) It is unlawful to discharge any gun or bow and arrow device along, upon, across, or from any public right-of-way or highway in this State.

(s) It is unlawful to use a silencer or other device to muffle or mute the sound of the explosion or report resulting from the firing of any gun.

(t) It is unlawful for any person to take or attempt to take any species of wildlife or parts thereof, intentionally or wantonly allow a dog to hunt, within or upon the land of another, or upon waters flowing over or standing on the land of another, or to knowingly shoot a gun or bow and arrow device at any wildlife physically on or flying over the property of another without first obtaining permission from the owner or the owner's designee. For the purposes of this Section, the owner's designee means anyone who the owner designates in a written authorization and the authorization must contain (i) the legal or common description of property for such authority is given, (ii) the extent that the owner's designee is authorized to make decisions regarding who is allowed to take or attempt to take any species of wildlife or parts thereof, and (iii) the owner's notarized signature. Before enforcing this Section the law enforcement officer must have received notice from the owner or the owner's designee of a violation of this Section. Statements made to the law enforcement officer regarding this notice shall not be rendered inadmissible by the hearsay rule when offered for the purpose of showing the required notice.

(u) It is unlawful for any person to discharge any firearm for the purpose of taking any of the species protected by this Act, or hunt with gun or dog, or intentionally or wantonly allow a dog to hunt, within 300 yards of an inhabited dwelling without first obtaining permission from the owner or tenant, except that while trapping, hunting with bow and arrow, hunting with dog and shotgun using shot shells only, or hunting with shotgun using shot shells only, or providing outfitting services under a waterfowl outfitter permit, or on licensed game breeding and hunting preserve areas, as defined in Section 3.27, on federally owned and managed lands and on Department owned, managed, leased, or controlled lands, a 100 yard restriction shall apply.

(v) It is unlawful for any person to remove fur-bearing mammals from, or to move or disturb in any manner, the traps owned by another person without written authorization of the owner to do so.

(w) It is unlawful for any owner of a dog to knowingly or wantonly allow his or her dog to pursue, harass or kill deer, except that nothing in this Section shall prohibit the tracking of wounded deer with a dog in accordance with the provisions of Section 2.26 of this Code.

(x) It is unlawful for any person to wantonly or carelessly injure or destroy, in any manner whatsoever, any real or personal property on the land of another while engaged in hunting or trapping thereon.

(y) It is unlawful to hunt wild game protected by this Act between one half hour after sunset and one half hour before sunrise, except that hunting hours between one half hour after sunset and one half hour before sunrise may be established by administrative rule for fur-bearing mammals.

(z) It is unlawful to take any game bird (excluding wild turkeys and crippled pheasants not capable of normal flight and otherwise irretrievable) protected by this Act when not flying. Nothing in this Section shall prohibit a person from carrying an uncased, unloaded shotgun in a boat, while in pursuit of a crippled migratory waterfowl that is incapable of normal flight, for the purpose of attempting to reduce the migratory waterfowl to possession, provided that the attempt is made immediately upon downing the migratory waterfowl and is done within 400 yards of the blind from which the migratory waterfowl was downed. This exception shall apply only to migratory game birds that are not capable of normal flight. Migratory waterfowl that are crippled may be taken only with a shotgun as regulated by subsection (j) of this Section using shotgun shells as regulated in subsection (k) of this Section.

(aa) It is unlawful to use or possess any device that may be used for tree climbing or cutting, while hunting fur-bearing mammals, excluding coyotes.

(bb) It is unlawful for any person, except licensed game breeders, pursuant to Section 2.29 to import, carry into, or possess alive in this State any species of wildlife taken outside of this State, without obtaining permission to do so from the Director.

(cc) It is unlawful for any person to have in his or her possession any freshly killed species protected by this Act during the season closed for taking.

(dd) It is unlawful to take any species protected by this Act and retain it alive except as provided by administrative rule.

(ee) It is unlawful to possess any rifle while in the field during gun deer season except as provided in Section 2.26 and administrative rules.

(ff) It is unlawful for any person to take any species protected by this Act, except migratory waterfowl, during the gun deer hunting season in those counties open to gun deer hunting, unless he or she wears, when in the field, a cap and upper outer garment of a solid blaze orange color, with such articles of clothing displaying a minimum of 400 square inches of blaze orange material.

(gg) It is unlawful during the upland game season for any person to take upland game with a firearm unless he or she wears, while in the field, a cap of solid blaze orange color. For purposes of this Act, upland game is defined as Bobwhite Quail, Hungarian Partridge, Ring-necked Pheasant, Eastern Cottontail and Swamp Rabbit.

(hh) It shall be unlawful to kill or cripple any species protected by this Act for which there is a bag limit without making a reasonable effort to retrieve such species and include such in the bag limit. It shall be unlawful for any person having control over harvested game mammals, game birds, or migratory game birds for which there is a bag limit to wantonly waste or destroy the usable meat of the game, except this shall not apply to wildlife taken under Sections 2.37 or 3.22 of this Code. For purposes of this subsection, "usable meat" means the breast meat of a game bird or migratory game bird and the hind ham and front shoulders

of a game mammal. It shall be unlawful for any person to place, leave, dump, or abandon a wildlife carcass or parts of it along or upon a public right-of-way or highway or on public or private property, including a waterway or stream, without the permission of the owner or tenant. It shall not be unlawful to discard game meat that is determined to be unfit for human consumption.

(ii) This Section shall apply only to those species protected by this Act taken within the State. Any species or any parts thereof, legally taken in and transported from other states or countries, may be possessed within the State, except as provided in this Section and Sections 2.35, 2.36 and 3.21.

(jj) (Blank).

(kk) Nothing contained in this Section shall prohibit the Director from issuing permits to paraplegics or to other disabled persons who meet the requirements set forth in administrative rule to shoot or hunt from a vehicle as provided by that rule, provided that such is otherwise in accord with this Act.

(*ll*) Nothing contained in this Act shall prohibit the taking of aquatic life protected by the Fish and Aquatic Life Code or birds and mammals protected by this Act, except deer and fur-bearing mammals, from a boat not camouflaged or disguised to alter its identity or to further provide a place of concealment and not propelled by sail or mechanical power. However, only shotguns not larger than 10 gauge nor smaller than .410 bore loaded with not more than 3 shells of a shot size no larger than lead BB or steel T (.20 diameter) may be used to take species protected by this Act.

(mm) Nothing contained in this Act shall prohibit the use of a shotgun, not larger than 10 gauge nor smaller than a 20 gauge, with a rifled barrel.

(nn) It shall be unlawful to possess any species of wildlife or wildlife parts taken unlawfully in Illinois, any other state, or any other country, whether or not the wildlife or wildlife parts is indigenous to Illinois. For the purposes of this subsection, the statute of limitations for unlawful possession of wildlife or wildlife parts shall not cease until 2 years after the possession has permanently ended.

P.A. 77–1781, § 2.33, eff. July 1, 1972. Amended by P.A. 77–2064, § 1, eff. July 18, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–826, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–469, § 1, eff. Oct. 1, 1975; P.A. 81–365, § 1, eff. Jan. 1, 1980; P.A. 81–382, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 41, eff. Sept. 26, 1980; P.A. 82–434, § 2, eff. Sept. 8, 1981; P.A. 82–629, § 1, eff. Sept. 24, 1981; P.A. 82–783, Art. III, § 30, eff. July 13, 1982; P.A. 83–722, § 2, eff. Sept. 23, 1983; P.A. 84–150, § 1, eff. Jan. 1, 1986; P.A. 84–521, § 1, eff. Sept. 17, 1985; P.A. 84–977, § 1, eff. Sept. 25, 1985; P.A. 84–1259, § 1, eff. Aug. 8, 1986; P.A. 84–1308, Art. II, § 77, eff. Aug. 25, 1986; P.A. 85–152, § 1, eff. Jan. 1, 1988; P.A. 85–1181, § 1, eff. Aug. 13, 1988; P.A. 86–920, § 1, eff. Sept. 11, 1989; P.A. 86–1039, § 3, eff. March 19, 1990; P.A. 86–1354, § 1, eff. Jan. 1, 1991; P.A. 86–1475, Art. 2, § 2–16, eff. Jan. 10, 1991; P.A. 87–114, § 2, eff. Aug. 10, 1991; P.A. 87–296, § 1, eff. Jan. 1, 1992; P.A. 87–297, § 1, eff. Jan. 1, 1992; P.A. 87–895, Art. 2, § 2–32, eff. Aug. 14, 1992; P.A. 88–468, § 5, eff. Aug. 31, 1993; P.A. 88–598, § 5, eff. Aug. 31, 1994; P.A. 89–341, § 5, eff. Aug. 17, 1995; P.A. 90–743, § 5, eff. Jan. 1, 1999; P.A. 91–654, § 5, eff. Dec. 15, 1999; P.A. 92–325, § 5, eff. Aug. 9, 2001; P.A. 92–651, § 76, eff. July 11, 2002; P.A. 93–807, § 5, eff. July 24, 2004; P.A. 94–764, § 5, eff. Jan. 1, 2007; P.A. 95–196, § 5, eff. Jan. 1, 2008; P.A. 95–329, § 5, eff. Aug. 21, 2007; P.A. 95–876, § 290, eff. Aug. 21, 2008; P.A. 96–390, § 5, eff. Aug. 13, 2009; P.A. 97–645, § 5, eff. Dec. 30, 2011; P.A. 97–907, § 5, eff. Aug. 7, 2012; P.A. 98–119, § 5, eff. Jan. 1, 2014; P.A. 98–181, § 5, eff. Aug. 5, 2013; P.A. 98–183, § 5, eff. Jan. 1, 2014; P.A. 98–290, § 5, eff. Aug. 9, 2013; P.A. 98–756, § 645, eff. July 16, 2014; P.A. 98–914, § 5, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 61, ¶ 2.33.

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

P.A. 98–914, § 5, in subsec. (u), inserted "or providing outfitting services under a waterfowl outfitter permit," and deleted "on property operated under a Migratory Waterfowl Hunting Area Permit," following "Section 3.27,".

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

ACT 10. ILLINOIS ENDANGERED SPECIES PROTECTION ACT

10/1. Short title

§ 1. This Act shall be known and may be cited as the "Illinois Endangered Species Protection Act".

P.A. 77–2186, § 1, eff. Oct. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 331.

10/2. Definitions

§ 2. As used in this Act the following words have the following meanings:

"Board" means the Endangered Species Protection Board created by this Act.

"Conservation" means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation and transplantation.

"Department" means the Department of Natural Resources and "Director" means the Director of that Department.

"Endangered Species" means any species of plant or animal classified as endangered under the Federal Endangered Species Act of 1973, P.L. 93–205,[1] and amendments thereto, plus such other species which the Board may list as in danger of extinction in the wild in Illinois due to one or more causes including but not limited to, the destruction, diminution or disturbance of habitat, overexploitation, predation, pollution, disease, or other natural or manmade factors affecting its prospects of survival.

"Threatened Species" means any species of plant or animal classified as threatened under the Federal Endangered Species Act of 1973, P.L. 93–205, and amendments thereto, plus such other species which the Board may list as likely to become endangered in the wild in Illinois within the foreseeable future.

"Animal" means those organisms commonly included in the science of zoology and generally distinguished from plants by possession of a nervous system and the ability to move from place to place, including all invertebrates such as sponges and mollusks as well as vertebrates such as fishes, amphibians, reptiles, birds, and mammals.

"Animal Product" means the fur, hide, skin, teeth, feathers, tusks, claws, eggs, nests or the body or any portion thereof whether in a green or raw state or as a product manufactured or refined from an animal protected under this Act or under rules issued pursuant to this Act.

"Plant" means any organism not considered to be an animal, and shall include such organisms as algae, fungi, bryophytes, and ferns, as well as flowering plants and conifers.

"Plant Product" means any plant body or part thereof removed from natural habitat, including seeds, fruits, roots, stems, flowers, leaves, or products made from any of these, including extracts or powders.

"Essential Habitat" means the specific ecological conditions required by an endangered or threatened species for its survival and propagation, or physical examples of these conditions.

"Take" means, in reference to animals and animal products, to harm, hunt, shoot, pursue, lure, wound, kill, destroy, harass, gig, spear, ensnare, trap, capture, collect, or to attempt to engage in such conduct. "Take" means, in reference to plants and plant products, to collect, pick, cut, dig up, kill, destroy, bury, crush, or harm in any manner.

"Illinois List" means a list of species of animals and plants listed by the Board as endangered or threatened.

"Person" means any individual, firm, corporation, partnership, trust, association, private entity, government agency, or their agents, and representatives.

P.A. 77–2186, § 2, eff. Oct. 1, 1972. Amended by P.A. 80–543, § 1, eff. Oct. 1, 1977; P.A. 81–1509, Art. II, § 10, eff. Sept. 26, 1980; P.A. 84–1065, § 1, eff. July 1, 1986; P.A. 89–445, § 9A–63, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 332.

[1] 16 U.S.C.A. § 1531 et seq.

10/3. Possession, transportation, sale or disposition of animal or animal product unlawful

§ 3. It is unlawful for any person:

(1) to possess, take, transport, sell, offer for sale, give or otherwise dispose of any animal or the product thereof of any animal species which occurs on the Illinois List;

(2) to deliver, receive, carry, transport or ship in interstate or foreign commerce plants listed as endangered by the federal government without a permit therefor issued by the Department as provided in Section 4 of this Act;

(3) to take plants on the Illinois List without the express written permission of the landowner; or

(4) to sell or offer for sale plants or plant products of endangered species on the Illinois List.

P.A. 77–2186, § 3, eff. Oct. 1, 1972. Amended by P.A. 80–543, § 1, eff. Oct. 1, 1977; P.A. 84–1065, § 1, eff. July 1, 1986; P.A. 91–357, § 221, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 333.

10/4. Permit; issuance; revocation

§ 4. Upon receipt of proper application and approval of the same, the Department may issue to any qualified person a permit which allows the taking, possession, transport, purchase, or disposal of specimens or products of an endangered or threatened species of animal or federal endangered plant after the effective date of this Act for justified purposes, that will enhance the survival of the affected species by zoological, botanical or educational or for scientific purposes only. Section 5–20 of the Herptiles–Herps Act has provisions for permits to acquire, breed, and sell captive, legally obtained endangered and threatened amphibians and reptiles. Rules for the issuance and maintenance of permits shall be promulgated by the Department after consultation with and written approval of the Board. The Department shall, upon notice and hearing, revoke the permit of any holder thereof upon finding that the person is not complying with the terms of the permit, the person is knowingly providing incorrect or inadequate information, the activity covered by the permit is placing the species in undue jeopardy, or for other cause.

P.A. 77–2186, § 4, eff. Oct. 1, 1973. Amended by P.A. 84–1065, § 1, eff. July 1, 1986; P.A. 98–752, § 900–10, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 334.

10/5. Limited permit

§ 5. (a) Upon receipt of proper application and approval of same, the Department may issue a limited permit authorizing the possession, purchase or disposition of animals or animal products of an endangered or threatened species, or federal endangered plants to any person which had in its possession prior to the effective date of this Act such an item or which obtained such an item legally out-of-state. Such permit shall specifically name and describe each pertinent item possessed by the permit holder and shall be valid only for possession, purchase or disposition of the items so named. The Department may require proof that acquisition of such items was made before the effective date of this Act. The Department may also issue a limited permit authorizing the possession, purchase or disposition of live animals or such item to any person to whom a holder of a valid permit issued pursuant to this section gives, sells, or otherwise transfers the item named in the permit. Section 5–20 of the Herptiles–Herps Act has provisions for permits to acquire, breed, and sell captive, legally obtained endangered and threatened amphibians and reptiles. Limited permits issued pursuant to this section shall be valid only as long as the item remains in the possession of the person to whom the permit was issued.

(b) The limited permit shall be revoked by the Department if it finds that the holder has received it on the basis of false information, is not complying with its terms, or for other cause.

P.A. 77–2186, § 5, eff. Oct. 1, 1972. Amended by P.A. 80–543, § 1, eff. Oct. 1, 1977; P.A. 81–1509, Art. II, § 10, eff. Sept. 26, 1980; P.A. 84–1065, § 1, eff. July 1, 1986; P.A. 98–752, § 900–10, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 335.

10/5.5. Incidental taking

§ 5.5. Incidental taking.

(a) The Department may authorize, under prescribed terms and conditions, any taking otherwise prohibited by Section 3 if that taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. No taking under this Section shall be authorized by the Department unless the applicant submits to the Department a conservation plan.

(b) The conservation plan shall include but not be limited to the following:

(1) a description of the impact that the proposed taking is likely to have on one or more species on the Illinois list;

(2) the steps the applicant or other parties will take to minimize and mitigate that impact and the funding that

will be available to implement those steps, including but not limited to bonds, insurance, or escrow;

(3) what alternative actions to the taking the applicant considered and the reasons why those alternatives will not be used;

(4) data and information to assure that the proposed taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois;

(5) an implementing agreement that specifically names, and describes the obligations and responsibilities of, all the parties that will be involved in the taking as authorized by the permit; and

(6) any other measures that the Department may require as being necessary or appropriate for purposes of the plan.

(c) After reviewing the application for incidental taking and the conservation plan, the Department may authorize the incidental taking if the Department finds, in a written decision explaining its conclusions, that the taking will meet all of the following requirements:

(1) the taking will not be the purpose of, but will be only incidental to, the carrying out of an otherwise lawful activity;

(2) the parties to the conservation plan will, to the maximum extent practicable, minimize and mitigate the impact caused by the taking;

(3) the parties to the conservation plan will ensure that adequate funding for the conservation plan will be provided;

(4) based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois;

(5) any measures required under paragraph (6) of subsection (b) of this Section will be performed; and

(6) the public has received notice of the application and has had the opportunity to comment before the Department made any decision regarding the application.

(d) The Department may require that a party to the conservation plan make additional assurances that the requirements under items (b)(1) through (b)(6) of this Section will be met before authorizing incidental taking.

(e) The Department shall impose on the authorization for incidental taking any terms or conditions that the Department finds necessary to ensure that the requirements under items (b)(1) through (b)(6) of this Section will be met. These terms or conditions may include but are not limited to reporting or monitoring requirements.

(f) If an applicant is party to a Habitat Conservation Plan approved by the U.S. Fish and Wildlife Service pursuant to Section 10 of the Endangered Species Act of 1973, P.L. 93–205,[1] and amendments thereto, the Department may authorize taking that is incidental to the carrying out of an otherwise lawful activity. Authorization shall be issued only if the provisions of the Habitat Conservation Plan are found to meet the requirements set forth in subsection (c) of this Section.

(g) If an applicant has been authorized to take an endangered or threatened species under the terms of a biological opinion issued by the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act of 1973, P.L. 93–205,[2] and amendments thereto or regulations implementing Section 7 (50 CFR Part 402), the Department may authorize taking that is incidental to the carrying out of an otherwise lawful activity. Authorization shall be issued only if the Department finds that the taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

P.A. 77–2186, § 5.5, added by P.A. 91–556, § 5, eff. Jan. 1, 2000.

[1] 16 U.S.C.A. § 1539.

[2] 16 U.S.C.A. § 1537.

10/6. Endangered Species Protection Board; duties; members; meetings; compensation; staff

§ 6. There is created the Endangered Species Protection Board whose duties include listing, delisting, or change of listing status of species for the Illinois List, in consultation with and written approval by the Department, in accordance with the Illinois Administrative Procedure Act,[1] on rules for listing species of animals or plants as endangered or threatened and delisting species of animals or plants as endangered or threatened, or changing their status.

The Board shall also advise the Department on methods of assistance, protection, conservation and management of endangered and threatened species and their habitats, and on related matters.

The Board shall be composed of 9 persons appointed by the Governor, and the Director as a non-voting member. Of the 9 appointed members at least 6 shall be persons who are recognized as naturalists by training, avocation or vocation. At least two of these shall be zoologists, at least one a botanist, and at least two ecologists. In making Board appointments, the Governor shall give consideration to recommendations of conservation groups.

Initially, 3 members shall be appointed for terms of 3 years, 3 for 2 years and 3 for 1 year. Thereafter, the terms of all appointive members shall be 3 years. Members shall serve until their successors are appointed. Any vacancy occurring in the position of an appointive member shall be filled by the Governor for the unexpired term.

Board meetings shall be called at regular intervals set by the Board, on the request of the Department, or upon written notice signed by at least 5 members of the Board, but in no event less than once quarterly. The place of the meeting shall be determined at the convenience of the Board and the Department. A quorum shall consist of 5 appointed members.

Members of the Board shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

The Board may without regard to the Personnel Code,[2] employ and fix the compensation of necessary staff.

The Board shall select from its membership a chairman and such other officers as it considers necessary, and may name an Executive Committee to which it may grant specific powers.

The Board shall review and revise the Illinois List as warranted but in no case less frequently than every 5 years.

It shall prepare and make available a report of its accomplishments biennially.

P.A. 77–2186, § 6, eff. Oct. 1, 1972. Amended by P.A. 84–1065, § 1, eff. July 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 336.

[1] 5 ILCS 100/1–1 et seq.

[2] 20 ILCS 415/1 et seq.

10/7. Listing of endangered or threatened species; delisting

§ 7. Any species or subspecies of animal or plant designated as endangered or threatened by the Secretary of the Interior of the United States pursuant to the Endangered Species Act of 1973, P.L. 93–205, as amended,[1] shall be automatically listed as an endangered or threatened species under this Act and thereby placed on the Illinois List by the Board without notice or public hearing. The Board may list, as endangered or threatened, species of animals or plants which have reproduced in or otherwise significantly used, as in migration or overwintering, the area which is now the State of Illinois, if there is scientific evidence that the species qualify as endangered or threatened as these terms are defined in this Act. The Board may delist any non-federally-listed species for which it finds satisfactory scientific evidence that its wild or natural populations are no longer endangered or threatened. Listing, delisting or change of listing status shall be made only after a public hearing.

Notice of such hearing shall be published at least 7 days before the hearing in a newspaper of general circulation throughout the state and shall be mailed to any person who has, in writing requested such notice from the agency holding the hearing. All persons heard or represented at a hearing and all persons who requested from the responsible agency notice of such hearing, shall be given a written summary of any action taken by the Board or Department relative to the hearing subject.

Upon listing or delisting or change of listing status by the Board, the Director shall file a certified copy of the names of the species so listed, delisted or changed with the Secretary of State as provided in "The Illinois Administrative Procedure Act", approved September 22, 1975, as amended.[2]

P.A. 77–2186, § 7, eff. Oct. 1, 1972. Amended by P.A. 80–543, § 1, eff. Oct. 1, 1977; P.A. 83–333, § 3, eff. Sept. 14, 1983; P.A. 84–1065, § 1, eff. July 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 337.

[1] 16 U.S.C.A. § 1531 et seq.

[2] 5 ILCS 100/1–1 et seq.

10/8. Search and seizure; forfeiture of goods, merchandise or wildlife

§ 8. Any officer or agent authorized by the Department or any police officer of the State or of any unit of local government within the State of Illinois, may execute any warrant to search for and seize any goods, merchandise or animals, plants, or animal or plant products sold or offered for sale in violation of this Act, or any property or item used in connection with a violation of this Act, or to examine premises for determination of actions in violation of this Act. Seized goods, merchandise, animals, plants or their products shall be held pending proceedings in the circuit court. Upon conviction, such seized goods, merchandise or animals, plants, or their products shall be forfeited and, upon forfeiture, either offered to a recognized institution for scientific or educational purposes, or if a suitable depository is not located for such items, they shall be destroyed.

P.A. 77–2186, § 8, eff. Oct. 1, 1972. Amended by P.A. 79–1361, § 8, eff. Oct. 1, 1976; P.A. 84–1065, § 1, eff. July 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 338.

10/9. Penalties for violations

§ 9. Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor.

P.A. 77–2186, § 9, eff. Oct. 2, 1972. Amended by P.A. 77–2830, Art. 13, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 339.

10/10. Program located in department of conservation; disposition of fines

§ 10. The Endangered and Threatened Species Program shall be located within the Department of Conservation. All fines collected under this Act shall be paid to the State Treasurer and deposited in the Nongame Wildlife Conservation Fund.

P.A. 77–2186, § 10, eff. Oct. 1, 1972. Amended by P.A. 81–358, § 3, eff. Jan. 1, 1980; P.A. 84–1065, § 1, eff. July 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 340.

10/11. Conservation program; public policy; rules

§ 11. Conservation program; public policy; rules.

(a) The Department, with the advice of the Board, shall actively plan and implement a program for the conservation of endangered and threatened species, by means which should include published data search, research, management, cooperative agreements with other agencies, identification, protection and acquisition of essential habitat, support of beneficial legislation, issuance of grants from appropriated funds, and education of the public.

(b) It is the public policy of all agencies of State and local governments to utilize their authorities in furtherance of the purposes of this Act by evaluating through a consultation process with the Department whether actions authorized, funded, or carried out by them are likely to jeopardize the continued existence of Illinois listed endangered and threatened species or are likely to result in the destruction or adverse modification of the designated essential habitat of such species, which policy shall be enforceable only by writ of mandamus; and where a State or local agency does so consult in furtherance of this public policy, such State or local agency shall be deemed to have complied with its obligations under the "Illinois Endangered Species Act",[1] provided the agency action shall not result in the killing or injuring of any Illinois listed animal species, or provided that authorization for taking a listed species has been issued under Section 4, 5, or 5.5 of this Act. This paragraph (b) shall not apply to any project of a State agency on which a biological opinion has been issued (in accordance with Section 7 of the Federal Endangered Species Act [2]) prior to the effective date of this amendatory Act of 1985 stating that the action proposed by said project will not jeopardize the continued existence of any federal listed endangered or threatened species.

(c) The Department shall have the authority to adopt such rules as are reasonable and necessary to implement the provisions of this Act.

P.A. 77–2186, § 11, added by P.A. 84–1065, § 1, eff. July 1, 1986. Amended by P.A. 91–556, § 5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 8, ¶ 341.

[1] 520 ILCS 10/1 et seq.

[2] 16 U.S.C.A. § 1536.

CHAPTER 605

ROADS AND BRIDGES

ACT 5. ILLINOIS HIGHWAY CODE

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ACT 5. ILLINOIS HIGHWAY CODE

ARTICLE 1. SHORT TITLE, LEGISLATIVE INTENT AND APPLICATION OF CODE

5/1–101. Short title

§ 1–101. This Act shall be known and may be cited as the Illinois Highway Code.

Laws 1959, p. 203, § 1–101.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 1–101.

5/1–102. Legislative intent

§ 1–102. It is the intent and declared policy of the legislature that an integrated system of highways and streets is essential to the general welfare and to the agricultural, industrial, recreational, and social development of the State. In view of the rapid growth of the State's economy and increased use of public highways, the provision of safe and efficient highway transportation is a matter of public concern. It is the declared and continuous policy of the legislature to provide for improvement of highways and the highway transportation system as well as the preservation of investment in highways. To that end it is intended to provide for integrated and systematic planning and orderly development in accordance with actual needs. It is further declared that the provision of such a system with efficient management, operation, and control, and the elimination of congestion, accident reduction, and safety is an urgent problem and proper objective of highway legislation. It is further declared that highway transportation system development requires the cooperation of State, county, township, and municipal highway agencies and coordination of their activities on a continuous and partnership basis and the legislature intends such cooperative relationships to accomplish this purpose.

It is also the intent and declared policy of the legislature that no public moneys derived from fees, excises or license taxes relating to registration, operation and use of vehicles on public highways or to fuels used for the propulsion of such vehicles, shall be appropriated or expended other than for costs of administering the laws imposing such fees, excises and license taxes, statutory refunds and adjustments allowed thereunder, highway administrative costs, payment of debts and liabilities incurred in construction and reconstruction of public highways and bridges, acquisition of rights-of-way for, and the cost of construction, reconstruction, maintenance, repair and operation of public highways and bridges under the direction and supervision of the State, political subdivision or municipality collecting such moneys, and the costs for patrolling and policing the public highways (by State, political subdivision or municipality collecting such money) for enforcement of traffic laws. The separation of grades of such highways with railroads and costs associated with pro-

tection of at-grade highway and railroad crossings shall also be permissible.

Laws 1959, p. 203, § 1–102. Amended by P.A. 76–377, § 1, eff. July 8, 1969; P.A. 81–3, 2nd Sp.Sess., § 5, eff. Sept. 19, 1979.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 1–102.

5/1–103. Application of Code to certain public highways

§ 1–103. This Code applies to all public highways in the State of Illinois, except highways under the exclusive jurisdiction (1) of any department, board, commission or agency of this State other than the Department of Transportation or (2) of any municipal corporation other than a city, village or incorporated town.

Laws 1959, p. 203, § 1–103. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 1–103.

ARTICLE 2. SYSTEMS OF HIGHWAYS—DEFINITIONS

DIVISION 1. SYSTEMS OF HIGHWAYS

5/2–101. State highway system

§ 2–101. The State highway system includes the following rural highways together with their municipal extensions except those not designated by a State highway route number and for which an agreement initiated by a local authority has been executed between the Department and the local authority providing for other jurisdictional responsibility:

(a) Highways constructed under the provisions of "An Act in relation to the construction by the State of Illinois of a state-wide system of durable hard surfaced roads upon public highways, of the State and the provision of means for the payment of the cost thereof by an issue of bonds of the State of Illinois", approved June 22, 1917,[1] and under the provisions of "An Act in relation to the construction by the State of Illinois, of durable hard surfaced roads upon public highways of the State along designated routes, and the provision of means for the payment of the cost thereof by an issue of bonds of the State of Illinois", approved June 29, 1923; [2]

(b) Highways constructed by the State as federal aid interstate highways or federal aid primary highways under the provisions of "An Act in relation to the construction and maintenance of Federal-aid roads under and in accordance with an Act of Congress entitled, 'An Act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes', approved July 11, 1916, and known as the Federal Aid Road Act, as heretofore or hereafter amended by Congress and all Acts supplemental thereto", approved June 27, 1917, as amended.[3]

(c) Highways constructed as federal aid secondary highways under the provisions of Section 11a of "An Act in relation to State highways", approved June 24, 1921, as amended,[4] and for which maintenance responsibility has not been delegated to a county pursuant to an agreement between the Department and a county under the provisions of that Act.

(d) Highways constructed as State aid roads under the provisions of "An Act to revise the law in relation to roads and bridges", approved June 27, 1913, as amended,[5] and accepted by the Department for maintenance under the provisions of Section 32 of that Act; [6]

(e) Highways constructed under the provisions of Section 9 of the "Motor Fuel Tax Law", approved March 25, 1929, as amended,[7] which the Department was directed to maintain by such Section 9;

(f) Highways constructed by the Department under the provisions of authority granted by any Act of the General Assembly prior to the effective date of this Code;

(g) Highways on which construction is completed after the effective date of this Code and which under the provisions of this Code become a part of the State highways system;

(h) Highways added to the State Highway system under the provisions of this Code.

Laws 1959, p. 203, § 2–101. Amended by Laws 1967, p. 3065, § 1, eff. Aug. 14, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–101.

1 Former Ill.Rev.Stat. ch. 121, ¶ 266 et seq. (repealed).

2 Former Ill.Rev.Stat. ch. 121, ¶ 281a et seq. (repealed).

3 Former Ill.Rev.Stat. ch. 121, ¶ 257 et seq. (repealed).

4 Former Ill.Rev.Stat. ch. 121, ¶ 301a (repealed).

5 Former Ill.Rev.Stat. ch. 121, ¶ 1 et seq. (repealed).

6 Former Ill.Rev.Stat. ch. 121, ¶ 37 (repealed).

7 Former Ill.Rev.Stat. ch. 120, ¶ 425 (repealed).

5/2–102. County highway system

§ 2–102. The county highway system includes the following highways:

(a) Highways which were State aid roads under the provisions of "An Act to revise the law in relation to roads and bridges", approved June 27, 1913, as amended,[1] immediately prior to the effective date of this Code together with municipal extensions thereof constructed prior to such effective date and for which the county was responsible for maintenance, in whole or in part, under the provisions of Section 32 of that Act,[2] Section 12 of "An Act in relation to State highways", approved June 24, 1921, as amended,[3] or Section 9 of the "Motor Fuel Tax Law", approved March 25, 1929, as amended.[4]

(b) Highways selected and improved as federal aid secondary highways under the provisions of Section 11a of "An Act in relation to State highways", approved June 24, 1921, as amended,[5] which a county has agreed to maintain pursuant to an agreement between the Department and a county under the provisions of that Act.

(c) Highways on which construction is completed after the effective date of this Code and which under the provisions of this Code become a part of the county highway system.

(d) Highways added to the county highway system under the provisions of this Code.

(e) Any access road constructed under Section 10–22.36A of The School Code [6] and connecting school grounds with any highway described in the preceding paragraphs of this Section.

Laws 1959, p. 203, § 2–102. Amended by P.A. 76–1500, § 1, eff. Sept. 22, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–102.

1 Former Ill.Rev.Stat. ch. 121, ¶ 1 et seq. (repealed).

2 Former Ill.Rev.Stat. ch. 121, ¶ 37 (repealed).

3 Former Ill.Rev.Stat Chapter 121, ¶ 302 (repealed).

4 Former Ill.Rev.Stat. ch. 120, ¶ 425 (repealed).

5 Former Ill.Rev.Stat. ch. 121, ¶ 301a (repealed).

6 105 ILCS 5/10–22.36A.

5/2–103. Township and district road system

§ 2–103. The township and district road system includes all rural roads to which this Code applies under Section 1–103 and which are not a part of the State highway system, county highway system or municipal street system, and includes any access road constructed under Section 10–22.36A of The School Code[1] which connects school grounds with such a rural road. The township and district road system also includes such nondedicated subdivision roads as have been maintained or improved, under Section 6–701.8, with motor fuel tax funds allocated for use in road districts.

Laws 1959, p. 203, § 2–103. Amended by P.A. 76–1500, § 1, eff. Sept. 22, 1969; P.A. 78–1252, § 2, eff. Dec. 4, 1974; P.A. 78–1274, § 1, eff. July 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–103.

[1] 105 ILCS 5/10–22.36A.

5/2–104. Municipal street system

§ 2–104. The municipal street system of the several municipalities includes existing streets and streets hereafter established in municipalities which are not a part of the State highway system or county highway system, together with roads outside their corporate limits over which they have jurisdiction pursuant to this Code or any other statute, and includes any access road constructed under Section 10–22.36A of The School Code [1] which connects school grounds with such a street or road.

Laws 1959, p. 203, § 2–104. Amended by P.A. 76–1500, § 1, eff. Sept. 22, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–104.

[1] 105 ILCS 5/10–22.36A.

DIVISION 2. DEFINITIONS

5/2–201. Terms defined

§ 2–201. The terms used in this Code shall, for the purposes of this Code have the meanings ascribed to them in this Division of this Article, except when the context otherwise requires.

Laws 1959, p. 203, § 2–201.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–201.

5/2–202. Highway

§ 2–202. Highway—any public way for vehicular travel which has been laid out in pursuance of any law of this State, or of the Territory of Illinois, or which has been established by dedication, or used by the public as a highway for 15 years, or which has been or may be laid out and connect a subdivision or platted land with a public highway and which has been dedicated for the use of the owners of the land included in the subdivision or platted land where there has been an acceptance and use under such dedication by such owners, and which has not been vacated in pursuance of law. The term "highway" includes rights of way, bridges, drainage structures, signs, guard rails, protective structures and all other structures and appurtenances necessary or convenient for vehicular traffic. A highway in a rural area may be called a "road", while a highway in a municipal area may be called a "street".

Laws 1959, p. 203, § 2–202.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–202.

5/2–203. State highway

§ 2–203. State highway—any highway that is part of the State highway system described in Section 2–101.

Laws 1959, p. 203, § 2–203.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–203.

5/2–204. County highway

§ 2–204. County highway—any highway that is part of the county highway system described in Section 2–102.

Laws 1959, p. 203, § 2–204.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–204.

5/2–205. Township road

§ 2–205. Township road—any highway that is part of the township and district road system described in Section 2–103 and which, under the provisions of this Code, is under the immediate jurisdiction of a road district comprised of a single township in a county having township organization.

Laws 1959, p. 203, § 2–205.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–205.

5/2–206. District road

§ 2–206. District road—any highway that is part of the township and district road system described in Section 2–103 and which, under the provisions of this Code, is under the immediate jurisdiction of a road district other than a road district comprised of a single township in a county having township organization.

Laws 1959, p. 203, § 2–206.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–206.

5/2–207. Street

§ 2–207. Street—any highway that is part of the municipal street system described in Section 2–104.

Laws 1959, p. 203, § 2–207.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–207.

5/2–208. Federal aid highway

§ 2–208. Federal aid highway—any highway heretofore or hereafter designated by the Department and approved by the appropriate authority of the federal government as such under the Federal Aid Road Act.[1]

Laws 1959, p. 203, § 2–208.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–208.

[1] 23 U.S.C.A. § 101 et seq.

5/2–209. Federal Aid Road Act

§ 2–209. Federal Aid Road Act—An Act of congress, approved July 11, 1916, entitled "An Act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes", as heretofore or hereafter amended by Congress and all Acts heretofore or hereafter enacted by Congress which are supplemental thereto.[1]

Laws 1959, p. 203, § 2–209.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–209.

[1] 23 U.S.C.A. § 101 et seq.

5/2–210. Construct—Construction

§ 2–210. Construct—Construction—The performance of all things necessary to build, rebuild or improve a highway,

or part thereof, on an existing location or on a new location established pursuant to this Code.

Laws 1959, p. 203, § 2–210.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–210.

5/2–211. Department

§ 2–211. Department—The Department of Transportation of this State and its predecessor.

Laws 1959, p. 203, § 2–211. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–211.

5/2–212. Freeway

§ 2–212. Freeway—A highway or street especially designed for through traffic, and to, from, or over which owners of or persons having an interest in abutting land or other persons have no right or easement or only a limited right or easement of access, crossing, light, air, or view by reason of the fact that such property abuts upon such highway or street or for any other reason.

Laws 1959, p. 203, § 2–212.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–212.

5/2–213. Highway authority or highway authorities

§ 2–213. Highway authority or highway authorities—The Department with respect to a State highway; the county board with respect to a county highway or a county unit district road if a discretionary function is involved and the county superintendent of highways if a ministerial function is involved; the highway commissioner with respect to a township or district road not in a county unit road district; or the corporate authorities of a municipality with respect to a municipal street.

Laws 1959, p. 203, § 2–213.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–213.

5/2–214. Maintain—Maintenance

§ 2–214. Maintain—Maintenance—The performance of all things necessary to keep a highway in serviceable condition for vehicular traffic.

Laws 1959, p. 203, § 2–214.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–214.

5/2–215. Municipality

§ 2–215. Municipality—Any city, village or incorporated town organized under the laws of this State, and does not include any other political subdivision or municipal corporation.

Laws 1959, p. 203, § 2–215.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–215.

5/2–216. Person

§ 2–216. Person—Any person, firm, partnership, association, public or private corporation, organization or business or charitable trust.

Laws 1959, p. 203, § 2–216.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–216.

5/2–217. Right-of-way

§ 2–217. Right-of-way—The land, or interest therein, acquired for or devoted to a highway.

Laws 1959, p. 203, § 2–217.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–217.

5/2–218. Rural highway or rural road

§ 2–218. Rural highway or rural road—Any highway or road outside the corporate limits of any municipality.

Laws 1959, p. 203, § 2–218.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–218.

5/2–219. State funds

§ 2–219. State funds—Any funds appropriated for highway purposes by the General Assembly.

Laws 1959, p. 203, § 2–219.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–219.

5/2–220. Forested lands adjacent to or between divided highways

§ 2–220. The Department, after consultation with the Department of Natural Resources, shall, where appropriate, maintain in forested lands, rather than grasslands, Department-controlled property adjacent to and between divided lanes of State highways. In determining where such forestation is appropriate, the Department shall consider whether such forestation would:

(a) enhance the scenic quality of the highway;

(b) provide additional habitat for wildlife;

(c) result in a financial savings from reduced grassland maintenance;

(d) enhance air quality;

(e) serve as a deterrent to soil erosion;

(f) not hinder drivers' visibility or otherwise create a traffic hazard; and

(g) be fiscally prudent considering the availability of low cost or no cost nursery stock as provided by the Department of Natural Resources.

Laws 1959, p. 203, § 2–220, added by P.A. 86–779, § 3, eff. July 1, 1990. Amended by P.A. 89–445, § 9A–76, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 2–220.

ARTICLE 3. FEDERAL AID

5/3–101. Acceptance of federal aid

§ 3–101. The General Assembly, constituting the Legislature of the State of Illinois, assents to the provisions, terms, conditions and purposes of the Federal Aid Road Act [1] as defined in this Code.

In the location of highways which will be part of the National System of Interstate and Defense Highways referred to in the Federal Aid Highway Act of 1956 (public law 627 of the 84th Congress),[1] existing highways of the State highway system as defined in this Code shall be used to the extent as the Department finds such use is practicable, suitable and feasible. The selection of such locations shall be made as provided in Section 3–103 of this Code.

Laws 1959, p. 203, § 3–101.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–101.

[1] 23 U.S.C.A. § 101 et seq.

5/3–102. Selection of additional mileage

§ 3–102. In accordance with the provisions of such Federal Aid Road Act,[1] as soon as the State has made provision for the completion and maintenance of 90% of the network or primary or interstate and secondary or intercounty federal aid highways equal to 7% of the total public highway mileage of the State specified in the Federal Aid Road Act, the Department may, with the approval of the designated authority of the United States Government, increase the mileage of such primary or interstate and secondary or intercounty network by additional mileage equal to not more than 1% of the total public highway mileage of the State, and thereafter may make like increases in the mileage of such network whenever provision has been made for the completion and maintenance of 90% of the mileage of such network previously authorized in accordance herewith, and may construct and improve highways so selected in accordance with this Code and any other laws applicable, as moneys are appropriated for this purpose and made available by Acts of Congress and Acts of this State.

When selecting highways to be added to such network by and with the approval of the designated authority of the United States Government, as heretofore provided, the Department shall, so far as is practicable and consistent with the Acts of Congress, distribute in the several counties the mileage proposed to be added, and, as nearly as may be, so as to provide simultaneously for additional highways in the different sections of this State.

When designating the projects on such network of highways which are to be improved with the current allotments of federal funds made available by Acts of Congress and with funds made available by Acts of this State to be used with such federal funds, the Department shall distribute such federal aid projects equitably and fairly among the different sections of the State and, so far as is practicable and consistent with Acts of Congress, among the several counties.

Laws 1959, p. 203, § 3–102.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–102.

[1] 23 U.S.C.A. § 101 et seq.

5/3–103. Agreements relating to selection, etc., of highways

§ 3–103. The Department is authorized and instructed to enter into all agreements with the designated authority of the United States Government relating to the selection, construction and maintenance of highways under the provisions of the Federal Aid Road Act,[1] to submit such scheme or project of selection, construction and maintenance as may be required by the designated authority of the United States Government, and to do all things necessary fully to carry out and make effective the cooperation contemplated and provided for by such Act.

In locating and constructing a highway which will be a part of the National System of Interstate and Defense Highways local needs, to the extent practicable, suitable and feasible, shall be given equal consideration with the needs of interstate commerce, so that such highway will not unduly discommode or interfere with local traffic or will not destroy reasonable access to schools, churches, markets, trade or community centers.

Laws 1959, p. 203, § 3–103.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–103.

[1] 23 U.S.C.A. § 101 et seq.

5/3–104. Federal aid secondary highways

§ 3–104. The Department in cooperation with the county boards and Federal Highway Administration is authorized to select and designate a network of federal aid secondary highways consisting of not more than 25,000 miles to be known as the federal aid secondary network. The highways included in such network shall be selected and designated in accordance with the provisions of the Federal Aid Road Act,[1] and shall consist of highways not included in the federal aid primary or federal aid urban networks.

Any highway included in the approved federal aid secondary network may be constructed jointly at the expense of the federal government and the State of Illinois, or jointly at the expense of the federal government and a county or counties, or jointly at the expense of the federal government, the State of Illinois, and a county or counties, in accordance with the provisions of the Federal Aid Road Act.

The local highway authorities having jurisdiction over a highway or street prior to its selection and designation as a part of the federal aid secondary network shall continue to be responsible for its maintenance until such time as it has been constructed as provided herein. After a highway has been so constructed, the Department is authorized to maintain it, or, with the approval of the Federal Highway Administration, to enter into a formal agreement with the appropriate officials of the county in which such highway is located, either prior to or after construction, for its maintenance at the expense of such county. If at any time the Department finds that the highway is not being properly maintained by such county, the Department shall call such fact to the attention of the county and if within 90 days after receipt of such notice the highway has not been put in a condition of maintenance satisfactory to the Department and the Federal Highway Administration, then the Department, with the consent of the Federal Highway Administration, shall withhold approval of any further federal aid secondary projects in such county until such highway has been so restored.

Laws 1959, p. 203, § 3–104. Amended by P.A. 79–511, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–104.

[1] 23 U.S.C.A. § 101 et seq.

5/3–104.1. Federal aid urban system of streets and highways

§ 3–104.1. The Department in cooperation with the municipal corporate authorities or county authorities is authorized to select and designate separate networks of municipal streets to be known as the federal aid urban system of streets and highways in urban areas. The highways included in such networks shall be selected and designated in accordance with the provisions of the Federal Aid Road Act.[1]

Any street or highway included in the federal aid urban system may be constructed jointly at the expense of the federal government and the State of Illinois, or jointly at the expense of the federal government, a municipality or municipalities, or a county or counties, or jointly at the expense of the federal government, the State of Illinois, a municipality or municipalities or a county or counties, in accordance with the provisions of the Federal Aid Road Act.

The authority having jurisdiction over a street or highway prior to its improvement as a federal aid urban project shall be responsible for maintenance, at its own expense. If at any time the Department finds that a street or highway improved as a federal aid project is not being properly maintained by such municipality or county, the Department shall call such fact to the attention of the corporate authori-

ties or county authorities, and if within 90 days after receipt of such notice the street or highway has not been put in a condition of proper maintenance satisfactory to the Department and the Federal Highway Administration, then the Department shall immediately proceed to have such street or highway placed in proper condition of maintenance and charge the costs thereof against the municipality's allotment or the county's allotment of motor fuel tax funds.

Laws 1959, p. 203, § 3–104.1, added by P.A. 76–189, § 1, eff. July 1, 1969. Amended by P.A. 77–1409, § 1, eff. Aug. 31, 1971; P.A. 79–511, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–104.1.

[1] 23 U.S.C.A. § 101 et seq.

5/3–104.2. Public roads not on Federal-aid system

§ 3–104.2. The Department, or the Department in cooperation with municipal corporate authorities or county authorities, is authorized to receive and expend, by agreement or otherwise, federal funds for the construction, reconstruction and improvement of public roads not on any Federal-aid system, being improved under the Federal Aid Road Act.[1]

Any Federal-aid project as authorized in this Section may be undertaken jointly at the expense of the federal government and the State of Illinois, or jointly at the expense of the federal government, a municipality or municipalities, or a county or counties, or jointly at the expense of the federal government, the State of Illinois, a municipality or municipalities or a county or counties, or any of the above jointly with any other public or private entity or public utility.

The authority having jurisdiction over a public road not on any federal-aid system prior to its improvement as a federal-aid project shall continue to be responsible for maintenance, at its own expense.

For the purposes of this Section, "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel and which is not on a federal-aid system.

Laws 1959, p. 203, § 3–104.2, added by P.A. 79–995, § 1, eff. Oct. 1, 1975. Amended by P.A. 84–298, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–104.2.

[1] 23 U.S.C.A. § 101 et seq.

5/3–104.3. Great River Road; national scenic and recreational highway

§ 3–104.3. The Department or, by agreement with the Department, the highway authority of any county or township or road district of this State may, as a federal-aid project, construct, reconstruct, or improve any road or highway under its jurisdiction which has been selected and designated by the Department as a part of the national scenic and recreational highway known as the Great River Road under 23 U.S.C. 148, and all of the provisions of that Section shall apply.

Any county or township or road district may use any funds available to it for highway purposes to pay its share of any project under this Section.

Except for the maintenance of recreational facilities and rest areas constructed adjacent to the road, the highway authority having jurisdiction over a road or highway prior to its improvement as a part of such national scenic and recreational highway shall continue to be responsible for maintenance, at its own expense.

Laws 1959, p. 203, § 3–104.3, added by P.A. 80–691, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–104.3.

5/3–105. Federal highway aid; appropriation

§ 3–105. Except as otherwise provided in the Treasurer as Custodian of Funds Act,[1] all money received by the State of Illinois from the federal government for aid in construction of highways shall be placed in the "Road Fund" in the State Treasury.

Whenever any county having a population of 500,000 or more inhabitants has incurred indebtedness and issued Expressway bonds as authorized by Division 5–34 of the Counties Code [2] and has used the proceeds of such bonds for the construction of Expressways in accordance with the provisions of Section 15d of "An Act to revise the law in relation to roads and bridges", approved June 27, 1913, as amended [3] (repealed) or of Section 5–403 of this Code in order to accelerate the improvement of the National System of Interstate Highways, the federal aid primary highway network or the federal aid highway network in urban areas, the State shall appropriate and allot, from the allotments of federal funds made available by Acts of Congress under the Federal Aid Road Act[4] and as appropriated and made available to the State of Illinois, to such county or counties a sum sufficient to retire the bonded indebtedness due annually arising from the issuance of those Expressway bonds issued for the purpose of constructing Expressways in the county or counties. Such funds shall be deposited in the Treasury of such county or counties for the purpose of applying such funds to the payment of the Expressway bonds, principal and interest due annually, issued pursuant to Division 5–34 of the Counties Code.

Laws 1959, p. 203, § 3–105. Amended by P.A. 86–1475, Art. 3, § 3–64, eff. Jan. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–105.

[1] 15 ILCS 515/0.01 et seq.

[2] 55 ILCS 5/5–34001 et seq.

[3] Former Ill.Rev.Stat. ch. 121, ¶ 19 (repealed).

[4] 23 U.S.C.A. § 101 et seq.

5/3–105.1. Deposit of federal funds

§ 3–105.1. Except as otherwise provided in "An Act in relation to the receipt, custody and disbursement of money allotted by the United States of America or any agency thereof for use in this State," approved July 3, 1939, as heretofore or hereafter amended,[1] all money received by the State of Illinois from the Federal Highway Administration for the implementation of the provisions of the Federal "Commercial Motor Vehicle Safety Act of 1986," Title XII, Public Law 99–570,[2] shall be placed in the "Road Fund" in the State Treasury.

Laws 1959, p. 203, § 3–105.1, added by P.A. 85–853, § 1, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–105.1.

[1] 15 ILCS 515/0.01 et seq.

[2] 49 U.S.C.A. § 31302 et seq.

5/3–106. Maintenance

§ 3–106. The Department shall take whatever steps may be necessary, after such federal aid highways have been completed, to cause such highways to be properly maintained in accordance with the requirements of the Federal Aid Road Act.[1]

Laws 1959, p. 203, § 3–106.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–106.

[1] 23 U.S.C.A. § 101 et seq.

5/3–107. Relocation of utility facilities for purposes of national system of interstate and defense highways and state highways constructed under Transportation Bond Act

§ 3–107. Whenever in the judgment of the Department it is necessary as an incident to the construction of a project on the National System of Interstate and Defense Highways, including extensions thereof within urban areas, or any State highway constructed under the provisions of Section 2 of the "Transportation Bond Act", approved July 2, 1971, as now or hereafter amended,[1] to relocate utility facilities, wherever located and whenever constructed, the cost of such relocation may be deemed to be one of the costs of constructing such project and the Department may, on behalf of the State, pay such costs. For the purposes of this Section, the term "utility" includes publicly, municipally, privately, and cooperatively owned utilities; the term "cost of such relocation" includes the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility; and the term "National System of Interstate and Defense Highways" includes any highway which now is or shall hereafter be a part of the National System of Interstate and Defense Highways, as provided in the Federal Aid Highway Act of 1956,[2] and any acts supplemental thereto or amendatory thereof.

Laws 1959, p. 203, § 3–107. Amended by P.A. 77–2752, § 1, eff. Oct. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.

[1] 30 ILCS 415/2.

[2] 23 U.S.C.A. § 101 et seq.

5/3–107.1. Moving expenses and direct losses of personal property caused by displacement

§ 3–107.1. The Department or any county is authorized to pay, as part of the cost of construction of any project on a State highway or federal aid highway, to any person displaced by the highway project (1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property; (2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the Department or any county; (3) actual reasonable expenses in searching for a replacement business or farm; and (4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed $10,000.

Laws 1959, p. 203, § 3–107.1, added by Laws 1965, p. 540, § 1, eff. May 14, 1965. Amended by P.A. 76–623, § 1, eff. Aug. 5, 1969; P.A. 77–1577, § 1, eff. Sept. 17, 1971; P.A. 85–1407, § 4, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1.

5/3–107.1a. Expense and dislocation allowance

§ 3–107.1a. In lieu of the payments authorized to be paid in Section 3–107.1 of this Code, the Department or any county may pay any person displaced from a dwelling, who elects to accept such payment, an expense and dislocation allowance, which shall be determined according to a schedule established by the Department.

Laws 1959, p. 203, § 3–107.1a, added by P.A. 76–623, § 1, eff. Aug. 5, 1969. Amended by P.A. 77–1577, § 1, eff. Sept. 17, 1971; P.A. 85–1407, § 4, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1a.

5/3–107.1b. Relocation payments

§ 3–107.1b. In lieu of the payments authorized to be paid in Section 3–107.1 of this Code, the Department or any county may pay any person who moves or discontinues his business or farm operation, who elects to accept such payment, a fixed relocation payment in an amount equal to the average annual net earnings of the business or the farm operation, except that such payment shall be not less than $1,000 nor more than $20,000.

Laws 1959, p. 203, § 3–107.1b, added by P.A. 76–623, § 1, eff. Aug. 5, 1969. Amended by P.A. 77–1577, § 1, eff. Sept. 17, 1971; P.A. 85–1407, § 4, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1b.

5/3–107.1c. Additional payments for dwelling and rental of dwelling

§ 3–107.1c. In addition to the amounts authorized to be paid in Sections 3–107.1, 3–107.1a, and 3–107.1b of this Code by the Department or any county, the Department or any county may, as a part of the cost of construction, make a payment not to exceed $22,500 to any displaced person who is displaced from a dwelling acquired for a State highway or federal aid highway project actually owned and occupied by such displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of such property. Such payment shall include the following elements:

(A) The amount, if any, which, when added to the acquisition cost of the dwelling acquired equals the reasonable cost of a comparable replacement dwelling determined in accordance with standards established by the Department to be a decent, safe and sanitary dwelling adequate to accommodate the displaced person, reasonably accessible to public services and places of employment and available on the private market.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Department or any county was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

The additional payment authorized by this Section, which shall not exceed the sum of $22,500, shall be made only to such a displaced person who purchases and occupies a replacement dwelling that meets the standards established by the Department to be decent, safe and sanitary, not later than the end of the one year period beginning on the date on which he receives from the Department or any county final payment of all costs of the acquired dwelling, or on the date on which he moves from the dwelling acquired for the highway project, whichever is the later date.

Any displaced person not eligible to receive such payment, who is displaced from any dwelling which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling, may be paid by the Department or any county, either (1) an amount necessary to enable such displaced person to lease or rent for a period not to exceed 42 months, a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but not to exceed the sum of $5,250, or (2) the amount necessary to enable such person to make a down payment (including incidental expenses described in part (C) of this Section) on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed the amount payable under (1) of this paragraph except that in the case of a homeowner who owned and occupied the displaced dwelling for at least 90 days, but not more than 180 days immediately prior to the initiating of negotiations, the down payment cannot exceed the amount payable under 3–107.1c for the persons who owned and occupied the property for 180 days prior to the initiation of negotiations.

If comparable replacement sale or rental housing is not available within the limitations of this Section, the Department or any county may make a payment in excess of the maximum payments authorized by this Section as required to provide such replacement housing.

Laws 1959, p. 203, § 3–107.1c, added by P.A. 76–623, § 1, eff. Aug. 5, 1969. Amended by P.A. 77–1577, § 1, eff. Sept. 17, 1971; P.A. 79–647, § 1, eff. Oct. 1, 1975; P.A. 85–1407, § 4, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1c.

5/3–107.1d. Reimbursement for recording fees etc. and penalty cost on mortgage

§ 3–107.1d. In addition to the amounts authorized to be paid in Sections 3–107.1, 3–107.1a, 3–107.1b, and 3–107.1c of this Code, the Department or any county may reimburse the owner of real property acquired for a State highway or federal aid highway project the reasonable and necessary expenses incurred for (1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property; and (2) penalty costs for prepayment of any pre-existing recorded mortgages entered into in good faith encumbering such real property.

Laws 1959, p. 203, § 3–107.1d, added by P.A. 76–623, § 1, eff. Aug. 5, 1969. Amended by P.A. 77–1577, § 1, eff. Sept. 17, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1d.

5/3–107.1e. Rules and regulations for payments authorized

§ 3–107.1e. The Department is authorized to adopt rules and regulations as may be determined necessary to implement any payments authorized by Sections 3–107.1 through 3–107.1d of this Code.

Laws 1959, p. 203, § 3–107.1e, added by P.A. 76–623, § 1, eff. Aug. 5, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1e.

5/3–107.1f. Construction in relation to eminent domain

§ 3–107.1f. Nothing contained in this amendatory Act creates in any proceedings brought under the power of eminent domain any element of damages not in existence as of the date of enactment of this amendatory Act.

Laws 1959, p. 203, § 3–107.1f, added by P.A. 76–623, § 1, eff. Aug. 5, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–107.1f.

5/3–108. Federal aid highways as part of state, county or municipal highway or street systems

§ 3–108. Any highway constructed as a federal aid highway under the provisions of the Federal Aid Road Act [1] shall be a part of the State highway system unless, under the provisions of Section 3–104 or 3–104.1 or similar provisions of this Code, there is an agreement or provision made for its maintenance by the county or municipality, in which case it shall be a part of the county highway system or municipal street system.

Laws 1959, p. 203, § 3–108. Amended by P.A. 76–189, § 1, eff. July 1, 1969; P.A. 77–1409, § 1, eff. Aug. 31, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 3–108.

[1] 23 U.S.C.A. § 101 et seq.

ARTICLE 4. STATE ADMINISTRATION OF HIGHWAYS

DIVISION 1. GENERAL POWERS OF DEPARTMENT

5/4–101. Powers and duties of department

§ 4–101. The Department shall have the powers and duties stated in Sections 4–101.1 to 4–101.16, inclusive.

Laws 1959, p. 203, § 4–101. Amended by Laws 1961, p. 3226, § 1; P.A. 78–315, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.

5/4–101.1. General supervision of highways constructed with State funds

§ 4–101.1. To have general supervision of highways to which this Code applies under the provisions of Section 1–103 heretofore or hereafter constructed or thereafter maintained in whole or in part with State funds.

Laws 1959, p. 203, § 4–101.1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.1.

5/4–101.2. Rules and regulations relating to selection of county superintendent of highways

§ 4–101.2. To prescribe rules and regulations not inconsistent with law, relating to the examination and qualifications of candidates for the office of county superintendent of highways. Such rules and regulations shall, before taking effect, be printed for distribution by the Department.

Laws 1959, p. 203, § 4–101.2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.2.

5/4–101.3. Aid and advice to county superintendents of highways

§ 4–101.3. To aid county superintendents of highways in establishing grades, preparing suitable systems of drainage and advise them as to the construction and maintenance of highways.

Laws 1959, p. 203, § 4–101.3.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.3.

5/4–101.4. Preparation of plans, etc., for construction of bridges and culverts when requested by county superintendent

§ 4–101.4. To cause plans, specifications and estimates to be prepared for the construction and repair of bridges and culverts when requested so to do by a county superintendent of highways.

Laws 1959, p. 203, § 4–101.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.4.

5/4–101.5. Investigation of methods of construction and maintenance of highways

§ 4–101.5. To investigate and determine the various methods of highway construction adapted to different sections of the State and as to the best methods of maintenance of highways.

Laws 1959, p. 203, § 4–101.5.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.5.

5/4–101.6. Statistics and information relating to highways

§ 4–101.6. To compile statistics relating to highways throughout the State and collect such information in regard thereto as it shall deem expedient.

Laws 1959, p. 203, § 4–101.6.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.6.

5/4–101.7. Approval of final plans, etc., of highways on which state funds may be expended

§ 4–101.7. To approve and determine the final plans, specifications and estimates for all highways to which this Code applies under the provisions of Section 1–103 on which State funds may be expended.

Laws 1959, p. 203, § 4–101.7.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.7.

5/4–101.8. Letting of highway contracts

§ 4–101.8. To let contracts in accordance with law for the construction of highways.

Laws 1959, p. 203, § 4–101.8.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.8.

5/4–101.9. System of accounting for county and road district officials

§ 4–101.9. To prescribe a system of auditing and accounting for all highway moneys for the use of all county and road district officials, which shall be adopted and used by such officials, and which system shall be as nearly uniform as practically possible.

Laws 1959, p. 203, § 4–101.9.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.9.

5/4–101.10. Consultation with highway authorities

§ 4–101.10. To consult with other highway authorities relative to any question involving highways.

Laws 1959, p. 203, § 4–101.10.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.10.

5/4–101.11. Investigations of future needs for federal aid and State highways

§ 4–101.11. To make investigations to determine reasonably anticipated future need for federal aid highways and State highways.

Laws 1959, p. 203, § 4–101.11.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.11.

5/4–101.12. Aid in highway improvement and other duties prescribed by law

§ 4–101.12. To aid at all times in promoting highway improvement throughout the State and perform such other duties and have such other powers in respect to highways as may be imposed or conferred upon it by law.

Laws 1959, p. 203, § 4–101.12.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.12.

5/4–101.13. Highway maps

§ 4–101.13. To publish maps in convenient forms showing State and other highways for use by the public and, in its discretion, to fix a charge therefor not in excess of the cost of publication.

Laws 1959, p. 203, § 4–101.13.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.13.

5/4–101.14. Necessary employees

§ 4–101.14. To obtain, subject to the provisions of the "Personnel Code", approved July 18, 1955, as heretofore or hereafter amended,[1] all employees necessary in the administration of its powers and duties under this Code.

However, persons assigned as highway maintenance employees who are not subject to jurisdiction B of the "Personnel Code" and who operate snow removal equipment shall not be discharged except for cause between October 31 of any year and May 1 of the following year.

Laws 1959, p. 203, § 4–101.14. Amended by Laws 1961, p. 3226, § 1, eff. Aug. 14, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.14.

[1] 20 ILCS 415/1 et seq.

5/4–101.15. Public liability insurance

§ 4–101.15. The Department of Central Management Services shall procure for or in behalf of each State highway employee, without cost to him, public liability insurance protecting him against any liability arising out of his employment to the extent of the insurance policy limits not exceeding $100,000 or include each such employee under a self-insurance plan implemented under Section 405–105 of the

Department of Central Management Services Law (20 ILCS 405/405–105).

Laws 1959, p. 203, § 4–101.15, added by Laws 1967, p. 2923, § 1. Amended by P.A. 79–1331, § 2, eff. July 28, 1976; P.A. 80–57, § 20, eff. July 1, 1977; P.A. 82–413, § 4, eff. Sept. 4, 1981; P.A. 82–789, Art. I, § 31, eff. July 13, 1982; P.A. 91–239, Art. 5, § 5–520, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.15.

5/4–101.16. Schedule of priorities of needs for separation of railroad-highway grade crossings

§ 4–101.16. To prepare or cause to be prepared and maintain or cause to be maintained a schedule of priority of needs in the selection of railroad-highway grade crossings to be separated without regard to whether the highway is maintained by the State or any county, township or municipality. Such schedule shall be based on current and projected vehicular traffic and train movements over the railroad-highway grade crossing, the frequency and duration of interruptions to vehicular traffic, and the impact of separating the railroad-highway grade crossing on adjacent residential, economic and governmental interests.

Laws 1959, p. 203, § 4–101.16, added by P.A. 78–315, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–101.16.

5/4–102. Plans; surveys, etc., for federal aid highways; construction of highways

§ 4–102. The Department may prepare, in accordance with the regulations of the designated authority of the United States Government, the project statements, sketch maps, surveys, plans, specifications, estimates, bid forms, contracts and bonds to be used in connection with the construction of any of the federal aid highways in this State. The Department may construct any federal aid work provided for in Article 3 and purchase and supply any labor, tools, machinery, supplies and materials needed for any such work. Such construction work and labor shall be performed in accordance with the general laws of this State, and under the direct supervision of the Department, subject to the inspection and approval of the designated authority of the United States Government, and in accordance with its rules and regulations.

Laws 1959, p. 203, § 4–102.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–102.

5/4–103. Letting contracts for construction of highways; partial payments; trust agreements

§ 4–103. Any contracts that may be entered into for the construction of highways shall be let after due public advertisement to the lowest responsible bidder, or bidders, upon terms and conditions to be fixed by the Department, and the Department shall also require the successful bidder, or bidders, to furnish good and sufficient bonds to insure proper and prompt completion of such work in accordance with the provisions of such contracts.

Partial payments may be made for the work as it progresses provided that the Department retains an amount as required by the Standard Specifications for Road and Bridge construction.

At the request of the contractor and with the approval of the Department the retainage of the contract may be deposited under a trust agreement with an Illinois financial institution, whose deposits are insured by an agency or instrumentality of the federal government, of the contractor's choice and subject to the approval of the Department.

The contractor shall receive any interest thereon.

Pursuant to application by the contractor, a trust agreement by the financial institution and the Department shall contain as a minimum, the following provisions:

a. The amount to be deposited subject to the trust;

b. The terms and conditions of payment in case of default of the contractor;

c. The termination of the trust agreement upon completion of the contract.

The contractor shall be responsible for obtaining the written consent of the financial institution trustee, and any costs or service fees shall be borne by the contractor.

The trust agreement may, at the discretion of the Department and upon request of the contractor, become operative at the time of the first partial payment in accordance with existing statutes and Department procedures.

The provisions of this Section shall apply to all contracts in effect on and after the effective date of this amendatory Act of 1981.

Laws 1959, p. 203, § 4–103. Amended by P.A. 77–1619, § 1, eff. Sept. 23, 1971; P.A. 79–85, § 1, eff. Oct. 1, 1975; P.A. 82–503, § 2, eff. Jan. 1, 1982; P.A. 84–1263, § 2, eff. Aug. 11, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–103.

5/4–104. Subcontractors' trust agreements

§ 4–104. Subcontractors' trust agreements. This Section applies to subcontractors' retainage amounts expected to be equal to or greater than $20,000. Upon the contractor's receipt of the first partial or progress payment from the Department, at the request of the subcontractor and with the approval of the contractor, the retainage of the subcontract shall be deposited under a trust agreement with an Illinois financial institution, whose deposits are insured by an agency or instrumentality of the federal government, of the subcontractor's choice and subject to the approval of the contractor. The subcontractor shall receive any interest on the amount deposited.

Upon application by the subcontractor, a trust agreement by the financial institution and the contractor must contain, at a minimum, the following provisions:

(1) The amount to be deposited subject to the trust.

(2) The terms and conditions of payment in case of default of the subcontractor.

(3) The termination of the trust agreement upon completion of the subcontract.

The subcontractor is responsible for obtaining the written consent of the financial institution trustee. Any costs or service fees must be borne by the subcontractor. The trust agreement may, at the discretion of the contractor and upon request of the subcontractor, become operative at the time of the first partial payment in accordance with existing statutes and Department procedures. Subcontractors' trust agreements are voluntary and supersede any prohibition regarding retainage that may be adopted by any transportation agency.

This Section applies to all subcontracts in effect on and after the effective date of this amendatory Act of the 92nd General Assembly.

Laws 1959, p. 203, § 4–104, added by P.A. 92–270, § 5, eff. Aug. 7, 2001.

5/4–105. § 4–105. Repealed by P.A. 98–877, § 5, eff. Aug. 11, 2014

DIVISION 2. STATE HIGHWAYS

5/4–201. Powers of Department

§ 4–201. The Department, in addition to, and not in limitation of, its general powers has the powers stated in Sections 4–201.1 through 4–201.20.

Laws 1959, p. 203, § 4–201. Amended by Laws 1959, p. 1569, § 1; Laws 1965, p. 573, § 1; P.A. 76–375, § 1, eff. July 8, 1969; P.A. 77–1410, § 1, eff. Aug. 31, 1971; P.A. 78–377, § 1, eff. Oct. 1, 1973; P.A. 83–957, § 1, eff. July 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.

5/4–201.1. Rules, regulations and specifications

§ 4–201.1. To determine and adopt rules, regulations and specifications for State highways not inconsistent with this Code.

Laws 1959, p. 203, § 4–201.1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.1.

5/4–201.2. Construction of connecting highways

§ 4–201.2. For serving through or State traffic, to designate as part of the State highway system and to locate, construct and maintain highways to connect highways in the State highway system.

Laws 1959, p. 203, § 4–201.2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.2.

5/4–201.3. Relocation

§ 4–201.3. To relocate any highway, or a part thereof, in the State highway system on a new location or on a different highway. For the purpose of relocating such State highway the Department is authorized to lay out, open, alter, widen, extend or locate a new highway.

Laws 1959, p. 203, § 4–201.3.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.3.

5/4–201.4. Contracts

§ 4–201.4. To enter into contracts covering all matters and things incident to the location, relocation, construction, repair and maintenance of State highways; including, subject to approval by the Illinois Commerce Commission, agreements with a railroad or railway company or other public utility concerning a relocation of its line, tracks, wires, poles, pipes or other facilities, where the same are not then located in a public street or highway, and such relocation is necessary as an incident to the construction of a new State highway or to the relocation, reconstruction, extension, widening, straightening, alteration, repair, maintenance or improvement of an existing State highway (including extensions of a new or existing State highway through or into a municipality upon a new or existing street). Nothing contained in this Section shall be construed as requiring the Department to furnish site or right-of-way for railroad or railway lines or tracks or other public utility facilities required to be removed from a public street or highway.

Laws 1959, p. 203, § 4–201.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.4.

5/4–201.5. Construction and maintenance as connection to parks, forests, wildlife or fish refuges, and other State-operated locations

§ 4–201.5. To lay out, construct and maintain, as a part of the State highway system, highways and entrances which will connect any State highway, now existing or hereafter constructed, with any State park, State forest, State wildlife or fish refuge, the grounds of any State institution or any recreational, scenic or historic place owned or operated by the State; any national cemetery; and to any tax supported airport constructed in part by State and federal funds; and, with the consent of the Department of Natural Resources, to construct, maintain and repair that part of any road or bridge, not otherwise under the jurisdiction of the Department, which lies within any State park, State conservation area, State forest, State wildlife and fish refuge, or any other recreational scenic area owned and operated by the Department of Natural Resources. With the consent of the Historic Preservation Agency, to construct, maintain and repair that part of any road or bridge, not otherwise under the jurisdiction of the Department, which lies within any State Historic Site owned and operated by the Historic Preservation Agency.

Laws 1959, p. 203, § 4–201.5. Amended by P.A. 81–358, § 13, eff. Jan. 1, 1980; P.A. 84–25, Art. III, § 23, eff. July 18, 1985; P.A. 89–445, § 9A–76, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.5.

5/4–201.6. Repair and maintenance of highways by districts

§ 4–201.6. To divide the State highway system into sections or districts for the purpose of repair and maintenance and to repair and maintain such sections or districts either by patrol repair system or by gang repair system.

Laws 1959, p. 203, § 4–201.6.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.6.

5/4–201.7. Acquisition of equipment and material

§ 4–201.7. To purchase, rent, acquire and maintain all equipment and material incident to or necessary in the location, relocation, construction, repair and maintenance of State highways.

Laws 1959, p. 203, § 4–201.7.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.7.

5/4–201.8. Acquisition of quarries, pits, etc.; erection of buildings and purchase of equipment incidental thereto

§ 4–201.8. To purchase and acquire quarries, gravel pits, sand pits, cement rock or other natural deposits of road material to be used in the construction and maintenance of State highways, and to quarry, dig, manufacture, prepare and use such material or deposits in such construction and maintenance or to sell, furnish and supply the same to contractors engaged in constructing, improving or maintaining highways within the State and to erect such buildings and to purchase such machinery, utensils, tools, and equipment as may be necessary or essential for the proper prosecution of such work.

Laws 1959, p. 203, § 4–201.8.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.8.

5/4–201.9. Acquisition and operation of ferries

§ 4–201.9. To construct, purchase, lease or otherwise acquire and to operate without charge to the public, ferries over rivers and other waters upon any State highway, whether permanently or temporarily located, until such time as it is deemed feasible and desirable to construct bridges at such places.

Laws 1959, p. 203, § 4–201.9.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.9.

5/4–201.10. Lighting

§ 4–201.10. To provide for the lighting of State highways or portions thereof, when in the Department's opinion it is necessary for the convenience or safety of the public.

Laws 1959, p. 203, § 4–201.10.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.10.

5/4–201.11. Numbering

§ 4–201.11. To number or renumber all State highways; and each State highway shall always be designated by a number.

Laws 1959, p. 203, § 4–201.11.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.11.

5/4–201.12. Erection and maintenance of traffic control devices and signs; removal of route markings; notice; designated bikeways

§ 4–201.12. Except as provided in the Illinois Adopt–A–Highway Act,[1] to place, erect and maintain on highways all traffic control devices and signs authorized by this Code or by Chapter 11, Article III of the Illinois Vehicle Code.[2]

To place, erect and maintain on highways signs or surface markings or both to indicate officially designated bicycle routes. Whenever the Department is going to permanently remove route markings from a State highway within a municipality, it shall notify that municipality at least 90 days before such removal.

To acquire right-of-way, plan, locate, relocate, construct, reconstruct, maintain, alter, improve, vacate and regulate the use of officially designated bikeways, as defined in Section 2 of the Bikeway Act.[3]

Laws 1959, p. 203, § 4–201.12. Amended by P.A. 77–78, § 1, eff. July 1, 1971; P.A. 77–734, § 1, eff. Aug. 12, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–451, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–473, § 1, eff. Oct. 1, 1975; P.A. 87–1118, § 95, eff. Sept. 16, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.12.

[1] 605 ILCS 120/1 et seq.

[2] 625 ILCS 5/11–301 et seq.

[3] 605 ILCS 30/2.

5/4–201.13. Interstate bridges in federal-aid highway network

§ 4–201.13. To construct, maintain, and operate bridges, on State highways a part of the Federal-aid highway network, across any stream between this State and any adjoining state where such bridge is necessary to connect the Federal-aid highway network in this and such adjoining state; and to enter into agreements with adjoining states, persons, and the United States government in conjunction therewith.

Laws 1959, p. 203, § 4–201.13, added by Laws 1959, p. 1569, § 1, eff. July 17, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.13.

5/4–201.14. Rest areas

§ 4–201.14. (a) To construct, maintain and operate rest areas on State highways.

In the operation of rest areas, the Department is authorized to prescribe reasonable rules and regulations not inconsistent with law, limiting the duration of rest stops and promulgating instructions and restrictions for the use and enjoyment of the rest area.

(b) To construct rest areas on highways not on the State highway system when such highways are constructed under Section 3–104.3 of this Code.

Laws 1959, p. 203, § 4–201.14, added by Laws 1965, p. 573, § 1. Amended by P.A. 78–628, § 1, eff. Oct. 1, 1973; P.A. 80–691, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.14.

5/4–201.15. Preservation of natural beauty of areas

§ 4–201.15. (a) To provide for the preservation of the natural beauty of areas through which State highways are constructed, and to acquire the fee simple title, or such lesser interest as may be desired, including scenic easements, to any land, rights or other property necessary therefor and, in cooperation with the Department of Natural Resources, to provide for forestation or reforestation of any of these areas that are Department-controlled lands, where appropriate.

(b) To acquire the fee simple title or such lesser interest as may be desired, including scenic easements, to any land, rights or other property and to make such improvements thereon as may be necessary to provide for the preservation of the natural beauty of areas through which highways not on the State highway system are constructed, reconstructed or improved under Section 3–104.3 of this Code.

Laws 1959, p. 203, § 4–201.15, added by Laws 1965, p. 573, § 1. Amended by P.A. 80–691, § 1, eff. Oct. 1, 1977; P.A. 86–779, § 3, eff. July 1, 1990; P.A. 89–445, § 9A–76, eff. Feb. 7, 1996.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.15.

5/4–201.16. Rental of land, buildings or improvements; annual report

§ 4–201.16. Land acquired for highway purposes, including buildings or improvements upon such property, may be rented between the time of acquisition and the time when the land is needed for highway purposes.

The Department shall file an annual report with the General Assembly, by October 1 of each year, which details, by county, the number of rented parcels, the total amount of rent received from these parcels, and the number of parcels which include buildings or improvements.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of "An Act to revise the law in relation to the General Assembly", approved February 25, 1874, as amended,[1] and filing such additional copies with the

State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.[2]

Laws 1959, p. 203, § 4–201.16, added by Laws 1967, p. 2635, § 1; Laws 1967, p. 2747, § 1. Amended by P.A. 80–1129, § 1, eff. July 1, 1978; P.A. 83–784, § 66, eff. Jan. 1, 1984; P.A. 84–1438, Art. III, § 54, eff. Dec. 22, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.16.

[1] 25 ILCS 5/3.1.

[2] 15 ILCS 320/7.

5/4–201.17. Lease of project and property from Highway Trust Authority; rental payments

§ 4–201.17. To lease as lessee from the Illinois Highway Trust Authority any project at any time constructed or made available for public use by the Authority, and any property, real, personal, or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority; and to pay rentals for such leases from appropriations to be made by the General Assembly from the Road Fund.

Laws 1959, p. 203, § 4–201.17, added by P.A. 76–375, § 1, eff. July 8, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.17.

5/4–201.18. Acquisition of land for parking facilities; fees for parking; parking facilities defined

§ 4–201.18. To acquire land adjacent to the right-of-way on a federal aid system outside the central business district in an urban area of 50,000 population or more as provided by the Federal Aid Road Act [1] and to construct and operate a publicly owned parking facility thereon or within the right-of-way, including the use of air space above and below the established grade line of the highway pavement. Such parking facility shall be (1) based on a continuing comprehensive transportation planning process as defined in the Federal Aid Road Act, and (2) located and designed in conjunction with existing or planned public transportation facilities.

Fees charged for the use of such facility shall not be in excess of that amount required for maintenance and operation, including compensation to any person for operating such facility, and shall be used for such purposes before any other funds may be used for maintenance and operation.

Any federal aid project constructed under this Section may be constructed by agreement and jointly at the expense of the federal government and the State of Illinois or jointly at the expense of the federal government, the State of Illinois, a municipality or municipalities or a county or counties, in accordance with the provisions of the Federal Aid Road Act.

For the purposes of this Section, the term "parking facilities" shall include access roads, buildings, structures, equipment, improvements, and interests in the lands.

Laws 1959, p. 203, § 4–201.18, added by P.A. 77–1410, § 1, eff. Aug. 31, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.18.

[1] 23 U.S.C.A. § 101 et seq.

5/4–201.19. Telephone service at rest areas; permits; issuance

§ 4–201.19. To issue permits for the establishment of telephone service at rest areas on the State Highway System where proper access to and from the main traveled lanes has been established and where such service will enhance the safety and welfare of the highway users.

Laws 1959, p. 203, § 4–201.19, added by P.A. 78–377, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.19.

5/4–201.20. Demonstration projects

§ 4–201.20. To conduct demonstration projects on public streets and highways designed to test and develop new technology for road and curb construction, reconstruction and maintenance.

Laws 1959, p. 203, § 4–201.20, added by P.A. 83–957, § 1, eff. July 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–201.20.

5/4–202. Additional mileage

§ 4–202. Additional mileage may be added to the State highway system in the manner provided by this Code.

Laws 1959, p. 203, § 4–202.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–202.

5/4–203. Taking over highways by State

§ 4–203. The Department may, in its discretion and as funds become available for construction and maintenance, add additional highways to the State highway system by laying out new highways or taking over highways from the county highway system, the township and district road system or the municipal street system; but such highways so taken over into the State highway system shall be highways which form a logical part of the State highway system for traffic purposes. Before any such highway is taken over the Department shall notify the proper local officials in writing of its intention to do so and the date when it will assume the maintenance and care of such highway. Whenever any part or portion of any such highway which is situated within the corporate limits of any municipality is hereafter or has heretofore been taken over, the Department shall have exclusive jurisdiction and control over only that part of such highway which the Department has constructed, or which the local authority has constructed and which has been taken over by the Department, and for the maintenance of which the Department is responsible, including the hard-surfaced slab, shoulders and drainage ditches. Whenever any municipality shall construct with a durable hard surface the remaining portion of a street, a part of which has been improved with a durable hard surface by the Department, or taken over by it, then in that case the Department shall have jurisdiction and control over only that portion of the street over which it did construct the durable hard surface or that part which it took over from the municipality.

Laws 1959, p. 203, § 4–203. Amended by P.A. 89–683, § 910, eff. June 1, 1997; P.A. 90–6, § 2, eff. June 3, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–203.

5/4–204. Description of State highway taken over; filing; changes

§ 4–204. Whenever any highway becomes a part of the State highway system, the Department shall file in its office a description of such State highway. All changes in and additions to the State highway system shall also be noted by so filing a description of such changes and/or additions. A copy of such description shall be filed in the office of the county clerk of each county in which the highway is located.

Laws 1959, p. 203, § 4–204.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–204.

5/4–205. Extensions through municipalities

§ 4–205. In all cases where State or through traffic upon a State highway runs through a municipality, the Department shall locate a route upon existing streets or upon a new street to be laid out through such municipality as a part of such State highway, so as to form a continuous route to serve the needs of through or State traffic upon such State highway. If a municipality is the terminus of such a highway, the Department shall extend the State highway to such point in the municipality upon existing streets or upon a new street to be laid out in such municipality, as will in the discretion of the Department best serve the needs of State or through traffic. For the purpose of locating or extending such State highway through or into such municipality the Department is authorized to lay out, establish, open, alter, widen, extend or relocate necessary streets therein.

Laws 1959, p. 203, § 4–205.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–205.

5/4–206. Re-location of extensions through municipalities; subways

§ 4–206. When advisable to serve traffic needs, any State highway route in or through a municipality may be relocated upon other streets in the municipality and the jurisdiction, maintenance and control of the streets upon the abandoned route shall be assumed by the city, town, village, park district or other municipal corporation. If any municipal corporation notifies the Department that it is about to construct a subway for railway or motor vehicle transportation along and under any street upon which any State highway route is located and that its use as a State highway route will interfere with such construction, the Department shall relocate such route or such portion thereof as is necessary to prevent such interference. Except as allowed by Sections 4–407, 4–408 and this Section no State highway route shall be relocated except to better serve traffic demands and the route abandoned must be left in reasonable condition for traffic.

Laws 1959, p. 203, § 4–206. Amended by Laws 1959, p. 1189, § 1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–206.

5/4–207. Mail boxes on highways

§ 4–207. On all State highways the Department shall construct and maintain all-weather surfaces at boxes used for the receipt of United States mail.

The Department shall adopt and publish specifications detailing the kind and type of all-weather surface to be constructed and maintained and shall adopt and publish reasonable rules, regulations, and specifications governing the place of erection and maintenance of boxes for the receipt of United States mail on State highways.

No person shall erect or maintain a box for the receipt of the United States mail on any highway under the jurisdiction of the Department in violation of the rules, regulations, and specifications, adopted by the Department governing the erection and maintenance of such boxes. Violation of this provision is a petty offense.

Laws 1959, p. 203, § 4–207. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–207.

5/4–208. Guide signs on municipal streets

§ 4–208. The Department may select streets in municipalities to form routes leading from business centers therein to State highways running through such municipalities and may erect and maintain suitable guide signs upon them. However, such streets shall not thereby become part of the State highway system but shall remain part of the municipal street system; but any such street may be made part of the State highway system as provided by Section 4–203.

Laws 1959, p. 203, § 4–208.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–208.

5/4–209. Cutting or damaging State highways; permit; bond

§ 4–209. No person shall wilfully cut, excavate or otherwise damage that portion of any highway under the jurisdiction and control of the Department, including the hard-surfaced slab, shoulders and drainage ditches, either within or without the corporate limits of a municipality without a permit so to do from the Department. The Department shall issue its permit when such cutting, excavating or damaging is reasonably necessary, but it is the duty of the person securing a permit to make such repairs to the highway as will restore it to substantially the same condition as it was originally. Permits with regard to entrances to and exits from State highway rights-of-way and roadways shall also be subject to the provisions of Sections 4–210, 4–211 and 4–212. To insure the proper repair, the Department may, before issuing its permit, require the person applying for a permit, to enter into a bond payable to the People of the State of Illinois in a sum commensurate, in the opinion of the Department, with the injury to be done to the highway, conditioned for its proper restoration within such time as the Department may prescribe. The violation of this Section is a petty offense.

Laws 1959, p. 203, § 4–209. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–209.

5/4–210. Ingress and egress by owners or occupants of property abutting upon State highway; rules, regulations and specifications

§ 4–210. Except where the right of access has been limited by or pursuant to law every owner or occupant of property abutting upon any State highway shall have reasonable means of ingress from and egress to the State highway consistent with the use being made of such property and not inconsistent with public safety or with the proper construction and maintenance of the State highway for purposes of travel, drainage and other appropriate public use. The Department is authorized to adopt and to amend reasonable and necessary rules, regulations and specifications covering standard entrance or exit driveways to serve residential, farm, commercial, industrial, and roadside service establishments and other uses of property abutting upon State highways including specifications for drainage and other structures appurtenant to such driveways. No permit shall be issued by the Department for the construction of any such driveway which does not conform to the applicable standard prescribed by the Department unless the application therefor is accompanied by drawings of and specifications for the proposed construction and a showing of reasonable need for departure from the applicable standard type of driveway prescribed by the Department nor unless it is made to appear that the proposed construction and the use thereof

will not be inconsistent with public safety and use nor with the proper construction and maintenance of the highway and its drainage and other facilities.

Laws 1959, p. 203, § 4–210.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–210.

5/4–211. Permits for entrance or exit; judicial review or appeal

§ 4–211. Any permit issued by the Department to construct an entrance or exit, or both, under the provisions of Section 4–209 shall designate the location and design of such construction. All such permits shall be subject to the right of the Department to relocate, at the Department's expense, any entrance or exit when reasonably required for public safety or because of highway reconstruction or changed traffic conditions. The Department shall make frequent inspections and take such action as is necessary to require compliance with such rules, regulations and specifications and the provisions of Sections 4–209, 4–210 and 4–211 of this Code.

Any entrance or exit which was in place on July 10, 1953 which does not conform to the rules, regulations and specifications adopted by the Department may be made to conform to such rules, regulations and specifications by the Department at the expense of the Department.

If any entrance or exit is constructed after July 10, 1953, for which no permit has been secured the adjoining landowner or occupant, or his authorized representative, whose property such entrance or exit serves shall within 30 days following notification by the Department apply for a permit. The permit issued as a result of such application shall specify that the existing entrance shall be made to conform to the provisions of the permit within 90 days from the date of issuance of the permit or, if no permit is granted, be removed at the expense of the landowner or occupant.

Any entrance or exit constructed after July 10, 1953 for which a permit has been secured but which does not conform to the provisions of the permit issued for its construction shall within 90 days of notification by the Department to the adjoining property owner or occupant, or his authorized representative, whose property such exit or entrance serves be made to conform to the provisions of the permit.

Any person adversely affected by any rule, regulation, specification or decision of the Department issued pursuant to Sections 4–209, 4–210 or 4–211 or by any failure of the Department to act upon an application for a permit thereunder shall be entitled to judicial review under the provisions of the Administrative Review Law.[1]

Laws 1959, p. 203, § 4–211. Amended by Laws 1967, p. 4041, § 1; P.A. 79–443, § 1, eff. Oct. 1, 1975; P.A. 85–559, § 1, eff. Sept. 18, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–211.

[1] 735 ILCS 5/3–101 et seq.

5/4–212. Violations; penalties

§ 4–212. Failure to comply with the provisions of Sections 4–210 and 4–211 and the permits issued thereunder is a petty offense for which an additional fine of $10 for each day such failure continues may be imposed. Where the violation is prosecuted by the State's Attorney 25% of the fine or penalty recovered shall be paid to the State's Attorney as a fee of his office. Such penalty shall be in addition to any penalty which may be assessed under Section 4–209.

Laws 1959, p. 203, § 4–212. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–212.

5/4–213. Motor passenger carriers; loading areas adjacent to highways; construction permits

§ 4–213. Any person or any agency of this State which operates a motor vehicle designed or used for the carriage of more than seven passengers may apply to the Department for a permit to construct an all weather surface adjacent to and connected with the traveled way of a State highway and located on the right-of-way of a State highway for the purpose of making temporary stops in order to receive or discharge passengers. Any permit issued under this Section shall designate the location and design of and type of material to be used in any such construction and the construction shall be in conformity with the requirements of the permit. No such construction shall be initiated without first securing a permit to do so from the Department.

Whoever violates any provision of this Section shall be guilty of a petty offense.

Laws 1959, p. 203, § 4–213. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–213.

5/4–214. Recording of highway plats

§ 4–214. Whenever any highway is laid out, widened or altered in accordance with this Article, the Department shall cause a plat thereof to be made and recorded in the office of the recorder of the county (or in the office of the registrar of titles for the county if appropriate) in accordance with the provisions of Section 9 of "An Act to revise the law in relation to plats", approved March 21, 1874, as amended.[1]

Laws 1959, p. 203, § 4–214. Amended by P.A. 83–358, § 98, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–214.

[1] 765 ILCS 205/9.

5/4–215. Territorial maps; proposed subdivisions

§ 4–215. The Department may file with the governing body of any municipality or county a map of any territory within ½ mile on either or both sides of a State highway routing in which territory the Department believes subdivision development would have an effect upon an existing State highway or a future State highway the route of which has been adopted by the Department.

The clerk of the governing body of the municipality or county shall issue a receipt for the territorial map, and within 3 days after receiving such map, shall transmit to the Department one copy of each tentative map of any subdivision located wholly or partly within the territory outlined by the territorial map.

The Department, upon receiving a copy of the territorial map, may, within 15 days after receipt, make recommendations to the appropriate agency of the municipality or county in connection therewith regarding the effect of the proposed subdivision upon the State highway or State highway route.

Laws 1959, p. 203, § 4–215, added by Laws 1959, p. 786, § 1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–215.

5/4–216. Snow removal; entrance or exit driveways

§ 4–216. If, as a result of the removal of snow from the travelway of any State highway, snow is deposited along the shoulder or edge of such highway where any public or

private entrance or exit driveway connects with such State highway, the Department shall also remove the snow from the highway right-of-way so as to leave such driveways open for vehicular travel.

Laws 1959, p. 203, § 4–216, added by Laws 1961, p. 2720, § 1, eff. Aug. 3, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–216.

5/4–217. Standing crops as snow breaks

§ 4–217. The Department may contract with persons growing row crops on land adjacent to State highways to buy standing strips of such crops to remain in place to act as snow breaks along such highways in those places where experience shows that drifting snow has been an obstruction to traffic. The contract price to be paid by the Department in any such case shall be the market price of such crop at the time of contracting or the September price of such crop on the Chicago Board of Trade, whichever is higher.

Laws 1959, p. 203, § 4–217, added by P.A. 81–1156, § 1, eff. Nov. 29, 1979.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–217.

5/4–218. Use of calcium magnesium acetate made from corn

§ 4–218. The Department shall establish a pilot program to evaluate the use of calcium magnesium acetate made from corn for the purpose of clearing roadways of snow and ice. Such pilot program shall be implemented by the Department as suitable quantities of calcium magnesium acetate become available and shall include any one of the following counties: Champaign, Douglas, Grundy, Iroquois, Kankakee, LaSalle, Vermilion, or Will. If the pilot program is successful, the Department shall endeavor to expand its use of calcium magnesium acetate made from corn for road clearing throughout the State.

Laws 1959, p. 203, § 4–218, added by P.A. 85–176, § 1, eff. Aug. 18, 1987; P.A. 85–853, § 1, eff. Sept. 24, 1987. Amended by P.A. 85–1209, Art. II, § 2–92, eff. Aug. 30, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–218.

5/4–219. Context sensitivity

§ 4–219. Context sensitivity.

(a) It is the intent of the General Assembly to ensure that Department of Transportation projects adequately meet the State's transportation needs, exist in harmony with their surroundings, and add lasting value to the communities they serve.

(b) To support this objective, the Department of Transportation shall embrace principles of context sensitive design and context sensitive solutions in its policies and procedures for the planning, design, construction, and operation of its projects for new construction, reconstruction, or major expansion of existing transportation facilities.

(c) A hallmark of context sensitive design and context sensitive solutions principles for the Department of Transportation shall be early and ongoing collaboration with affected citizens, elected officials, interest groups, and other stakeholders to ensure that the values and needs of the affected communities are identified and carefully considered in the development of transportation projects.

(d) Context sensitive design and context sensitive solutions principles shall promote the exploration of innovative solutions, commensurate with the scope of each project, that can effectively balance safety, mobility, community, and environmental objectives in a manner that will enhance the relationship of the transportation facility with its setting.

(e) The Department shall report to the Governor and the General Assembly no later than April 1, 2004 on its efforts to implement context sensitive design criteria.

Laws 1959, p. 203, § 4–219, added by P.A. 93–545, § 5, eff. Jan. 1, 2004.

5/4–220. Bicycle and pedestrian ways

§ 4–220. Bicycle and pedestrian ways.

(a) Bicycle and pedestrian ways shall be given full consideration in the planning and development of transportation facilities, including the incorporation of such ways into State plans and programs.

(b) In or within one mile of an urban area, bicycle and pedestrian ways shall be established in conjunction with the construction, reconstruction, or other change of any State transportation facility except:

(1) in pavement resurfacing projects that do not widen the existing traveled way or do not provide stabilized shoulders; or

(2) where approved by the Secretary of Transportation based upon documented safety issues, excessive cost or absence of need.

(c) Bicycle and pedestrian ways may be included in pavement resurfacing projects when local support is evident or bicycling and walking accommodations can be added within the overall scope of the original roadwork.

(d) The Department shall establish design and construction standards for bicycle and pedestrian ways. Beginning July 1, 2007, this Section shall apply to planning and training purposes only. Beginning July 1, 2008, this Section shall apply to construction projects.

Laws 1959, p. 203, § 4–220, added by P.A. 95–665, § 5, eff. Oct. 10, 2007.

5/4–221. Mix designs

§ 4–221. Mix designs. To the extent allowed by federal law, the Department specifications shall allow the use of recycled asphalt roofing shingles received from facilities authorized to process asphalt roofing shingles for recycling into asphalt pavement in accordance with (i) permits issued pursuant to Section 39 of the Environmental Protection Act [1] or (ii) beneficial use determinations issued pursuant to Section 22.54 of the Environmental Protection Act. [2] In creating the mix designs used for construction and maintenance of State highways, it shall be the goal of the Department, through its specifications, to maximize the percentage of recycled asphalt roofing shingles and binder replacement and to maximize the use of recycled aggregates and other lowest-cost constituents in the mix so long as there is no detrimental impact on life-cycle costs.

Laws 1959, p. 203, § 4–221, added by P.A. 97–314, § 10, eff. Jan. 1, 2012.

[1] 415 ILCS 5/39

[2] 415 ILCS 5/22.54

5/4–222. Recycled asphalt roofing shingles; cost savings; prohibitions on use in asphalt paving

§ 4–222. Recycled asphalt roofing shingles; cost savings; prohibitions on use in asphalt paving.

(a) It shall be the goal of the Department, with regard to its asphalt paving projects and to the extent possible, to

reduce the carbon footprint and reduce average costs by maximizing the percentage use of recycled materials or lowest cost alternative materials and extending the paving season so long as there is no detrimental impact on life-cycle costs. In furtherance of these goals, the Department shall provide to the Chairpersons of the Transportation Committee in each legislative chamber, within 60 days after the completion of each fiscal year, a written report of the activities initiated or abandoned in each district or region within the Department to meet those goals during the previous year. The report shall also include an analysis of the cost savings directly or indirectly attributed to those activities within each district or region. Upon review of the annual report, the Transportation Committees in each chamber may conduct hearings and provide recommendations to the Department regarding the performance of each district or region.

(b) No producer of asphalt pavement, operating pursuant to an air permit issued by the Illinois Environmental Protection Agency, shall use recycled asphalt roofing shingles in its pavement product unless the shingles have been processed for recycling into asphalt pavement in accordance with (i) permits issued pursuant to Section 39 of the Environmental Protection Act [1] or (ii) beneficial use determinations issued pursuant to Section 22.54 of the Environmental Protection Act. [2] The prohibition in this subsection (b) shall apply in addition to any other rules, specifications, or other requirements adopted by the Department regarding the use of asphalt roofing shingles in pavement product.

Laws 1959, p. 203, § 4–222, added by P.A. 97–314, § 10, eff. Jan. 1, 2012.

[1] 415 ILCS 5/39.

[2] 415 ILCS 5/22.54.

5/4–223. Electric vehicle charging stations

§ 4–223. Electric vehicle charging stations.

By January 1, 2016 or as soon thereafter as possible, the Department may provide for at least one electric vehicle charging station at each Interstate highway rest area where electrical service will reasonably permit and if these stations and charging user fees at these stations are allowed by federal regulations.

The Department may adopt and publish specifications detailing the kind and type of electric vehicle charging station to be provided and may adopt rules governing the place of erection, user fees, and maintenance of electric vehicle charging stations.

Laws 1959, p. 203, § 223, added by P.A. 98–442, § 10, eff. Jan. 1, 2014. Renumbered as § 4–223 by P.A. 98–756, § 655, eff. July 16, 2014.

DIVISION 3. PLANNING AND PROGRAMMING

5/4–303. Investigations of future needs of federal aid and State highways; extent

§ 4–303. Investigations made by the Department to determine the reasonably anticipated future need for federal aid highways and State highways may include, but shall not be limited to, the making of traffic surveys, the study of transportation facilities, research concerning the development of the several areas within this State and contiguous territory as affected by growth and changes in population and economic activity and the collection and review of data relating to all factors affecting the judicious planning of construction, improvement and maintenance of highways. Such investigations may also be conducted in cooperation with counties, municipalities, the United States, sister states, agencies of any such governments or other persons in pursuance of agreements to share the cost thereof. The Department is authorized to enter into such agreements.

Laws 1959, p. 203, § 4–303.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–303.

DIVISION 4. CONSTRUCTION AND MAINTENANCE

5/4–401. Width of State highways

§ 4–401. All State highways shall be constructed of sufficient widths to meet the requirements of the reasonably expected traffic thereon. The widths of travel ways shall be not less than 18 feet.

Laws 1959, p. 203, § 4–401.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–401.

5/4–402. Construction of extensions through municipalities

§ 4–402. When any State highway route through a municipality has been designated, the Department shall supervise any construction performed on such streets by the municipality with funds received from the State. Such construction shall be either with or without continuous grade separation and of such type and width as is required, in the judgment of the Department, to care for traffic and parking needs.

Laws 1959, p. 203, § 4–402.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–402.

5/4–403. Construction of belt-line routes

§ 4–403. Whenever local traffic conditions within any municipality through which or to the corporate limits of which any State highway is located, in the discretion of the Department, are such as to interfere with or impede through or State traffic, the Department is authorized and directed to locate and construct a durable hard-surfaced highway in the nature of a belt-line to connect State highway routes entering such municipality, so as to avoid congested traffic districts in the municipality. Such belt-line routes may be wholly without the corporate limits of the municipality or partly within and partly without such limits.

The type of construction and width of such belt-line routes shall be sufficient to care for present or reasonably expected future needs of through or State traffic.

Such belt-line routes shall be a part of the State highway system.

Laws 1959, p. 203, § 4–403.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–403.

5/4–404. Width and type of extension through municipalities

§ 4–404. By agreement between the Department and the proper authority of any municipality, park district or other municipal corporation, the construction of any street upon which a State highway route is located may be of greater width or different type than that determined upon by the Department. In such cases the excess cost of such construction shall be paid by the municipal corporation.

Laws 1959, p. 203, § 4–404.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–404.

5/4–405. Maintenance of State highways

§ 4–405. The Department shall maintain all highways in the State highway system either with its own forces or pursuant to an agreement or contract entered into pursuant to this Code.

In the course of its other maintenance work, the Department shall paint and maintain a line not less than 2½ inches in width on the edges of uncurbed roadways of all State highways having an Illinois or U. S. route traffic marking and which carry an average daily traffic of more than 1000 vehicles. The Department may paint and maintain such lines on such other State highways as it deems desirable.

Laws 1959, p. 203, § 4–405. Amended by Laws 1961, p. 2721, § 1; P.A. 78–283, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–405.

5/4–406. Contracts for municipalities to maintain extensions; contracts for counties to maintain State highways

§ 4–406. The Department is authorized to enter into contracts with any municipal corporation, terminable in the discretion of the Department, for the municipal corporation to maintain any State highway, or any part thereof, located within such municipal corporation, such maintenance to be under the supervision of the Department and at the expense of the State.

The Department is authorized to enter into similar contracts with any county for the county to maintain any State highway, or any part thereof, which was originally constructed by the county, such maintenance to be under the supervision of the Department and at the expense of the State.

Laws 1959, p. 203, § 4–406.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–406.

5/4–406.1. Surrender of jurisdiction

§ 4–406.1. The Department may surrender jurisdiction over the right-of-way and improvements of all or part of a State highway, street or road to a municipality by agreement as provided in Section 11–91.2–1 of the Illinois Municipal Code, as now or hereafter amended.[1]

Laws 1959, p. 203, § 4–406.1, added by P.A. 85–1421, Art. 1, § 5, eff. Dec. 15, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–406.1.

[1] 65 ILCS 5/11–91.2–1.

5/4–407. Closing traffic by Department; detours

§ 4–407. The Department may temporarily close to traffic any portion of a State highway for the purpose of constructing, repairing or making improvements thereon. When a portion of a State highway with a route marking is so closed, the Department shall arrange with local authorities or otherwise to maintain efficient detours around the portion of the State highway which is closed. Such detour shall be plainly and conspicuously marked with signs by which traffic may be guided around that part of the highway so closed.

Laws 1959, p. 203, § 4–407. Amended by P.A. 84–873, § 2, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–407.

5/4–408. Permit to local governmental agency to close traffic; detours

§ 4–408. The Department may, upon application by the proper authorities of any local governmental agency, issue a permit to such agency to temporarily close to traffic any portion of a State highway for any public purpose or for any temporary needs of such agency. Such permit shall be issued only upon the explicit agreement of the local governmental agency to assume all liabilities and pay all claims for any damages which shall be occasioned by such closing and such agreement shall be made a part of every such permit. When a State highway is closed by a local governmental agency under the terms of a permit, the agency shall maintain efficient detours satisfactory to the Department around the portion of the closed highway. Such detour shall be plainly and conspicuously marked with signs by which traffic may be guided around that part of the State highway so closed.

Laws 1959, p. 203, § 4–408.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–408.

5/4–409. Contracts with highway authority; maintenance and improvement

§ 4–409. The Department may enter into a written contract with any other highway authority for the jurisdiction, maintenance, administration, engineering or improvement of any highway or portion thereof. The Department may also, upon application of any highway authority, authorize the highway authority to enter into a written contract with any other highway authority for the jurisdiction, maintenance, administration, engineering or improvement of any highway or portion thereof.

Laws 1959, p. 203, § 4–409, added by P.A. 76–371, § 1, eff. July 8, 1969. Amended by P.A. 79–417, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–409.

5/4–410. Demonstration project

§ 4–410. Demonstration project. The Department shall implement a demonstration project, under which 20 of the contracts arising out of the Department's 5–year project program for fiscal years 2000 through 2004 shall have a performance-based warranty of at least 5 years, and 10 of those contracts shall be designed for a 30–year life cycle.

Laws 1959, p. 203, § 4–410, added by P.A. 91–37, § 38, eff. July 1, 1999.

DIVISION 5. PROPERTY ACQUISITION AND DISPOSAL

5/4–501. Acquisition of land and property for State highways; eminent domain

§ 4–501. The Department, in its name, or any county may acquire the fee simple title, or such lesser interest as may be desired, to any land, rights, or other property necessary for the construction, maintenance or operation of State highways, or necessary for locating, relocating, extending, widening or straightening any State highway, or necessary for locating, relocating, extending, widening or straightening an existing street or for laying out, establishing or opening a new street within the corporate limits of any municipality which has been designated by the Department as a street to form a part of or to connect with a State highway leading up to the corporate limits of such municipality, or necessary for any other purpose or use contemplated by this Code by purchase or by the exercise of the right of eminent domain under the eminent domain laws of this State and the Department shall not be required, in any case, to furnish bond.

When, in the judgment of the acquiring agency, it is more practical and economical to acquire the fee to the inaccessible

remnants of the tracts of land from which rights-of-way are being acquired than to pay severance damages, such agency may do so by purchase or by an eminent domain proceeding.

When a part of a parcel of land is to be taken for State highway purposes and the accessible remnant is to be left in a shape or condition rendering it of little value to the owner or giving rise to claims for severance or other damages, upon written request of the owner, the acquiring agency may take the whole parcel and may sell or exchange the part not needed for highway purposes.

When acquiring land for a highway on a new location, and when a parcel of land one acre or less in area contains a single family residence, which is in conformance with existing zoning ordinances, and only a part of that parcel is required for State highway purposes causing the remainder of the parcel not to conform with the existing zoning ordinances, or when the location of the right of way line of the proposed highway reduces the distance from an existing single family residence to the right of way line to 10 feet or less, the acquiring agency shall, if the owner so demands, take the whole parcel by negotiation or condemnation. The part not needed for highway purposes may be rented, sold or exchanged by the acquiring agency.

When any farm land is acquired for State highway purposes by the exercise of the right of eminent domain, the rate of compensation to be paid by the acquiring agency shall be computed by taking into consideration the total acreage originally involved in the farm land parcel, including that portion of such parcel already part of a right of way for highway purposes but for which legal title lies in the owner of the parcel.

Laws 1959, p. 203, § 4–501. Amended by Laws 1965, p. 2371, § 1; Laws 1967, p. 1222, § 1; Laws 1967, p. 3206, § 1; Laws 1968, p. 405, § 1, eff. July 1, 1969; P.A. 81–536, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–501.

5/4–501.5. Eminent domain

§ 4–501.5. Eminent domain. Notwithstanding any other provision of this Code, any power granted under this Code to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1959, p. 203, § 4–501.5, added by P.A. 94–1055, Art. 95, § 95–5–745, eff. Jan. 1, 2007.

5/4–502. Acquisition of property necessary to straighten ditch, etc.

§ 4–502. When the Department deems it necessary to build, widen, alter, relocate or straighten any ditch, drain or watercourse in order to drain or protect any highway or highway structure it is authorized to construct, maintain or operate, it may acquire the necessary property, or such interest or right therein as may be required, by gift or purchase or, if the compensation or damages cannot be agreed upon, by the exercise of the right of eminent domain under the eminent domain laws of this State. The Department shall not be required to furnish bond in any eminent domain proceeding.

Laws 1959, p. 203, § 4–502.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–502.

5/4–503. Entry on lands to make surveys

§ 4–503. For the purpose of making subsurface soil surveys, preliminary surveys and determinations of the amount and extent of such land, rights or other property required, the Department, or any county, by its officers, agents or employees, after written notice to the known owners and occupants, if any, may enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be occasioned thereby.

Laws 1959, p. 203, § 4–503. Amended by P.A. 81–1248, § 1, eff. Jan. 1, 1981; P.A. 84–713, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–503.

5/4–504. Acquisition of State lands necessary for State highway purposes

§ 4–504. Subject to the approval of the Governor and the consent of any department, board, commission, officer or other agency of the State government having control and custody of any land now or hereafter owned by the State, the Department is authorized to take and use such portion as may be deemed necessary for State highway purposes over such land, provided such taking and use by the Department does not interfere with the use of such land by the agency so having control and custody.

Laws 1959, p. 203, § 4–504.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–504.

5/4–505. Acquisition of land and property for relocation of railway tracks or public utility facilities

§ 4–505. In addition to whatever powers the Department may by law now possess, whenever it is necessary as an incident to the construction of a new State highway or the relocation, reconstruction, extension, widening, straightening, alteration, repair, maintenance or improvement of an existing State highway (including extensions of a new or existing State highway through or into a municipality upon a new or existing street) that the line or tracks or a railroad or railway company or the wires, poles, pipes or other facilities of a public utility, which are not then located in or upon a public street or highway, be relocated, and the Department and such company or public utility have entered into an agreement, approved by the Illinois Commerce Commission, concerning such relocation, the Department is authorized to purchase, or to acquire through the exercise of the right of eminent domain under the eminent domain law of the State, such easements, rights, lands or other property as may be necessary for the relocation of said railroad or railway line or tracks or other public utility facilities.

The Department is authorized to convey such easements, rights, lands or other property it has so purchased or acquired for said relocation of the said railroad, railway company or other public utility by deed executed by the Director of the Department.

Laws 1959, p. 203, § 4–505. Amended by Laws 1965, p. 428, § 1, eff. July 1, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–505.

5/4–508. Sale or exchange of lands or properties not needed

§ 4–508. (a) Except as provided in paragraphs (c) and (d) of this Section, and subject to the written approval of the Governor, the Department may dispose of, by public sale, at auction or by sealed bids, any land, rights or other properties, real or personal, acquired for but no longer needed for highway purposes or remnants acquired under the provisions of Section 4–501, provided that no such sale may be made for

less than the fair appraised value of such land, rights, or property.

(b) Except as provided in paragraphs (c) and (d) of this Section, and subject to the written approval of the Governor, the Department may exchange any land, rights or property no longer needed for highway purposes or remnants acquired under the provisions of Section 4–501 of this Code for equivalent interests in land, rights or property needed for highway purposes. Where such interests are not of equivalent value cash may be paid or received for the difference in value.

(c) If at the time any property previously determined by the Department to be needed for highway purposes is declared no longer needed for such purposes, and the person from whom such property was acquired still owns and has continuously owned land abutting such property since the acquisition by the Department, the Department before making any disposition of that property shall first offer in writing that property to the person from whom such property was acquired at the current appraised value of the property. If the offer is accepted in writing within 60 days of the date of the written offer, the Department, subject to the written approval of the Governor, is authorized to dispose of such property to the person from whom such property was acquired upon payment of the appraised value. If the offer is not accepted in writing within 60 days of the date of the written offer, all rights under this paragraph shall terminate.

(d) If the Department enters into or currently has a written contract with another highway authority for the transfer of jurisdiction of any highway or portion thereof, the Department is authorized to convey, without compensation, any land, dedications, easements, access rights, or any interest in the real estate that it holds to that specific highway or portion thereof to the highway authority that is accepting or has accepted jurisdiction. However, no part of the transferred property can be vacated or disposed of without the approval of the Department, which may require compensation for non-public use.

(e) Except as provided in paragraph (c) of this Section, if the Department obtains or obtained fee simple title to, or any lesser interest, in any land, right, or other property and must comply with subdivision (f)(3) of Section 6 of Title I of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 l–8(f)(3)), the Historic Bridge Program established under Title 23, United States Code, Section 144, subsection (*o*) (23 U.S.C. 144(*o*)), the National Historic Preservation Act (16 U.S.C. Sec. 470), the Interagency Wetland Policy Act of 1989,[1] or the Illinois State Agency Historic Resources Preservation Act,[2] the Department, subject to the written approval of the Governor and concurrence of the grantee, is authorized to convey the title or interest in the land, right, or other property to another governmental agency, or a not-for-profit organization that will use the property for purposes consistent with the appropriate law.

The Department may retain rights to protect the public interest.

Laws 1959, p. 203, § 4–508. Amended by Laws 1959, p. 1188, § 1; Laws 1961, p. 2722, § 1; P.A. 76–1677, § 1, eff. Oct. 3, 1969; P.A. 83–312, § 1, eff. Jan. 1, 1984; P.A. 90–573, § 5, eff. Feb. 6, 1998; P.A. 90–755, § 10, eff. Jan. 1, 1999; P.A. 91–357, § 225, eff. July 29, 1999; P.A. 95–331, § 1000, eff. Aug. 21, 2007.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–508.

[1] 20 ILCS 830/1–1 et seq.

[2] 20 ILCS 3420/1 et seq.

5/4–508.1. Federal-aid projects; cessation; conveyances

§ 4–508.1. In the event the Department obtains or has obtained fee simple title to, or any lesser interest in, any land, rights or other property under the provisions of Section 4–508 of this Code in connection with a project involving the planned construction of a federal-aid highway and that project ceases to be a federal-aid project, the Department is authorized to convey title to, or any lesser interest in, all such land, rights or property, regardless of whether any construction has taken place, to the Illinois State Toll Highway Authority without compensation when such conveyance is approved in writing by the Governor.

Laws 1959, p. 203, § 4–508.1, added by P.A. 83–1258, § 1, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–508.1.

5/4–509. Acquisition of property to replace property of public agency

§ 4–509. In addition to other powers of the Department, whenever it is necessary as an incident to the construction of a new State highway or the relocation, reconstruction, extension, widening, straightening, alteration, repair, maintenance or improvement of an existing State highway (including extensions of a new or existing State highway through or into a municipality upon a new or existing street) that property already devoted to a public use be acquired, and the Department and the public agency having jurisdiction over such property have entered into an agreement concerning the acquisition of such property, the Department is authorized to purchase, or to acquire through the exercise of the right of eminent domain, such easements, rights, lands or other property as may be necessary to replace the public property being acquired. The Department is authorized to convey to such public agency such easements, rights, lands or other property it so purchases or acquires for such replacement by deed executed by the Director of the Department.

Laws 1959, p. 203, § 4–509, added by Laws 1965, p. 2921, § 1, eff. Aug. 10, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–509.

5/4–510. Rights of way for future additions; establishment of locations and widths

§ 4–510. The Department may establish presently the approximate locations and widths of rights of way for future additions to the State highway system to inform the public and prevent costly and conflicting development of the land involved.

The Department shall hold a public hearing whenever approximate locations and widths of rights of way for future highway additions are to be established. The hearing shall be held in or near the county or counties where the land to be used is located and notice of the hearing shall be published in a newspaper or newspapers of general circulation in the county or counties involved. Any interested person or his representative may be heard. The Department shall evaluate the testimony given at the hearing.

The Department shall make a survey and prepare a map showing the location and approximate widths of the rights of way needed for future additions to the highway system. The map shall show existing highways in the area involved and the property lines and owners of record of all land that will be needed for the future additions and all other pertinent information. Approval of the map with any changes resulting from the hearing shall be indicated in the record of the

hearing and a notice of the approval and a copy of the map shall be filed in the office of the recorder for all counties in which the land needed for future additions is located.

Public notice of the approval and filing shall be given in newspapers of general circulation in all counties where the land is located and shall be served by registered mail within 60 days thereafter on all owners of record of the land needed for future additions.

The Department may approve changes in the map from time to time. The changes shall be filed and notice given in the manner provided for an original map.

After the map is filed and notice thereof given to the owners of record of the land needed for future additions, no one shall incur development costs or place improvements in, upon or under the land involved nor rebuild, alter or add to any existing structure without first giving 60 days notice by registered mail to the Department. This prohibition shall not apply to any normal or emergency repairs to existing structures. The Department shall have 45 days after receipt of that notice to inform the owner of the Department's intention to acquire the land involved; after which, it shall have the additional time of 120 days to acquire such land by purchase or to initiate action to acquire said land through the exercise of the right of eminent domain. When the right of way is acquired by the State no damages shall be allowed for any construction, alteration or addition in violation of this Section unless the Department has failed to acquire the land by purchase or has abandoned an eminent domain proceeding initiated pursuant to the provisions of this paragraph.

Any right of way needed for additions to the highway system may be acquired at any time by the State or by the county or municipality in which it is located. The time of determination of the value of the property to be taken under this Section for additions to the highway system shall be the date of the actual taking, if the property is acquired by purchase, or the date of the filing of a complaint for condemnation, if the property is acquired through the exercise of the right of eminent domain, rather than the date when the map of the proposed right-of-way was filed of record. The rate of compensation to be paid for farm land acquired hereunder by the exercise of the right of eminent domain shall be in accordance with Section 4–501 of this Code.

Not more than 10 years after a protected corridor is established under this Section regardless of whether the corridor is established before or after the effective date of this amendatory Act of the 97th General Assembly, and not later than the expiration of each succeeding 10 year period, the Department shall hold public hearings to discuss the viability and feasibility of the protected corridor. In the case of a protected corridor established prior to 10 years before the effective date of this amendatory Act of the 97th General Assembly, the hearing shall be conducted within 6 months of the effective date of this amendatory Act of the 97th General Assembly. The Department shall retain the discretion to maintain any protected corridor established under this Section, but shall give due consideration to the information obtained at the hearing and, if the Department in its discretion determines that construction of the roadway is no longer feasible, the Department shall abolish the protected corridor.

Laws 1959, p. 203, § 4–510, added by Laws 1967, p. 892, § 1. Amended by P.A. 81–536, § 1, eff. Jan. 1, 1980; P.A. 83–358, § 98, eff. Sept. 14, 1983; P.A. 91–357, § 225, eff. July 29, 1999; P.A. 97–279, § 5, eff. Aug. 8, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–510.

5/4–511. Acquisition of property to replace or relocate structures removed or demolished by construction

§ 4–511. In addition to whatever powers the Department may by law now possess whenever it is necessary for the Department as an incident to the construction of a new State highway or the relocation, reconstruction, extension, widening, straightening, alteration, repair, maintenance or improvement of an existing highway (including extension of a new or existing State highway through or into a municipality upon a new or existing street) to acquire property occupied by a structure which must be removed or demolished in order to construct such highway, then the Department may acquire within a one mile radius of such structure such other unimproved or improved but unoccupied easements, rights, lands or other property by purchase or through the exercise of the right of eminent domain, for the purpose of:

(a) Providing a site on which such structure may be replaced or relocated by the Department in order that the structure or its replacement thereof may continue to be used in conformance with the use previously made thereof, provided that the use of such site shall be in accordance with applicable zoning requirements and building codes. The Department is authorized to replace, restore and rehabilitate such site and structure in its entirety including but not limited to providing a suitable foundation, installing heating, lighting, water, sewage and other necessary facilities and appurtenances. After the construction of the replacement structure or relocation, restoration and rehabilitation of any existing structure, the Department may sell or exchange such structure and site on which it is located in the manner provided by Section 4–508 of this Code and may insert in any instrument or deed covering such sale or exchange, such covenants and agreements insuring compliance with this Section which covenants and agreements shall run with the land.

(b) Providing a site on which such structure may be replaced, relocated, restored or rebuilt by the owner thereof in order that the structure or its replacement thereof may continue to be used in conformance with the use previously made thereof provided that the use of such site shall be in accordance with applicable zoning requirements and building codes. The Department is authorized to exchange such easements, rights, lands or other property with the owner of the property required for the highway construction in a manner provided by Section 4–508 of this Code and may insert in any instrument or deed covering such exchange, such covenants and agreements insuring compliance with this Section which covenants and agreements shall run with the land.

The Department may enter into an agreement or agreements with any department, board, commission, officer or agency of federal or state government, its political subdivisions and municipal corporations or with any private person, firm or corporation in order to carry out the purpose of this Section.

Laws 1959, p. 203, § 4–511, added by P.A. 77–1577, § 1, eff. Sept. 17, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 4–511.

5/4–512. Street closing or relocating

§ 4–512. Street closing or relocating. The Department shall not, under any circumstance, give its approval to any plan or request that would permanently close or relocate that

portion of 55th Street lying between East Avenue and Joliet Road, located within Cook County.

Laws 1959, p. 203, § 4–512, added by P.A. 88–242, § 5, eff. Aug. 6, 1993.

ARTICLE 5. COUNTY ADMINISTRATION OF HIGHWAYS

DIVISION 1. GENERAL POWERS OF COUNTY—DESIGNATION OF COUNTY HIGHWAYS

5/5–101. Powers and duties of county board

§ 5–101. The county board of each county shall have the powers and duties stated in Sections 5–101.1 to 5–101.11, inclusive.

Laws 1959, p. 203, § 5–101. Amended by Laws 1961, p. 2818, § 1; Laws 1965, p. 1000, § 1, eff. July 1, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.

5/5–101.1. General supervision of county highways

§ 5–101.1. To have general supervision of all county highways in the county, subject to the provisions of Section 4–101.1.

Laws 1959, p. 203, § 5–101.1. Amended by P.A. 85–853, § 1, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.1.

5/5–101.2. Levy taxes; expend funds

§ 5–101.2. To levy taxes and expend funds, either general or special, in accordance with law for highway purposes.

Laws 1959, p. 203, § 5–101.2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.2.

5/5–101.3. Construction of county and State highways

§ 5–101.3. To construct any county highway, including the lighting thereof, in the discretion of the county board out of any funds available for such purpose, and to construct State highways, provided that any construction of a State highway shall be according to plans and specifications approved by the Department.

Laws 1959, p. 203, § 5–101.3.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.3.

5/5–101.4. Appropriation of funds for township and district highways

§ 5–101.4. To appropriate funds to aid in the construction of township and district highways in any part of the county.

Laws 1959, p. 203, § 5–101.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.4.

5/5–101.5. Employment of proceeds of bonds for highways

§ 5–101.5. When in any county of 500,000 inhabitants or more bonds of the county have been authorized by vote of the people of the county for the purpose of aiding in the construction of highways, to employ the proceeds of such bonds in aiding in the construction or widening of any highways in such county, including State and county highways therein.

Laws 1959, p. 203, § 5–101.5.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.5.

5/5–101.6. County superintendent of highways; appointment

§ 5–101.6. To appoint a county superintendent of highways in the manner provided by Division 2 of this Article.

Laws 1959, p. 203, § 5–101.6.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.6.

5/5–101.7. Acceptance of money and donations for highways

§ 5–101.7. To accept, receive and use as county funds for the purpose of constructing county highways money turned over to the county by a road district as provided by Section 5–606 of this Code, or by a municipality, or by any person; and to accept and use donations from any source for the purpose of constructing any highway within the county.

Laws 1959, p. 203, § 5–101.7.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.7.

5/5–101.8. Recording of highway plats

§ 5–101.8. Whenever any county highway is laid out, widened or altered in accordance with this Article, to cause a plat thereof to be made and recorded in the office of the recorder of the county (or in the office of the registrar of titles for the county if appropriate) in accordance with the provisions of Section 9 of "An Act to revise the law in relation to plats", approved March 21, 1874, as amended.[1]

Laws 1959, p. 203, § 5–101.8. Amended by P.A. 83–358, § 98, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.8.

[1] 765 ILCS 205/9.

5/5–101.9. Exercise of any other power and duty

§ 5–101.9. To exercise any other power and perform any other duty prescribed in this Code.

Laws 1959, p. 203, § 5–101.9.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.9.

5/5–101.10. Erection and maintenance of traffic control devices and signs

§ 5–101.10. To place, erect and maintain on county highways all traffic control devices and signs authorized by this Code or by "The Illinois Vehicle Code", approved September 29, 1969, as amended.[1]

Laws 1959, p. 203, § 5–101.10, added by Laws 1961, p. 2818, § 1, eff. Aug. 4, 1961. Amended by P.A. 83–333, § 69, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.10.

[1] 625 ILCS 5/1–100 et seq.

5/5–101.11. Purchase or lease of highway construction and maintenance equipment

§ 5–101.11. Whenever it considers such purchase or lease advisable, to purchase or lease highway construction and maintenance equipment under contracts providing for payment in installments over a period of time of not more than 10 years with interest on the unpaid balance owing not to exceed the amount permitted pursuant to "An Act to authorize public corporations to issue bonds, other evidences of indebtedness and tax anticipation warrants subject to inter-

est rate limitations set forth therein", approved May 26, 1970, as amended.[1]

Laws 1959, p. 203, § 5–101.11, added by Laws 1965, p. 1000, § 1, eff. July 1, 1965. Amended by P.A. 84–1325, § 1, eff. Jan. 1, 1987; P.A. 85–293, Art. III, § 36, eff. Sept. 8, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–101.11.

[1] 30 ILCS 305/0.01 et seq.

5/5–102. Highways in county highway system; additions; deletions; connecting principal municipalities and trading points

§ 5–102. Upon the effective date of this Code the highways comprising the county highway system in each county are those highways that, on such date, are defined as county highways by Section 2–102 and 2–204 of this Code.

Additions to and deletions from the county highway system may be made in the manner prescribed in this Code. Highways added to the county highway system shall be as nearly as possible highways connecting the principal municipalities and trading points in each county with each other, and also with the principal municipalities and trading points in other counties.

Laws 1959, p. 203, § 5–102.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–102.

5/5–103. Map, entry on official records; changes

§ 5–103. Immediately after the effective date of this Code, the Department shall indicate the highways in each county highway system under the provisions of this Code on such effective date by marking them upon a map which shows the public roads and section lines in the county and shall file such map with the county clerk. The county clerk shall enter the map among his official records, and no changes in the county highway routes indicated thereon shall be made except when a change has been made in the county highway system in accordance with the provisions of Section 5–105 of this Code or when a county highway or part of it is vacated or relocated in accordance with Sections 5–109 or 5–110 of this Code.

Laws 1959, p. 203, § 5–103. Amended by Laws 1967, p. 3388, § 1, eff. Aug. 26, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–103.

5/5–104. Total mileage

§ 5–104. Except as otherwise provided in this Code, no mileage shall be added to a county highway system after the effective date of this Code, if such addition causes the total mileage of highways in the county highway system of the county to exceed 35% of the total rural public highway mileage in a county having less than 500,000 inhabitants or 75% of the total rural public highway mileage in a county having 500,000 inhabitants or more. When 80% of the maximum permissible county highway system mileage in a county is of proper width and alignment and has been satisfactorily improved with oiled earth, gravel, macadam, portland cement concrete, bituminous concrete or brick on a portland cement concrete base, or other hard-surfaced type of pavement, patented or otherwise, (including surface or subsurface drainage, grading, bridges and culverts thereon having adequate design and roadway width and satisfactory horizontal and vertical alignment and capable of sustaining highway traffic with safety), as determined by the Department, such county may, in the manner provided by Section 5–105, add to its existing highways in the county highway system, additional highway mileage to the extent of 10% of the permissible highway mileage of county highways in the county.

The total rural public highway mileage in a county shall be determined and published by the Department.

In determining the maximum permissible county highway system mileage of any county under this Section the mileage of county highways within the corporate limits of a municipality shall not be considered.

Laws 1959, p. 203, § 5–104. Amended by P.A. 85–784, § 2, eff. Jan. 1, 1988; P.A. 85–832, § 2, eff. Sept. 24, 1987; P.A. 85–854, Art. III, § 3, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–104.

5/5–105. Changes in county highway system

§ 5–105. Temporary closings of county highways, or changes in highways making up a part of the county highway system, including additions to and deletions from such system, may be made by resolution of the county board, subject to the approval of the Department. Highways permanently removed from the county highway system which do not become part of the State highway system shall become part of the township and district road system if in a rural area, or the municipal street system if in a municipality. Such permanent changes shall be indicated on the map provided for by Section 5–103 of this Code or a corrected map may be substituted therefor. The provisions of this Section do not apply to the vacation or relocation of a county highway or part of it pursuant to Sections 5–107, 5–109 or 5–110 of this Code. However, a change occasioned by the vacation or relocation of a county highway or part of it pursuant to Sections 5–107, 5–109 or 5–110 of this Code shall be indicated on the map provided for by Section 5–103 in the same manner as changes made under this Section.

Laws 1959, p. 203, § 5–105. Amended by Laws 1967, p. 3388, § 1, eff. Aug. 26, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–105.

5/5–106. Designation of municipal extensions; becoming part of county system

§ 5–106. The county board may, by resolution approved by the Department, designate a route on existing streets in a municipality as a municipal extension of a county highway or may designate a route for a municipal extension of a county highway on a new location in a municipality. Such designation shall be made so as to form a continuous route for a county highway through the municipality or so as to end a route for a county highway at a point within the municipality, as the case may be, as will best serve traffic needs.

Routes designated as municipal extensions of a county highway as provided in this Section shall not, by virtue of such designation, become a part of the county highway system. However, for the purposes of preparing plans and specifications, acquisition of right-of-way, the performance of all things necessary to the commencement of a construction or improvement project on a part or all of such a route by the county and the use of county highway or motor fuel tax funds therefor, such route shall be treated and considered as though it were then a part of the county highway system.

Upon the commencement by the county of a construction or improvement project on a part or all of a route so designated as such a municipal extension, the part so to be constructed or improved shall thereupon become a part of the county highway system.

Laws 1959, p. 203, § 5–106.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–106.

5/5–107. Relocation of county highways

§ 5–107. Relocations of county highways may be made during the improvement thereof according to plans approved by the county board and the Department. Upon completion of the relocated highway and its opening to public travel, the new location shall become the location of the county highway and the county shall have full authority over the relocated highway and that portion of the original location not incorporated into the new location. For any portion of the original location not incorporated into the new location, the county board, by the process established by law, may transfer road jurisdiction to another highway authority or vacate, transfer, or sell the property interest.

Pending the completion and opening of the relocation, the county board shall have full authority over the existing county highway and shall also have power to lay out the relocation, acquire rights-of-way, by condemnation or otherwise, and take whatever action is necessary to effect the laying out, improving, and opening of the county highway upon the relocation.

Laws 1959, p. 203, § 5–107. Amended by P.A. 96–1001, § 5, eff. Jan. 1, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–107.

5/5–108. Numbering of county highways

§ 5–108. The Department shall assign a number to each county highway in each county and all county highways shall always be designated by a number. The Department may from time to time renumber such county highways.

Laws 1959, p. 203, § 5–108.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–108.

5/5–109. Vacation of county highways; procedure; damages

§ 5–109. When the county board determines that the public and economic interest is served by vacating a county highway or part of it, it may vacate that highway or part of it by resolution adopted by the favorable vote of ⅔ of the members of the county board, subject to the approval of the Department. The vote of each member shall be entered on the records of the county board. Prior to acting on such vacation resolution, the county board shall give at least 10 days' notice of the time and place of the county board meeting at which said resolution is to be considered, by publication in at least one newspaper published in the township or road district, or in the absence of such published newspaper, in at least one newspaper of general circulation in the township or road district, or in the absence of such generally circulated newspaper at the time prescribed for notice, by posting notices in 5 of the most public places in the township or road district in the vicinity of the road to be vacated.

The resolution may provide that it is not effective until the owners of property abutting on the highway or part of it to be vacated pay compensation in an amount which, in the judgment of the county board, is not in excess of the fair market value of a similar acreage abutting the highway. If there are public service facilities on the highway or part of it, the resolution shall reserve to the public body or public utility owning the facilities, the property, rights of way and easements existing at the time of vacating the highway for the maintenance, renewal and reconstruction of the same.

The determination of the county board that the nature and extent of the public and economic interest to be served warrants the vacation, reconstruction or relocation pursuant to this Section or Section 5–110 of the Code of any county highway or part of it, is conclusive, and the passage of the resolution is sufficient evidence of that determination, whether recited in the resolution or not. The relief to the public from further burden and responsibility of maintaining a highway or part of it constitutes a public and economic interest authorizing the vacation or relocation.

When property is damaged by the vacation of a county highway or part of it, the damage shall be ascertained and paid as provided by law.

Laws 1959, p. 203, § 5–109, added by Laws 1967, p. 3388, § 1, eff. Aug. 26, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–109.

5/5–110. Recording of vacated county highways

§ 5–110. Upon the vacation of a county highway or part of it, the county board shall cause a legal description of the highway or the part of it vacated to be recorded in the office of the recorder. The recorder shall mark any recorded plat of the highway in a manner that shows the vacation and indicates the book and page number where the description is recorded.

The provisions of Section 5–109 and this Section 5–110 shall not apply where the county board has ordered a highway or part thereof to be closed for a specified period of time, to be reconstructed thereafter. The provisions of Section 5–109 shall not apply where the county board has ordered a highway or part thereof to be vacated permanently to be reconstructed and dedicated in a new location.

Laws 1959, p. 203, § 5–110, added by Laws 1967, p. 3388, § 1, eff. Aug. 26, 1967. Amended by P.A. 83–358, § 98, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–110.

DIVISION 2. COUNTY SUPERINTENDENT OF HIGHWAYS

5/5–201. County superintendent in counties over 3,000,000; county engineer in counties under 3,000,000; appointment

§ 5–201. In each county with a population greater than 3,000,000, there shall be a county superintendent of highways. In each county with a population less than 3,000,000, there shall be a county engineer. On the effective date of this amendatory Act of 1991, in every county with a population less than 3,000,000, the county engineer shall succeed to all the powers and duties enjoyed by the county superintendent of highways immediately before that date. On and after the effective date of this amendatory Act of 1991, "county superintendent of highways" means "county engineer" or "county superintendent of highways" wherever it appears in this Code, unless a contrary intention is clearly indicated.

In the appointment of a county engineer or superintendent of highways, the county board and the Department shall proceed as follows:

(1) Should the board desire to reappoint the incumbent, it shall do so within 100 days before or after his term of office expires; however, prior to each reappointment, the board shall request and receive the consent of the Department to such reappointment, and the Department shall not withhold such consent except for incompetence or neglect of duty.

(2) Should the board desire to appoint someone other than the incumbent, it shall, within 100 days before or

after the incumbent's term expires or a vacancy occurs, submit to the Department a list of not more than 5 persons, residents of the State, who are candidates for the office.

Each candidate shall hold a currently valid certificate of registration as a registered professional engineer issued under the provisions of the Professional Engineering Practice Act of 1989,[1] except that any candidate who holds the office of county superintendent of highways in any county on January 1, 1980, shall not be required to hold a certificate.

Each candidate shall also have at least one of the following qualifications:

(a) a baccalaureate degree in engineering from a reputable school and at least 2 years experience in civil and highway engineering or in the construction and maintenance of streets or highways, or both; or

(b) at least 10 years practical experience in civil and highway engineering or in the construction and maintenance of streets or highways, or both, at least 2 years of which shall be administrative experience of a scope comparable to that of the office for which he is a candidate; however, each of the first 3 academic years attendance at a reputable engineering school shall be considered as equivalent to 2 years practical experience in civil and highway engineering or experience in the construction and maintenance of streets or highways.

Upon the submission of a list of candidates by a county board, the Department shall proceed to determine if each candidate meets either of the above qualifications. The Department shall thereupon hold an appropriate examination for the candidates which it has found to meet one of the qualifications, and shall certify to the county board the names of the candidates who made satisfactory grades in the examination. The County board shall then appoint as county engineer or superintendent of highways one of the candidates so certified by the Department. If no candidate makes a satisfactory grade, the Department shall so certify to the county board, and the county board and Department shall proceed in like manner until an appointment is made.

(3) Should the board desire to consider for appointment both the incumbent and other candidates, the procedure shall be as above outlined in this Section except that final action of the county board on the question of reappointing the incumbent shall be delayed until the county board receives the first certification of results of the examination from the Department. In case no candidate on the first list submitted by the county board made a satisfactory grade in the examination, the county board shall not submit a second list but shall proceed to reappoint the incumbent.

As between persons equally competent and qualified to hold the office of county engineer or superintendent of highways, preference in the appointment shall be given residents of the county.

Any 2 or more counties may, with the approval of the Department, appoint the same person as county engineer or superintendent of highways for each of the counties and may by agreement provide for the proportionate share of the salary and expenses of the appointee to be borne by each county. However, if a county board desires to appoint as county engineer or superintendent of highways of that county a person who at that time is the county engineer or superintendent of highways of another county, the person shall not be required to take the examination given by the Department and shall not be required to accept the appointment without his consent.

No part of any moneys appropriated by the State for the building and maintaining of county highways shall be apportioned to any county unless a county engineer or superintendent of highways has been appointed.

Laws 1959, p. 203, § 5–201. Amended by Laws 1963, p. 2797, § 1, eff. Jan. 1, 1964; P.A. 81–389, § 1, eff. Jan. 1, 1980; P.A. 86–1475, Art. 3, § 3–64, eff. Jan. 10, 1991; P.A. 87–217, § 6, eff. Jan. 1, 1992; P.A. 87–895, Art. 3, § 3–84, eff. Aug. 14, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–201.

[1] 225 ILCS 325/1 et seq.

5/5–201.1. County Division of Transportation; counties more than 600,000 but less than 3,000,000 inhabitants

§ 5–201.1. In each county of more than 600,000 inhabitants but less than 3,000,000 inhabitants, there shall be a County Division of Transportation with a county director of the Division of Transportation.

The chairman of the county board, with the advice and consent of the county board, shall appoint a director from a list of qualified applicants. The appointee shall have demonstrated experience in the area of management and administration.

The county board shall notify the Department of the appointment of the director.

Laws 1959, p. 203, § 5–201.1, added by P.A. 84–756, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–201.1.

5/5–202. Term of office; salary and expenses; equipment and personnel

§ 5–202. (a) Except as provided under subsection (b) of this Section, the term of office of each county superintendent of highways is 6 years and until his successor is appointed and qualified. He shall receive a salary fixed by the county board, and shall also be allowed his actual traveling and other expenses incurred in the discharge of the duties of his office, his salary and expenses to be payable out of any general or highway funds of the county. The county board shall provide all equipment and personnel reasonably required by the county superintendent of highways in the discharge of the duties of his office.

(b) Each county superintendent of highways appointed in a county of more than 600,000 inhabitants but less than 3,000,000 inhabitants shall serve at the pleasure of the county board beginning with the first appointee to take office after the expiration of the remaining term of the county superintendent of highways in office on the effective date of this amendatory Act of 1985.

Laws 1959, p. 203, § 5–202. Amended by P.A. 84–756, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–202.

5/5–202.1. County director of Division of Transportation; county board employee; counties more than 600,000 but less than 3,000,000 inhabitants

§ 5–202.1. In counties of more than 600,000 inhabitants but less than 3,000,000 inhabitants, the county director of the

Division of Transportation shall hold the position as an employee of the county board.

Laws 1959, p. 203, § 5–202.1, added by P.A. 84–756, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–202.1.

5/5–203. Removal from office; review under Administrative Review Law

§ 5–203. Any county superintendent of highways may be removed from office by the county board for incompetence, neglect of duty or malfeasance in office. In any proceeding to remove a county superintendent of highways from office a petition shall be filed with the county board naming such officer as respondent and setting forth the particular facts upon which the request for removal is based. The county board shall set the matter for hearing not earlier than 5 days after service upon the respondent, which service shall be the same as in civil actions. The county board shall thereupon proceed to a determination of the charges and shall enter an order either dismissing the charge against the county superintendent of highways or removing him from office.

The decision of the county board is subject to judicial review under the Administrative Review Law as now or hereafter amended.[1]

Laws 1959, p. 203, § 5–203. Amended by Laws 1967, p. 4041, § 1; P.A. 77–994, § 1, eff. Aug. 17, 1971; P.A. 81–211, § 11, eff. Aug. 20, 1979; P.A. 82–783, Art. XI, § 255, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–203.

[1] 735 ILCS 5/3–101 et seq.

5/5–203.1. County director of Division of Transportation; terms; counties more than 600,000 but less than 3,000,000 inhabitants

§ 5–203.1. In counties of more than 600,000 inhabitants but less than 3,000,000 inhabitants, any county director of the Division of Transportation shall serve at the pleasure of the appointing authority.

Laws 1959, p. 203, § 5–203.1, added by P.A. 84–756, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–203.1.

5/5–204. Vacancy in office; entry into military service

§ 5–204. Whenever the office of county superintendent of highways is vacant, the county board may with the consent in writing of the Department appoint any competent person as acting county superintendent of highways until the vacancy is filled in the manner provided in Section 5–201.

The office shall not be deemed vacant except at the end of the incumbent's 6 year term or in case of his death, his removal from office in accordance with the provisions of section 5–203, or his resignation submitted in writing to the county board. However, if the incumbent enters the military service of the United States, the county board may, with the approval of the Department, appoint any competent person as acting county superintendent of highways to perform the duties of the office until the end of the incumbent's 6 year term or the discharge of the incumbent from such service, whichever shall first occur.

Laws 1959, p. 203, § 5–204.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–204.

5/5–204.1. County director of Division of Transportation; vacancies; counties more than 600,000 but less than 3,000,000 inhabitants

§ 5–204.1. In any county of more than 600,000 inhabitants but less than 3,000,000 inhabitants, the county board chairman may appoint any competent person as acting director whenever a vacancy exists and until such vacancy is filled as in Section 5–201.1.

Laws 1959, p. 203, § 5–204.1, added by P.A. 84–756, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–204.1.

5/5–205. Functions generally

§ 5–205. Functions generally. The county superintendent of highways shall, subject to the general supervision of the county board and to the rules and regulations of the Department, perform the functions stated in the following Sections preceding Division 3.

Laws 1959, p. 203, § 5–205. Amended by P.A. 88–572, § 80, eff. Aug. 11, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.

5/5–205.1. Preparation of plans, etc., for bridges and culverts

§ 5–205.1. Prepare or cause to be prepared, plans, specifications and estimates for all bridges and culverts to be built by the county, or by one or more road districts, and supervise the construction of all such bridges and culverts. When the clear span length of the bridge or culvert is more than 30 feet, the plans and specifications, before being finally adopted, shall be submitted to the Department for approval.

Laws 1959, p. 203, § 5–205.1. Amended by Laws 1965, p. 2719, § 1, eff. Aug. 6, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.1.

5/5–205.2. Supervision of construction and maintenance of highways with county funds

§ 5–205.2. Act for the county in all matters relating to the supervision of the construction or maintenance of any highway constructed or maintained in whole or in part at the expense of the county.

Laws 1959, p. 203, § 5–205.2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.2.

5/5–205.3. Advice to highway commissioners on township and district roads

§ 5–205.3. Advise the highway commissioners of the road districts in his county, when requested in writing, and direct, as otherwise provided in this code, the highway commissioners of the road districts in his county, as to the best methods of construction, repair, or maintenance of township and district roads. The grades of such roads in such road districts shall be constructed according to plans approved by the county superintendent of highways.

Laws 1959, p. 203, § 5–205.3. Amended by Laws 1961, p. 2816, § 1; P.A. 80–1444, § 1, eff. Jan. 1, 1979.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.3.

5/5–205.4. Preparation of maps, etc., of township and district roads using motor fuel tax funds

§ 5–205.4. Upon the request of the highway commissioner of any road district in the county, prepare or cause to be prepared all maps, plans, specifications and estimates of cost needed in order to comply with the provisions of Section 6–701.1 of this Code.

Laws 1959, p. 203, § 5–205.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.4.

5/5–205.5. Supervision of construction and maintenance of county highways

§ 5–205.5. Supervise the construction or maintenance of all county highways within the county.

Laws 1959, p. 203, § 5–205.5.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.5.

5/5–205.6. Records of contracts and purchases

§ 5–205.6. Keep a record of all contracts or purchases of materials, machinery or apparatus to be used in road construction in excess of $5,000 approved by him in any road district as hereinafter provided in this Code.

Laws 1959, p. 203, § 5–205.6. Amended by Laws 1959, p. 888, § 1; P.A. 81–693, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.6.

5/5–205.7. Acting for county on county unit district roads

§ 5–205.7. In counties in which a county unit road district has been established, subject to the direction of the county board, act for the county in all matters relating to the construction and maintenance of county unit district roads.

Laws 1959, p. 203, § 5–205.7.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.7.

5/5–205.8. Performance of other duties; deputy to Department

§ 5–205.8. Perform such other duties as may be prescribed by law and the rules and regulations of the Department. Other than as above specifically indicated, the county superintendent of highways and county director of the Division of Transportation shall be regarded as a deputy to the Department. However, no county superintendent of highways shall be required without his consent, and the consent of the county board of the county in whose employ he is, to perform services in any other county.

Laws 1959, p. 203, § 5–205.8. Amended by P.A. 84–756, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–205.8.

5/5–205.9. Report to road district treasurer

§ 5–205.9. Report to road district treasurer. If requested by the treasurer of a road district in the county, the county superintendent of highways shall report to the treasurer the balance, on the last day of each 6–month period ending on May 1 and November 1, of the road district's moneys administered by the county superintendent of highways. The report shall be made within 30 days after the end of each 6–month period. This Section applies only to counties with a population less than 3,000,000.

Laws 1959, p. 203, § 5–205.9, added by P.A. 88–572, § 80, eff. Aug. 11, 1994.

5/5–205.10. Discontinuance of a coterminous township

§ 5–205.10. Discontinuance of a coterminous township. If township organization is discontinued as provided in Article 27 of the Township Code, then the coterminous municipality shall assume the duties of highway commissioner under this Code.

Laws 1959, p. 203, § 5–205.10, added by P.A. 98–127, § 25, eff. Aug. 2, 2013.

DIVISION 3. PLANNING AND PROGRAMMING

5/5–301. County long-range plan

§ 5–301. In order to properly plan the utilization of motor fuel tax funds each County Superintendent of Highways, except for those in a county with a population of 185,000 or less, shall be required to develop and update a 20 year long-range highway transportation plan. The plan shall contain an estimate of revenues which will become available during that period and a statement of intention with respect to the construction, maintenance, and other related work to be done insofar as it is possible to make such estimates. In addition, the long-range plan shall show the location of existing county highways and the general corridors of future highways, the projected future traffic usage on each highway for a 20 year period, a tabulation showing the design standards and the geometric features associated with different levels of traffic usage, and a listing of the major improvements anticipated within 5 years of the date of each plan. A copy of the plan shall be filed with the Secretary of the Department of Transportation. A copy of the plan as it relates to each city over 5,000 population in the county shall be filed with the clerk of each municipality. The initial plan shall be on file with designated agencies by July 1, 1971, and shall be updated on an annual basis thereafter.

Laws 1959, p. 203, § 5–301, added by P.A. 76–376, § 1, eff. July 8, 1969. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 85–853, § 1, eff. Sept. 24, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–301.

DIVISION 4. CONSTRUCTION AND MAINTENANCE

5/5–401. County highways; supervision by county board

§ 5–401. Subject to the general supervisory powers of the Department under this Code, all highways in the county highway system shall be under the direct control and supervision of the county board of the county in which such county highways are located, and the county board shall repair, maintain and construct such county highways by contract or with its own forces.

However, gravel and macadam highways constructed or partially constructed prior to July 1, 1929 as State aid roads under the provisions of "An Act to revise the law in relation to roads and bridges", approved June 27, 1913, as amended,[1] and required to be maintained equally by the county and the Department under the provisions of Section 32 of that Act[2] shall continue to be so maintained.

Laws 1959, p. 203, § 5–401.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–401.

[1] Former Ill.Rev.Stat. ch. 121, ¶ 1 et seq. (repealed; see, now, 605 ILCS 5/1–101 et seq.).

[2] Former Ill.Rev.Stat. ch. 121, ¶ 37 (repealed).

5/5–402. Department approval of highway construction and maintenance by county; optional methods

§ 5–402. When motor fuel tax funds, federal aid road funds or other funds received from the State are used to finance, in whole or in part, the construction of a highway, or section thereof, by a county, supervision and approval of such project by the Department is mandatory except as hereinafter provided, and the county shall proceed in the manner set forth in Section 5–403.

Any county may construct a county highway, or section thereof, without supervision or approval of such project by the Department if no motor fuel tax funds, federal aid road funds or other funds received from the State are used to finance such construction. However, at the option of the county and by proceeding in the manner set forth in Section 5–403, any county highway construction project may be performed under the supervision of and approval by the Department even though no motor fuel tax funds, federal aid road funds or other funds received from the State are used to finance such construction.

The Department, upon satisfying itself that the County Highway Superintendent's Office in a county is adequately organized, staffed, equipped and financed to discharge satisfactorily the duties and requirements of this Section, may grant a county permission to construct or maintain highways or sections thereof when such projects are financed in whole or in part with any road funds received from the State except Federal-aid funds, without approval and supervision of the Department, providing the county will enter into an agreement of understanding with the Department. The Department, in cooperation with the several counties, shall establish the terms of the agreement of understanding to insure that the funds are expended in a manner as prescribed by law and rules and regulations deemed necessary by the Department. The approval and supervision of the Department may be required anew if the Department determines that a county which was exempted from such approval and supervision has not satisfactorily complied with the terms of the agreement of understanding.

Laws 1959, p. 203, § 5–402. Amended by P.A. 76–1850, § 1, eff. Oct. 13, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–402.

5/5–403. Construction of highways under supervision of department; procedure by county

§ 5–403. When any highway construction projects by a County are to be performed under the supervision and approval of the Department the procedure shall be as follows:

The county board shall, by one or more resolutions, specify the particular section or sections of highway to be constructed and the amount or amounts to be used for such construction. The resolution or resolutions shall be submitted to the Department for its approval. One resolution may be submitted for more than one project. When the resolution or resolutions have been approved by the Department, the county shall cause surveys, plans, specifications and estimates of such construction to be made and submitted to the Department for approval.

Upon receiving such approval, the county may advertise for bids and let contracts for such construction to the lowest responsible bidder; or with the approval of the Department, do the work itself through its officers, agents and employees. No contract shall be let without the approval of the Department. The Department shall have general supervision of such construction whether done by the county or by contract. Upon completion of the construction, if it is found by the Department that such construction has been in accordance with the specifications, plans, surveys, and contracts (if the construction was by contract), the Department shall so certify to the county.

Laws 1959, p. 203, § 5–403. Amended by P.A. 77–632, § 1, eff. Aug. 4, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–403.

5/5–405. County line highways

§ 5–405. County highways may be constructed or improved on county lines. In case two counties desire to secure the construction or improvement of a county highway situated upon or near the boundary line between them, the respective county boards thereof may, by appropriate resolutions, initiate proceedings therefor. To this end such county boards may, by concurring resolutions, fix the portion of the total cost of construction which should be borne by each county.

In all proceedings contemplating the construction or improvement of a county line highway as herein provided, all acts of each county board relative thereto, together with the result of any vote upon the question of levying a tax or issuing bonds as provided herein, shall be communicated by the county clerk of each county to the county clerk of the other county.

In case either county refuses to take the steps necessary to secure the construction or improvement of such county line highway as herein provided, then all prior proceedings relative thereto on the part of the other county shall be regarded as suspended.

Laws 1959, p. 203, § 5–405.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–405.

5/5–406. Connecting highways; interchanges

§ 5–406. Where the county board of any county deems it necessary to connect any county highway with any county or State highway situated within an adjoining county, or to construct an interchange at the intersection of any county, State, or interstate highway situated within an adjoining county, the county board may by resolution of record request the county board of the adjoining county to improve such connection to the county line or construct such interchange, and the county board making said request is authorized to turn over to the adjoining county making such improvement or constructing the interchange, such part of the cost of the improvement or interchange as may be agreed upon between such counties, subject to the approval of the Department.

Laws 1959, p. 203, § 5–406. Amended by P.A. 85–136, § 1, eff. Jan. 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–406.

5/5–407. Construction of highways by adjoining counties; contracts

§ 5–407. When a highway leading to a public ferry over a river which is the boundary line between two counties, is subject to inundation and flood damage, such highway in either or both of such counties may be constructed, repaired or maintained by the adjoining counties, or either of them, or may be partly constructed, repaired or maintained by both or either of such counties.

The county boards of such adjoining counties may enter into a contract as to the proportion of the expense of

construction, repair or maintenance to be borne by each, and such contracts shall be judicially enforceable; or either county may construct or maintain, or assist in the construction and maintenance of such highway in either or both counties.

Laws 1959, p. 203, § 5–407. Amended by P.A. 83–345, § 82, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–407.

5/5–408. Construction of highways in municipalities

§ 5–408. The county board, with the approval of the corporate authorities in the case of a municipality with a population of over 500, and in its own discretion in the case of a municipality with a population of 500 or less, may construct or maintain with county funds a highway or street, or part thereof, lying within the corporate limits of any municipality within the county, to connect or complete a county highway located to the corporate limits of such municipality.

Laws 1959, p. 203, § 5–408. Amended by Laws 1961, p. 2723, § 1; Laws 1965, p. 1070, § 1, eff. July 1, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–408.

5/5–409. Partial and final payment on contracts

§ 5–409. Partial payments on contracts let by a county for highway work may be made as the work progresses but no payment in excess of 90% of the value of the work then completed may be made until 50% of the work has been completed. After 50% of the work is completed, the county may, in its discretion, make partial payments without any further retention, provided that satisfactory progress is being made and provided that the amount retained is not less than 5% of the total adjusted contract price.

At the discretion of the county and with the consent of the surety, a semi-final payment may be made when the principal items of the work have been satisfactorily completed. Such payment shall not exceed 90% of the amount retained nor reduce the amount retained to less than 1% of the adjusted contract price nor less than $500.00.

Final payment under the contract shall not be made until it is shown that all money due for any labor, material, apparatus, fixtures or machinery furnished to the contractor or other indebtedness of the contractor incurred in connection with such work has been paid.

Furthermore, if the contract is one that was approved by the Department, no final payment shall be made until the county has received approval by the Department to do so.

This Section is also subject to the provisions of Section 23 of the Mechanics Lien Act. [1]

Laws 1959, p. 203, § 5–409. Amended by Laws 1963, p. 2796, § 1, eff. Aug. 13, 1963; P.A. 96–328, § 310, eff. Aug. 11, 2009.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–409.

[1] 770 ILCS 60/23.

5/5–410. Agreements with municipal corporations to maintain highways

§ 5–410. The county board is authorized to enter into agreements with any municipal corporation, terminable in the discretion of the county board, for the municipal corporation to maintain any county highway, or any part thereof, located within the municipal corporation, such maintenance to be under the supervision of the county superintendent of highways. Any such agreement entered into prior to the effective date of this Code is validated.

Laws 1959, p. 203, § 5–410.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–410.

5/5–410.1. Surrender of jurisdiction

§ 5–410.1. The county board may surrender jurisdiction over the right-of-way and improvements of all or part of a county highway, street or road to a municipality by agreement as provided in Section 11–91.2–1 of the Illinois Municipal Code, as now or hereafter amended.[1]

Laws 1959, p. 203, § 5–410.1, added by P.A. 85–1421, Art. 1, § 5, eff. Dec. 15, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–410.1.

[1] 65 ILCS 5/11–91.2–1.

5/5–411. All-weather surfaces at mail boxes

§ 5–411. On all county highways which have all-weather travel surfaces the county board shall provide for the construction and maintenance of all-weather surfaces at boxes used for the receipt of United States mail.

The rules, regulations and specifications adopted by the Department governing the erection and maintenance of boxes for the receipt of United States mail on State highways shall apply to and govern the erection and maintenance of such boxes on such county highways.

Laws 1959, p. 203, § 5–411, added by Laws 1959, p. 1800, § 1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–411.

5/5–412. Standing crops as snow breaks

§ 5–412. The county board, of each county, may contract with persons growing row crops on land adjacent to county highways to buy standing strips of such crops to remain in place to act as snow breaks along such highways in those places where experience shows that drifting snow has been an obstruction to traffic. The contract price to be paid by the county board in any such case shall be the higher of the market price in the local area of such crop at the time of contracting or the current Commodity Credit Corporation target price. An additional sum of money equal to 10% of the contract price may be paid to the grower as an inconvenience fee.

Laws 1959, p. 203, § 5–412, added by P.A. 81–1156, § 1, eff. Nov. 29, 1979. Amended by P.A. 84–1272, § 1, eff. Jan. 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–412.

5/5–413. Access roads and driveways laid out from county highway

§ 5–413. Access roads and driveways for private and public use may, upon receipt of a permit from the county superintendent of highways, be laid out from a county highway in accordance with regulations adopted by the county board.

Laws 1959, p. 203, § 5–413, added by P.A. 85–808, § 1, eff. Jan. 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–413.

5/5–414. Permit for temporary closing

§ 5–414. Permit for temporary closing. The county engineer may, upon application by the proper authorities of any governmental agency or person, issue a permit to the agency

or person to temporarily close to traffic any portion of a county highway for any public purpose or any temporary needs of the agency in accordance with regulations adopted by the County Board.

Laws 1959, p. 203, § 5–414, added by P.A. 91–775, § 10, eff. June 9, 2000.

DIVISION 5. DRAINAGE AND OTHER HIGHWAY STRUCTURES—CONSTRUCTION OR REPAIR AT JOINT EXPENSE OF COUNTIES, OR A COUNTY AND ROAD DISTRICT OR MUNICIPALITY

5/5–501. Aid from county board; letting contracts

§ 5–501. When it is necessary to construct or repair any bridge, culvert, drainage structure or grade separation, including approaches thereto, on, across or along any public road in any road district in the county, or on any street in any municipality of less than 15,000 population in the county, or on or across a line which forms the common boundary line between any such road districts or such municipalities, in which work the road district, or such municipality is wholly or in part responsible, and the cost of which work will be more than .02% of the value of all the taxable property in such road district or municipality, as equalized or assessed by the Department of Revenue, and the tax rate for road purposes in such road district was in each year for the 2 years last past not less than the maximum allowable rate provided for in Section 6–501 of this Code, or the tax rate in such municipalities for corporate purposes was in each year for the 2 years last past for the full amount allowed by law to be extended therein for such corporate purposes, the highway commissioner, the city council or the village board of trustees, as the case may be, may petition the county board for aid, and if the foregoing facts shall appear, the county board shall appropriate from the "county bridge fund" in the county treasury a sufficient sum to meet one-half the expense of constructing or repairing such bridge, culvert, drainage structure or grade separation, including approaches thereto, on condition that the road district or municipality asking for aid shall furnish the other one-half of the required amount. In counties in which a property tax extension limitation is imposed under the Property Tax Extension Limitation Law [1] and the imposition of the property tax extension limitation prevents a road district from levying taxes for road purposes at the maximum allowable rate, a road district may retain its eligibility if, at the time the property tax extension limitation was imposed, the road district was levying at the maximum allowable rate and continues to levy the maximum allowable amount after the imposition of the property tax extension limitation. If, however, the road district has increased its tax rate for such purposes to a rate in excess of.05% but not exceeding.25%, as provided in Section 6–508 of this Code, the amount required to be appropriated by the county shall be in accordance with the provisions of Section 5–501 of this Code, to the extent that the County and township rates are identical. For purposes of this Section, the maximum allowable tax rate for the 2 years last past shall be determined by using the last certified equalized assessed valuation at the time the tax levy ordinance was adopted.

When it is determined by the county board to grant the prayer of the highway commissioner, city council or village board of trustees asking for aid for the construction or repair of such bridge, culvert, drainage structure or grade separation, including approaches thereto, the county board shall thereupon enter an order directing the county superintendent of highways to cause plans and specifications for such improvement to be prepared.

Thereupon the county board shall order the improvement made, either by the letting of a contract in the manner authorized by the county board, or by doing the work itself through its officers, agents and employees. The work shall be performed under the general supervision of the county superintendent of highways, and when the work has been satisfactorily completed to meet the approval of the county superintendent of highways, he shall so certify to the county board, which certificate shall include an itemized account of the cost of all items of work incurred in the making of such improvement, and shall show the division of cost between the county and the participating agency, and he shall cause a copy of such certificate to be filed with the clerk of the participating agency. The county board and the participating agency undertaking such work shall thereupon make final payment for the same.

Laws 1959, p. 203, § 5–501. Amended by Laws 1959, p. 1184, § 1; Laws 1961, p. 2820, § 1; P.A. 77–1083, § 1, eff. Aug. 17, 1971; P.A. 79–784, § 1, eff. Oct. 1, 1975; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 85–159, § 1, eff. Jan. 1, 1988; P.A. 90–110, § 10, eff. July 14, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–501.

[1] 35 ILCS 200/18–185 et seq.

5/5–502. Construction or repair by county; joint construction or repair

§ 5–502. In case the county board deems it expedient to construct or repair a bridge, culvert, drainage structure, drainage facility or grade separation, including approaches thereto, on, across or along any highway, in the county, the county board may order the same constructed or repaired at the entire expense of the county; or the county and any other highway authority may jointly construct or repair any such bridge, culvert, drainage structure, drainage facility or grade separation, including approaches thereto, provided that the Department's participating authority shall be limited to the State highway system.

If it is decided to pay the cost of such construction or repair jointly, the county board and any other highway authority shall enter into a contract as to the proportion of the expense of such construction or repair to be borne by each. Such contracts, except as against the Department, shall be judicially enforceable.

Such improvement shall be made according to plans and specifications prepared by or under the direction of the county superintendent of highways, and the county board may undertake such work either by letting a contract for the same or may authorize the work to be performed directly by the county through and by its officers, agents and employees.

In case a bridge, culvert, drainage structure, drainage facility or grade separation is located on a public road which crosses a county line, transversely or substantially so, and such bridge, culvert, drainage structure, drainage facility or grade separation is so located that the county line passes through any part of such structure, then the adjoining counties may jointly construct or repair such bridge, culvert, drainage structure, drainage facility or grade separation, including approaches thereto.

For the purpose of such joint construction or repair, the adjoining counties shall enter into a contract as to the proportion of the expense of such construction or repair to be

borne by each. Such contracts, except as against the Department, shall be judicially enforceable.

Laws 1959, p. 203, § 5–502. Amended by Laws 1961, p. 2820, § 1; Laws 1963, p. 968, § 1, eff. July 1, 1963; P.A. 83–345, § 82, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–502.

5/5–503. Bridges, culverts or drainage structures on county line roads

§ 5–503. Bridges, culverts or drainage structures for across highway waterways having a waterway opening of 25 square feet or more and located on county highways, township roads or district roads on county lines, and bridges, culverts or drainage structures for across highway waterways having a waterway opening of 25 square feet or more and located on such county line highways where such highways deviate from the established county line within 80 rods of county lines, shall be constructed and repaired by such counties and the expense of such construction and repair shall be borne in a proportion to the assessed value of the taxable property in the respective counties according to the last preceding equalized assessment thereof prior to such construction or repair. The county boards of such adjoining counties may enter into joint contracts for a division of such expense other than that above provided which may be just and equitable, and such contracts may be judicially enforced against such county boards, and such county boards may be proceeded against jointly, by any parties interested in such bridges, culverts or drainage structures for any neglect of duty in reference to such bridges, culverts or drainage structures for any damages growing out of such neglect.

When any county desires to construct or repair any such bridge, culvert or drainage structure and has appropriated its share of the cost of constructing or repairing the same, it shall be the duty of such other county to make an appropriation for its proportionate share of the expense of such construction or repair. If such other county fails or refuses to make such appropriation, any court of competent jurisdiction, upon a petition for that purpose, shall enter an order to compel such other county to make such appropriation; or the county which has made its appropriation may, after giving due notice to the other county, proceed with the construction or repair of the bridge, culvert or drainage structure and if the construction or repair is reasonable in kind and costs, recover from the other county, by suit, such proportionate share of the expense as the other county is liable for, with costs of the action and interest from the time of the completion of the construction or repair, but, if the expense of the construction or repair of the bridge, culvert or drainage structure is unreasonable then the county may recover only the other county's proportionate share of an amount equal to a reasonable expense for the construction or repair.

Laws 1959, p. 203, § 5–503. Amended by P.A. 83–345, § 82, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–503.

5/5–504. Joint bridge construction by highway authorities

§ 5–504. The Department or the Illinois State Toll Highway Authority and any county, municipality, or road district, or any one or more of them, may jointly construct, repair and maintain a bridge, culvert, drainage structure, drainage facility, grade separation or interchange and approaches thereto.

For the purpose of such joint construction, repair and maintenance, the Department or the Illinois State Toll Highway Authority and the county board, city council, board of trustees or highway commissioner in road districts (as the case may be) may enter into a contract as to the proportion of the expense of construction, repair and maintenance to be borne by each. Such contracts, except as against the Department, shall be enforceable at law or equity.

Contracts for such construction, repair or maintenance work shall be let by the Department or the Illinois State Toll Highway Authority and such municipal corporations as have so agreed and shall expressly fix the extent of liability for each of such contracting parties.

Laws 1959, p. 203, § 5–504. Amended by Laws 1963, p. 968, § 1, eff. July 1, 1963; P.A. 86–528, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–504.

5/5–505. Bridges and culverts; abandonment

§ 5–505. Any bridge or culvert, or both, that has been constructed, repaired or maintained by adjoining counties may be abandoned and the use thereof for road purposes discontinued if the county boards of such adjoining counties determine by concurrent resolution that:

(1) the bridge or culvert, or both, proposed to be abandoned is unsafe for the use of traffic and is in need of extensive repair or replacement, but the amount of traffic making use of such structure or structures is so small that the expense of repairing or replacing the structure or structures cannot be justified;

(2) other means of access between the counties are available to adequately serve traffic in the area served by the bridge or culvert, or both, proposed to be abandoned;

(3) it will be in the best interest of the majority of the residents of each county to abandon the use of such bridge or culvert, or both; and

(4) an agreement has been reached as to the share of the cost of removal of any bridge so abandoned that is to be borne by each county, which agreement shall be set out in the resolution.

Whenever the use of any bridge is abandoned under the provisions of this Section, such bridge shall be promptly removed and the watercourse over which it passed left unobstructed.

Laws 1959, p. 203, § 5–505.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–505.

5/5–506. Approaches to bridges and culverts in different municipalities

§ 5–506. Approaches to bridges and culverts constructed under the provisions of Section 5–501 shall be maintained by the respective road districts or municipalities, and approaches to bridges or culverts constructed under the provisions of Section 5–503 shall be maintained by the respective counties, within which such approach or approaches may be located, and all approaches to any and all such bridges and culverts as have heretofore been constructed.

Laws 1959, p. 203, § 5–506.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–506.

5/5–507. Suit on joint contract

§ 5–507. If the county board of any such county, after reasonable notice in writing from such other county board, neglects or refuses to construct or repair any such bridge or culvert when any contract or agreement covering the division of cost has been made in regard to the same, the county board so giving notice may construct or repair the same and recover, by suit, such amount as shall have been agreed upon

of the expense of so constructing or repairing such bridge or culvert, with costs of suit and interest from the time of the completion thereof, from the county board so neglecting or refusing.

Laws 1959, p. 203, § 5–507.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–507.

DIVISION 6. TAXATION

5/5–601. County highway tax; election

§ 5–601. (a) For the purpose of improving, maintaining, repairing, constructing and reconstructing the county highways required to be maintained, repaired and constructed by the county as provided in Section 5–401 of this Code, and for the payment of lands, quarries, pits or other deposits of road material required by the county for such purpose, and for acquiring and maintaining machinery and equipment, or for acquiring, maintaining, operating, constructing or reconstructing buildings for housing highway offices, machinery, equipment and materials, used for the construction, repair and maintenance of such highways, the county board shall have the power to levy an annual tax to be known as the "county highway tax". Such tax shall be in addition to the maximum of all other county taxes which the county is now or may hereafter be authorized by statute to levy upon the aggregate valuation of all taxable property within the county. Such "county highway tax" shall not be extended at a rate exceeding .10%, or the rate limit in effect on July 1, 1967, whichever is greater, of the value, as equalized or assessed by the Department of Revenue, of the taxable property within the county, exclusive of the amount necessary to pay the principal of and interest on county road bonds duly authorized before July 1, 1959 for the construction of county highways, unless otherwise authorized by a vote of the people of the county. The county highway tax rate may be increased to .20% as provided in subsection (b). In counties having less than 1,000,000 inhabitants, the amount that may be expended for the purchase of machinery or equipment for constructing or maintaining highways shall not exceed in any one year an amount in excess of 35% of the maximum extension for highway purposes for such year. In counties having 1,000,000 or more inhabitants, taxes levied for any year for the purposes specified in this Section shall be subject to the limitation that they shall not exceed the estimated amount of taxes to be levied for such year for such purpose as determined in accordance with the provisions of Section 6–24001 of the Counties Code [1] and set forth in the annual appropriation bill of such county; and in ascertaining the rate per cent that will produce the amount of any tax levied in any such county under the provisions of this Section, the county clerk shall not add to such tax or rate any sum or amount to cover the loss and cost of collecting such tax. However, the foregoing limitations upon tax rates, insofar as they are applicable to counties of less than 1,000,000 population, may be increased or decreased under the referendum provisions of the General Revenue Law of Illinois. All moneys derived from the "county highway tax" shall be placed in a separate fund to be known as the "county highway fund" and shall be used for no other purpose. In any county containing 1,000,000 or more inhabitants, however, any appropriation or levy to be used for lands, easements and rights-of-way, motor vehicle equipment, mechanical equipment, engineering and drafting equipment, road materials, road, bridge and drainage improvements, grade separation improvements, railroad grade crossing improvements, warehouse and garage improvements, street signs and signals need not be expended during the fiscal year in which the appropriation or levy was made but shall also be available during the following fiscal year without reduction of any levy made during the latter fiscal year. After the end of that latter fiscal year, if there is still an unexpended balance, it shall operate to reduce, in like amount, any subsequent levy. It shall not be a defense or objection to any appropriation or levy made in a subsequent fiscal year for the same purposes that there remain uncommenced or uncompleted projects or unexpended moneys arising in an appropriation or levy of a prior year as contemplated in this Section.

(b) The maximum county highway tax rate provided for in subsection (a) may be increased not to exceed .20% if such increase is approved by a majority of the voters of the county voting on the question. The question shall be certified to the proper election officials, who shall submit the question to the voters at an election. Such election shall be conducted, returns made and notices thereof given as provided by the general election law. The question shall be in substantially the following form:

Shall the county highway tax rate of ..... County be increased to .....%?	YES	
	NO	

Laws 1959, p. 203, § 5–601. Amended by Laws 1959, p. 2443, § 1; Laws 1965, p. 3005, § 1; Laws 1967, p. 896, § 1; P.A. 77–1084, § 1, eff. Aug. 17, 1971; P.A. 81–779, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 81–1535, § 28, eff. Dec. 19, 1980; P.A. 86–1475, Art. 3, § 3–64, eff. Jan. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–601.

[1] 55 ILCS 5/6–24001.

5/5–601.1. Referenda; time and manner of conducting

§ 5–601.1. Whenever a proposition or public question is required to be submitted, pursuant to this Act, for approval or rejection by the electors at an election, the time and manner of conducting such referendum shall be in accordance with the general election laws of the State.

Laws 1959, p. 203, § 5–601.1, added by P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–601.1.

5/5–602. Additional annual tax

§ 5–602. For the purpose of administering Sections 5–501, 5–502, 5–503 and 5–504 of this Code, any county having less than 1,000,000 inhabitants may levy an additional annual tax not exceeding .05% of the value of all the taxable property in such county, as equalized or assessed by the Department of Revenue, which tax shall be in addition to all other county taxes and shall be in excess of any other rate limitation. The foregoing rate limitation may be increased, for a 10 year period, up to 0.25% under the referendum provisions of Sections 18–120, 18–125, and 18–130 of the Property Tax Code.[1] This tax shall be levied and collected at the same time and in the same manner as taxes for general county purposes. All moneys derived from such tax shall be placed in a separate fund in the county treasury to be known as the "county bridge fund". The county board shall from time to time make appropriations payable from the "county bridge fund" for the purpose of administering Sections 5–501, 5–502, 5–503 and 5–504 of this Code; but no portion of this fund may be expended for the purpose of administering sections 5–502, 5–503 or 5–504 of this Code

until all obligations imposed upon the county by Section 5–501 of this Code have been fulfilled. If, at the end of any fiscal year of the county, there is any unappropriated balance in the "county bridge fund", it shall operate to reduce, in like amount, any subsequent tax levy payable into such fund.

Laws 1959, p. 203, § 6–602. Amended by Laws 1959, p. 1184, § 1; P.A. 77–1145, § 1, eff. Aug. 17, 1971; P.A. 78–406, § 1, eff. Oct. 1, 1973; P.A. 79–783, § 1, eff. Oct. 1, 1975; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 88–670, Art. 3, § 3–78, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–602.

[1] 35 ILCS 200/18–120, 200/18–125, and 200/18–130.

5/5–603. Federal aid matching tax

§ 5–603. For the purpose of providing funds to pay the expenses for engineering and right-of-way costs, utility relocations and its proportionate share of construction or maintenance of highways in the federal aid network or county highway network and costs incurred incident to transportation planning studies conducted in cooperation, and by formal agreement, with the Department of Transportation or its predecessor, the Department of Public Works and Buildings and the designated authority of the United States Government the county board except in counties having a population in excess of 1,000,000 inhabitants has the power to levy an annual tax to be known as the matching tax. Such tax shall be in addition to the maximum of all other county taxes which the county is now or may hereafter be authorized by statute to levy upon the aggregate valuation of all taxable property within the county. Such matching tax shall not be extended at a rate exceeding .05% of the value of all taxable property within the county, as equalized or assessed by the Department of Revenue. On ascertaining the rate per cent that will produce the amount of any tax levied in any such county under this section, the county clerk shall not add to such tax or rate any sum or amount to cover the loss or cost of collecting such tax. All moneys derived from the matching tax shall be placed in a separate fund to be known as the matching fund and shall be used for no other purposes. The county board shall from time to time adopt resolutions appropriating matching funds for specific federal aid projects and motor fuel tax sections or for transportation planning studies conducted in cooperation, and by formal agreement, with the Department of Transportation or its predecessor, the Department of Public Works and Buildings and the designated authority of the United States Government and no moneys shall be disbursed from this fund unless so appropriated by the county board. After the end of the fiscal year, if there is still an unappropriated balance it shall operate to reduce, in like amount, any subsequent levy.

Laws 1959, p. 203, § 5–603. Amended by Laws 1963, p. 968, § 1; Laws 1965, p. 1043, § 1; Laws 1967, p. 2745, § 1; P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 77–447, § 1, eff. July 23, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–406, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 80–463, § 1, eff. Oct. 1, 1977; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 86–616, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–603.

5/5–604. Special tax for county highways or assisting road districts; form of proposition

§ 5–604. The county board of any county, pursuant to a petition and after referendum approval as required in this Section, may levy a special tax for the purpose of (1) constructing or repairing county highways or (2) assisting one or more road districts in the county to the extent of 25% of the cost of the construction or repair of township or district roads or (3) for both of such purposes. Such tax shall not be included within any statutory rate or amount for other county purposes but shall be excluded therefrom and be in addition thereto and in excess thereof.

Upon receipt of a petition from 100 or more landowners who are legal voters in any county the county clerk shall submit at the next general election for county officers, or at a regular election, the question of extending a special tax against all taxable property in the county for the purpose or purposes and in the manner stated in the petition. The county clerk shall give notice of such referendum and shall submit the proposition in accordance with the general election law of the State. Both the petition and the notice of referendum shall designate (1) the particular county highway or county highways to be improved or the road district or districts to be so assisted or both, (2) the maximum annual rate percent not exceeding .0833% of the value of the taxable property as equalized or assessed by the Department of Revenue at which such tax may be extended and (3) the number of years, not exceeding 5 years, during which such tax may be levied.

The proposition shall be in substantially the following form:

Shall a special tax for highway purposes be levied in . . . . County?	YES	
	NO	

If a majority of all ballots cast on such question is in favor of such tax levy, the county board shall levy and the county clerk shall extend such tax for the number of years stated in the petition and the proceeds of such tax shall be used for the purpose or purposes stated in the petition.

Laws 1959, p. 203, § 5–604. Amended by P.A. 77–1146, § 1, eff. Aug. 17, 1971; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 85–527, § 1, eff. Jan. 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–604.

5/5–604.1. Tax for gravel, rock, macadam or other hard roads

§ 5–604.1. In any county not under township organization, the county board may levy by ordinance, for a period not exceeding 5 years, an annual tax at a rate not to exceed .05% of the value, as equalized or assessed by the Department of Revenue, of all taxable property in the county for the purpose of constructing or maintaining gravel, rock, macadam or other hard roads, or for improving, maintaining or repairing earth roads by draining, grading, oil treating or dragging. A notice of the passage of the ordinance, stating that the ordinance was passed and stating (a) the particular county highway or highways to be constructed, improved, repaired or maintained, (b) the annual tax rate specified in the ordinance, (c) the number of years specified in the ordinance for the levy of the tax, (d) the specific number of voters required to sign a petition requesting that the question of the adoption of the ordinance be submitted to the electors of the county, (e) the time in which the petition must be filed, and (f) the date of the prospective referendum, shall be published once in a paper having a general circulation in the county. The county clerk shall provide a petition form to any individual requesting one.

The ordinance takes effect 30 days after publication of that notice unless within that time a petition, signed by the registered voters of the county equal to 10% or more of the registered voters in the county, is filed with the county clerk requesting the submission to a referendum of the question of whether to levy the tax provided for by this Section. If no such petition is filed within that time, or if all such petitions filed within that time are determined to be invalid or insufficient, the county clerk shall extend the tax levied by the county board for the number of years stated in the ordinance and the proceeds of that tax shall be used for the purpose or purposes stated in the ordinance.

If, however, such a petition is filed within that time, the county clerk shall submit at the next general election for county officers, or at a regular election, the question of whether the tax provided for in this Section should be levied. The county clerk shall give notice of the referendum and shall submit the question in accordance with the general election law. Both the petition and the notice of election must designate (1) the particular county highway or highways to be constructed, improved, repaired or maintained, (2) the maximum annual rate per cent not exceeding .05% of the value, as equalized or assessed by the Department of Revenue, at which the tax may be extended, and (3) the number of years, not exceeding 5 years, during which the tax may be levied.

The proposition shall be in substantially the following form:

Shall a special tax for highway purposes be levied in . . . . . County?	YES	
	NO	

If a majority of all ballots cast on that question is in favor of the tax levy, the county board shall levy and the county clerk shall extend the tax for the number of years stated in the petition and the proceeds of that tax shall be used for the purpose or purposes stated in the petition.

Laws 1959, p. 203, § 5–604.1, added by Laws 1967, p. 467, § 1. Amended by P.A. 77–1147, § 1, eff. Aug. 17, 1971; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 82–1014, Art. II, § 20, eff. Jan. 1, 1983; P.A. 87–767, § 116, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–604.1.

5/5–605. Bonds for county highways; power of county board to issue after election; additional tax

§ 5–605. The county board of any county may in any manner provided by law for issuing county bonds, issue bonds of the county for the purpose of constructing county highways: Provided, that the question of issuing such county bonds shall first be submitted to the legal voters of such county at any election. The county board shall adopt a resolution to submit such question to a vote, specifying therein the particular highways to be constructed, the type of construction to be made on each section of such highways, the proposed widths of the paved and graded travel way, together with an estimate of the cost of such construction. Such bonds shall be issued to mature in not less than 10 nor more than 20 annual series, the last series to mature not more than 20 years from date of issue. If the question of an issue of such bonds is submitted to the people, notice of the referendum shall be given and the referendum shall be held in the manner provided by the general election laws of the State, and the proposition shall be in substantially the following form:

Shall county bonds for highways be issued to the amount of $. . . . . ?	YES	
	NO	

If a majority of the voters voting on such question vote in favor of the proposition the county board shall at once issue the bonds and take the necessary steps to construct the county highways provided for. This section shall not be construed to repeal any other law on the subject of issuing county bonds, except insofar as such other law is in direct conflict herewith.

If it shall be deemed necessary to submit to a vote of the people at the same election the question of issuing bonds and the raising of an additional tax, the same may be included in one proceeding, and in that case the proposition shall be in substantially the following form:

Shall county bonds for highways be issued to the amount of $. . . . . and an additional tax levied for the payment of interest and principal of such bonds?	YES	
	NO	

When the question of raising such additional tax to pay the interest and principal of such bonds has been approved by the legal voters of the county, the county board may, in its discretion, by appropriate resolution, when funds from other sources have been allocated and set aside for the purpose of paying the principal or interest, or both, of such bonds, abate the further collection of such additional tax or such portion thereof as shall not be required to meet such bonds or obligations.

Laws 1959, p. 203, § 5–605. Amended by P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–605.

5/5–605.1. Bonds for bridges; issuance without referendum

§ 5–605.1. The county board of any county may by ordinance and without referendum, issue bonds of the county for the purpose of constructing bridges under any of Sections 5–501 through 5–503 if the county first secures the approval of the Department for the bridge construction project in the manner provided by Section 5–403 for approval of highway construction projects. Such bonds must mature within 5 years and the principal and interest on those bonds must be payable, as provided in Section 5–701.4, from motor fuel tax money allotted to the county.

Laws 1959, p. 202, § 5–605.1, added by Laws 1967, p. 762, § 1, eff. July 1, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–605.1.

5/5–605.2. Bonds for county highways

§ 5–605.2. Bonds for county highways. Any county with a population of less than 1,000,000 inhabitants may, by resolution of its county board, incur indebtedness for the purpose of constructing, maintaining or improving county highways, roads or bridges and may, by resolution of its county board, issue and sell bonds therefor. The bonds shall be issued in such principal amount, bear such rate or rates of interest, be payable as to principal or interest on such date

or dates not more than 30 years after their date of issuance, be in such form and denomination, be subject to redemption at such prices, be executed by such officials, be sold at such price and in such manner, and have such other terms and provisions as determined by the county board and set forth in the authorizing resolution or resolutions. This Section constitutes a complete and cumulative grant of authority for the issuance of such bonds, and such bonds shall be payable from such funds as are pledged therefor by the county board, except that the county board shall have no authority whatsoever to levy a special property tax for the purpose of paying such bonds and shall not be subject to any of the provisions of Section 5–1012 of the Counties Code [1] or Section 5–605 of this Code with respect to the issuance of such bonds.

Laws 1959, p. 202, § 5–605.2, added by P.A. 85–962, § 1, eff. July 1, 1988. Amended by P.A. 86–1475, Art. 3, § 3–64, eff. Jan. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–605.2.

[1] 55 ILCS 5/5–1012.

5/5–606. Road district turning over money to county for county highway construction

§ 5–606. Any road district, in a county, may turn over, to a county, money from the regular road taxes, special taxes voted for road construction, or the proceeds of bonds heretofore or hereafter issued by such road district for road construction, to be used in the construction of county highways, by such county, in accordance with the provisions of Section 5–403 of this Code.

Laws 1959, p. 203, § 5–606.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–606.

5/5–607. Tax in addition to other taxes

§ 5–607. Any tax authorized by this Article 5 is in addition to any tax that a county may levy under the provisions of any other law.

Laws 1959, p. 203, § 5–607.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–607.

DIVISION 7. USE OF MOTOR FUEL TAX FUNDS

5/5–701. Use by counties of motor fuel tax

§ 5–701. Money allotted from the Motor Fuel Tax Fund to the several counties as provided in Section 8 of the "Motor Fuel Tax Law", approved March 25, 1929, as now or hereafter amended,[1] other than money allotted to counties for the use of road districts, shall be used only for one or more of the purposes stated in Sections 5–701.1 through 5–701.16, as the several counties may desire.

Laws 1959, p. 203, § 5–701. Amended by Laws 1959, p. 1801, § 1; Laws 1963, p. 3424, § 1; Laws 1967, p. 592, § 1; Laws 1967, p. 2636, § 1; P.A. 76–375, § 1, eff. July 8, 1969; P.A. 76–808, § 1, eff. Aug. 18, 1969; P.A. 76–2256, § 1, eff. July 1, 1970; P.A. 85–962, § 1, eff. July 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.

[1] 35 ILCS 505/8.

5/5–701.1. Construction of county highways; county, municipalities and park districts; priority

§ 5–701.1. Any county board may use any motor fuel tax money allotted to it for the construction of (1) highways within the county designated as county highways, or (2) county highways within the corporate limits of any municipality within such county, or (3) county highways within the corporate limits of any park district within such county, or (4) any county highway to be constructed under Section 5–406 of this Code. Such construction shall be in accordance with the procedure prescribed in Section 5–403 of this Code.

So far as practicable, priority in the matter of construction with motor fuel tax funds in any county shall be given county highways which will join municipalities and communities not upon any State highway, or not upon federal aid highways which may now or may hereafter be designated, with such highways; and county highways shall be selected for construction according to their relative importance from the standpoint of traffic needs and county-wide service and so as to make available as rapidly as practicable continuous or connected improved traffic routes, such selection to be made by the county board with the approval of the Department.

Laws 1959, p. 203, § 5–701.1. Amended by P.A. 85–1407, § 4, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.1.

5/5–701.2. Construction of State highways

§ 5–701.2. Any county board, with the approval of the Department, may also use motor fuel tax money allotted to it for construction of State highways within the county.

Laws 1959, p. 203, § 5–701.2. Amended by P.A. 95–331, § 1000, eff. Aug. 21, 2007.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.2.

5/5–701.3. Maintenance of county highways and State highways

§ 5–701.3. Any county board with the approval of the Department may also use motor fuel tax money allotted to it for the maintenance of any county highway or any State highway.

Laws 1959, p. 203, § 5–701.3. Amended by Laws 1963, p. 970, § 1; P.A. 76–1448, § 1, eff. Sept. 22, 1969; P.A. 77–1333, § 1, eff. Aug. 27, 1971; P.A. 85–1407, § 4, eff. Sept. 22, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.3.

5/5–701.4. Retiring bonds on county highways

§ 5–701.4. Any county board may also use any motor fuel tax money allotted to it or any part thereof for the purpose of retiring bonds and paying obligations incurred for the purpose of constructing State or county highways, the construction of which was under the supervision of and with the approval of the Department under the provisions of Section 5–403 of this Code or similar provisions of prior law.

Laws 1959, p. 203, § 5–701.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.4.

5/5–701.5. Paying bonds for superhighways

§ 5–701.5. Any county board may also use so much of any motor fuel tax money allotted to it as may be necessary for the purpose of paying bonds (and interest thereon) heretofore or hereafter issued for the purpose of constructing superhighways pursuant to Division 5–33 of the Counties Code.[1] No moneys shall be paid from the Motor Fuel Tax Fund to any county which has issued bonds pursuant to the Counties Code or its predecessor for any purpose other than to pay the principal of and interest on such bonds unless all moneys previously received from the Motor Fuel Tax Fund

have been applied as required by Section 5–33002 of the Counties Code.[2]

Laws 1959, p. 203, § 5–701.5. Amended by P.A. 86–1475, Art. 3, § 3–64, eff. Jan. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.5.

[1] 55 ILCS 5/5–33001 et seq.

[2] 55 ILCS 5/5–33002.

5/5–701.6. Investigations relating to county highways

§ 5–701.6. Any county board with the approval of the Department may also use motor fuel tax money allotted to it for the purpose of the payment for investigations requisite to determine the reasonably anticipated need for any of the work described in Sections 5–701.1 to 5–701.5, inclusive, of this Code. Such investigations may include, but shall not be limited to, the making of traffic surveys, the study of transportation facilities, research concerning the development of the several areas within the county and contiguous territory as affected by growth and changes in population and economic activity and the collection and review of data relating to all factors affecting the judicious planning of construction, reconstruction, improvement and maintenance of highways. The investigations for which any such payments are made may also be conducted in cooperation with other counties, municipalities, the State of Illinois, the United States, other states of the United States, agencies of any such governments or other persons in pursuance of agreements to share the costs thereof and authority to enter into such agreements is hereby conferred upon counties.

Laws 1959, p. 203, § 5–701.6.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.6.

5/5–701.7. Payment of county's share of federal aid systems

§ 5–701.7. (a) Any county board with the approval of the Department may also use motor fuel tax funds allotted to it to pay the county's share of the cost of projects on the federal aid urban and the federal aid secondary highway systems in the county constructed under the provisions of the Federal Aid Road Act.[1] The county board is authorized to cooperate with the Department in selecting these systems of federal aid highways to be improved.

(b) Any county board with the approval of the Department may also use motor fuel tax funds allotted to it to pay the county's share of any project constructed under Section 3–104.3 of this Code.

(c) Any county board, with the approval of the Department, may also use motor fuel tax funds allotted to it, matching tax funds, or any other funds of the county for highways to pay the county's proportionate share of any federally eligible transportation project on, adjacent to, or intended to serve county highways in the county.

Laws 1959, p. 203, § 5–701.7. Amended by P.A. 77–1409, § 1, eff. Aug. 31, 1971; P.A. 80–691, § 1, eff. Oct. 1, 1977; P.A. 91–315, § 5, eff. Jan. 1, 2000.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.7.

[1] 23 U.S.C.A. § 101 et seq.

5/5–701.8. Allocation of motor fuel tax funds to local mass transit districts

§ 5–701.8. Any county board may also turn over a portion of the motor fuel tax funds allotted to it to: (a) a local Mass Transit District if the county created such District pursuant to the "Local Mass Transit District Act", approved July 21, 1959, as now or hereafter amended; [1]

(b) a local Transit Commission if such commission is created pursuant to Section 14–101 of The Public Utilities Act; [2] or

(c) the Chicago Transit Authority established pursuant to the "Metropolitan Transit Authority Act", approved April 12, 1945, as now or hereafter amended.[3]

Laws 1959, p. 203, § 5–701.8, added by Laws 1959, p. 1801, § 1. Amended by P.A. 76–808, § 1, eff. Aug. 18, 1969; P.A. 85–1209, Art. III, § 3–131, eff. Aug. 30, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.8.

[1] 70 ILCS 3610/1 et seq.

[2] 220 ILCS 5/14–101.

[3] 70 ILCS 3605/1 et seq.

5/5–701.9. Maintenance of county garage; construction of office space

§ 5–701.9. Any county board may also use motor fuel tax money allotted to it for constructing or maintaining, or both, a county garage for the serving, maintenance or storage of vehicles or equipment used in the construction or maintenance of county or state highways. The county board of any county with a population of 1,000,000 or more may also use motor fuel tax money for constructing or maintaining auxiliary office space.

Laws 1959, p. 203, § 5–701.9, added by Laws 1963, p. 3424, § 1. Amended by Laws 1967, p. 1375, § 1; P.A. 76–808, § 1, eff. Aug. 18, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.9.

5/5–701.10. Activities conducted by circuit court and county department

§ 5–701.10. Any county board in counties of 1,000,000 or more inhabitants may also use any motor fuel tax money allotted to it for the purpose of paying any and all expenditures resulting from activities conducted by the circuit court located in the county and for the further purpose of paying any and all expenditures resulting from the activities of any county department which has a relation to highways located within the county.

Laws 1959, p. 203, § 5–701.10, added by Laws 1967, p. 592, § 1; Laws 1967, p. 2636, § 1. Amended by Laws 1968, p. 406, § 1, eff. July 1, 1969; P.A. 76–414, § 1, eff. July 15, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.10.

5/5–701.11. Payment of principal and interest of highway bonds

§ 5–701.11. With the approval of the Department of Transportation, any county board may also use motor fuel tax money allotted to it for the payment of the principal and interest of bonds issued for the construction, maintenance or improvement of county highways. Such construction, maintenance or improvement shall be in accordance with the procedure in Section 5–403 of this Code.

Laws 1959, p. 203, § 5–701.11, added by P.A. 76–375, § 1, eff. July 8, 1969. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 85–962, § 1, eff. July 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.11.

5/5–701.12. Counties of over 1,000,000; office space

§ 5–701.12. The county board of any county with a population of 1,000,000 or more may also use motor fuel tax

money allotted to it for construction, maintaining, or leasing office space for activities of the county highway department.

Laws 1959, p. 203, § 5–701.11, added by P.A. 76–808, § 1, eff. Aug. 18, 1969. Renumbered § 5–701.12 and amended by P.A. 76–2256, § 1, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.12.

5/5–701.13. Motor fuel tax funds; counties over 500,000

§ 5–701.13. Motor fuel tax funds; counties over 500,000. The county board of any county may also use motor fuel tax funds allotted to it for placing, erecting, and maintaining signs, or surface markings, or both to indicate officially designated bicycle routes along county highways. In addition, the county board of a county with a population over 500,000 may also use motor fuel tax funds allotted to it for the construction and maintenance of bicycle routes along county highways or along State highways by agreement with the Department.

Laws 1959, p. 203, § 5–701.13, added by P.A. 77–734, § 1, eff. Aug. 12, 1971. Amended by P.A. 88–502, § 3, eff. July 1, 1994; P.A. 88–676, § 22, eff. Dec. 14, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.13.

5/5–701.14. Construction and maintenance of grade separations

§ 5–701.14. Any county board may also use its allotted motor fuel tax funds for the construction and maintenance of grade separations and approaches thereto which avoid or replace grade crossings at intersections of county highways and railroad tracks.

Laws 1959, p. 203, § 5–701.13, added by P.A. 77–1628, § 1, eff. Sept. 23, 1971. Renumbered § 5–701.14 by P.A. 77–1849, § 5, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.14.

5/5–701.15. Nondedicated subdivision roads; formula allocation; matching contributions

§ 5–701.15. The formula allocation for counties for the distribution of motor fuel tax funds, provided for in Section 8 in the "Motor Fuel Tax Law",[1] may be used by the county board for the maintenance or improvement of nondedicated subdivision roads established prior to July 23, 1959. Any such improved road becomes, by operation of law, a part of the township or district road system in accordance with Section 6–325 of this Code. The county board shall condition its approval, as required by this Section, upon proportional matching contributions, whether in cash, kind, services or otherwise, by property owners in the subdivision where such a road is situated. No more than the amount of the increase in allocation of such funds allocated under the formula as provided in Section 8 in the "Motor Fuel Tax Law" which is attributable to this amendatory Act of 1979 and any subsequent amendatory Act and subsequently approved as provided in this Section, may be expended on eligible nondedicated subdivision roads.

Laws 1959, p. 203, § 5–701.15, added by P.A. 81–3, 2nd Sp. Sess., § 5, eff. Sept. 19, 1979. Amended by P.A. 82–160, § 1, eff. Aug. 13, 1981; P.A. 83–957, § 1, eff. July 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–701.15.

[1] 35 ILCS 505/8.

5/5–701.16. Construction, maintenance or improvement bonds; payment

§ 5–701.16. Any county board, in a county of less than 1,000,000 inhabitants may also use any motor fuel tax money allotted to it or any part thereof for the payment of the principal of and interest on bonds issued for the purpose of constructing, maintaining or improving county highways, roads or bridges. Such construction, maintenance or improvement shall be in accordance with the procedure in Section 5–403 of this Code. Such county boards are authorized to use motor fuel tax money to pay principal or interest on such bonds without any prior appropriation and without regard to any budget law. The State of Illinois pledges and agrees with the holders of any bonds of a county issued for such purposes that the State will not limit the use of such money by such county, so long as any such bonds are outstanding and unpaid. Payment of such motor fuel tax money to such county shall be subject to appropriation by the General Assembly. The State shall not be liable on or guarantee bonds of a county issued for such purposes, and such bonds shall not be State debt. The face of all such bonds shall contain a statement with respect to the provisions of this Section.

Laws 1959, p. 203, § 5–701.16, added by P.A. 85–962, § 1, eff. July 1, 1988.

Formerly Ill.Rev.Stat., ch. 121, ¶ 5–701.16.

5/5–701.17. Construction, maintenance, or improvement of county unit roads

§ 5–701.17. Construction, maintenance, or improvement of county unit roads. Any county board in a county with an established county unit district highway system may, with the approval of the Department, use a maximum of 30% of the motor fuel tax funds, provided for in Section 8 of the Motor Fuel Tax Law,[1] allotted to it to pay for the cost of construction, maintenance, or improvements of roads in the county unit system. The Department shall not approve use of the funds unless the Department determines that the county highway system is being maintained in an acceptable condition and that the use of the motor fuel tax funds would not jeopardize adequate maintenance of existing county highways.

Laws 1959, p. 203, § 5–701.17, added by P.A. 87–1249, § 3, eff. Dec. 24, 1992.

Formerly Ill.Rev.Stat., ch. 121, ¶ 5–701.17.

[1] 35 ILCS 505/8.

5/5–702. Distribution made to counties; records of expenditures; maintenance standards

§ 5–702. Payment of motor fuel tax money to any county for the purposes stated in Sections 5–701.1 through 5–701.11 shall be made by the Department of Transportation as soon as may be after the allotment is made.

However, if any county, after having been given reasonable notice by the Department, fails to expend motor fuel tax funds in a manner satisfactory to the Department or fails to have construction contracts approved by the Department or fails to maintain in a manner satisfactory to the Department highways heretofore or hereafter constructed with motor fuel tax funds, no further payment of motor fuel tax funds shall be made to such county for construction or maintenance purposes until it corrects its unsatisfactory use of motor fuel tax funds or secures approval of its construction contracts by the Department or maintains such highways or provides for

such maintenance in a manner satisfactory to the Department.

Records of all expenditures of motor fuel tax money made by the county shall be kept in accordance with the system of auditing and accounting prescribed by the Department under Section 4–101.9 of this Code.

Laws 1959, p. 203, § 5–702. Amended by 1959, July 21, Laws 1959, p. 1801, § 1; Laws 1967, p. 592, § 1; Laws 1967, p. 2636, § 1; Laws 1967, p. 3238, § 1; Laws 1968, p. 406, § 1, eff. July 1, 1969; P.A. 76–372, § 1, eff. July 8, 1969; P.A. 77–173, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–702.

DIVISION 8. PROPERTY ACQUISITION

5/5–801. Acquisition of land and property for county, township and district highways; eminent domain

§ 5–801. Any county, in its name, may acquire the fee simple title, or such lesser interest as may be desired, to any lands, rights or other property necessary for the construction, maintenance or operation of any county highway, township road or district road within the county or necessary for the locating, relocating, widening, altering, extending or straightening thereof, by purchase or gift or, if the compensation or damages cannot be agreed upon, by the exercise of the right of eminent domain under the eminent domain laws of this State. The county shall not be required to furnish bond in any eminent domain proceeding.

When, in the judgment of the county, it is more practical and economical to acquire the fee title to inaccessible remnants of tracts of land from which rights-of-way are being acquired than to pay for damages to property not taken, the county may do so by purchase but not by eminent domain proceedings.

When acquiring land for a highway on a new location, and when a parcel of land one acre or less in area contains a single family residence, which is in conformance with existing zoning ordinances, and only a part of said parcel is required for county highway purposes causing the remainder of the parcel not to conform with the existing zoning ordinances, or when the location of the right of way line of the proposed highway reduces the distance from an existing single family residence to the right of way line to ten feet or less, the acquiring agency shall, if the owner so demands, take the whole parcel by negotiation or condemnation. The part not needed for highway purposes may be rented, sold or exchanged by the acquiring agency.

Laws 1959, p. 203, § 5–801. Amended by Laws 1967, p. 3206, § 1, eff. Aug. 17, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–801.

5/5–802. Acquisition by county of property necessary to straighten ditches, etc.

§ 5–802. When the county deems it necessary to build, widen, alter, relocate or straighten any ditch, drain or watercourse in order to drain or protect any highway or highway structure it is authorized to construct, maintain or operate, or deems it necessary to acquire materials for the construction, maintenance or operation of any such highway, it may acquire the necessary property, or such interest or right therein as may be required, by gift or purchase or, if the compensation or damages cannot be agreed upon, by the exercise of the right of eminent domain under the eminent domain laws of this State. The county shall not be required to furnish bond in any eminent domain proceeding.

Laws 1959, p. 203, § 5–802.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–802.

5/5–803. Surveys; entry by county on lands or waters

§ 5–803. For the purpose of making surveys and the determination of the amount of property necessary to be taken or damaged in connection with any highway project, the county through its officers, agents or employees, after notice to the owner, may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damages that may be occasioned thereby.

Laws 1959, p. 203, § 5–803.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–803.

DIVISION 9. ROAD IMPROVEMENT IMPACT FEES

Date Effective

Division 9 was added by P.A. 86–97, eff. July 26, 1989.

5/5–901. Short title

§ 5–901. Short title. This Division may be cited as the Road Improvement Impact Fee Law.

Laws 1959, p. 203, § 5–901, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–901.

5/5–902. General purposes

§ 5–902. General purposes. The General Assembly finds that the purpose of this legislation is to create the authority for units of local government to adopt and implement road improvement impact fee ordinances and resolutions. The General Assembly further recognizes that the imposition of such road improvement impact fees is designed to supplement other funding sources so that the burden of paying for road improvements can be allocated in a fair and equitable manner. It is the intent of the General Assembly to promote orderly economic growth throughout the State by assuring that new development bears its fair share of the cost of meeting the demand for road improvements through the imposition of road improvement impact fees. It is also the intent of the General Assembly to preserve the authority of elected local government officials to adopt and implement road improvement impact fee ordinances or resolutions which adhere to the minimum standards and procedures adopted in this Division by the State.

Laws 1959, p. 203, § 5–902, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–902.

5/5–903. Definitions

§ 5–903. Definitions. As used in this Division:

"Units of local government" mean counties with a population over 400,000 and all home rule municipalities.

"Road improvement impact fee" means any charge or fee levied or imposed by a unit of local government as a condition to the issuance of a building permit or a certificate of occupancy in connection with a new development, when any portion of the revenues collected is intended to be used to fund any portion of the costs of road improvements.

"Road improvements" mean the improvement, expansion, enlargement or construction of roads, streets, or highways under the jurisdiction of units of local government, including but not limited to bridges, rights-of-way, and traffic control improvements owned and operated by such units of local government. Road improvements may also include the improvement, expansion, enlargement or construction of roads, ramps, streets or highways under the jurisdiction of the State of Illinois, provided an agreement providing for the construction and financing of such road improvements has been reached between the State and the unit of local government and incorporated into the comprehensive road improvement plan. Road improvements shall not include tollways but may include tollway ramps.

"New development" means any residential, commercial, industrial or other project which is being newly constructed, reconstructed, redeveloped, structurally altered, relocated, or enlarged, and which generates additional traffic within the service area or areas of the unit of local government. "New development" shall not include any new development for which site specific development approval has been given by a unit of local government within 18 months before the first date of publication by the unit of local government of a notice of public hearing to consider the land use assumptions relating to the development of a comprehensive road improvement plan and imposition of impact fees; provided, however, that a building permit for such new development is issued within 18 months after the date of publication of such notice.

"Roads, streets or highways" mean any roads, streets or highways which have been designated by the unit of local government in the comprehensive road improvement plan together with all necessary appurtenances, including but not limited to bridges, rights-of-way, tollway ramps, and traffic control improvements.

"Comprehensive road improvement plan" means a plan prepared by the unit of local government in consultation with the Advisory Committee.

"Advisory Committee" means the group of members selected from the public and private sectors to advise in the development and implementation of the comprehensive road improvement plan, and the periodic update of the plan.

"Person" means any individual, firm, partnership, association, public or private corporation, organization or business, charitable trust, or unit of local government.

"Land use assumptions" means a description of the service area or areas and the roads, streets or highways incorporated therein, including projections relating to changes in land uses, densities and population growth rates which affect the level of traffic within the service area or areas over a 20 year period of time.

"Service area" means one or more land areas within the boundaries of the unit of local government which has been designated by the unit of local government in the comprehensive road improvement plan.

"Residential development" means a house, building, or other structure that is suitable or capable of being used for residential purposes.

"Nonresidential development" means a building or other structure that is suitable or capable of being used for all purposes other than residential purposes.

"Specifically and uniquely attributable" means that a new development creates the need, or an identifiable portion of the need, for additional capacity to be provided by a road improvement. Each new development paying impact fees used to fund a road improvement must receive a direct and material benefit from the road improvement constructed with the impact fees paid. The need for road improvements funded by impact fees shall be based upon generally accepted traffic engineering practices as assignable to the new development paying the fees.

"Proportionate share" means the cost of road improvements that are specifically and uniquely attributable to a new development after the consideration of the following factors: the amount of additional traffic generated by the new development, any appropriate credit or offset for contribution of money, dedication of land, construction of road improvements or traffic reduction techniques, payments reasonably anticipated to be made by or as a result of a new development in the form of user fees, debt service payments, or taxes which are dedicated for road improvements and all other available sources of funding road improvements.

"Level of service" means one of the categories of road service as defined by the Institute of Transportation Engineers which shall be selected by a unit of local government imposing the impact fee as the adopted level of service to serve existing development not subject to the fee and new development, provided that the level of service selected for new development shall not exceed the level of service adopted for existing development.

"Site specific development approval" means an approval of a plan submitted by a developer to a unit of local government describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but need not be limited to, any of the following: a preliminary or final planned unit development plan, subdivision plat, development plan, conditional or special use permit, or any other form of development use approval, as utilized by a unit of local government, provided that the development use approval constitutes a final exercise of discretion by the unit of local government.

"Developer" means any person who undertakes new development.

"Existing deficiencies" mean existing roads, streets, or highways operating at a level of service below the adopted level of service selected by the unit of local government, as defined in the comprehensive road improvement plan.

"Assisted financing" means the financing of residential development by the Illinois Housing Development Authority, including loans to developers for multi-unit residential development and loans to purchasers of single family residences, including condominiums and townhomes.

Laws 1959, p. 203, § 5–903, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 90–356, § 5, eff. Aug. 10, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–903.

5/5–904. Authorization for the Imposition of an Impact Fee

§ 5–904. Authorization for the Imposition of an Impact Fee. No impact fee shall be imposed by a unit of local government within a service area or areas upon a developer for the purposes of improving, expanding, enlarging or constructing roads, streets or highways directly affected by the traffic demands generated from the new development unless imposed pursuant to the provisions of this Division. An impact fee payable by a developer shall not exceed a proportionate share of costs incurred by a unit of local government which are specifically and uniquely attributable to the new development paying the fee in providing road improvements, but may be used to cover costs associated with the surveying of the service area, with the acquisition of land and rights-of-way, with engineering and planning costs, and with all other

costs which are directly related to the improvement, expansion, enlargement or construction of roads, streets or highways within the service area or areas as designated in the comprehensive road improvement plan. An impact fee shall not be imposed to cover costs associated with the repair, reconstruction, operation or maintenance of existing roads, streets or highways, nor shall an impact fee be used to cure existing deficiencies or to upgrade, update, expand or replace existing roads in order to meet stricter safety or environmental requirements; provided, however, that such fees may be used in conjunction with other funds available to the unit of local government for the purpose of curing existing deficiencies, but in no event shall the amount of impact fees expended exceed the development's proportionate share of the cost of such road improvements. Nothing contained in this Section shall preclude a unit of local government from providing credits to the developer for services, conveyances, improvements or cash if provided by agreement even if the credits are for improvements not included in the comprehensive road improvement plan, provided the improvements are otherwise eligible for inclusion in the comprehensive road improvement plan.

Laws 1959, p. 203, § 5–904, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 88–470, § 5, eff. Sept. 1, 1993.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–904.

5/5–905. Procedure for the Imposition of Impact Fees

§ 5–905. Procedure for the Imposition of Impact Fees. (a) Unless otherwise provided for in this Division, an impact fee shall be imposed by a unit of local government only upon compliance with the provisions set forth in this Section.

(b) A unit of local government intending to impose an impact fee shall adopt an ordinance or resolution establishing a public hearing date to consider land use assumptions that will be used to develop the comprehensive road improvement plan. Before the adoption of the ordinance or resolution establishing a public hearing date, the governing body of the unit of local government shall appoint an Advisory Committee in accordance with this Division.

(c) The unit of local government shall provide public notice of the hearing date to consider land use assumptions in accordance with the provisions contained in this Section.

(d) The unit of local government shall publish notice of the hearing date once each week for 3 consecutive weeks, not less than 30 and not more than 60 days before the scheduled date of the hearing, in a newspaper of general circulation within the unit of local government. The notice of public hearing shall not appear in the part of the paper where legal notices or classified ads appear. The notice shall not be smaller than one-quarter page of standard size or tabloid-size newspaper.

(e) The notice shall contain all of the following information:

(1) Headline designated as follows: "NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS RELATING TO THE DEVELOPMENT OF A COMPREHENSIVE ROAD IMPROVEMENT PLAN AND IMPOSITION OF IMPACT FEES".

(2) The date, time and location of the public hearing.

(3) A statement that the purpose of the hearing is to consider proposed land use assumptions within the service area or areas that will be used to develop a comprehensive road improvement plan.

(4) A general description of the service area or areas within the unit of local government being affected by the proposed land use assumptions.

(5) A statement that the unit of local government shall make available to the public upon request the following: proposed land use assumptions, an easily understandable and detailed map of the service area or areas to which the proposed land use assumptions shall apply, along with all other available information relating to the proposed land use assumptions.

(6) A statement that any member of the public affected by the proposed land use assumptions shall have the right to appear at the public hearing and present evidence in support of or against the proposed land use assumptions.

(f) In addition to the public notice requirement, the unit of local government shall send a notice of the intent to hold a public hearing by certified mail, return receipt requested, to any person who has requested in writing by certified mail return receipt requested, notification of the hearing date, at least 30 days before the date of the adoption of the ordinance or resolution establishing the public hearing date.

(g) A public hearing shall be held for the consideration of the proposed land use assumptions. Within 30 days after the public hearing has been held, the Advisory Committee shall make a recommendation to adopt, reject in whole or in part, or modify the proposed land use assumptions presented at the hearing by written report to the unit of local government. Thereafter the unit of local government shall have not less than 30 nor more than 60 days to approve, disapprove, or modify by ordinance or resolution the land use assumptions proposed at the public hearing and the recommendations made by the Advisory Committee. Such ordinance or resolution shall not be adopted as an emergency measure.

(h) Upon the adoption of an ordinance or resolution approving the land use assumptions, the unit of local government shall provide for a comprehensive road improvement plan to be developed by qualified professionals familiar with generally accepted engineering and planning practices. The comprehensive road improvement plan shall include projections of all costs related to the road improvements designated in the comprehensive road improvement plan.

(i) The unit of local government shall adopt an ordinance or resolution establishing a date for a public hearing to consider the comprehensive road improvement plan and the imposition of impact fees related thereto.

(j) A public hearing to consider the adoption of the comprehensive road improvement plan and imposition of impact fees shall be held within the unit of local government subject to the same notice provisions as those set forth in the subsection (d). The public hearing shall be conducted by an official designated by the unit of local government.

(k) Within 30 days after the public hearing has been held, the Advisory Committee shall make a recommendation to adopt, reject in whole or in part, or modify the proposed comprehensive road improvement plan and impact fees. The unit of local government shall have not less than 30 nor more than 60 days to approve, disapprove, or modify by ordinance or resolution the proposed comprehensive road improvement plan and impact fees. Such ordinance or resolution shall not be adopted as an emergency measure.

Laws 1959, p. 203, § 5–905, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–905.

5/5–906. Impact Fee Ordinance or Resolution Requirements

§ 5–906. Impact Fee Ordinance or Resolution Requirements. (a) An impact fee ordinance or resolution shall satisfy the following 2 requirements:

(1) The construction, improvement, expansion or enlargement of new or existing roads, streets, or highways for which an impact fee is imposed must be specifically and uniquely attributable to the traffic demands generated by the new development paying the fee.

(2) The impact fee imposed must not exceed a proportionate share of the costs incurred or the costs that will be incurred by the unit of local government in the provision of road improvements to serve the new development. The proportionate share is the cost specifically attributable to the new development after the unit of local government considers the following: (i) any appropriate credit, offset or contribution of money, dedication of land, construction of road improvements or traffic reduction techniques; (ii) payments reasonably anticipated to be made by or as a result of a new development in the form of user fees, debt service payments, or taxes which are dedicated for road improvements; and (iii) all other available sources of funding road improvements.

(b) In determining the proportionate share of the cost of road improvements to be paid by the developer, the following 8 factors shall be considered by the unit of local government imposing the impact fee:

(1) The cost of existing roads, streets and highways within the service area or areas.

(2) The means by which existing roads, streets and highways have been financed to cure existing deficiencies.

(3) The extent to which the new development being assessed the impact fees has already contributed to the cost of improving existing roads, streets or highways through taxation, assessment, or developer or landowner contributions paid in prior years.

(4) The extent to which the new development will contribute to the cost of improving existing roads, streets or highways in the future.

(5) The extent to which the new development should be credited for providing road improvements, without charge to other properties within the service area or areas.

(6) Extraordinary costs, if any, incurred in servicing the new development.

(7) Consideration of the time and price differential inherent in a fair comparison of fees paid at different times.

(8) The availability of other sources of funding road improvements, including but not limited to user charges, general tax levies, intergovernmental transfers, and special taxation or assessments.

(c) An impact fee ordinance or resolution shall provide for the calculation of an impact fee in accordance with generally accepted accounting practices. An impact fee shall not be deemed invalid because payment of the fee may result in a benefit to other owners or developers within the service area or areas, other than the person paying the fee.

Laws 1959, p. 203, § 5–906, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–906.

5/5–907. Advisory Committee

§ 5–907. Advisory Committee. A road improvement impact fee advisory committee shall be created by the unit of local government intending to impose impact fees. The Advisory Committee shall consist of not less than 10 members and not more than 20 members. Not less than 40% of the members of the committee shall be representatives of the real estate, development, and building industries and the labor communities and may not be employees or officials of the unit of local government.

The members of the Advisory Committee shall be selected as follows:

(1) The representatives of real estate shall be licensed under the Real Estate License Act of 2000 [1] and shall be designated by the President of the Illinois Association of Realtors from a local Board from the service area or areas of the unit of local government.

(2) The representatives of the development industry shall be designated by the Regional Developers Association.

(3) The representatives of the building industry shall be designated representatives of the Regional Home Builders representing the unit of local government's geographic area as appointed from time to time by that Association's president.

(4) The labor representatives shall be chosen by either the Central Labor Council or the Building and Construction Trades Council having jurisdiction within the unit of local government.

If the unit of local government is a county, at least 30% of the members serving on the commission must be representatives of the municipalities within the county. The municipal representatives shall be selected by a convention of mayors in the county, who shall elect from their membership municipal representatives to serve on the Advisory Committee. The members representing the county shall be appointed by the chief executive officer of the county.

If the unit of local government is a municipality, the nonpublic representatives shall be appointed by the chief executive officer of the municipality.

If the unit of local government has a planning or zoning commission, the unit of local government may elect to use its planning or zoning commission to serve as the Advisory Committee, provided that not less than 40% of the committee members include representatives of the real estate, development, and building industries and the labor communities who are not employees or officials of the unit of local government. A unit of local government may appoint additional members to serve on the planning or zoning commission as ad hoc voting members whenever the planning or zoning commission functions as the Advisory Committee; provided that no less than 40% of the members include representatives of the real estate, development, and building industries and the labor communities.

Laws 1959, p. 203, § 5–907, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 91–245, Art. 905, § 905–25, eff. Dec. 31, 1999.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–907.

[1] 225 ILCS 454/1–1 et seq.

5/5–908. Duties of the Advisory Committee

§ 5–908. Duties of the Advisory Committee. The Advisory Committee shall serve in an advisory capacity and shall have the following duties:

(1) Advise and assist the unit of local government by recommending proposed land use assumptions.

(2) Make recommendations with respect to the development of a comprehensive road improvement plan.

(3) Make recommendations to approve, disapprove or modify a comprehensive road improvement plan by preparing a written report containing these recommendations to the unit of local government.

(4) Report to the unit of local government on all matters relating to the imposition of impact fees.

(5) Monitor and evaluate the implementation of the comprehensive road improvement plan and the assessment of impact fees.

(6) Report annually to the unit of local government with respect to the progress of the implementation of the comprehensive road improvement plan.

(7) Advise the unit of local government of the need to update or revise the land use assumptions, comprehensive road improvement plan, or impact fees.

The unit of local government shall adopt procedural rules to be used by the Advisory Committee in carrying out the duties imposed by this Division.

Laws 1959, p. 203, § 5–908, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–908.

5/5–909. Unit of Local Government to Cooperate with the Advisory Committee

§ 5–909. Unit of Local Government to Cooperate with the Advisory Committee. The unit of local government shall make available to the Advisory Committee all professional reports in relation to the development and implementation of land use assumptions, the comprehensive road improvement plan and periodic up-dates to the comprehensive road improvement plan.

Laws 1959, p. 203, § 5–909, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–909.

5/5–910. Comprehensive Road Improvement Plan

§ 5–910. Comprehensive Road Improvement Plan. Each unit of local government intending to impose an impact fee shall prepare a comprehensive road improvement plan. The plan shall be prepared by persons qualified in fields relating to engineering, planning, or transportation. The persons preparing the plan shall consult with the Advisory Committee. The comprehensive road improvement plan shall contain all of the following:

(1) A description of all existing roads, streets or highways and their existing deficiencies within the service area or areas of the unit of local government and a reasonable estimate of all costs related to curing the existing deficiencies, including but not limited to the upgrading, updating, improving, expanding or replacing of such roads, streets or highways and the current level of service of the existing roads, streets and highways.

(2) A commitment by the unit of local government to cure existing deficiencies where practicable relating to roads, streets, and highways.

(3) A description of the land use assumptions adopted by the unit of local government.

(4) A description of all roads, streets or highways proposed to be improved, expanded, enlarged or constructed to serve new development and a reasonable estimate of all costs related to the improvement, expansion, enlargement or construction of the roads, streets or highways needed to serve new development at a level of service not to exceed the level of service on the currently existing roads, streets or highways.

(5) Identification of all sources and levels of funding available to the unit of local government for the financing of the road improvements.

(6) If the proposed road improvements include the improvement of roads, streets or highways under the jurisdiction of the State of Illinois or another unit of local government, then an agreement between units of government shall specify the proportionate share of funding by each unit. All agreements entered into by the State must provide that the portion of the impact fees collected due to the impact of new development upon roads, streets, or highways under State jurisdiction be allocated for expenditure for improvements to those roads, streets, and highways under State jurisdiction.

(7) A schedule setting forth estimated dates for commencing construction of all road improvements identified in the comprehensive road improvement plan.

Nothing contained in this subsection shall limit the right of a home rule unit of local government from imposing conditions on a Planned Unit Development or other zoning relief which may include contributions for road improvements, which are necessary or appropriate for such developments, but are not otherwise provided for in the comprehensive road improvement plan.

Laws 1959, p. 203, § 5–910, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 86–1158, § 3, eff. Aug. 10, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–910.

5/5–911. Assessment of Impact Fees

§ 5–911. Assessment of Impact Fees. Impact fees shall be assessed by units of local government at the time of final plat approval or when the building permit is issued when no plat approval is necessary. No impact fee shall be assessed by a unit of local government for roads, streets or highways within the service area or areas of the unit of local government if and to the extent that another unit of local government has imposed an impact fee for the same roads, streets or highways.

Laws 1959, p. 203, § 5–911, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–911.

5/5–912. Payment of Impact Fees

§ 5–912. Payment of Impact Fees. In order to minimize the effect of impact fees on the person paying the fees, the following methods of payment shall be used by the unit of local government in collecting impact fees. Impact fees imposed upon a residential development, consisting of one single family residence, shall be payable as a condition to the issuance of the building permit. Impact fees imposed upon all other types of new development, including multi-unit residential development, shall be payable as a condition to the issuance of the certificate of occupancy, provided that the developer and the unit of local government enter into an agreement designating that the developer notify the unit of local government that the building permit or the certificate of occupancy has been issued. For any development receiving assisted financing, including any development for which a commitment for assisted financing has been issued and for which assisted financing is provided within 6 months of the issuance of the certificate of occupancy, the unit of local government shall provide for the payment of the impact fees through an installment agreement at a reasonable rate of

interest for a period of 10 years after the impact fee is due. Nothing contained in this Section shall preclude the payment of the impact fee at the time when the building permit is issued or at an earlier stage of development if agreed to by the unit of local government and the person paying the fees. Nothing contained in this Section shall preclude the unit of local government from making and entering into agreements providing for the cooperative collection of impact fees but the collection of impact fees shall be the sole responsibility of the unit of local government imposing the impact fee. Such agreements may also provide for the reimbursement of collection costs from the fees collected.

At the option of the unit of local government, impact fees may be paid through an installment agreement at a reasonable rate of interest for a period of up to 10 years after the impact fee is due.

Nothing contained in this section shall be construed to give units of local government a preference over the rights of any purchaser, mortgagee, judgment creditor or other lienholder arising prior to the filing in the office of the recorder of the county or counties in which the property is located of notification of the existence of any uncollected impact fees.

Laws 1959, p. 203, § 5–912, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–912.

5/5–913. Impact Fees to be Held in Interest Bearing Accounts

§ 5–913. Impact Fees to be Held in Interest Bearing Accounts. All impact fees collected pursuant to this Division shall be deposited into interest bearing accounts designated solely for such funds for each service area. All interest earned on such funds shall become a part of the moneys to be used for the road improvements authorized by this Division. The unit of local government shall provide that an accounting be made annually for any account containing impact fee proceeds and interest earned. Such accounting shall include, but shall not be limited to, the total funds collected, the source of the funds collected, the total amount of interest accruing on such funds, and the amount of funds expended on road improvements. Notice of the results of the accounting shall be published in a newspaper of general circulation within the unit of local government at least 3 times. A statement that a copy of the report is available to the public for inspection at reasonable times shall be contained in the notice. A copy of the report shall be provided to the Advisory Committee.

Laws 1959, p. 203, § 5–913, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–913.

5/5–914. Expenditures of Impact Fees

§ 5–914. Expenditures of Impact Fees. Impact fees shall only be expended on those road improvements within the service area or areas as specified in the comprehensive road improvement plan, as updated from time to time. Impact fees shall be expended in the same manner as motor fuel tax money allotted to the unit of local government solely for road improvement costs.

Laws 1959, p. 203, § 5–914, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–914.

5/5–915. Comprehensive Road Improvement Plan Amendments and Updates

§ 5–915. Comprehensive Road Improvement Plan Amendments and Updates. The unit of local government imposing an impact fee may amend the comprehensive road improvement plan no more than once per year, provided the cumulative amendments do not exceed 10% of the total plan in terms of estimated project costs. If a proposed plan amendment will result in the cumulative amendments to the plan exceeding 10% of the total plan, then the unit of local government shall follow the procedures set forth in Section 5–905 of this Division. Regardless of whether the Comprehensive Road Improvement Plan has been amended, the unit of local government imposing an impact fee shall update the comprehensive road improvement plan at least once every 5 years. The 5 year period shall commence from the date of the original adoption of the comprehensive road improvement plan. The updating of the comprehensive road improvement plan shall be made in accordance with the procedures set forth in Section 5–905 of this Division.

Laws 1959, p. 203, § 5–915, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 88–470, § 5, eff. Sept. 1, 1993.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–915.

5/5–916. Refund of Impact Fees

§ 5–916. Refund of Impact Fees. All impact fees collected by a unit of local government shall be refunded to the person who paid the fee or to that person's successor in interest whenever the unit of local government fails to encumber by contract impact fees collected within 5 years of the date on which such impact fees were due to be paid.

Refunds shall be made in accordance with this Section provided that the person who paid the fee or that person's successor in interest files a petition with the unit of local government imposing the impact fee, seeking a refund within one year from the date that such fees were required to be encumbered by contract.

All refunds made shall bear interest at a rate which is at least 70% of the Prime Commercial Rate in effect at the time of the imposition of the impact fee.

Laws 1959, p. 203, § 5–916, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 87–187, § 1, eff. Sept. 3, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–916.

5/5–917. Appeals Process

§ 5–917. Appeals Process. Any person paying an impact fee shall have the right to contest the land use assumptions, the development and implementation of the comprehensive road improvement plan, the imposition of impact fees, the periodic updating of the road improvement plan, the refund of impact fees and all other matters relating to impact fees. The initial appeal shall be made to the legislative body of the unit of local government in accordance with the procedures adopted in the ordinance or resolution. Any subsequent relief shall be sought in a de novo proceeding in the appropriate circuit court.

Laws 1959, p. 203, § 5–917, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–917.

5/5–918. Transition Clauses

§ 5–918. Transition Clauses. (a) Conformance of Existing Ordinances. A unit of local government which currently

has in effect an impact fee ordinance or resolution shall have not more than 12 months from July 26, 1989 to bring its ordinance or resolution into conformance with the requirements imposed by this Act, except that a home rule unit of local government with a population over 75,000 and located in a county with a population over 600,000 and less than 2,000,000 shall have not more than 18 months from July 26, 1989, to bring that ordinance or resolution into conformance.

(b) Exemption of Developments Receiving Site Specific Development Approval. No development which has received site specific development approval from a unit of local government within 18 months before the first date of publication by the unit of local government of a notice of public hearing to consider land use assumptions relating to the development of a comprehensive road improvement plan and imposition of impact fees and which has filed for building permits or certificates of occupancy within 18 months of the date of approval of the site specific development plan shall be required to pay impact fees for permits or certificates of occupancy issued within that 18 month period.

This Division shall have no effect on the validity of any existing agreements entered into between a developer and a unit of local government pertaining to fees, exactions or donations made by a developer for the purpose of funding road improvements.

(c) Exception to the Exemption of Developments Receiving Site Specific Development Approval. Nothing in this Section shall require the refund of impact fees previously collected by units of local government in accordance with their ordinances or resolutions, if such ordinances or resolutions were adopted prior to the effective date of this Act and provided that such impact fees are encumbered as provided in Section 5–916.

Laws 1959, p. 203, § 5–918, added by P.A. 86–97, § 1, eff. July 26, 1989. Amended by P.A. 86–1158, § 3, eff. Aug. 10, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–918.

5/5–919. Home Rule Preemption

§ 5–919. Home Rule Preemption. A home rule unit may not impose road improvement impact fees in a manner inconsistent with this Division. This Division is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Laws 1959, p. 203, § 5–919, added by P.A. 86–97, § 1, eff. July 26, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 5–919.

ARTICLE 6. ADMINISTRATION OF TOWNSHIP AND DISTRICT ROADS

DIVISION 1. DISTRICT ORGANIZATION AND POWERS

5/6–101. Road district roads

§ 6–101. Roads which are part of the township and district road system are under the jurisdiction of the several road districts in which they are located, subject to such supervision by the county and the Department as is provided in this Code. A road district comprises either a township, township district, road district or county unit road district in existence immediately prior to the effective date of this Code or any area created a road district under the provisions of this Code.

Laws 1959, p. 203, § 6–101.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–101.

5/6–102. Road districts in counties under township organization

§ 6–102. Each township of the several counties under township organization, for the purposes of this Code, shall be considered and is called a road district for all purposes relating to the construction, repair, maintenance, financing and supervision of township roads unless under prior law it has been or pursuant to this Code is consolidated into a consolidated township road district or into a county unit road district.

Consolidated township districts and county unit road districts in existence under the provisions of law immediately prior to the effective date of this Code shall continue in existence as road districts under this Code until changed in the manner provided by this Code.

Laws 1959, p. 203, § 6–102.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–102.

5/6–103. Road districts in counties not under township organization

§ 6–103. In counties not under township organization the road districts in existence under the provisions of law immediately prior to the effective date of this Code shall be continued in existence until the same shall be altered in the manner provided in Sections 6–104, 6–105, or 6–111 of this Code or as otherwise provided by law.

Laws 1959, p. 203, § 6–103.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–103.

5/6–104. Organization of territory within municipalities into districts

§ 6–104. Whenever the territory of any municipality is a part of a road district in a county not under township organization, and shall by resolution of its council or its president and board of trustees request the county board to organize it into a separate road district and designate the name thereof, the county board shall comply with such request, and provide for such organization of such municipality into a new road district under the name designated in such resolution of such city council, or president and board of trustees, if any be designated therein.

Whenever a road district shall have been or shall hereafter be organized as provided in this Section and any of the territory of such municipality shall be disconnected from such municipality, the county board, upon receipt of a certified copy of the resolution or ordinance of the municipality disconnecting such territory, by resolution, shall disconnect such territory from such road district and annex it to an adjacent road district or districts. Whenever such municipality, at any one time shall have annexed or shall hereafter annex any territory, the county board, by resolution, shall disconnect such territory from the road district or districts in which it may be situated and annex the same to the road district in which such municipality is situated.

All the powers vested in a road district organized out of the territory embraced within any municipality, including all the powers vested by law in the highway commissioner of a road district, shall be vested in and exercised by the city council, or president and board of trustees of such municipality, including the power to levy a tax for the proper construc-

tion, maintenance and repair of roads in such district as provided in Section 6—501 of this Code. Any such tax whether heretofore or hereafter levied shall be in addition to all other taxes levied in such municipality and in addition to the taxes for general purposes authorized in Section 8–3–1 of the Illinois Municipal Code, as heretofore and hereafter amended. [1]

All of the powers vested by law in the district clerk of a road district shall be vested in and exercised by the city, town or village clerk of such municipality.

After a road district has been organized out of the territory embraced within a municipality, the offices and election of highway commissioner and district clerk shall be discontinued.

Laws 1959, p. 203, § 6–104. Amended by Laws 1961, p. 1415, § 1, eff. July 1, 1961; P.A. 97–908, § 5, eff. Aug. 7, 2012.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–104.

[1] 65 ILCS 5/8–3–1.

5/6–105. Alteration of boundaries and creation of new road districts

§ 6–105. The county board in counties not under township organization shall have full and complete power and jurisdiction to alter the boundaries of road districts, create new road districts and to consolidate road districts in their respective counties to suit the convenience of the inhabitants residing therein, but no such change shall be made or new road district created under the provisions of this Code unless at least 20 of the legal voters of such road district petition for such alteration or creation of a new road district or 20 legal voters from each of the districts to be consolidated petition for such consolidation; nor shall such alteration or creation of a new road district or consolidation be made by such county board without notice thereof having been given by posting up notices in not less than 5 of the most public places in each of the several road districts interested in such proposed alteration or creation of a new road district or for the consolidation of road districts. Provided, however, that where a city council or board of trustees of a municipality has, by resolution as above provided in Section 6–104, requested that the county board organize the territory embraced within such municipality into a road district or where the territory embraced in a municipality has been heretofore or may hereafter be organized into a road district and territory is disconnected from or added to such road district as provided in Section 6–104, a petition signed by the legal voters of such road district shall not be required and no notice of such proposed alteration or creation need be given but changes in boundaries shall be made by the county board as provided in Section 6–104.

When a new road district is created or a new district is created by consolidation as provided in this Section, such new districts from creation or the time of consolidation become districts for the purpose of nominating and electing officers at the next regular election held for election of road district officers, and after said election and election of officers, become districts for all purposes. Until such election and the qualification of the officers elected, the officers of the districts consolidated into one district shall hold office, and perform their respective duties as to each district. When a new district is created, not being a consolidated district, the officers of the district or districts, from parts of which the new district is formed, shall perform their respective duties as to the territory in the new district, taken from their district, until the next regular election for officers of road districts and the election and qualification of officers for the new district.

Laws 1959, p. 203, § 6–105. Amended by P.A. 81–1490, § 19, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–105.

5/6–106. Corporate name

§ 6–106. The corporate name of each road district in counties not under township organization shall be "Road District No. ..... of ..... County" and all actions by or against such district shall be in its corporate name.

Laws 1959, p. 203, § 6–106.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–106.

5/6–107. Corporate capacity

§ 6–107. Road districts have corporate capacity to exercise the powers granted thereto, or necessarily implied and no others. They have power: (1) to sue and be sued, (2) to acquire by purchase, gift or legacy, and to hold property, both real and personal, for the use of its inhabitants, and again to sell and convey the same, (3) to make all such contracts as may be necessary in the exercise of the powers of the district.

Laws 1959, p. 203, § 6–107. Amended by P.A. 83–388, § 70, eff. Sept. 16, 1983; P.A. 96–996, § 5, eff. Jan. 1, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–107.

5/6–107.1. Borrowing money

§ 6–107.1. Road districts may borrow money from any bank or other financial institution or, in a township road district and with the approval of the town board of trustees, from the town fund, provided such money shall be repaid within 10 years from the time the money is borrowed. "Financial institution" means any bank subject to the Illinois Banking Act,[1] any savings and loan association subject to the Illinois Savings and Loan Act of 1985,[2] and any federally chartered commercial bank or savings and loan association organized and operated in this State pursuant to the laws of the United States.

Laws 1959, p. 203, § 6–107.1, added by P.A. 84–1263, § 2, eff. Aug. 11, 1986. Amended by P.A. 85–514, § 1, eff. Jan. 1, 1988; P.A. 86–1179, § 5, eff. Aug. 17, 1990; P.A. 93–743, § 10, eff. July 15, 2004.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–107.1.

[1] 205 ILCS 5/1 et seq.

[2] 205 ILCS 105/1–1 et seq.

5/6–108. Consolidated township road district; election

§ 6–108. Any two or more townships in any county under township organization may be consolidated into a consolidated township road district for all purposes relating to the construction, repair, maintenance and supervision of roads in the manner hereinafter provided.

A petition shall be filed with the circuit court for the county, signed by at least 50 or 5% of the legal voters, whichever is fewer, of each of the townships involved, requesting the court to order a referendum in such townships, naming them, for the purpose of voting for or against the proposition to consolidate such townships into a single road district for all road purposes.

Upon the filing of such petition, the court shall consider the petition and enter appropriate orders in accordance with the general election law. If the court orders a referendum

on such proposition to be held, it shall be held at a regular election in such townships. Such referendum shall be conducted and notice given in accordance with the general election law of the State.

Laws 1959, p. 203, § 6–108. Amended by Laws 1967, p. 4044, § 1; P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–108.

5/6–109. Form of proposition; vote tabulation

§ 6–109. The proposition shall be in substantially the following form:

Shall ..... Township and ..... Township of ..... County, Illinois, be consolidated into a consolidated township road district for road purposes?	YES	
	NO	

The votes upon such proposition in each township involved shall be separately counted and tabulated. Such proposition shall not be deemed to have been approved unless a majority of the votes cast thereon in each township involved shall be in favor thereof. If a majority of the votes cast upon the proposition in each township involved shall be in favor of the consolidation of such townships for road purposes then such townships shall be consolidated into a consolidated township road district for road purposes, effective on the date of the next regularly scheduled election of road district officers following the referendum. The court shall file a certificate of the results of any referendum in which the consolidation of townships is so approved with the county clerk of the county.

Laws 1959, p. 203, § 6–109. Amended by Laws 1967, p. 4044, § 1; P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–109.

5/6–110. Several road districts organization; similarity

§ 6–110. For all purposes relating to the construction, repair, maintenance and supervision of roads in all counties, other than counties in which a county unit road district has been established, the several types of road districts provided for in this Code shall, as near as may be, and subject to the provisions of this Code, be regarded as analogous in corporate authority and the powers and duties of the highway officers thereof shall be similar in extent and effect.

Laws 1959, p. 203, § 6–110.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–110.

5/6–111. County unit road districts; election

§ 6–111. The territory within any county having less than 500,000 inhabitants may be organized into a county unit road district for all purposes relating to the construction, repair, maintenance and supervision of district roads in the county in the manner hereinafter provided. A petition signed by not less than 5% of the legal voters or 50 legal voters, whichever is fewer, in each of at least a majority of the townships in a county under township organization or road districts in a county not under township organization shall be filed with the county clerk of the county requesting the county clerk to submit to referendum in such county to establish a county unit road district in such county for all district road purposes. The petition shall request that such proposition be submitted at the general election in the next succeeding November of an even-numbered year.

Upon the filing of such petition, the county clerk shall submit such proposition at the general election in the next succeeding November of an even-numbered year in accordance with the general election law. Notice of the referendum shall be given, and the election shall be held in the manner provided by the general election laws of the State. The proposition shall be in substantially the following form:

Shall a county unit road district in ..... County, Illinois be established?	YES	
	NO	

Whenever in a county under township organization a majority of the voters voting on such proposition in at least a majority of the townships in such county and a majority of the voters voting on such proposition in the entire county vote in favor of the proposition, and whenever in a county not under township organization a majority of the voters voting on such proposition in the entire county vote in favor of the proposition, a county unit road district shall be established in such county for all purposes relating to the construction, repair, maintenance and supervision of district roads in such county which theretofore had been under the jurisdiction of a highway commissioner, effective at the time provided in Section 6–125 of this Act.

Any county unit road district established under this Section shall be an independent county agency and any taxes levied for the county unit road district under Section 6–512 of this Act shall be levied and collected as other county taxes, but the county unit road district taxes shall not be included in any constitutional or statutory tax limitation for county purposes, but shall be in addition thereto and in excess thereof.

Laws 1959, p. 203, § 6–111. Amended by Laws 1961, p. 3137, § 1; Laws 1963, p. 1813, § 1; Laws 1967, p. 2520, § 1; P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–111.

5/6–112. Highway commissioner

§ 6–112. In each road district, except in a county unit road district and except in municipalities that have been created a road district, there shall be elected a highway commissioner in the manner provided in this Code.

The highway commissioner of each road district comprised of a single township is an officer of that township.

Laws 1959, p. 203, § 6–112.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–112.

5/6–113. District clerk

§ 6–113. In each road district comprised of a single township, the township clerk shall be ex-officio the clerk for the highway commissioner.

In each consolidated township road district the road district clerk shall be selected by the highway board of auditors of such district from its membership.

In each other road district there shall be elected a road district clerk except as is provided in this Code for county unit road districts and for municipalities that have been created a road district.

Laws 1959, p. 203, § 6–113.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–113.

5/6–114. District treasurer; bond

§ 6–114. In each road district comprised of a single township, the supervisor of such township shall be ex-officio treasurer for the road district. In each consolidated township road district the treasurer shall be selected by the highway board of auditors of such district from its membership. In each other road district the district clerk shall be ex-officio treasurer for the road district, except as is provided in this Code for county unit road districts and for municipalities that are created a road district.

Each such treasurer before becoming entitled to act as treasurer and within 10 days after his election or selection, shall execute a bond in double the amount of moneys likely to come into his hands by virtue of such office, if individuals act as sureties on such bond, or in the amount only of such moneys if a surety company authorized to do business in this State acts as surety on such bond, conditioned that he will faithfully discharge his duties as such treasurer, that he will honestly and faithfully account for and pay over, upon the proper orders, all moneys coming into his hands as treasurer, and the balance, if any, to his successor in office. Such bond shall be payable to the district, and shall be in such sum as the highway commissioner shall determine. Such bond shall be approved by the highway commissioner and shall be filed in the office of the county clerk with such approval endorsed thereon. The highway commissioner shall have the power to require the giving of additional bond, to increase or decrease the amount of such bond, or require the giving of a new bond whenever in his opinion such action is desirable. The highway commissioner shall have power to bring suit upon such bond for any loss or damage accruing to the district by reason of any non-performance of duty, or defalcation on the part of the treasurer.

Laws 1959, p. 203, § 6–114.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–114.

5/6–115. Eligibility for office

§ 6–115. Except as provided in Section 10–20 of the Township Code,[1] no person shall be eligible to the office of highway commissioner unless he shall be a legal voter and has been one year a resident of the district. In road districts that elect a clerk the same limitation shall apply to the district clerk.

Laws 1959, p. 203, § 6–115. Amended by P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 88–670, Art. 3, § 3–78, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–115.

[1] 60 ILCS 1/10–20.

5/6–116. Highway commissioner and district clerk; election; time of taking office

§ 6–116. Except as otherwise provided in this Section with respect to highway commissioners of township and consolidated township road districts, at the election provided by the general election law in 1985 and every 4 years thereafter in all counties, other than counties in which a county unit road district has been established and other than in Cook County, the highway commissioner of each road district and the district clerk of each road district having an elected clerk, shall be elected to hold office for a term of 4 years, and until his successor is elected and qualified. The highway commissioner of each road district and the district clerk of each road district elected in 1979 shall hold office for an additional 2 years and until his successor is elected and has qualified.

In each township and consolidated township road district outside Cook County, highway commissioners shall be elected at the election provided for such commissioners by the general election law in 1981 and every 4 years thereafter to hold office for a term of 4 years and until his successor is elected and qualified. The highway commissioner of each road district in Cook County shall be elected at the election provided for said commissioner by the general election law in 1981 and every 4 years thereafter for a term of 4 years, and until his successor is elected and qualified.

Each highway commissioner shall enter upon the duties of his office on the third Monday in May after his election.

In road districts comprised of a single township, the highway commissioner shall be elected at the election provided for said commissioner by the general election law. All elections as are provided in this Section shall be conducted in accordance with the general election law.

Laws 1959, p. 203, § 6–116. Amended by P.A. 76–1066, § 1, eff. Aug. 28, 1969; P.A. 77–2171, § 1, eff. Oct. 1, 1972; P.A. 81–539, § 1, eff. Sept. 11, 1979; P.A. 81–1490, § 19, eff. Dec. 1, 1980; P.A. 83–108, § 1, eff. Jan. 1, 1984; P.A. 94–273, § 10, eff. Jan. 1, 2006; P.A. 94–645, § 25, eff. Aug. 22, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–116.

P.A. 94–273 and P.A. 94–645 made identical amendments.

5/6–117. Elections in counties not under township organization

§ 6–117. In all counties not under township organization the election shall be held at the election provided by the general election law for road district clerks and highway commissioners. Said election shall be held in accordance with the general election law.

A statement of the results of the election shall be entered at large by the district clerk in the minutes of the proceedings, to be kept by him as required by this Code, which shall be publicly read by him to the electors present, and such reading shall be deemed notice of the result of the election.

In case 2 or more persons shall have an equal number of votes for the same office, the question of which shall be entitled to the office shall be decided by lot, under direction of the district clerk, but he shall give each party at least 5 days notice of the time and place of drawing lots.

The district clerk, within 10 days after receiving the results of the election from the appropriate election authorities as hereinbefore provided in this section, shall transmit to each person elected to any district office, a notice of his election.

Laws 1959, p. 203, § 6–117. Amended by Laws 1963, p. 1148, § 1, eff. Jan. 1, 1964; P.A. 81–1490, § 19, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–117.

5/6–118. Oath of office

§ 6–118. Every person elected or appointed to the office of highway commissioner, and to consolidated township road district clerk in counties under township organization and to district clerk in counties not under township organization, before he enters upon the duties of his office, and within 10 days after he is notified of his election or appointment, shall take and subscribe, before some judicial officer of the circuit court or district or town clerk, the oath or affirmation of office prescribed by the Constitution, which oath or affirmation shall, within 5 days thereafter, be filed with the district or town clerk.

In counties under township organization no additional oath shall be required of the town clerk to enable him to enter upon the discharge of the duties of his office as ex-officio clerk for the highway commissioner.

If any person elected or appointed to either of the offices above named neglects to take and subscribe such oath, and cause the same to be filed as above required, such neglect shall be deemed a refusal to serve.

Laws 1959, p. 203, § 6–118. Amended by Laws 1967, p. 4041, § 1, eff. Sept. 7, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–118.

5/6–119. Commissioner and clerk; delivery of books and records on termination of office; oath

§ 6–119. When the term of any highway commissioner or clerk shall expire, and other persons shall be elected or appointed to such office, it shall be the duty of such successor, immediately after he shall have entered upon the duties of his office, to demand of his predecessor all the books, papers, moneys and other property belonging to such office.

Whenever either of the officers above named shall resign, or the office become vacant in any way, and another person shall be elected or appointed in his stead, the person so elected or appointed shall make such demand of his predecessor, or of any person having charge of such books, papers, moneys or other property.

It shall be the duty of every person so going out of office, whenever thereto required pursuant to the foregoing provisions, to deliver upon oath, all the records, books, papers, moneys and other property in his possession or in his control belonging to the office held by him; which oath may be administered by the officer to whom such delivery shall be made.

Laws 1959, p. 203, § 6–119.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–119.

5/6–120. Vacancies; counties under township organization

§ 6–120. In counties under township organization the provisions of law applicable to resignations from township offices and the filling of vacancies therein, and the making of a temporary appointment in case a township officer is incapacitated, shall apply to highway officers in townships not consolidated into township road districts in the same manner as to other township officers.

Laws 1959, p. 203, § 6–120. Amended by Laws 1967, p. 1726, § 1, eff. July 17, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–120.

5/6–121. Vacancies; counties not under township organization

§ 6–121. In counties not under township organization the following provisions shall be applicable relating to vacancies in road district offices:

Whenever any district fails to elect the proper number of district officers to which such district may be entitled by law, or when any person elected to any district office fails to qualify, or whenever any vacancy happens in any district, from death, resignation, removal from the district or other cause, the presiding officer of the county board, with the advice and consent of the county board, shall fill such vacancy by certificate under the signature and seal of the county clerk; and the persons so appointed shall hold their respective offices until the next regular election, and until their successors are elected and qualified; and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected by the electors.

When any appointment is made, as above stated, the county clerk shall cause the certificate of appointment to be forthwith filed in the office of the district clerk, who shall immediately give notice to each person appointed.

Any judicial officer of the circuit court residing in such district, or if there be no judicial officer of the circuit court residing in such district, then any judicial officer of the circuit court in the county, may, for sufficient cause shown to him, accept the resignation of any district officer of his district, and whenever he accepts any such resignation, he shall forthwith give notice thereof to the district clerk of the district, or in his absence, to the highway commissioner, who shall make a minute thereof in the district records. He shall also immediately give notice to the county clerk of any vacancy that may exist in any district office.

Laws 1959, p. 203, § 6–121. Amended by Laws 1967, p. 4041, § 1; P.A. 78–1128, § 51, eff. Oct. 1, 1974; P.A. 84–550, § 33, eff. Sept. 18, 1985.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–121.

5/6–122. Highway commissioner and clerk of consolidated district; election; vacancies

§ 6–122. When the electors in any townships have voted for the consolidation of such townships into a consolidated township road district for road purposes the county clerk of such county shall conduct an election for the selection of a highway commissioner of such township road district. Such election shall be held at the next regular election for township offices. Such election shall be held in accordance with the provisions of the general election law.

The highway commissioner of such consolidated township road district so elected and his successors in office shall have the powers and perform the duties of highway commissioners in other road districts.

Any vacancy in such office at any time shall be filled for the balance of the unexpired term by appointment by a majority of the members of the highway board of auditors.

Laws 1959, p. 203, § 6–122. Amended by P.A. 81–1490, § 19, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–122.

5/6–123. Highway board of auditors for consolidated township road district; membership; vacancies

§ 6–123. When the electors in any townships have voted for the consolidation of such townships into a consolidated township road district for road purposes, the supervisors and township clerks in the respective townships so consolidated shall, ex-officio, constitute a highway board of auditors for such township road district. Such highway board of auditors shall organize and select one of their number as chairman, another as clerk and another as treasurer of the consolidated township road district. The officers of each such newly organized consolidated township road district so elected shall hold office until the first Tuesday in April, 1959 or until the first Tuesday of each succeeding fourth year thereafter, and their successors shall hold office for a term of 4 years and until their respective successors are selected and qualified; except that no person shall be a member of such highway board of auditors or such an officer of such consolidated

township road district after the expiration of his term as supervisor or township clerk. Vacancies in such consolidated township road district offices shall be filled by the highway board of auditors. Such highway board of auditors shall have the same powers and duties with respect to road matters as have the board of town auditors in townships and such other powers and duties as may be prescribed by law.

Laws 1959, p. 203, § 6–123.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–123.

5/6–124. Delivery of property and funds to consolidated township road district

§ 6–124. Upon the election or selection and qualification of the first highway commissioner, clerk and treasurer of a consolidated township road district the highway commissioners of the respective townships so consolidated shall deliver to such consolidated township district highway commissioner all property and equipment of their respective districts taking his receipt therefor and the several township treasurers shall transfer and deliver to such consolidated township road district treasurer, all funds of their respective districts which they may hold, taking his receipt therefor. Any accounts or tax moneys for road purposes thereafter payable to any township so consolidated shall be paid to the treasurer of such consolidated township road district. Such consolidated township road district shall succeed to and assume all obligations and contracts of each of the townships consolidated into it other than bonded indebtedness.

With respect to bonded indebtedness for road purposes of any township so consolidated the county clerk shall annually extend taxes against all of the taxable property in such township so long as any of such road bonds are outstanding, sufficient to pay the maturing principal and interest of such bonds as the same become due, such tax to be in addition to all other taxes for road purposes and without limitation as to rate or amount. The proceeds of such tax when collected shall be used for payment of the principal and interest on such bonds.

Laws 1959, p. 203, § 6–124.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–124.

5/6–125. County superintendent of highway; responsibility for construction, etc., of county unit district roads

§ 6–125. In any county under the commission form of government in which a county unit road district is established, as of the first Tuesday in April after the holding of such election, the county superintendent of highways shall take over and be responsible, subject to the direction of the county board, for the construction, maintenance and repair of all roads in such county for which the several highway commissioners had theretofore been responsible. Such construction, maintenance and repair shall be undertaken uniformly throughout the county without granting any special consideration toward any part or parts thereof except for traffic and safety needs.

After the establishment of a county unit road district, the roads for which the county thereby becomes so responsible shall remain a part of the district road system as defined by this Code and shall not be considered as part of the county highway system as defined by this Code. However, any such district road may thereafter be made a part of the county highway system in the manner provided by this Code.

As of such date, the offices of highway commissioner, clerk and treasurer in each road district in such county are abolished, except that such officers may complete the affairs of their respective offices as herein provided and as needed for the transition. Upon release by the county superintendent such road districts shall have no further powers or duties relating to the construction, repair, maintenance and supervision of roads.

As of such date, the several highway commissioners shall deliver to the county superintendent of highways all property and equipment of their respective districts, taking his receipt therefor. Road district property used exclusively for road maintenance and related purposes shall also be delivered to the county superintendent, taking his receipt therefor. The several district clerks shall deliver the books, records and papers pertaining to such office to the county clerk, taking his receipt therefor. The several district treasurers shall transfer and deliver to the county treasurer all funds of their respective districts which they hold, taking his receipt therefor. Any accounts or tax moneys thereafter payable to any road district in such county shall be paid into a special county unit road district fund which shall be maintained separate and apart from the general county fund. The county treasurer shall be custodian of the county unit road district fund and any performance bond executed by the county treasurer shall be applicable to the moneys in the special fund. Receipts for these transfers shall be filed with the county clerk.

The county unit road district so established shall succeed to and assume all obligations and contracts of each of such road districts in such county, other than bonded indebtedness. With respect to the bonded indebtedness for road purposes of any former district in a county in which a county unit road district is so established, the county clerk annually shall extend taxes against all of the taxable property in the former road district so long as any of such bonds are outstanding, sufficient to pay the maturing principal and interest of such bonds as they become due, such tax to be in addition to all other taxes for road purposes and without limitation as to rate or amount. The proceeds of such tax, when collected, shall be used for the payment of the principal and interest on such bonds.

All county unit road districts established under this Act shall be independent county agencies administered by the respective county superintendents of highways, under the general supervision of the county board. The county unit road districts shall maintain separate books showing receipts and expenditures, and shall issue such financial and other reports as the county board may from time to time require.

Laws 1959, p. 203, § 6–125. Amended by Laws 1967, p. 2520, § 1; P.A. 76–174, § 1, eff. July 1, 1969; P.A. 78–543, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–125.

5/6–126. Property and equipment delivered to county superintendent of highways

§ 6–126. The property and equipment delivered to the county superintendent of highways in conjunction with the establishment of a county unit road district shall be appraised and its fair value determined by the county superintendent of highways and the highway commissioner of the former district. Disputes as to the value of transferred property shall be arbitrated by qualified appraisers approved by both the district highway commissioner and the county superintendent of highways. Such property and equipment may be retained and used by the county or may be disposed of and sold, with the funds so derived deposited in the county unit district account, as the county board may determine. In case a road district has outstanding road bonds or road improvement bonds, an amount equal to the appraised or

sale value of such property and equipment, less the amount of any indebtedness of the former district assumed by the county unit road district, shall be set up to the credit of such road district by the county treasurer from any funds available therefor and shall be used to pay the principal and interest on such bonds, to the extent such credit may be available, and the tax levied for the payment of the principal and interest upon such road bonds or road improvement bonds shall be abated by the amount so applied. In case the road district had no such bonds or road improvement bonds outstanding, an amount equal to the appraised or sale value of such property and equipment, less the amount of any indebtedness of the former district assumed by the county unit road district, shall be used for the maintenance, repair and improvement of roads in the particular area that was included in such former district, as the funds become available therefor but without sacrificing normal necessary roadwork in any other area.

Laws 1959, p. 203, § 6–126. Amended by P.A. 76–174, § 1, eff. July 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–126.

5/6–127. County board; construction, etc., of county unit district roads

§ 6–127. In any county in which a county unit road district is established, the county unit district roads shall be constructed, maintained and repaired by the county superintendent of highways, subject to the direction of the county board; and with the respect to the laying out, construction, repair and maintenance of such roads, the county superintendent of highways shall have the powers and perform the duties of the highway commissioners under the provisions of this Code.

The county unit road district shall be administered as a separate county agency by the county superintendent of highways, but the presiding officer of the county board, with the advice and consent of the county board, may appoint a committee from its membership representative of the territory in such county and delegate to such committee such authority as the county board may deem proper. The county superintendent of highways may divide the territory of the county into maintenance or operational units and may employ the necessary personnel in each such unit.

Laws 1959, p. 203, § 6–127. Amended by Laws 1967, p. 2520, § 1; P.A. 78–1128, § 51, eff. Oct. 1, 1974.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–127.

5/6–129. Funds and expenditures on county unit district roads; budget; resume of work

§ 6–129. The county superintendent of highways shall prepare a separate annual budget for the county unit road district and submit the budget to the county board not later than the date provided by law for publication of the annual county budget, except the first budget for a county unit road district shall be submitted within 90 days after the take-over date. The county board may approve or disapprove of the budget submitted by the superintendent of highways, but the board shall specify in writing the reasons for disapproval and shall recommend the necessary changes for the road district budget. Within 90 days after the close of the county's fiscal year, the county superintendent of highways shall make and file with the county clerk a report of the funds available for county unit district roads and bridges and the expenditures therefrom and a resume of the work done upon county unit district roads during such year.

Laws 1959, p. 203, § 6–129. Amended by Laws 1967, p. 2520, § 1; P.A. 76–174, § 1, eff. July 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–129.

5/6–130. Township road district; mileage; abolition; township board of trustees

§ 6–130. Notwithstanding any other provision of this Act to the contrary, no township road district may continue in existence if the roads forming a part of the district do not exceed a total of 4 miles in length. For purposes of this Section, the roads forming a part of a township road district include those roads maintained by the district, regardless of whether or not those roads are owned by the township. On the first Tuesday in April of 1975, or of any subsequent year next succeeding the reduction of a township road system to a total mileage of 4 miles or less, each such township road district shall, by operation of law, be abolished. The roads comprising that district at that time shall thereafter be administered by the township board of trustees by contracting with the county, a municipality or a private contractor. The township board of trustees shall assume all taxing authority of a township road district abolished under this Section.

Laws 1959, p. 203, § 6–130, added by P.A. 77–1766, § 1, eff. July 1, 1972. Amended by P.A. 82–611, § 1, eff. Sept. 24, 1981; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–605, § 1, eff. Sept. 19, 1983; P.A. 92–800, § 5, eff. Aug. 16, 2002; P.A. 94–884, § 5, eff. June 20, 2006.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–130.

5/6–131. Senior citizen transportation and mass transit programs; district road fund

§ 6–131. Senior citizen transportation and mass transit programs; district road fund. A road district may use money in its district road fund to pay for all or part of the direct costs of senior citizen transportation programs or senior citizen mass transit programs, or both.

Laws 1959, p. 203, § 6–131, added by P.A. 90–183, § 5, eff. Jan. 1, 1998.

5/6–132. Recycling

§ 6–132. Recycling. A road district may organize, administer, or participate in one or more recycling programs.

Laws 1959, p. 203, § 6–132, added by P.A. 95–119, § 10, eff. Aug. 13, 2007.

5/6–133. Abolishing a road district in Cook County

§ 6–133. Abolishing a road district in Cook County. By resolution, the board of trustees of any township located in Cook County, Illinois, may submit a proposition to abolish the road district of that township to the electors of that township at a general election or consolidated election in accordance with the general election law. The ballot shall be in substantially the following form:

Shall the Road District of the Township of..... be abolished with all the rights, powers, duties, assets, property, liabilities, obligations, and responsibilities being assumed by the Township of .....?	YES	
	NO	

In the event that a majority of the electors voting on such proposition are in favor thereof, then the road district shall be abolished by operation of law effective on January 1 of the calendar year immediately following the calendar year in which the proposition was approved by the electors.

On that date, all the rights, powers, duties, assets, property, liabilities, obligations, and responsibilities of the road district shall by operation of law vest in and be assumed by the township. On that date, the township board of trustees shall assume all taxing authority of a road district abolished under this Section. On that date, any highway commissioner of the abolished road district shall cease to hold office, such term having been terminated. Thereafter, the township shall exercise all duties and responsibilities of the highway commissioner as provided in the Illinois Highway Code. The township board of trustees may enter into a contract with the county, a municipality, or a private contractor to administer the roads under its jurisdiction. The township board of trustees shall assume all taxing authority of a township road district abolished under this subsection. For purposes of distribution of revenue, the township shall assume the powers, duties, and obligations of the road district.

Laws 1959, p. 203, § 6–133, added by P.A. 97–611, § 15, eff. Jan. 1, 2012.

DIVISION 2. FUNCTIONS AND COMPENSATION OF DISTRICT OFFICIALS

5/6–201. Highway commissioner

§ 6–201. The highway commissioner of each road district shall perform the functions stated in the following Sections preceding Section 6–202.

Laws 1959, p. 203, § 6–201. Amended by Laws 1961, 1st Sp.Sess., p. 7, § 1; Laws 1965, p. 1000, § 1; P.A. 81–1156, § 1, eff. Nov. 29, 1979; P.A. 84–778, § 1, eff. Jan. 1, 1986; P.A. 87–818, § 2, eff. July 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.

5/6–201.1. Presence at office of district clerk; tax levy

§ 6–201.1. Be present at the district clerk's office annually on or before the last Tuesday in December of each year for the purpose of determining the tax levy to be certified by him to the county board in counties not under township organization, or by the township board of trustees or highway board of trustees, as the case may be, to the county clerk in counties having adopted township organization, as provided in this Code. He shall also be present at such office at such time or times as he shall designate and as the duties of his office may require for the transaction of official business.

Laws 1959, p. 203, § 6–201.1. Amended by Laws 1965, p. 1288, § 1; P.A. 76–507, § 1, eff. July 24, 1969; P.A. 77–2787, § 1, eff. Oct. 1, 1972; P.A. 83–897, § 1, eff. July 1, 1984; P.A. 87–738, § 9, eff. Sept. 26, 1991; P.A. 87–1189, Art. 5, § 5, eff. Sept. 24, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.1.

5/6–201.2. Laying out, alteration, etc., of township or district roads

§ 6–201.2. Lay out, alter, widen or vacate township or district roads as provided in this Code.

Laws 1959, p. 203, § 6–201.2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.2.

5/6–201.3. Inclusion of roads dedicated to public use in township or district road system

§ 6–201.3. Include and incorporate such roads or streets as have been laid out and dedicated to public use or have been platted and dedicated to public use into the township or district road system as provided in this Code.

Laws 1959, p. 203, § 6–201.3.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.3.

5/6–201.4. Certain roads used as public highways; recording in office of district clerk

§ 6–201.4. Cause such roads used as public highways, as have been laid out or dedicated to public use, but not sufficiently described, and such as have been used for 15 years but not recorded, to be ascertained, described and entered of record in the office of the district clerk.

Laws 1959, p. 203, § 6–201.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.4.

5/6–201.5. Determination of tax levy

§ 6–201.5. Determine the taxes necessary to be levied on property within his district for road purposes, subject to the limitations provided by law.

Laws 1959, p. 203, § 6–201.5. Amended by P.A. 77–2787, § 1, eff. Oct. 1, 1972; P.A. 83–897, § 1, eff. July 1, 1984; P.A. 86–1179, § 5, eff. Aug. 17, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.5.

5/6–201.6. Expenditure of road moneys; warrants

§ 6–201.6. Direct the expenditure of all moneys collected in the district for road purposes, including those purposes allowed under Section 6–201.21 of this Code, and draw warrants on the district treasurer therefor, provided such warrants are countersigned by the district clerk.

Laws 1959, p. 203, § 6–201.6. Amended by P.A. 93–109, § 10, eff. July 8, 2003; P.A. 93–610, § 10, eff. Nov. 18, 2003.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.6.

The amendments made by P.A. 93–109 and P.A. 93–610 were identical.

5/6–201.7. Construction and maintenance of roads in district; contracts; bidding; advertising for bids; emergency contracts

§ 6–201.7. Construct, maintain and repair and be responsible for the construction, maintenance and repair of roads within the district, let contracts, employ labor and purchase material and machinery therefor, subject to the limitations provided in this Code. Contracts, labor, machinery, disposal, and incidental expenses related to special services under Section 6–201.21 of this Code constitute maintenance, for purposes of this Section.

Except for professional services, when the cost of construction, materials, supplies, new machinery or equipment exceeds $20,000, the contract for such construction, materials, supplies, machinery or equipment shall be let to the lowest responsible bidder after advertising for bids at least once, and at least 10 days prior to the time set for the opening of such bids, in a newspaper published within the township or road district, or, if no newspaper is published within the township or road district then in one published within the county, or, if no newspaper is published within the county

then in a newspaper having general circulation within the township or road district, but, in case of an emergency, such contract may be let without advertising for bids. For purposes of this Section "new machinery or equipment" shall be defined as that which has been previously untitled or that which shows fewer than 200 hours on its operating clock and that is accompanied by a new equipment manufacturer's warranty.

Laws 1959, p. 203, § 6–201.7. Amended by Laws 1959, p. 888, § 1; P.A. 76–1527, § 1, eff. Sept. 22, 1969; P.A. 79–517, § 1, eff. Oct. 1, 1975; P.A. 81–693, § 1, eff. Jan. 1, 1980; P.A. 84–778, § 1, eff. Jan. 1, 1986; P.A. 86–1179, § 5, eff. Aug. 17, 1990; P.A. 86–1368, § 1, eff. Jan. 1, 1991; P.A. 86–1475, Art. 2, § 2–38, eff. Jan. 10, 1991; P.A. 92–268, § 5, eff. Jan. 1, 2002; P.A. 93–109, § 10, eff. July 8, 2003; P.A. 93–164, § 5, eff. July 10, 2003; P.A. 93–610, § 10, eff. Nov. 18, 2003; P.A. 94–435, § 15, eff. Aug. 2, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.7.

5/6–201.8. General charge of roads in district

§ 6–201.8. Have general charge of the roads of his district, keep the same in repair and to improve them so far as practicable and cooperate and assist in the construction or improvement of such roads with labor furnished, in whole or in part, by the Department of Human Services (acting as successor to the State Department of Public Aid under the Department of Human Services Act) [1] or other public assistance authorities.

Laws 1959, p. 203, § 6–201.8. Amended by Laws 1963, p. 2046, § 1, eff. July 25, 1963; P.A. 89–507, § 90L–88, eff. July 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.8.

[1] 20 ILCS 1305/1–1 et seq.

5/6–201.9. Machinery, equipment and property of district

§ 6–201.9. Take possession of and keep under shelter, when not in use all machinery, equipment and other property belonging to the district wherever the same may be found and not allow the same to go to waste.

Laws 1959, p. 203, § 6–201.9.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.9.

5/6–201.10. Cooperation with other highway authorities in use of machinery, equipment or tools

§ 6–201.10. Have authority to make agreements with the highway commissioner of any other road district or with the corporate authorities of any municipality located in the same county or in an adjoining county or with the county board of the county in which such road district is located or of any adjoining county, for the lease or exchange of idle machinery, equipment or tools belonging to the district, upon such terms and conditions as may be mutually agreed upon.

Laws 1959, p. 203, § 6–201.10.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.10.

5/6–201.10–1. Contracting with other governmental units for services and materials related to construction, maintenance or repair

§ 6–201.10–1. The highway commissioner of each road district has authority to contract with the highway commissioner of any other road district or with the corporate authorities of any municipality or county to furnish or to obtain services and materials related to construction, maintenance or repair of roads.

Laws 1959, p. 203, § 6–201.10–1, added by P.A. 81–22, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.10–1.

5/6–201.11. Guide, direction and street sign erection and repair

§ 6–201.11. Cause to be erected and kept in repair at intersections of the most important public roads, guide and direction signs and any other signs authorized by this Code [1] or by the Illinois Vehicle Code.

In unincorporated territory located within counties with a population of more than 3,000,000 inhabitants, the homeowners association of a subdivision with at least 100 permanent dwellings may cause to be erected and kept in repair guide and direction or street signs at intersections within the subdivision. These signs shall be at least 7 feet above the curb and may be on wooden posts with wooden boards. The homeowners association shall be responsible for maintenance and replacement of the signs. Signs shall be located so as not to interfere with pedestrian or vehicular traffic.

Laws 1959, p. 203, § 6–201.11. Amended by Laws 1963, p. 970, § 1, eff. July 1, 1963; P.A. 83–333, § 69, eff. Sept. 14, 1983; P.A. 88–661, § 25, eff. Sept. 16, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.11.

[1] 625 ILCS 5/1–100 et seq.

5/6–201.12. Road lighting

§ 6–201.12. Provide for the lighting of any public road or portion thereof in his district when in his opinion it is necessary for the convenience or safety of the public.

Laws 1959, p. 203, § 6–201.12.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.12.

5/6–201.13. Furnishing of list of warrants to county superintendent

§ 6–201.13. Furnish to the county superintendent of highways within 30 days after issuing warrants a list of such warrants showing where money is spent, for what purpose, and the amount expended.

Laws 1959, p. 203, § 6–201.13.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.13.

5/6–201.14. Building of sidewalks, alleys, and bike paths in unincorporated communities

§ 6–201.14. Have authority to build curbs, sidewalks, alleys, and bike paths in unincorporated communities out of any funds belonging to the road district in which such community is located.

Laws 1959, p. 203, § 6–201.14. Amended by P.A. 81–663, § 1, eff. Jan. 1, 1980; P.A. 93–321, § 5, eff. July 23, 2003.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.14.

5/6–201.15. Annual report

§ 6–201.15. Annually make a report in writing, showing the following:

(1) The amount of road money received by the district and a full and detailed statement as to how and where expended and the balance, if any, unexpended.

(2) The amount of liabilities incurred and not paid (any undetermined liabilities shall be estimated) and the determined or estimated amount owing to each creditor, who shall be named.

(3) An inventory of all tools having a present value in excess of $200, machinery and equipment owned by the district, and the state of repair of these tools, machinery, and equipment.

(4) Any additional matter concerning the roads of the district the highway commissioner thinks expedient and proper to report.

In counties under township organization, the reports in districts composed of a single township shall be made to the board of town trustees within 30 days before the annual town meeting. In consolidated township road districts in counties under township organization and in road districts in counties not under township organization, the report shall be made not later than the last Tuesday in March to the district clerk, who shall file the report in his or her office and record the report at large in the records of the district.

Laws 1959, p. 203, § 6–201.15. Amended by Laws 1963, p. 3031, § 1; Laws 1965, p. 2559, § 1; P.A. 77–1594, § 1, eff. Sept. 21, 1971; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–404, § 1, eff. Jan. 1, 1984; P.A. 87–1208, § 10, eff. Jan. 1, 1993.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.15.

5/6–201.16. Traffic control devices; erection and maintenance

§ 6–201.16. Subject to the written approval of the County Superintendent of Highways to place, erect, and maintain on township or road district roads, traffic-control devices and signs authorized by this Code or by "The Illinois Vehicle Code", approved September 29, 1969, as amended.[1]

Laws 1959, p. 203, § 6–201.16, added by Laws 1961, 1st Sp.Sess., p. 7, § 1, eff. Nov. 6, 1961. Amended by P.A. 83–333, § 69, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.16.

[1] 625 ILCS 5/1–100 et seq.

5/6–201.17. Purchase or lease or financing the purchase of highway construction and maintenance equipment

§ 6–201.17. Have authority to purchase or lease or to finance the purchase of highway construction and maintenance equipment under contracts providing for payment in installments over a period of time of not more than 10 years with interest on the unpaid balance owing not to exceed 9%. The purchases or contracts are subject to the bid provisions of Section 6–201.7 of this Code. In single township road districts, sale of road district property including, but not limited to, machinery and equipment shall be subject to elector approval as provided in Section 30–50 of the Township Code.[1] A trade in of old machinery or equipment on new or different machinery or equipment shall not be construed as the sale of road district property.

Laws 1959, p. 203, § 6–201.17, added by Laws 1965, p. 1000, § 1. Amended by P.A. 81–1438, § 1, eff. Jan. 1, 1981; P.A. 86–1179, § 5, eff. Aug. 17, 1990; P.A. 88–670, Art. 3, § 3–78, eff. Dec. 2, 1994; P.A. 89–331, § 10, eff. Aug. 17, 1995.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.17.

[1] 60 ILCS 1/30–50.

5/6–201.18. Standing crops as snow breaks

§ 6–201.18. Have authority to contract with persons growing row crops on land adjacent to township or district roads to buy standing strips of such crops to remain in place to act as snow breaks along such roads in those places where experience shows that drifting snow has been an obstruction to traffic. The contract price to be paid by the highway commissioner in any such case shall be the higher of the market price in the local area of such crop at the time of contracting or the current Commodity Credit Corporation target price. An additional sum of money equal to 10% of the contract price may be paid to the grower as an inconvenience fee.

Laws 1959, p. 203, § 6–201.18, added by P.A. 81–1156, § 1, eff. Nov. 29, 1979. Amended by P.A. 84–1272, § 1, eff. Jan. 1, 1987.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.18.

5/6–201.19. Hiring of legal counsel; conflicts of interest

§ 6–201.19. Have authority to hire legal counsel to perform legal functions for road districts where performance of such functions by the public official who would otherwise represent the highway commissioner would present a direct or potential conflict of interest.

Laws 1959, p. 203, § 6–201.19, added by P.A. 84–778, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.19.

5/6–201.20. Rules concerning benefits available to employees

§ 6–201.20. Every highway commissioner with 5 or more employees in a county under township organization shall set and adopt rules concerning all benefits available to employees of that office. The rules shall include, without limitation, the following benefits to the extent they are applicable: insurance coverage, compensation, overtime pay, compensatory time off, holidays, vacations, sick leave, and maternity leave. The rules shall be adopted and filed with the township clerk (i) within 6 months after the effective date of this amendatory Act of 1991 (in the case of highway commissioners holding office on that effective date) or (ii) within 4 months after the highway commissioner takes office (in the case of highway commissioners elected after the effective date of this amendatory Act of 1991). The highway commissioner of a consolidated township road district shall file the rules with the clerk of each township contained within the consolidated district. Amendments to the rules shall be filed with the appropriate township clerk on or before their effective date.

Laws 1959, p. 203, § 6–201.20, added by P.A. 87–818, § 2, eff. July 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–201.20.

5/6–201.21. Special services; disaster relief

§ 6–201.21. Special services; disaster relief. The highway commissioner has authority to provide for orderly collection, transport, and disposal of brush and leaves that have been properly placed for collection along the road district rights-of-way in accordance with local guidelines. The highway commissioner may use funds authorized under Section 30–117 of the Township Code [1] to provide for the collection, transport, and disposal of brush and leaves.

Subject to Section 30–117 of the Township Code, the highway commissioner has authority to provide necessary

relief services following the occurrence of an event that has been declared a disaster by State or local officials. The highway commissioner has purchasing authority, subject to Section 6–201.6, and contractual authority as defined in Section 6–201.7 of this Code.

Laws 1959, p. 203, § 6–201.21, added by P.A. 93–109, § 10, eff. July 8, 2003; P.A. 93–610, § 10, eff. Nov. 18, 2003. Amended by P.A. 95–331, § 1000, eff. Aug. 21, 2007; P.A. 97–417, § 10, eff. Jan. 1, 2012.

[1] 60 ILCS 1/30–117.

5/6–202. District clerk

§ 6–202. The district clerk of each road district shall perform the functions stated in Sections 6–202.1 to 6–202.6.

Laws 1959, p. 203, § 6–202. Amended by P.A. 83–791, § 1, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.

5/6–202.1. Custody of records, etc., of district

§ 6–202.1. Have the custody of all records, books, and papers of the road district, and he shall duly file all certificates or oaths and other papers required by law to be filed in his office. He is authorized to administer oaths and take affidavits in all cases required by law to be administered by district officers.

Laws 1959, p. 203, § 6–202.1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.1.

5/6–202.2. Recording of orders of highway commissioner

§ 6–202.2. Record in the book of records of his district, all orders and directions of the highway commissioner required by law to be kept, and as hereinafter provided for. All records and books required by law to be kept by such clerk shall be deemed public records and shall at all times be open to inspection without fee or reward. The clerk shall also meet with the highway commissioner whenever requested at any reasonable time to do so by the latter official. Copies of all papers duly filed in the office of the district clerk and transcripts from the district records certified to by him shall be evidence in all courts in like effect as if the originals were produced.

Laws 1959, p. 203, § 6–202.2.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.2.

5/6–202.3. Countersigning and recording of warrants of highway commissioner

§ 6–202.3. Countersign and keep a complete record of all warrants issued by the highway commissioner.

Laws 1959, p. 203, § 6–202.3.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.3.

5/6–202.4. Books and stationery

§ 6–202.4. From time to time as may be necessary, procure the proper books and stationery for his office and the cost thereof shall be paid out of the district treasury.

Laws 1959, p. 203, § 6–202.4.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.4.

5/6–202.5. Reporting district elections

§ 6–202.5. Report to the county superintendent of highways in writing all road district elections which may directly or indirectly affect the superintendent of highways; mail or deliver to the superintendent of highways such petitions as have been carried by any election relative to all construction or to the appointment, removal or election of road district officials.

Laws 1959, p. 203, § 6–202.5. Amended by P.A. 81–1490, § 19, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.5.

5/6–202.6. Bids

§ 6–202.6. Be responsible for placing the advertisement of bids and to be present when bids are opened.

Laws 1959, p. 203, § 6–202.6, added by P.A. 83–791, § 1, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–202.6.

5/6–203. Commissioners; powers over streets and alleys in municipalities

§ 6–203. Except as provided in Section 6–301, nothing in this Code shall be construed as vesting in highway commissioners any power or jurisdiction over the streets and alleys in municipalities.

Laws 1959, p. 203, § 6–203. Amended by P.A. 86–1229, § 1, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–203.

5/6–204. Offenses and penalties

§ 6–204. If any highway commissioner wilfully refuses to perform any of the duties enjoined upon him by this Code, he shall forfeit not less than $10 nor more than $50, and may be proceeded against in the name of the district for the recovery of such forfeiture before any court of the proper county having jurisdiction.

In addition, wilful failure to include in the annual report the determined or estimated amount of all liabilities incurred and not paid and to whom owed, as required by Section 6–201.15 of this Act, is a misdemeanor, on conviction whereof the highway commissioner shall be fined in the amount of the reportable liabilities excluded from the report.

Laws 1959, p. 203, § 6–204. Amended by Laws 1963, p. 3031, § 1, eff. Aug. 16, 1963.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–204.

5/6–205. Duties of district treasurer; custody and disbursement of moneys; accounts; statement of receipts and disbursements

§ 6–205. The district treasurer shall receive and have charge of all moneys raised in the district for the support and maintenance of roads therein, and for road damages except such portions of the moneys which by Section 6–507 are directed to be paid to the municipalities. He shall hold such moneys at all times subject to the order of the highway commissioner and shall pay them over upon the order of the commissioner, such order to be countersigned by the town or district clerk. In counties under township organization such moneys, other than Social Security taxes required by the Social Security Enabling Act,[1] shall not be paid over until the board of town trustees or highway board of auditors, as the case may be, has examined and audited the claims or charges for which such order is drawn. He shall keep an account in a book provided by the commissioner of all moneys received, and all moneys paid out, showing in detail to whom and on what account the same is so paid.

The treasurer shall also present annually, within 30 days after the end of the fiscal year of the district, to the highway commissioner an itemized statement of receipts and disbursements of the district during the fiscal year just ended, which shall be sworn to.

Laws 1959, p. 203, § 6–205. Amended by Laws 1959, p. 888, § 1; Laws 1963, p. 3030, § 1; P.A. 81–793, § 4, eff. Jan. 1, 1980; P.A. 83–215, § 1, eff. Jan. 1, 1984; P.A. 83–380, § 1, eff. Sept. 14, 1983; P.A. 83–1362, Art. II, § 148, eff. Sept. 11, 1984; P.A. 94–59, § 5, eff. June 17, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–205.

[1] 40 ILCS 5/21–101 et seq.

5/6–206. Deposit of road funds in custody of supervisor or treasurer

§ 6–206. In counties under township organization, the board of town trustees of the various townships shall, from time to time, when requested by the supervisor of their respective townships designate one or more banks or savings and loan associations in which the road funds of the road district in the custody of the district treasurer may be kept, except that in consolidated township road districts such depository shall be designated by the highway board of trustees upon request of the treasurer of the respective consolidated township road district.

In counties not under township organization the county board shall, from time to time, when requested by the treasurer of any road district, designate one or more banks or savings and loan associations in which the road funds of the various road districts in such county may be kept.

When a bank or savings and loan association has been designated as a depository it shall continue as such until 10 days have elapsed after the new depository is designated and has qualified by furnishing the statements of resources and liabilities as is required in this Section. When a new depository is designated the board of town trustees, highway board of trustees or county board, as the case may be, shall notify the sureties of the district treasurer of that fact, in writing, at least 5 days before the transfer of fund. The district treasurer shall be discharged from responsibility for all moneys of the road fund which he deposits in a depository so designated while such moneys are so deposited.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.[1]

Laws 1959, p. 203, § 6–206. Amended by P.A. 77–309, § 1, eff. July 22, 1971; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–541, § 70, eff. Sept. 17, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–206.

[1] 30 ILCS 235/6.

5/6–207. Compensation of highway commissioner and other officers

§ 6–207. Compensation of highway commissioner and other officers.

(a) Unless an annual salary is fixed as provided in this Section, the highway commissioner shall receive for each day he or she is necessarily employed in the discharge of official duties a per diem to be fixed by the county board in road districts in counties not under township organization, by the highway board of trustees in consolidated township road districts, and by the board of town trustees in districts composed of a single township. Before any per diem is paid, a sworn statement shall be filed by the commissioner in the office of the district clerk, showing the number of days the commissioner was employed, the kind of employment, and the dates of employment.

The boards specified in the preceding paragraph may, instead of a per diem, fix an annual salary for the highway commissioner at not less than $3,000, to be paid in equal monthly installments. The boards shall fix the compensation of the commissioner, whether an annual salary or a per diem, on or before the last Tuesday in March before the date of election of the commissioner.

If the term of any highway commissioner is extended by operation of law, the board that fixes the commissioner's rate of compensation may increase the rate of the compensation, within the limits provided in this Section, in relation to that portion of the commissioner's term that extends beyond the period for which he or she was elected.

The board of town trustees shall order payment of the amount of per diem claimed in the highway commissioner's sworn statement at the first regular meeting following the filing of the statement. In consolidated township road districts, the compensation and the expenses of the offices of the highway commissioner, district clerk, and district treasurer shall be audited by the highway board of trustees.

The compensation of the highway commissioner shall be paid from the general township fund in districts comprised of a single township and shall be paid from the regular road fund in all other districts having highway commissioners; however, in districts comprised of a single township, a portion (not exceeding 50%) of the highway commissioner's salary may be paid from the corporate road and bridge fund or the permanent road fund if approved by the township board and the highway commissioner.

(b) The officers composing the highway board of trustees in consolidated township road districts shall be entitled to $3 per day for attending meetings of the board, to be paid out of the town fund of their respective townships. In consolidated township road districts, the compensation of the district clerk and the district treasurer shall be paid out of the road fund of the district.

(c) The district clerk shall receive:

(1) for each day he or she is necessarily employed in the discharge of official duties, a per diem to be fixed by the county board in road districts in counties not under township organization and by the highway board of trustees in consolidated township road districts; or

(2) $4 per day for each day he or she shall be required to meet with the highway commissioner and the same amount per day for the time he or she shall be employed in canvassing the returns of elections. The district clerk shall receive no other per diem. In addition to the above, the district clerk shall also receive fees for the following services, to be paid out of the district road fund, except where otherwise specified:

(A) For serving notice of election or appointment upon district officers as required by this Code, 25 cents each.

(B) For posting up notices required by law, 25 cents each.

(C) For copying any record in the district clerk's office and certifying to the copy, 10 cents for every 100 words, to be paid by the person applying for the certified copy.

(d) Except as otherwise provided in this Code, the district treasurer shall, in addition to any other compensation to which he or she is by law entitled, receive an annual salary of not less than $100 nor more than $1,000 per year to be fixed by the highway board of trustees in consolidated township road districts and by the board of town trustees in districts composed of a single township.

Except as otherwise provided in this Code, the district treasurer shall, in addition to any other compensation to which he or she is by law entitled, receive an annual salary deemed appropriate and to be fixed by the county board in road districts in counties not under township organization.

The compensation of the district treasurer shall be paid from the general township fund in districts composed of a single township and shall be paid from the regular road fund in all other districts having district treasurers.

Laws 1959, p. 203, § 6–207. Amended by Laws 1959, p. 2045, § 1; Laws 1961, p. 21, § 1; Laws 1963, p. 22, § 1; Laws 1963, p. 749, § 1; Laws 1965, p. 1286, § 1; Laws 1967, p. 49, § 1, eff. March 21, 1967; P.A. 77–9, § 1, eff. March 23, 1971; P.A. 77–1876, § 1, eff. June 29, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–1200, § 1, eff. Sept. 5, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–217, § 1, eff. Oct. 1, 1975; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–675, § 1, eff. Jan. 1, 1984; P.A. 84–1326, § 1, eff. Jan. 1, 1987; P.A. 87–1084, § 1, eff. Jan. 1, 1993; P.A. 89–662, § 5, eff. Aug. 14, 1996; P.A. 90–81, § 5, eff. Jan. 1, 1998; P.A. 90–183, § 5, eff. Jan. 1, 1998; P.A. 90–655, § 147, eff. July 30, 1998.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–207.

DIVISION 3. LAYING OUT, WIDENING, ALTERING OR VACATING TOWNSHIP AND DISTRICT ROADS

5/6–301. Width of roads; arterial district road designation; applicability

§ 6–301. All township and district roads established under this Division of this Code shall be not less than 40 feet in width, except as provided in Section 6–327.

Highway commissioners in single township road districts may annually determine that certain roads in the district are vital to the general benefit of the district and designate them all or in part as arterial district roads. The designation must be approved by the county superintendent of highways, after notice and hearing, prior to the commissioners' recording the roads with the county superintendent of highways. No road or portion thereof designated as arterial shall be closed or vacated without written approval of the county despite the road's inclusion in any annexation or incorporation proceedings provided for in the Illinois Municipal Code.[1] This paragraph does not apply to roads in home rule units of government nor the roads included in our annexation proceeding by home rule units of governments.

This Division of this Code shall not apply to proceedings for laying out, widening, altering or vacating streets in municipalities, except as provided in this Section.

Laws 1959, p. 203, § 6–301. Amended by P.A. 86–1229, § 1, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–301.

[1] 65 ILCS 5/1–1–1 et seq.

5/6–302. Reduction of width of roads

§ 6–302. The highway commissioner of any road district may in his discretion reduce the width of any existing township or district road to a width of 40 feet, if the reduction is petitioned for by a majority of the landowners along the line of such road within the district. When possible the land vacated by reducing the width of the road shall be taken equally from each side of the road. In cases of natural obstruction on one side of the road or where the road extends along the right-of-way of any railroad, river or canal, the commissioner is authorized to reduce the width of road on one side only.

Laws 1959, p. 203, § 6–302.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–302.

5/6–303. Petition; highways under jurisdiction of Department; procedure under certificate

§ 6–303. Existing township and district roads may be widened, altered or vacated, and new township and district roads may be laid out in the manner provided in this Division of this Code. Any number of voters not less than 5% of the legal voters, or 12 legal voters, whichever is less, residing in any road district may file a petition with the highway commissioner of such district, praying for the laying out, widening, altering or vacation of such roads. Notwithstanding the preceding sentence, in counties with a population between 125,000 and 130,000, a petition for laying out, widening, altering, or vacating roads in a subdivision established under a county subdivision ordinance, where the final plat of the subdivision was approved by the county board, shall be filed with the county board unless the plat was filed with the county recorder at least 15 years before the petition is filed.

However, where the laying out, widening, altering or vacating of a township or district road is required by the construction, operation, or maintenance of a State highway, the Department, in lieu of a petition may file a certificate, signed by the Secretary of the Department, or his duly authorized agent, setting forth the necessity for the laying out, widening, altering or vacating of such roads. The procedure upon the filing of such certificate shall be the same as, and conform to, the procedure followed upon the filing of a petition. Such petition or certificate shall set forth a description of the road and what part is to be widened, altered or vacated, and if for a new road the names of the owners of lands, if known, and if not known it shall so state, over which the road is to pass, the points at or near which it is to terminate. When the general course of relocated roads shall render the same practicable, such relocated roads shall be laid out on section lines, or regular divisional lines subdividing a section or sections.

The highway commissioner, in lieu of a petition, may file a certificate with district clerk and county clerk to vacate roads. The procedure upon filing of such certificate shall be the same as, and conform to, the procedure followed upon the filing of a petition.

Laws 1959, p. 203, § 6–303. Amended by Laws 1963, p. 3216, § 1; P.A. 78–543, § 1, eff. Oct. 1, 1973; P.A. 81–840, § 49, eff. Sept. 19, 1979; P.A. 87–1121, § 1, eff. Jan. 1, 1993.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–303.

5/6–304. Aiding department; construction of state or federal aid highways

§ 6–304. In case the Department widens or alters an existing road, or lays out a new road in any road district in

connection with the construction of a State highway, or in connection with the construction of federal aid roads or such roads as are constructed with the aid of federal grants, loans, or allotments, as provided by law, and requires right-of-way for such purposes, the road district, acting through its highway commissioner, is authorized to take whatever steps may be necessary to enable such road district to aid the Department in the construction of State highways, or in connection with the construction of federal aid roads or such roads as are constructed with the aid of federal grants, loans or allotments, and the highway commissioner is authorized to pay for such rights-of-way from any available district road funds, and is authorized to issue warrants and levy a tax, or to issue bonds pursuant to referendum for the payment of such right-of-way, as is provided in Sections 6–503, 6–507, 6–509 and 6–510 of this Code.

Laws 1959, p. 203, § 6–304. Amended by P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–304.

5/6–305. Hearing on petition; notice; decision

§ 6–305. Whenever the highway commissioner receives a certificate from the Department as provided in Section 6–303 of this Act, or a petition praying for the laying out, widening, altering or vacation of a township or district road, he shall fix a time when and a place where he will examine the route of such township or district road and hear reasons for or against the laying out, widening, altering or vacating. He shall give at least 10 days' written notice of the time and place of such examination and hearing to the county superintendent of highways and to any municipality which is affected by such action occurring within its planning area, and by publication in at least one newspaper published in the township or district or, in the absence of such published newspaper, in at least one newspaper of general circulation in the township or district or, in the absence of such generally circulated newspaper, by posting notices in 5 of the most public places in the district in the vicinity of the road to be laid out, widened, altered or vacated. The commissioner may, by written notice to the county superintendent of highways and any affected municipality, and by public announcement and by the posting of a notice at the time and place named for the first hearing, adjourn such hearing from time to time, but not for a longer period than 10 days. At such meeting, or such adjourned meeting the commissioner shall decide and publicly announce whether he will grant or refuse the prayer of the petition, and shall endorse upon or annex to the petition a brief memorandum of such decision. The memorandum shall be signed by the commissioner and filed within 5 days thereafter in the office of the district clerk. The commissioner shall also send a copy of the memorandum to the county superintendent of highways and any affected municipality, and, in cases where action is initiated as the result of a Department certificate, a copy of the memorandum to the Department.

No road shall be laid out, widened, altered or vacated unless the highway commissioner finds that such alteration or vacation is in the public and economic interest and further finds that any person residing or owning land within 2 miles of any portion of the road proposed to be altered or vacated shall still have reasonable access (but not necessarily a direct route) by way of a motor vehicle or other portable farm machinery commonly used in the area to farm land he owns or operates and to community and trade centers after the road is altered or vacated. Such findings shall be contained in the memorandum of decision signed by the highway commissioner.

A final hearing may be held at the time of the preliminary or adjourned meeting if all damages have been released, all surveys and plats are made and there are no objectors. If there are objectors, the final hearing shall be held as provided for in Section 6–311.

Laws 1959, p. 203, § 6–305. Amended by Laws 1963, p. 3216, § 1; Laws 1967, p. 727, § 1; P.A. 78–543, § 1, eff. Oct. 1, 1973; P.A. 85–1421, Art. 1, § 5, eff. Dec. 15, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–305.

5/6–306. Appeal

§ 6–306. In case the highway commissioner denies the prayer of the petition for the laying out, widening, altering or vacation of a township or district road, any 3 of the petitioners may appeal from such decision to the county superintendent of highways by joining in a notice of such appeal and filing the same in the office of the district clerk within 10 days after the date of the decision appealed from. The clerk shall thereupon transmit the original petition for the laying out, widening, altering or vacation of such township or district road, together with the notice of appeal to the county superintendent of highways. Upon receipt thereof the county superintendent of highways shall thereupon fix a time and place for a public hearing thereof, giving notice thereof and conducting the hearing and rendering his decision thereon in the manner prescribed by Section 6–311 of this Act in the case of the hearing upon such petition by the county superintendent of highways. Upon rendering his decision, the county superintendent of highways shall likewise endorse on such petition a memorandum of his decision, which (if the decision approved the change requested in the petition) shall include his findings that such alteration or vacation of the township or district road will be in the public and economic interest and will not deprive residents or owners of proximate land of reasonable access elsewhere as specified in Section 6–305 of this Act; and shall file the same in the office of the district clerk.

Such decision of the highway commissioner or, upon appeal of such order, of the county superintendent of highways shall be regarded as a preliminary decision upon the advisability of the proposal in the petition and shall be subject to revocation in the manner hereinafter provided, except that such decision of the county superintendent of highways affirming the denial of the petition shall be regarded as a final decision.

Laws 1959, p. 203, § 6–306. Amended by Laws 1963, p. 3216, § 1, eff. Aug. 19, 1963.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–306.

5/6–307. Surveys

§ 6–307. If the highway commissioner, or upon appeal from his decision, the county superintendent of highways, shall enter a preliminary order for the laying out, widening, alteration or vacation of a township or district road, the highway commissioner or county superintendent of highways, as the case may be, shall cause a survey and plat of such township or district road to be made by a competent surveyor who shall report such survey and plat to the highway commissioner or county superintendent, as the case may be, giving the courses and distances and specifying the land over which such road is to pass; in which he may make such changes between the termini of the road described in the petition, as the convenience and interest of the public in his judgment may require. Upon the petition of 12 land owners residing in the district where the road is situated, it shall be the duty of the highway commissioner or county superinten-

dent, as the case may be, within a reasonable time to employ a competent surveyor and have any road designated in such petition to be once resurveyed.

Laws 1959, p. 203, § 6–307.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–307.

5/6–308. Damages; determination

§ 6–308. Whenever the highway commissioner of any road district or upon appeal from his decision, the county superintendent of highways has entered a preliminary order for the laying out, widening, alteration or vacation of a township or district road, and a survey therefor has been completed as hereinbefore provided, proceedings shall next be taken to fix the damages which will be sustained by the adjoining land owners by reason of such laying out, widening, altering or vacation. In case such preliminary order was entered by the highway commissioner, he shall act for the district in all matters relating to the fixing of damages, as well as the surveying of such road. But in case such order was entered by the county superintendent of highways on appeal, as aforesaid, the county superintendent shall represent the district in such matters.

Laws 1959, p. 203, § 6–308.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–308.

5/6–309. Damages; agreement; condemnation

§ 6–309. The damages sustained by the owner or owners of land by reason of the laying out, widening, alteration or vacation of a township or district road, may be agreed upon by the owners of such lands, if competent to contract, and the highway commissioner or county superintendent, as the case may be. Such damages may also be released by such owners, and in such case the agreement or release shall be in writing, the same shall be filed and recorded with the copy of the order laying out, widening, altering or vacating such road in the office of the district clerk, and shall be a perpetual bar against such owners, their grantees and assigns for all further claims for such damages.

In case the highway commissioner or the county superintendent, as the case may be, acting for the road district, is unable to agree with the owner or owners of the land necessary for the laying out, widening or alteration of such road on the compensation to be paid, the highway commissioner, or the county superintendent of highways, as the case may be, may in the name of the road district, enter condemnation proceedings to procure such land, in the same manner as near as may be, as provided for the exercise of the right of eminent domain under the Eminent Domain Act.[1]

Laws 1959, p. 203, § 6–309. Amended by P.A. 82–783, Art. XI, § 255, eff. July 13, 1982; P.A. 94–1055, Art. 95, § 95–10–355, eff. Jan. 1, 2007.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–309.

[1] 735 ILCS 30/1–1–1 et seq.

5/6–310. Inducements

§ 6–310. Any person or persons interested in the establishment, widening, alteration or vacation of any township or district road is or are authorized to offer inducements to the highway commissioner or county superintendent of highways, as the case may be, for the establishment, widening, alteration or vacation of any such township or district road, by entering into contract with the commissioner or county superintendent, conditioned upon such establishment, widening, alteration or vacation, to pay money or other valuable thing to the district for the benefit of the road funds of the same; or to perform any labor, or construct any road, bridge or culvert on any road which such person or persons desires or desire to be established, widened or altered. Any such contracts in writing made with the highway commissioner or county superintendent shall be deemed good and valid in law and may be enforced by such commissioner or superintendent, or his successor in office, before the circuit court.

Laws 1959, p. 203, § 6–310. Amended by P.A. 79–1366, § 44, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–310.

5/6–311. Final order of highway commissioner or county superintendent of highways

§ 6–311. Within 20 days after the damages likely to be sustained by reason of the proposed laying out, widening, alteration or vacation of any township or district road have been finally ascertained, either by agreement of the parties or by condemnation proceedings, or within 20 days after such damages may have been released, the highway commissioner or the county superintendent of highways, as the case may be, shall hold a public hearing at which he shall hear and consider reasons for or against the proposed laying out, widening, alteration or vacation of such road, and at which time and place he shall publicly announce his final decision relative thereto. The highway commissioner or the county superintendent of highways, as the case may be, shall give public notice of such public hearing by publication in at least one newspaper published in the township or district or, in the absence of such published newspaper, in at least one newspaper of general circulation in the township or district or, in the absence of such generally circulated newspaper at the time prescribed for notice, by posting notices thereof in at least 5 of the most public places in the district in the vicinity of the road for at least 5 days prior thereto. A written notice shall be mailed or delivered to all owners of the property adjacent to the road which is the subject of the hearing. A written notice may be mailed or delivered to every person known to have been present at the hearings conducted pursuant to Sections 6–305 and 6–306 of this Act and to every other person who has requested such notice.

At such time and place the highway commissioner, if he is the official conducting the hearing, shall determine the advisability of such proposed laying out, widening, alteration or vacation of such road, shall make an order for the same and shall within 5 days thereafter file such order in the office of the district clerk.

At such time and place the county superintendent of highways, if he is the official conducting the hearing, shall:

(a) Be empowered to administer oaths;

(b) Permit the appearance in person or by counsel, the introduction of evidence and the cross examination of witnesses by not less than 3 of the qualified petitioners, not less than 3 other legal voters residing within 2 miles of any portion of such road, and not less than 3 other persons owning land operated as a farm and wholly or partially situated within 2 miles of any portion of such road, except that no such permission shall extend to a person other than a petitioner unless it appears that he will be directly and adversely affected by the change requested in the petition;

(c) Provide that every person offering testimony shall testify under oath or affirmation and shall be subject to cross examination, except that the technical rules of evidence governing proceedings in circuit courts are inapplicable in such hearing;

(d) Secure and retain a stenographic transcript of the proceedings, including all evidence offered or introduced at the hearing; and

(e) Determine the advisability of such proposed laying out, widening, alteration or vacation of such road, shall make an order for the same and shall within 5 days thereafter file such final order in the office of the district clerk.

Every order entered and filed pursuant to this Section in approval of the change requested in the petition shall contain an express finding that such alteration or vacation of the township or district road will be in the public and economic interest and will not deprive residents or owners of proximate land of reasonable access elsewhere as specified in Section 6–305 of this Act.

Laws 1959, p. 203, § 6–311. Amended by Laws 1963, p. 3216, § 1; Laws 1965, p. 3731, § 1, eff. Aug. 24, 1965; P.A. 83–332, § 1, eff. Sept. 14, 1983; P.A. 83–345, § 82, eff. Sept. 14, 1983; P.A. 83–1362, Art. II, § 148, eff. Sept. 11, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–311.

5/6–312. Appeal from commissioner's final order

§ 6–312. In case such final order was entered by the highway commissioner as provided in Section 6–311 of this Code finally determining the advisability of such proposed laying out, widening, alteration or vacation of any township or district road, any 3 qualified petitioners who may have signed the petition for such proposed laying out, widening, alteration or vacation, or any 3 legal voters residing within 2 miles of any portion of such road, or any 3 other persons owning land operated as a farm within 2 miles of any portion of such road, may (if either they are qualified petitioners or they both have raised objections at the hearing pursuant to Section 6–311 of this Act and will be directly and adversely affected by such proposed laying out, widening, alteration or vacation) appeal to the county superintendent of highways by filing a notice of such appeal in the office of the district clerk within 10 days of the date of filing the decision appealed from. Thereupon such clerk shall at once transmit all papers relating to such proposed laying out, widening, altering or vacation of such road to the county superintendent of highways, who shall within 20 days after the receipt of the same, hold a public hearing within such district to finally determine upon the laying out, widening, altering or vacation of such road. Such hearing shall be upon such notice and conducted in like manner as the hearing before the highway commissioner relative to such final decision and from which appeal has been taken, except that the powers and duties of the county superintendent of highways in conducting such hearing and in determining and filing his final order shall be identical to the powers and duties of such superintendent prescribed by Section 6–311 of this Act. Judicial review may be pursued after such final order of the county superintendent of highways relative to the alteration or vacation of such roads in the manner provided in section 6–315a of this Division.

Laws 1959, p. 203, § 6–312. Amended by Laws 1963, p. 3216, § 1, eff. Aug. 19, 1963.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–312.

5/6–313. Final order; effect

§ 6–313. In case the highway commissioner, or upon appeal from his decision, the county superintendent of highways, shall finally determine against the advisability of the proposed laying out, widening, alteration or vacation of such township or district road, such order shall have the effect to annul and revoke all proceedings and assessments, releases and agreements in respect to damages growing out of the proceedings upon the petition aforesaid. In case the commissioner or county superintendent affirms such prior proceedings, he shall make an order to be signed by him, declaring such road to be laid out, widened, altered or vacated as a public highway and which order shall contain or have annexed thereto a definite description of the line of such road, together with the plat thereof. The highway commissioner or county superintendent, as the case may be, shall within 5 days from the date of his final order, cause the same, together with the report of the surveyor, the petition and the releases, agreements or assessments in respect to damages, to be deposited and filed in the office of the district clerk; who shall note upon such order the date of such filing. It shall be the duty of such clerk to record such order, together with the plat of the surveyor in a proper book to be kept for that purpose.

Laws 1959, p. 203, § 6–313.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–313.

5/6–314. Final order; subsequent proceedings

§ 6–314. After it has been finally determined that a township or district road shall be laid out, widened, altered or vacated, either by the highway commissioner, or upon appeal, by the county superintendent of highways, all proceedings subsequent thereto on behalf of the district shall be taken by the highway commissioner thereof as provided in this division of this Code. And such highway commissioner in such cases is hereby authorized to resort to all necessary proceedings not inconsistent with the provisions of this Code to secure the laying out, widening, alteration or vacation of any such road.

Laws 1959, p. 203, § 6–314.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–314.

5/6–315. Records of district clerk; evidence; effect

§ 6–315. An entry in the records, ledger, or official minute book of the district clerk, stating that there has been a dedication of a public highway according to statutory requirements shall be prima facie evidence in all cases that there was a dedication of a public highway and that the dedication complied with all statutory requirements, regardless of whether supporting records or documentation of the dedication is available.

Laws 1959, p. 203, § 6–315. Amended by P.A. 93–183, § 5, eff. July 11, 2003.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–315.

5/6–315a. Review under Administrative Review Law

§ 6–315a. Any 3 persons who, at a hearing conducted by the county superintendent of highways pursuant to Section 6–306, 6–311 or 6–312 of this Act, have been permitted to appear, in person or by counsel, and to introduce evidence and cross examine witnesses, may (if they are qualified petitioners, or have raised objections at a hearing pursuant to Section 6–311 or 6–312 of this Act and will be directly and adversely affected by such proposed alteration or vacation) obtain judicial review of such final administrative decision of the superintendent (meaning his final order denying the petition after a hearing pursuant to Section 6–306, or granting or denying the petition after a hearing pursuant to Section 6–311 or 6–312, to be filed in the office of the district clerk after the hearing) pursuant to the Administrative Review Law, and all amendments and modifications thereof,[1]

and any rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3–101 of the Code of Civil Procedure.[2] Such judicial review proceeding shall be given precedence over all other civil cases, except cases arising under the Workers' Compensation Act[3] and the Unemployment Insurance Act.[4]

Laws 1959, p. 203, § 6–315a, added by Laws 1963, p. 3216, § 1. Amended by P.A. 81–992, § 46, eff. Jan. 1, 1980; P.A. 82–783, Art. XI, § 255, eff. July 13, 1982; P.A. 91–357, § 225, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–315a.

[1] 735 ILCS 5/3–101 et seq.

[2] 735 ILCS 5/1–101 et seq.

[3] 820 ILCS 305/1 et seq.

[4] 820 ILCS 405/100 et seq.

5/6–316. Opening of roads; limitation; vacation

§ 6–316. All township and district roads laid out as provided in this Division of this Code shall be opened within 2 years from the time of laying out the same. If the damages resulting from the establishing of such roads shall not be paid within 90 days from the time the money is in the hands of the treasurer of the road fund to pay the same, such new roads shall be deemed to be vacated.

Laws 1959, p. 203, § 6–316.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–316.

5/6–317. Removal of fences; notice

§ 6–317. Whenever a township or district road is ordered to be laid out, widened or altered, according to the provisions of this Division of this Code, which road shall pass through or on enclosed land, the highway commissioner shall give the owner or occupant of such land 60 days' notice in writing to remove the fences. If such owner or occupant does not remove the fence or fences within 60 days after such notice, the commissioner shall have the same removed, and direct the road to be opened and worked; the owner of such premises shall pay all necessary costs of removal, and the same may be recovered by the highway commissioner in any court of competent jurisdiction, provided however that in case the owner or occupant has been awarded damages either by agreement, or by judgment in condemnation proceedings, for the removal of such fence or fences, then the owner or occupant shall remove such fences without such notice, and the highway commissioner may enter upon such premises at once for the purpose of laying out, widening or altering such road.

Laws 1959, p. 203, § 6–317.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–317.

5/6–318. Crops; removal; notice to remove fences

§ 6–318. When any township or district road has been finally laid out, widened or altered according to the provisions of this Division of this Code, the owners of such lands taken shall have a reasonable time, not exceeding 8 months, to be designated by the highway commissioner to harvest crops which may be on such lands before such road shall be opened, provided however that if the damages to crops have been included in the total damages finally allowed or awarded then the highway commissioner may enter upon such premises at once for the purpose of opening such road, provided further that if there are fences on such land taken, he shall first give notice to remove said fences as provided in Section 6–317 of this Code.

Laws 1959, p. 203, § 6–318.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–318.

5/6–319. Roads on district and county lines, etc.

§ 6–319. Township and district roads may be laid out, widened, altered or vacated on county or district lines, or from one district to another, and in case a railroad right-of-way or stream of water joins the boundary line of such county or district line, then along the line of such railroad right-of-way or stream of water, in the same manner as other township and district roads, except that in such cases, a copy of the petition shall be posted in and presented to the highway commissioners of each district interested; such petition to be as in other cases, and signed by not less than 5% of the legal voters, or 12 legal voters, whichever is less, residing in the district or county. Whereupon the highway commissioners of the several districts shall meet and act together, in the same time and manner as in other cases, in considering the petition, viewing the premises, adjusting damages, and making all orders in reference to such proposed road, widening, alteration or vacation, and a copy of all final orders and plats and papers shall be filed and recorded in each of the counties and districts interested. In case the commissioners are unable to agree, the county superintendent of highways shall act as arbitrator between them in case the districts shall lie within the same county, and if in different counties the Department or any person designated by it, shall so act. All appeals hereinbefore provided for in this Division of this Code may likewise be taken to the county superintendent of highways, or in case the districts shall lie in 2 or more counties, to the Department.

In lieu of petitions, the highway commissioners of all road districts interested may file a certificate to vacate roads with the respective county clerks and with the respective township or district clerks, as the case may be. The procedure upon the filing of such certificates shall be the same as, and conform to, the procedure followed upon the filing of a petition.

Laws 1959, p. 203, § 6–319. Amended by Laws 1963, p. 3216, § 1; P.A. 78–543, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–319.

5/6–320. Allotment by commissioners of all or part of road to each district; division of damages and expenses; arbitration

§ 6–320. The highway commissioners shall also, in case a new township or district road is established on a county or district line, allot to each of such districts the part of such road which each of such districts shall open and keep in repair, and the part so allotted shall be considered as wholly belonging to such district. They shall also divide the expenses and damages which may accrue from such laying out, widening or alteration, and if they cannot agree, they shall refer the matter to the county superintendent of highways or in case the districts shall lie in 2 or more counties, the Department, whose decision shall be final.

Laws 1959, p. 203, § 6–320.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–320.

5/6–321. Roads heretofore or hereafter laid out on county or district lines

§ 6–321. All township and district roads heretofore or hereafter laid out upon district or county lines shall be divided, allotted and kept in repair in the manner as hereinbefore directed. Any township or district road that is or shall be laid out on any county or district line, and in case a

railroad right-of-way or a stream of water forms the boundary line of such district or county, or crowds the public road off from such district or county, then the road alongside such railroad right-of-way or stream of water, shall be held to be a road on a county or district line, although owing to the topography of the ground along such county or district line, or at the crossing of any stream of water, the proper authorities in laying out such road may have located a portion of the same to one side of such county or district line or railroad right-of-way, or stream of water, and the expenses of keeping in repair such road shall be assessed by each district or county interested.

Laws 1959, p. 203, § 6–321.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–321.

5/6–322. State line roads

§ 6–322. Township and district roads may be laid out and opened upon the line between this and any adjoining state, as provided in the preceding sections, whenever the laws of such adjoining state shall be applicable.

Laws 1959, p. 203, § 6–322.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–322.

5/6–323. Road proposed across or alongside railroad; notices on railroad companies; manner of service

§ 6–323. In addition to the notices now required by law in proceedings for laying out, locating or opening of township and district roads, similar notices shall be served on any railroad company across or alongside of whose railroad it may be proposed to locate such a road. Such notices shall be served by delivering a copy thereof to the station agent of any such railroad company nearest to the proposed location of such projected township or district road.

Laws 1959, p. 203, § 6–323.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–323.

5/6–324. Relocation, etc., of township or district roads at grade crossing; apportionment of costs and damages

§ 6–324. The highway commissioner of any road district shall relocate, divert or establish a township or district road where necessary in connection with the crossing of the track of any railroad company across any township or district road upon certification of the findings of the Illinois Commerce Commission as provided in Section 18c–7401 of the Illinois Commercial Transportation Law [1]. The Illinois Commerce Commission may apportion all costs and damages incident thereto as provided in said Section 18c–7401.

Laws 1959, p. 203, § 6–324. Amended by P.A. 85–1209, Art. III, § 3–131, eff. Aug. 30, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–324.

[1] 625 ILCS 5/18c–7401.

5/6–325. Dedicated public roads or streets; when inclusion in township or district road system; procedure

§ 6–325. In counties having less than 3,000,000 inhabitants, roads or streets in platted subdivisions and dedicated to public use shall be included in and incorporated into the township or district road system without any hearing or petition therefor required by the preceding Sections of this Division, when and if such roads or streets conform to the rules, specifications and regulations regarding location, width, grades, surface and drainage structures prepared by the county superintendent of highways and adopted by the county board. The highway commissioner shall determine when such dedicated roads and streets so conform and shall thereupon make an order to incorporate them into the township or district road system and file one copy of such order in the office of the district clerk and one copy with the county superintendent of highways. If the highway commissioner refuses or fails to make such an order, any 3 interested persons may appeal to the county superintendent of highways to determine if such roads and streets so conform, and if his finding is favorable, he shall make an order to incorporate them into the township or district road system and shall file such order in the office of the district clerk. The county board may adopt alternate and less stringent rules, specifications, and regulations prepared by the county superintendent of highways for roads and streets that were initially platted in subdivisions before January 1, 1959, but not constructed, and these alternate rules, specifications, and regulations shall be applicable in determining if these roads and streets conform under this Section for inclusion into the township or district road system. The county board, by an affirmative vote of at least three-fifths of all members of the county board, may adopt alternate and less stringent rules, specifications and regulations prepared by the County Superintendent of Highways for roads and streets that were initially constructed in platted subdivisions prior to January 1, 1959, and such alternate rules, specifications and regulations shall be applicable in determining if such roads and streets comply under this Section if the highway commissioner first determines that such roads and streets should be included in or incorporated into the township or district road system.

Roads and streets which have been laid out and dedicated to public use but which are not in platted subdivisions or which are in a platted subdivision but do not conform to the rules, specifications and regulations as required by the preceding paragraph of this Section or are in a county which has not established such rules, specifications and regulations may be included in and incorporated into the township or district road system in the manner hereinafter specified in this Section. The proceedings for that purpose shall be in accordance with the provisions of Sections 6–303 and 6–305 of this Code with reference to laying out new roads, except as hereinafter provided in this Section. The petition shall pray that the roads or streets be incorporated into the township or district road system. The provisions of Section 6–305 of this Code relative to notice and hearing are applicable to the proceedings except the notice shall state the time when the commissioner will examine the roads or streets and hear reasons for or against incorporating them into the township or district road system and the notice shall be posted in the vicinity of the road or street described in the petition. The provisions of Section 6–305 relative to the decision are applicable if the prayer of the petition is refused, but if the commissioner grants the prayer of the petition, he shall so publicly announce and shall make an order to incorporate the roads or streets into the township or district road system and shall, within 5 days thereafter, file one copy of such order in the office of the district clerk and one copy with the county superintendent of highways.

In case the highway commissioner denies the prayer of the petition, any 3 of the petitioners may appeal to the county superintendent of highways by filing a notice of appeal with the district clerk within 10 days from the date of the decision appealed from, and in case the highway commissioner grants the prayer of the petition any 3 land owners in the district may appeal in like manner. In case of appeal the clerk shall transmit the original petition to the county superintendent of

highways, also the notice of appeal. Upon receipt of the same the county superintendent of highways shall fix a time and place for a public hearing thereon, giving notice thereof and after the hearing shall render his decision thereon and record and file the same in the manner hereinbefore provided in the case of the hearing upon such petition by the highway commissioner of the district.

If no appeal is taken within 10 days from a decision allowing the prayer of the petition the roads or streets described in the petition shall be deemed to be incorporated into the township or district road system.

If an appeal is taken from the decision of the highway commissioner and the county superintendent of highways allows the prayer of the petition the roads or streets described in the petition shall be deemed to be incorporated into the township or district road system, upon his decision being filed with the clerk of the district.

In counties having more than 3,000,000 inhabitants, roads or streets in platted subdivisions and dedicated to public use and roads or streets which have been laid out and dedicated to public use may be included in and incorporated into the township or district road system in the manner specified in this Section, if such roads or streets conform to the rules, specifications and regulations regarding location, width, grades, surface and drainage structures established by the highway commissioner, the county superintendent of highways and the county plan commission, if any.

The proceedings for that purpose shall be in accordance with the provisions of Sections 6–303, 6–304 and 6–305 of this Code with reference to laying out new roads, except as provided in this Section. The petition shall pray that the streets or roads be incorporated into the township or district road system, and if the petition is allowed the decision shall order that the streets or roads be incorporated into the township or district road system. The provisions of Sections 6–306 and 6–307 of this Code are not applicable to the proceedings. The provisions of Section 6–305 of this Code relative to notice and hearing are applicable to the proceedings except the notice shall state the time when the commissioner will examine the streets or roads and hear reasons for or against incorporating them into the township or district road system and the notice shall be posted in the vicinity of the street or road described in the petition. The provisions of Section 6–305 relative to the decision are applicable if the prayer of the petition is refused, but not applicable if granted and in such case the provisions of this Section govern.

In case the highway commissioner denies the prayer of the petition any 3 of the petitioners may appeal to the county superintendent of highways by filing a notice of appeal with the district clerk within 10 days from the date of the decision appealed from, and in case the highway commissioner grants the prayer of the petition any 3 land owners in the district may appeal in like manner.

In case of appeal the clerk shall transmit the original petition to the county superintendent of highways, also the notice of appeal.

Upon receipt of the same the county superintendent of highways shall fix a time and place for a public hearing thereon, giving notice thereof and after the hearing shall render his decision allowing or denying the prayer of the petition and endorse the same on the petition and file the same with the district clerk, within 5 days.

Any notice of appeal under the foregoing provisions shall be filed with the clerk within 10 days after the decision of the highway commissioner.

If no appeal is taken from a decision allowing the prayer of the petition the streets or roads described in the petition shall be deemed to be incorporated into the township or district road system.

If an appeal is taken from the decision of the highway commissioner and the county superintendent of highways allows the prayer of the petition the streets or roads described in the petition shall be deemed to be incorporated into the township or district road system, upon his decision being filed with the clerk of the district.

The 7 preceding paragraphs of this Section shall apply only in counties having more than 3,000,000 inhabitants.

Laws 1959, p. 203, § 6–325. Amended by Laws 1961, p. 2954, § 1, eff. Aug. 8, 1961; P.A. 85–1421, Art. 1, § 5, eff. Dec. 15, 1988; P.A. 86–616, § 1, eff. Jan. 1, 1990; P.A. 91–775, § 10, eff. June 9, 2000.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–325.

5/6–326. Petition filed with county superintendent; county unit road district; appeal

§ 6–326. When a petition to lay out, widen, alter or vacate a district road concerns a road in a county unit road district, such petition shall be filed with the county superintendent of highways. Such county superintendent shall have the powers and perform the duties of a highway commissioner under the provision of this Division of this Code. An appeal may be had from the decision of such county superintendent of highways on such petition to the county board of the county.

Laws 1959, p. 203, § 6–326.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–326.

5/6–326.1. Temporary closing and reconstruction

§ 6–326.1. Existing township and district roads may be temporarily closed and reconstructed by the filing with the highway commissioner of the district involved and with the County Superintendent of Highways of a petition signed by all of the owners of the property contiguous to both sides of that portion of the roadway to be temporarily closed and reconstructed by the petitioners. A copy of this petition shall be published in at least one newspaper published in the township or district or, in the absence of such published newspaper, in at least one newspaper of general circulation in the township or district or, in the absence of such generally circulated newspaper, by posting copies of the petition in 5 of the most public places in the district in the vicinity of the road to be temporarily closed and reconstructed. The Road Commissioner shall provide for publication or posting at least 10 days prior to any decision on the matter. If the commissioner is of the opinion that the temporary closing of the road is in the public and economic interest and that the temporary closing will not materially interfere with the flow of traffic on the township and county road system then, upon the approval of plans for the reconstruction of the road by the District Commissioner and the County Superintendent of Highways and the depositing with the commissioner of a contract and corporate surety bond approved by the Highway Commissioner and the County Superintendent of Highways properly guaranteeing the replacement of the road in as good or better condition as existed prior to the closing, the commissioner may temporarily close the road for a period not to exceed 3 years.

Laws 1959, p. 203, § 6–326.1, added by Laws 1967, p. 3388, § 1. Amended by P.A. 79–510, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–326.1.

5/6–327. Roads for private and public use

§ 6–327. Township and district roads for private and public use of the widths of 50 feet or less may be laid out from one or more dwellings or plantations to any public road, or from one public road to another, or from one or more lots of land to a public road or from one or more lots of land to a public waterway, on petition to the highway commissioner by any person directly interested. Upon receiving such petition, proceedings shall be had respecting the laying out of such road as in the case of other township and district roads. In case the highway commissioner or upon appeal, the county superintendent of highways, shall enter a preliminary order for the laying out of such road, such highway officer or officers making such preliminary order shall, if possible, and the parties are competent to contract, agree upon the total amount of damages, together with the portion thereof to be paid by the district, if any, as well as by each of the land owners benefited by such road. In case such damages cannot be determined or apportioned by agreement, the same shall be fixed as in the case of other township and district roads. The amount of such damages shall be paid by the person benefited thereby, to the extent and in proportion that they are benefited as determined and declared by the court. The remainder of the amount of damages, over and above that to be paid by the parties aforesaid, if any, shall be paid by the district as in other cases. The amount of damages to be paid by individuals shall be paid to the parties entitled thereto, before the road shall be opened for use. In all other respects the provisions of this Division of this Code relative to the opening, widening, alteration or vacation of other township and district roads shall be applicable also to the laying out, widening, alteration or vacation of roads for private and public use: Provided that the cost of the construction of the roadway, bridges and culverts and the maintenance thereof shall be borne by the parties paying for such road.

Laws 1959, p. 203, § 6–327. Amended by Laws 1963, p. 2045, § 1, eff. July 25, 1963.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–327.

5/6–328. Recording of road plats

§ 6–328. Whenever any township or district road is laid out, widened or altered in accordance with this Division of this Code, the highway commissioner shall cause a plat thereof to be made and recorded in the office of the recorder of the county (or in the office of the registrar of titles for the county if appropriate) in accordance with the provisions of Section 9 of "An Act to revise the law in relation to plats", approved March 21, 1874, as amended.[1]

Laws 1959, p. 203, § 6–328. Amended by P.A. 83–358, § 98, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–328.

[1] 765 ILCS 205/9.

5/6–329. Vacated township or district roads; recording

§ 6–329. Upon the vacation of any township or district road or part thereof, the highway commissioner shall cause a legal description of the road or part thereof vacated to be recorded in the office of the recorder of the county. The recorder shall mark the plat previously recorded in such manner as to show the vacation and to indicate the book and page number where the description is recorded.

Laws 1959, p. 203, § 6–329, added by Laws 1967, p. 47, § 1, eff. July 1, 1967. Amended by P.A. 83–358, § 98, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–329.

DIVISION 4. CONSTRUCTION AND MAINTENANCE OF TOWNSHIP AND DISTRICT ROADS

5/6–401. Compelling highway commissioner to repair roads

§ 6–401. If any highway commissioner fails or refuses to repair or maintain any road or section of a road in his district within 10 days after he is given a notice in writing signed by 3 landowners of such district, that such road or section of a road is in need of repair or maintenance, any 3 landowners in such district may petition the county superintendent of highways that such road or section thereof is in need of repair, or is not properly maintained by the highway commissioner. The county superintendent of highways shall set a day, not less than 10 nor more than 20 days after such petition is filed with him, for hearing the complaint alleged in such petition, and shall cause 10 days notice of such hearing to be given addressed "to all persons interested" by posting notices of such hearing in 5 of the most public places in such district in the vicinity of the road or section of road described in the petition and also by delivering a copy of such notice to such commissioner or mailing a copy thereof to such commissioner at his post office address, postage prepaid.

If the county superintendent of highways determines as a result of such hearing that the road described in the petition is in need of repair, or is not properly maintained by the highway commissioner of the district, he shall order the highway commissioner of the district to make such repairs as appear to him to be proper or necessary, or to properly maintain such road or section of road.

If any highway commissioner wilfully disobeys the order of the county superintendent of highways issued in pursuance to this section, when there are sufficient funds to permit a compliance with such order, he shall be guilty of a petty offense, and shall upon proper proceedings being brought in the circuit court of the county, be subject to removal from office.

Laws 1959, p. 203, § 6–401. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 79–1366, § 44, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–401.

5/6–402. Bridges or culverts on road district lines; costs; contracts

§ 6–402. Bridges or culverts on roads on district lines, except as provided in Section 5–503 of this Code, shall be constructed and repaired by such districts and the expense of such construction and repair shall be borne in proportion to the assessed value of the taxable property in the respective districts according to the last preceding equalized assessment thereof prior to such construction or repair; or the commissioners of such adjoining road districts may enter into joint contracts, which may provide for any just division of cost. Such contracts may be judicially enforced against such commissioners jointly, the same as if entered into by individuals, and such commissioners may be proceeded against jointly by any parties interested in such bridges or culverts, for any neglect of duty in reference to such bridges or culverts, or for any damage growing out of such neglect.

Laws 1959, p. 203, § 6–402. Amended by Laws 1961, p. 2723, § 1, eff. Aug. 3, 1961; P.A. 83–345, § 82, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–402.

5/6–404. Approaches to bridges on or near district lines

§ 6–404. Approaches to all bridges and culverts constructed under and by virtue of Section 6—402 shall be constructed and maintained by the respective road districts within which such approach or approaches may be located, and all approaches to all such bridges and culverts, as have heretofore been constructed jointly by 2 or more districts shall be maintained by the respective districts within which such approaches are located.

Laws 1959, p. 203, § 6–404. Amended by P.A. 84–962, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–404.

5/6–405. Refusal by commissioners of adjoining districts to make appropriation; effect; order of court

§ 6–405. When any road district desires to construct or repair any bridge or culvert as provided in Section 6–402, and has appropriated its share of the cost of constructing or repairing the same it shall be the duty of such other road district to make an appropriation for its proportionate share of the expense of such construction or repair. If such other road district fails or refuses to make such appropriation any court of competent jurisdiction, upon a proper petition for that purpose, shall issue an order to compel such other road district to make such appropriation; or the road district which has made its appropriation, may, after giving due notice to the other road district, proceed with the construction or repair of the bridge or culvert, and, if the construction or repair is reasonable in kind and cost, may recover from the other road district, by suit, such proportionate share of the expense as the other road district is liable for, with costs of the suit and interest from the time of the completion of the construction or repair. However, if the expense of the construction or repair of the bridge or culvert is unreasonable then the road district may recover only the other road district's proportionate share of an amount equal to a reasonable expense for the construction or repair.

Laws 1959, p. 203, § 6–405.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–405.

5/6–406. Suit on joint contract

§ 6–406. When a joint contract has been made in accordance with Section 6–402, and if the commissioner of either of such road districts, after reasonable notice in writing from the commissioner of any other road district, neglects or refuses to construct or repair any bridge or culvert, the commissioner so giving notice, after constructing or repairing the same, may recover by suit such amount as may have been contracted for in accordance with Section 6–402 of this Code, of the expense of so constructing or repairing such bridge or culvert together with costs of suit and interest from time of completion thereof, from the road district so neglecting or refusing.

Laws 1959, p. 203, § 6–406. Amended by P.A. 84–962, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–406.

5/6–407. § 6–407. Repealed by P.A. 93–704, § 10, eff. July 9, 2004

5/6–408. Contracts for construction and repair of roads and bridges on district lines

§ 6–408. Contracts for constructing and repairing roads and bridges on road district lines shall be let by the highway commissioners of the 2 districts who shall meet and act together when taking action upon the letting of such contract for the construction or repair of such roads and bridges, or acceptance of the work.

Laws 1959, p. 203, § 6–408. Amended by Laws 1959, p. 888, § 1, eff. July 10, 1959; P.A. 93–704, § 5, eff. July 9, 2004.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–408.

5/6–409. Contractor's bond

§ 6–409. No contract so made shall be considered as let unless the contractor shall, within 15 days after the final award of the same, enter into contract and file a bond with good and sufficient sureties with the highway commissioner, in the penal sum at least equal to the amount of the contract, payable to the commissioner of the district, upon failure to comply with the conditions of such contract.

Laws 1959, p. 203, § 6–409.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–409.

5/6–410. Payments on contracts; prerequisites

§ 6–410. All final payments on contracts for the construction or repair of roads, including the constructing or repairing bridges or culverts, shall be made payable as soon as the work under such contract is completed and accepted by the highway commissioner. The highway commissioner shall submit all warrants, bills and orders for such final payments to the township board of trustees or the highway board of auditors within 30 days after the receipt of the bill.

Laws 1959, p. 203, § 6–410. Amended by P.A. 83–791, § 1, eff. Jan. 1, 1984; P.A. 94–59, § 5, eff. June 17, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–410.

5/6–411. Pecuniary interest in leases

§ 6–411. Pecuniary interest in leases. In townships with a population of less than 15,000, with the approval of the town board of trustees or the highway board of auditors, as the case may be, a highway commissioner may have a pecuniary interest in lease contracts if the aggregate total of those contracts is less than $2,000 in the same fiscal year.

Laws 1959, p. 203, § 6–411. Amended by P.A. 86–1179, § 5, eff. Aug. 17, 1990; P.A. 89–305, § 10, eff. Jan. 1, 1996; P.A. 96–422, § 5, eff. Aug. 13, 2009.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–411.

5/6–411.1. Pecuniary interest in contracts

§ 6–411.1. Pecuniary interest in contracts.

(a) Except as provided in this Section, no road district officer or employee shall be interested, directly or indirectly, in his or her own name or in the name of any other person, association, trust, or corporation, in any contract for work or materials, profits of work or materials, or services to be furnished or performed for the road district or for any person operating a public utility wholly or partly within the territorial limits of the road district.

(b) Any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

(1) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which

the interested member of the governing body of the road district has less than a 7½% share in the ownership; and

(2) the interested member publicly discloses the nature and extent of his or her interest before or during deliberations concerning the proposed award of the contract; and

(3) the interested member abstains from voting on the award of the contract, though he or she shall be considered present for the purposes of establishing a quorum; and

(4) the contract is approved by a majority vote of those members presently holding office; and

(5) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds $1,000, or awarded without bidding if the amount of the contract is less than $1,000; and

(6) the award of the contract would not cause the aggregate amount of all contracts awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed $25,000.

(c) In addition to subsection (b), any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

(1) the award of the contract is approved by a majority vote of the governing body of the road district, provided that any interested member shall abstain from voting; and

(2) the amount of the contract does not exceed $1,000; and

(3) the award of the contract would not cause the aggregate amount of all contracts awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed $1,000; and

(4) the interested member publicly discloses the nature and extent of his or her interest before or during deliberations concerning the proposed award of the contract; and

(5) the interested member abstains from voting on the award of the contract, though he or she shall be considered present for the purposes of establishing a quorum; and

(6) no other vendor is available within a 25–mile radius of the road district.

(d) A contract for the procurement of public utility services by a road district with a public utility company is not barred by this Section by one or more members of the governing body being an officer or employee of the public utility company, holding an ownership interest of no more than 7½% in the public utility company, or holding an ownership interest of any size if the road district has a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body having such an interest shall be deemed not to have a prohibited interest under this Section.

(e) Any officer who violates this Section is guilty of a Class 4 felony. Any office held by the person so convicted shall become vacant and shall be declared vacant as part of the judgment of the court.

(f) Nothing contained in this Section, including the restrictions set forth in subsections (b), (c), and (d), shall preclude a contract of deposit of moneys, loans, or other financial services by a road district with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the road district are interested in the bank or savings and loan association as an officer or employee or as a holder of less than 7½% of the total ownership interest. A member or members holding such an interest in a contract shall not be deemed to be holding a prohibited interest for purposes of this Section. The interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract but shall not participate in any further deliberations concerning the proposed award. The interested member or members shall not vote on a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of a contract shall require approval by a majority vote of those members presently holding office. Consideration and award of any contract in which a member or members are interested may only be made at a regularly scheduled public meeting of the governing body of the road district.

Laws 1959, p. 203, § 6–411.1, added by P.A. 89–305, § 10, eff. Jan. 1, 1996.

5/6–411.5. Contracts for public transportation

§ 6–411.5. Contracts for public transportation. The highway commissioner of each road district within the territory of the Regional Transportation Authority shall have authority, with the approval of the township board of trustees, to contract with the Regional Transportation Authority or a Service Board, as defined in the Regional Transportation Authority Act,[1] for the purchase of public transportation services within the district, upon such terms and conditions as may be mutually agreed upon. The expenditure of road funds, collected under a road district tax, to purchase public transportation services constitutes a road purpose under this Code.

Laws 1959, p. 203, § 6–411.5, added by P.A. 89–347, § 5, eff. Jan. 1, 1996.

[1] 70 ILCS 3615/1.01 et seq.

5/6–412. All-weather surfaces at mail boxes

§ 6–412. On all township or district roads which have all-weather travel surfaces the highway commissioner, if funds are available, shall construct and maintain adequate all-weather surfaces at boxes used for the receipt of United States mail. Such approaches shall be constructed and maintained with the same material as the roadbed, or other suitable all-weather material.

The rules, regulations and specifications adopted by the Department governing the erection and maintenance of boxes for the receipt of United States mail on State highways shall not apply to and govern the erection and maintenance of such boxes on such township or district roads.

Laws 1959, p. 203, § 6–412, added by Laws 1959, p. 1801, § 1. Amended by Laws 1961, p. 473, § 1, eff. July 1, 1961. **Formerly** Ill.Rev.Stat.1991, ch. 121, ¶ 6–412.

5/6–412.1. Liability insurance

§ 6–412.1. The highway commissioner is authorized to contract for insurance against any loss or liability of any officer, employee or agent of the district resulting from the wrongful or negligent act of any such officer, employee or agent while discharging and engaged in his duties and functions and acting within the scope of his duties and functions as an officer, employee or agent of the district. Such insurance shall be carried with a company authorized by the Department of Insurance to write such coverage in Illinois. Every such policy shall provide, or be endorsed to provide, that the company issuing such policy waives any right to refuse payment or deny coverage or liability thereunder, within the limits of the policy, because of any exemption the district may have from such liability. The expenditure of

road funds of the district to purchase such insurance contracts constitutes a road purpose under this Act.

Laws 1959, p. 203, § 6–412.1, added by Laws 1961, p. 2724, § 1, eff. Aug. 3, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–412.1.

DIVISION 5. TAXATION

5/6–501. General tax levy for road purposes; budget and appropriation; notice; certification; extension of taxes, limitations; excess taxes; road fund

§ 6–501. (a) Findings and purpose. The General Assembly finds:

(1) That the financial conditions of the Township and District road systems of the State of Illinois have suffered adversely as a result of changes in law concerning assessed valuation of property for tax purposes. That as a result of the changes beginning in 1945, the rates of permissible levy were first halved to accommodate full fair value, but never restored when subsequent law change established the legal assessed valuation at 50% of fair market value as equalized by the Department of Revenue.

(2) Townships and district road systems, as a result of the decreased financial support, have suffered a decline in ability to maintain or improve roads and bridges in a safe condition to permit the normal and ordinary use of its highway system. In many instances bridges have been closed and detours required because of impossible road conditions resulting in hardships for school districts in transporting pupils and for farms in moving products to market.

(3) Further, cost for maintenance and improvements have risen faster than the valuations of property, the base of financial support.

(4) To solve these problems, this Act makes changes in rates of taxation—returning Townships and District road systems to their approximate financial viability prior to 1945.

(b) The highway commissioner for each road district in each county not under township organization shall on or before the third Tuesday in December of each year determine and certify to the county board the amount necessary to be raised by taxation for road purposes and for the salaries of elected road district officials in the road district.

Should any highway commissioner during the last year of his term of office for any reason not file the certificate in the office of the county clerk, as required by this Section, in time for presentation to the regular September meeting of the county board, the clerk shall present in lieu thereof a certificate equal in amount to that presented for the preceding year.

In every such county the certificate shall be filed in the office of the county clerk and by that official presented to the county board at the regular September meeting for the consideration of the board. The amount so certified if approved by the county board, or the part thereof as the county board does approve, shall be extended by the county clerk as road taxes against the taxable property of the district.

(c) The highway commissioner in each road district in each county having adopted township organization shall in accordance with the Illinois Municipal Budget Law [1] at least 30 days prior to the public meeting required by this paragraph, each year prepare or cause to be prepared a tentative budget and appropriation ordinance and file the same with the clerk of the township or consolidated township road district, as the case may be, who shall make the tentative budget and appropriation ordinance conveniently available to the public inspection for at least 30 days prior to final action. One public hearing shall be held. This public hearing shall be held on or before the last day of the first quarter of the fiscal year before the township board of trustees or the highway board of trustees, as the case may be. Notice of the hearing shall be given by publication in a newspaper published in the road district at least 30 days prior to the time of the hearing. If there is no newspaper published in the road district, notice of the public hearing shall be given by posting notices in 5 of the most public places in the district. It shall be the duty of the clerk of the road district to arrange for the public hearing. The township board of trustees or highway board of trustees, as the case may be, at the public hearing shall adopt the tentative budget and appropriation ordinance, or any part as the board of trustees deem necessary.

On or before the last Tuesday in December the township board of trustees or highway board of trustees or road district commissioner, as the case may be, shall levy and certify to the county clerk the amount necessary to be raised by taxation for road purposes and the road district commissioner shall levy and certify to the county clerk the amount necessary to be raised by taxation for the salaries of elected road district officials in the road district, as determined by the highway commissioner.

The amount so certified shall be extended by the county clerk as road taxes against the taxable property of the district.

On or after October 10, 1991, a road district commissioner whose district is located in a county not under township organization may not levy separately a tax for salaries of elected road district officials unless the tax has been first approved by a majority of the electors voting on the question at a referendum conducted in accordance with the general election law. The question submitted to the electors at the referendum shall be in substantially the following form: "Shall the road district commissioner be authorized to levy an annual tax for the salaries of elected road district officials under Section 6–501 of the Illinois Highway Code?" [2]

Except as is otherwise permitted by this Code and when the road district commissioner establishes the tax rate for the salaries of elected road district officials, the county clerk shall not extend taxes for road purposes against the taxable property in any road district at rates in excess of the following:

(1) in a road district comprised of a single township in a county having township organization, at a rate in excess of .125% of the value, as equalized or assessed by the Department of Revenue; unless before the last Tuesday in December annually the highway commissioner of the township road district shall have secured the consent in writing of a majority of the members of the township board of trustees to the extension of a greater rate, in which case the rate shall not exceed that approved by a majority of the members of the township board of trustees, but in no case shall it exceed .165% of the value, as equalized or assessed by the Department. Once approved by the township board of trustees, the rate shall remain in effect until changed by the township board of trustees;

(2) in a consolidated township road district, at a rate in excess of .175% of the value, as equalized or assessed by the Department of Revenue;

(3) in a road district in a county not having township organization, at a rate in excess of .165% of the value, as equalized or assessed by the Department of Revenue.

However, road districts that have higher tax rate limitations on a permanent basis for road purposes on July 1, 1967, than the limitations herein provided, may continue to levy the road taxes at the higher limitations, and the county clerk shall extend the taxes at not to exceed the higher limitations.

If the amount of taxes levied by the township board of trustees or the highway board of trustees or approved by the county board in any case is in excess of the amount that may be extended the county clerk shall reduce the amount so that the rate extended shall be no greater than authorized by law. However, the tax shall not be reduced or scaled in any manner whatever by reason of the levy and extension by the county clerk of any tax to pay the principal or interest, or both, of any bonds issued by a road district.

The taxes, when collected, shall be held by the treasurer of the district as the regular road fund of the district.

Notwithstanding any other provision of law, for a period of time ending 18 years after the effective date of this amendatory Act of 1994, a road district or consolidated road district may accumulate up to 50% of the taxes collected from a subdivision under this Section for improvements of nondedicated roads within the subdivision from which and for which the taxes were collected. These nondedicated roads will become a part of the township and district road system if the roads meet the criteria established by the counties in which the roads are located. The total accumulations under this provision may not exceed 10% of the total funds held by the district for road purposes. This provision applies only to townships within counties adjacent to a county with a population of 3,000,000 or more and only with respect to subdivisions whose plats were filed or recorded before July 23, 1959.

Notwithstanding any other provision of law, for a period of time ending 10 years after the effective date of this amendatory Act of the 98th General Assembly, a road district or consolidated road district may accumulate up to 50% of the taxes collected from a subdivision under this Section for improvements of nondedicated roads within the subdivision from which and for which the taxes were collected. These nondedicated roads will become a part of the township and district road system if the roads meet the criteria established by the counties in which the roads are located. The total accumulations under this provision may not exceed 10% of the total funds held by the district for road purposes. This provision applies only to townships within counties adjacent to a county with a population of 3,000,000 or more and only with respect to subdivisions whose plats were filed or recorded before July 23, 1959.

Any road district may accumulate funds for the purpose of acquiring, constructing, repairing and improving buildings and procuring land in relation to the building and for the purpose of procuring road maintenance apparatus and equipment, and for the construction of roads, and may annually levy taxes for the purposes in excess of its current requirements for other purposes, subject to the tax rate limitations provided in this Section, provided a proposition to accumulate funds for the purposes is first submitted to and approved by the electors of the district. The proposition shall be certified to the proper election officials by the district clerk upon the direction of the highway commissioner, and the election officials shall submit the proposition at a regular election. Notice and conduct of the referendum shall be in accordance with the general election law. The proposition shall be in substantially the following form:

Shall ..... road district accumulate funds in the amount of $..... for ..... years for the purpose of acquiring, constructing, repairing and improving buildings and procuring land therefor, and for procuring road maintenance apparatus and equipment and for the construction of roads?	YES	
	NO	

If a majority of the electors voting on the proposition vote in favor of it, the road district may use a portion of the funds levied, subject to the tax rate limitations provided in this Section, for the purposes for which accumulation was authorized. It shall not be a valid objection to any subsequent tax levy made under this Section, that there remains unexpended money arising from the levy of a prior year because of an accumulation permitted by this Section and provided for in the budget for that prior year.

(d) Any road district may accumulate moneys in a dedicated fund for a specific capital construction or maintenance project or a major equipment purchase without submitting a proposition to the electors of the district if the annual budget and appropriation ordinance for the road district states the amount, purpose, and duration of any accumulation of funds authorized under this Section, with specific reference to each project to be constructed or equipment to be purchased. Nothing in this subsection precludes a road district from accumulating moneys for non-specific purposes as provided in this Section.

Laws 1959, p. 203, § 6–501. Amended by Laws 1961, p. 3139, § 1, eff. Aug. 10, 1961; Laws 1963, p. 3032, § 1, eff. Aug. 16, 1963; Laws 1965, p. 268, § 1, eff. April 5, 1965; Laws 1967, p. 898, § 1, eff. June 28, 1967; P.A. 76–1600, § 1, eff. Sept. 30, 1969; P.A. 77–1487, § 1, eff. Sept. 8, 1971; P.A. 77–1617, § 1, eff. Sept. 21, 1971; P.A. 77–2787, § 1, eff. Oct. 1, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 79–562, § 1, eff. Oct. 1, 1975; P.A. 79–590, § 1, eff. Aug. 26, 1975; P.A. 79–1454, § 57, eff. Aug. 31, 1976; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 81–1535, § 28, eff. Dec. 19, 1980; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–166, § 1, eff. Aug. 30, 1983; P.A. 83–897, § 1, eff. July 1, 1984; P.A. 83–1362, Art. II, § 148, eff. Sept. 11, 1984; P.A. 85–853, § 1, eff. Sept. 24, 1987; P.A. 86–1179, § 5, eff. Aug. 17, 1990; P.A. 87–17, Art. 2, § 2–8, eff. July 25, 1991; P.A. 87–738, § 9, eff. Sept. 26, 1991; P.A. 87–768, § 3, eff. Oct. 10, 1991; P.A. 87–895, Art. 2, § 2–71, eff. Aug. 14, 1992; P.A. 87–1189, Art. 5, § 5, eff. Sept. 24, 1992; P.A. 88–360, § 15, eff. Aug. 16, 1993; P.A. 88–673, § 10, eff. July 1, 1995; P.A. 92–395, § 5, eff. Aug. 16, 2001; P.A. 92–656, § 10, eff. July 16, 2002; P.A. 98–818, § 5, eff. Aug. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–501.

[1] 50 ILCS 330/1 et seq.

[2] 605 ILCS 5/6–501 et seq.

5/6–502. Copy of certificate; preservation

§ 6–502. The township board of trustees or highway board of trustees, as the case may be, or the highway commissioner in any county not under township organization, of each road district in addition to certifying to the county board the amount necessary to be raised by such district for road purposes therein, shall also within the dates aforesaid make out and deliver to the district clerk a copy of the certificate required by Section 6–501 to be kept on file by

such clerk for the inspection of the inhabitants of such district. However, a failure to file such copy shall not affect the validity of the certificate filed with the county clerk, or of the tax levied pursuant thereto.

The district clerk shall not certify levies of taxes to the county clerk.

Laws 1959, p. 203, § 6–502. Amended by P.A. 77–2787, § 1, eff. Oct. 1, 1972; P.A. 82–783, Art. X, § 23, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–502.

5/6–503. Damages for laying out road, etc.; tax levy

§ 6–503. When damages have been agreed upon, allowed or awarded for laying out, widening, altering or vacating township or district roads, or for payments for right-of-way in aiding the State in connection with the construction of State highways or in connection with the construction of federal aid roads or such roads as are constructed with the aid of federal grants or loans, or for ditching to drain township or district roads, the amounts of such damages and interest on orders issued in payment of such damages shall be included in the next succeeding tax levy provided for in Section 6–501 of this Code, and may be in addition to and in excess of the maximum levy and rate of extension of taxes for road purposes authorized under Section 6–501, and when collected, shall constitute and be held by the treasurer of the district as a separate fund to be paid to the parties entitled thereto. The highway commissioner, or the township board of trustees or highway board of trustees, as the case may be, at the time of certifying the general tax levy for road purposes within the district, shall include and separately specify in such certificate the amount necessary to be raised by taxation for the purpose of paying such damages. Upon the approval by the county board of the amount so certified, when required in Section 6–501, the county clerk shall extend the same against the taxable property of such district, provided the amount shall not be extended at a rate in excess of .033% of value, as equalized or assessed by the Department of Revenue. The foregoing limitations upon tax rates may be increased or decreased under the referendum provisions of the General Revenue Law of Illinois.[1]

Laws 1959, p. 203, § 6–503. Amended by Laws 1967, p. 900, § 1; P.A. 77–1617, § 1, eff. Sept. 21, 1971; P.A. 77–1488, § 1, eff. Sept. 21, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 82–783, Art. X, § 23, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–503.

[1] 35 ILCS 205/1 et seq. (repealed).

5/6–504. Increase of tax rate; petition; referendum; frequency of elections

§ 6–504. On the petition of at least 10% of the legal voters residing in a road district (other than a county unit road district) to the district clerk, the clerk shall order a referendum on the proposition to increase the district's rate limitation for road purposes under this Section and Section 6–505. The referendum shall be held at the next annual or special town meeting or at an election in accordance with the general election law. If the referendum is ordered to be held at the town meeting, the district clerk shall give notice that at the next annual or special town meeting the proposition shall be voted upon. The notice shall set forth the proposition and shall be given by publication in a newspaper published in the township, or if there is no such newspaper, then in a newspaper published in the county and having general circulation in the township, and by posting notices in at least 10 of the most public places in the township at least 10 days before the town meeting. If the referendum is ordered to be held at an election, the district clerk shall certify that proposition to the proper election officials, who shall submit the proposition at an election. The proposition shall be submitted in accordance with the general election law.

Any road district voting after August 1, 1967, to increase its rate limitation for road purposes under this Section and Section 6–505 shall establish the increased rate limitation on a permanent basis.

No more than 2 referenda authorized by this Section shall be held within any 12 month period. No referendum shall be held unless a petition signed by not less than 10% of the registered voters in the road district has been filed with the district clerk requesting an increase in the tax rate limitation for road purposes.

Laws 1959, p. 203, § 6–504. Amended by Laws 1961, p. 2573, § 1; Laws 1967, p. 894, § 1; P.A. 77–1148, § 1, eff. Aug. 17, 1971; P.A. 79–590, § 1, eff. Aug. 26, 1975; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 83–620, § 1, eff. Jan. 1, 1984; P.A. 83–1317, § 1, eff. Sept. 4, 1984; P.A. 87–768, § 3, eff. Oct. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–504.

5/6–505. Form of proposition; election result; multiple proposals

§ 6–505. The proposition authorized by Section 6–504 shall be substantially in the following form:

Shall the present maximum rate of .....% (insert present maximum) of the value, as equalized or assessed by the Department of Revenue on the taxable property of ..... Township (or Townships) for road purposes be increased to a maximum rate (here state proposed increased rate) on such taxable property?	YES	
	NO	

If a majority of all ballots cast on the proposition is in favor of the increase in the tax rate, the county clerk shall certify the results of the election.

If 2 or more proposals are submitted under Section 6–504 at the same election and more than one of the proposals receives a majority of the vote, the proposal receiving the greatest number of affirmative votes shall be the only one in effect.

Laws 1959, p. 203, § 6–505. Amended by Laws 1967, p. 894, § 1; P.A. 77–1149, § 1, eff. Aug. 17, 1971; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–505.

5/6–506. Extension of tax when increase has been voted

§ 6–506. The county clerk on and after the filing with him of the certificate provided for in Section 6–505 by the district clerk shall for a period of 5 years thereafter extend as taxes the amount certified by the county board, township board of trustees or highway board of trustees, as the case may be, which the highway commissioner has determined as necessary to be raised by taxation for the proper construction, maintenance and repair of the roads of the district as provid-

ed in Section 6–501 at a rate not in excess of the rate approved by the voters of the district under Sections 6–504 and 6–505 and in no case shall such taxes so extended exceed .66% of the value, or .94% of the value in districts with less than $10,000,000 total equalized assessed valuation if such higher rate has been approved by the voters of the district under Sections 6–504 and 6–505 at a referendum held in accordance with the general election law, as such values are equalized or assessed by the Department of Revenue of the taxable property of the district.

If any road district establishes its tax rate limitation for road purposes on a permanent basis after August 1, 1967, as provided for in Section 6–504 of the Act, the county clerk shall on a permanent basis extend as taxes the amount certified by the county board, township board of trustees or highway board of trustees, as the case may be, which the highway commissioner has determined as necessary to be raised by taxation for the proper construction, maintenance and repair of the roads of the district.

Laws 1959, p. 203, § 6–506. Amended by P.A. 76–591, § 1, eff. July 31, 1969; P.A. 77–1150, § 1, eff. Aug. 17, 1971; P.A. 77–1617, § 1, eff. Sept. 21, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 79–590, § 1, eff. Aug. 26, 1975; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–897, § 1, eff. July 1, 1984; P.A. 85–1178, § 9, eff. Aug. 13, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–506.

5/6–507. Extension and collection of taxes; disposition

§ 6–507. All items of tax levy of any district authorized by Sections 6–501, 6–503 and 6–504 of this Code shall be extended by the county clerk as one tax upon the collector's book and, except as hereinafter provided in this Section, shall be paid to the treasurer of the district by the collector as fast as the same is collected, other than such rate per cent as shall be allowed for collecting the same.

One half the tax required to be levied by Section 6–501 of this Code, on the property lying within a municipality in which the streets and alleys are under the care of the municipality shall be paid over to the treasurer of the municipality, to be appropriated to the improvement of roads or streets, either within or without the municipality and within the road district under the direction of the corporate authorities of the municipality. However, when any of the tax is expended beyond the limits of the municipality it shall be with the consent of the highway commissioner of the road district.

If any municipality has not appropriated the taxes received by it as aforesaid for the improvement of roads or streets within one year from the date of the receipt thereof, then the unappropriated portion of such taxes shall forthwith be paid by the Treasurer of such municipality to the Treasurer of the road district from which such taxes were derived, to be used and expended for road purposes within such road district.

Laws 1959, p. 203, § 6–507.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–507.

5/6–508. Tax for construction of bridges at joint expense of county and road district and obtaining aid from county

§ 6–508. (a) For the purpose of constructing or repairing bridges, culverts, drainage structures or grade separations, including approaches thereto, at the joint expense of a county and a road district and obtaining aid from the county as provided in Section 5–501 of this Code, there may be included in the annual tax levies provided for in Section 6–501 of this Code a tax of not to exceed .05% of the value of all the taxable property in the road district, as equalized or assessed by the Department of Revenue, which tax shall be in addition to and may be in excess of the maximum levy and may be extended at a rate in addition to and in excess of the tax rate for road purposes authorized under Section 6–501 of this Code.

Such tax, when collected, shall constitute and be held by the treasurer of the district as a separate fund to be expended for the construction or repair of bridges, culverts, drainage structures or grade separations, including approaches thereto, at the joint expense of the county and the road district. The highway commissioner shall separately specify in the certificate required by Section 6–501 the amount necessary to be raised by taxation for the purpose of constructing or repairing bridges, culverts, drainage structures or grade separations, including approaches thereto, at the joint expense of the county and the road district. Upon the approval by the county board of the amount so certified as provided in Section 6–501 of this Code, the county clerk shall extend the same against the taxable property of the road district, provided the amount thus approved shall not be extended at a rate in excess of .05% of value, as equalized or assessed by the Department of Revenue.

When any improvement project for which a tax may be levied under this Section has been ordered as provided in Section 5–501 and the estimated cost of such project to the road district is in excess of the amount that will be realized from the annual tax levy authorized by this Section when extended and collected, then the road district may accumulate the proceeds of such tax for such number of years as may be necessary to acquire the funds necessary to pay the district's share of the cost of such project. In counties in which a property tax extension limitation is imposed under the Property Tax Extension Limitation Law[1] and the imposition of the property tax extension limitation prevents a road district from levying taxes for road purposes at the required rate, a road district may retain its eligibility if, at the time the property tax extension limitation was imposed, the road district was levying at the required rate and continues to levy the maximum allowable amount after the imposition of the property tax extension limitation. It shall not be a valid objection to any subsequent tax levy made under this Section that there remains unexpended money arising from a preceding levy of a prior year because of the accumulation provided for in this Section.

The rate limitation imposed by this Section may be increased for a 10 year period to up to 0.25% of the value of all the taxable property in the road district, as equalized or assessed by the Department of Revenue if the proposition for the increased tax rate is submitted under Sections 6–504 and 6–505 and receives a majority of all ballots cast on the proposition at the election held under Section 6–505.

(b) All surplus funds remaining in the hands of the treasurer of the road district after the completion of any construction or repairing of bridges, culverts, drainage structures or grade separations, including approaches thereto, under this Section, shall be turned over, at the request of the highway commissioner, to the regular road fund of the road district. Upon such request, no further levy under this Section is to be extended by the county clerk unless the proposition authorizing such further levy is submitted under Sections 6–504 and 6–505 and receives a majority of all

ballots cast on the proposition at the election held under Section 6–505.

(c) The moneys from this tax may also be used for construction and maintenance of bridges, culverts and other drainage facilities, or grade separations, including approaches thereto, on, under, or over the district roads, without joint county funds being involved and without limitation as to size of project, but only if adequate funds are available for all projects for which the road district has petitioned the county for joint participation.

Laws 1959, p. 203, § 6–508. Amended by Laws 1959, p. 2043, § 1; P.A. 77–1151, § 1, eff. Aug. 17, 1971; P.A. 79–590, § 1, eff. Aug. 26, 1975; P.A. 79–784, § 1, eff. Oct. 1, 1975; P.A. 79–1454, § 17[77], eff. Aug. 31, 1976; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 84–403, § 1, eff. Jan. 1, 1986; P.A. 84–1342, § 1, eff. Sept. 10, 1986; P.A. 90–110, § 10, eff. July 14, 1997; P.A. 92–268, § 5, eff. Jan. 1, 2002; P.A. 92–800, § 5, eff. Aug. 16, 2002; P.A. 93–164, § 5, eff. July 10, 2003.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–508.

[1] 35 ILCS 200/18–185 et seq.

5/6–508.1. Equipment and building tax

§ 6–508.1. For the purpose of acquiring machinery and equipment or for the purpose of acquiring, constructing, or reconstructing buildings for housing machinery and equipment used in the construction, repair, and maintenance of township or district roads, or for both those purposes, the township board of trustees or highway board of trustees, as the case may be, or the highway commissioner in a county not under township organization, after a favorable vote as provided in this Section, may levy an annual tax of not to exceed .035% of the value of all the taxable property in the road district, as equalized or assessed by the Department of Revenue. The tax shall be in addition to and in excess of all other taxes and tax rates that may be levied or extended for road purposes in a road district under any other Section of this Code. Any tax levy authorized under this Section shall be certified to and extended by the county clerk as a separate tax to be known as the "equipment and building tax" of the road district but shall not be extended at a rate in excess of .035% of the value of the taxable property of the district, as equalized or assessed by the Department of Revenue. The maximum rate for these purposes may be increased to .10% of the value of the taxable property of the district, as equalized or assessed by the Department of Revenue, however, when authorized by a referendum held in accordance with the general election law.

In any county not under township organization, however, the amount of the levy must first be approved by the county board before the certification and extension.

The tax, when collected, shall constitute and be held by the treasurer of the district as a separate fund to be known as the "equipment and building fund" and shall be expended only for the purpose or purposes for which it was levied.

The road district shall cause the ordinance or resolution levying the tax to be published in one or more newspapers published in the district within 10 days after the levy is made. If no newspaper is published in the district, the ordinance or resolution shall be published in a newspaper having general circulation within the district. The publication of the ordinance or resolution shall include a notice of (i) the specific number of voters required to sign a petition requesting that the question of the adoption of the tax levy be submitted to the voters of the district; (ii) the time within which the petition must be filed; and (iii) the date of the prospective referendum. The district clerk or secretary shall provide a petition form to any individual requesting one. On the petition of 25 or more legal voters of the road district to the district clerk, the clerk shall order a referendum on the question of authorizing the levy and extension of an annual tax under this Section at the next annual town meeting or at an election in accordance with the general election law. If the referendum is ordered to be held at the town meeting, the district clerk shall give notice that at the next annual town meeting the proposition shall be voted upon. The notice shall set forth the proposition and shall be given by publication in a newspaper of general circulation in the township and by posting notices in at least 10 of the most public places in the town at least 10 days before the annual meeting. If the referendum is ordered to be held at an election, the district clerk shall certify that proposition to the proper election officials, who shall submit the proposition in accordance with the general election law. If a majority of the vote cast on the question is in favor of the tax, then the township board of trustees or highway board of trustees, as the case may be, or the highway commissioner in a county not under township organization, may levy an annual tax under this Section.

Laws 1959, p. 203, § 6–508.1 added by Laws 1961, p. 2574, § 1. Amended by P.A. 76–612, § 1, eff. Aug. 5, 1969; P.A. 77–1152, § 1, eff. Aug. 17, 1971; P.A. 77–2787, § 1, eff. Oct. 1, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 27, 1980; P.A. 82–11, § 1, eff. June 16, 1981; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 86–709, § 1, eff. Jan. 1, 1990; P.A. 86–1028, Art. III, § 3–44, eff. Feb. 5, 1990; P.A. 86–1253, § 8, eff. Jan. 1, 1991; P.A. 87–768, § 3, eff. Oct. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–508.1.

5/6–509. Damages; anticipatory orders

§ 6–509. Whenever damages have been allowed for roads or ditches, the highway commissioner may draw orders on the treasurer, payable only out of the tax to be levied for such roads or ditches, when the money shall be collected or received, which orders shall bear interest at the rate of 6% per annum from the date on which they are issued and may be disposed of by the highway commissioner in anticipation of the tax to be levied to pay same, provided that such orders shall not be disposed of at a discount.

The highway commissioner, as soon as the tax levied for the payment of such orders is collected, shall notify the holder or holders thereof to offer same for payment; and such orders shall cease to draw any interest from and after the time that any holder thereof is notified that funds available for the payment of same is in the hands of the treasurer.

Laws 1959, p. 203, § 6–509.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–509.

5/6–510. Bond elections; form of proposition; issuance and registration of bonds

§ 6–510. On the petition either of the highway commissioner or of 25 of the legal voters of any district, to the district clerk, he shall order a referendum on the proposition "Shall bonds for road purposes be issued to the amount of $. . . .?" at the next annual town meeting, or at an election in accordance with the general election law. If the referendum is ordered to be held at the town meeting, the district clerk shall give notice that at the next annual town meeting the proposition shall be voted upon. Such notice shall set forth

the proposition and shall be given by publication in a newspaper of general circulation in the township and by posting notices in at least 10 of the most public places in the town at least 10 days prior to the annual meeting. If the referendum is ordered to be held at an election, the district clerk shall certify that proposition to the proper election officials, who shall submit the proposition to the voters in accordance with the general election law.

The proposition shall be in substantially the following form:

Shall bonds for road purposes be issued in the amount of $.....?	YES	
	NO	

If a majority of the legal voters voting on such question voted in favor of such question, the highway commissioner and the district clerk shall issue (from time to time as the work progresses) a sufficient amount of bonds of such district for the purpose of constructing or repairing roads, bridges, or any other work incident to the construction thereof, according to the prayer of such petition, if set out therein.

Such bonds shall be of such denominations, bear such date, maturity, rate of interest, not exceeding the greater of (i) the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, or (ii) 8% per annum payable annually or semi-annually, and be payable at such place as the highway commissioner and clerk shall determine and be disposed of as the necessities and convenience of such district may require; provided, that such bonds shall not be sold nor disposed of, either by sale or by payment to contractors for labor or materials, for less than their par value, and that such bonds shall be issued in not more than 10 annual series, the first series of which shall mature not more than 5 years from the date thereof, and each succeeding series in succeeding years thereafter. Such bonds may be lithographed and the interest for each year evidenced by interest coupons thereto attached, which coupons shall be signed with original or facsimile signatures by the same officers who executed the bonds.

A register of all issues of such bonds shall be kept in the office of the county clerk of the county in which such district is located, showing the date, amount, rate of interest, maturity and the purpose for which such bonds were issued, which information shall be furnished to the county clerk, in writing, by the district clerk. Such county clerk shall extend annually against the taxable property in such road district a tax sufficient to pay the interest on such bonds in each year prior to the maturity of such first series and thereafter he shall extend a tax in each year sufficient to pay each series as it matures, together with interest thereon and with the interest upon the unmatured bonds outstanding; provided, that if it has been certified to the county clerk that funds from other sources have been allocated and set aside for the purpose of paying the principal or interest, or both, of such bonds, the county clerk shall, in extending the tax and fixing the rate of tax under this Section, make proper allowance and reduction in such extension of tax and tax rate to the extent of the funds so certified to be available for the payment of such principal or interest, or both.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 6–510. Amended by P.A. 81–514, § 1, eff. Jan. 1, 1980; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 82–11, § 1, eff. June 16, 1981; P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–510.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/6–511. Turning over money to municipalities

§ 6–511. The highway commissioner of any road district may turn over to any municipality lying wholly within its limits, money from the regular road taxes, to be used by such municipality within its corporate limits in the construction, including the separation of grades, of State or county highways and municipal streets as provided for in Division 2 of Article 7 of this Code, provided the consent of the Department is first obtained before such money can be turned over to municipalities by such highway commissioner.

Laws 1959, p. 203, § 6–511. Amended by P.A. 77–511, § 1, eff. July 28, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–511.

5/6–512. County unit road district tax

§ 6–512. For the purpose of constructing, maintaining and repairing county unit district roads, bridges and drainage structures and the acquisition, maintenance, housing and repair of machinery and equipment, the county board, in any county in which a county unit road district is established, may levy annual separate taxes upon all taxable property of the county to be known as the "County Unit Road District Road Tax" and the "County Unit Road District Bridge Tax". Such taxes shall be levied and collected as other county taxes, but the road district taxes shall be in addition to the maximum of all other county taxes which the county is now or may hereafter be authorized by law to levy. The tax levies authorized in this Section shall not be extended in counties having less than 1,000,000 inhabitants at a rate in excess of .165% for the road tax, unless the maximum rate has been increased as provided in Section 6–512.1, and .05% for the bridge tax, both figures based on the value of all the taxable property within the county, as equalized or assessed by the Department of Revenue, or .01% in counties having 1,000,000 or more inhabitants, of the value, as equalized or assessed by the Department of Revenue, of all taxable property within the county; however, ½ of the County Unit Road District Road tax levied under this Section, on property lying within a municipality in which the streets and alleys are under the care of the municipality, shall, when collected, be paid over to the treasurer of the municipality to be appropriated to the improvement of roads, streets and bridges therein. In determining the amount of tax necessary to be raised and levied, the county board shall state separately the several amounts to be raised and levied for the construction of roads, the construction and maintenance of bridges and drainage structures, the purchase of machinery, the repair of machinery, the oiling of roads and the prevention and extirpation of weeds.

All tax moneys collected as a result of the levies authorized by this Section shall be deposited in separate county unit road district accounts known, respectively, as the "county unit road district road fund" and the "county unit road district bridge and drainage fund". The county treasurer shall be custodian of these funds, but the road district funds shall be maintained separate and apart from the general county fund.

Laws 1959, p. 203, § 6–512. Amended by Laws 1967, p. 503, § 1; Laws 1967, p. 2520, § 1; Laws 1968, p. 407, § 1, eff. July 1, 1969; P.A. 76–174, § 1, eff. July 1, 1969; P.A. 77–1153, § 1, eff. Aug. 17, 1971; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 90–655, § 147, eff. July 30, 1998.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–512.

5/6–512.1. Increase of road tax; petition; referendum; election

§ 6–512.1. Upon a petition signed by not less than 5% of the legal voters of a county having established or establishing a county unit road district and directed to the county clerk, requesting a referendum on the question of increasing the rate of the road tax to a rate not exceeding .33%, the county clerk shall certify that proposition to the proper election officials who shall submit at an election such proposition to increase the rate of the road tax. Such election shall be held and notice given in accordance with the general election law.

The proposition shall be in substantially the following form:

Shall the present maximum rate of .165% of the value as equalized or assessed by the Department of Revenue on the taxable property of ..... County for county unit road purposes be increased to a maximum rate (here state proposed increased rate) on such taxable property?	YES	
	NO	

If a majority of all ballots cast on the proposition is in favor of the increase in the tax rate, the county clerk shall certify the results of the election to the county board. The county board shall have authority to levy a tax for the purpose stated after certification, all other tax levies for township or district road districts or county unit districts shall be nullified.

Laws 1959, p. 203, § 6–512.1, added by P.A. 76–174, § 1, eff. July 1, 1969. Amended by P.A. 77–1154, § 1, eff. Aug. 17, 1971; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–512.1.

5/6–513. Bonds; county unit district roads

§ 6–513. The county board, in any county having the commission form of government in which a county unit road district is established, may issue bonds of the county in an amount not exceeding 2.875% of the value, as equalized and assessed by the Department of Revenue, of the property in such county or, until January 1, 1983, if greater, the sum that is produced by multiplying the county's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, for the purpose of constructing county unit district roads. However, the question of issuing such county bonds shall first be submitted to the legal voters of such county at an election. The county board shall adopt a resolution to submit the question of issuing such bonds to a vote, specifying therein the particular roads or bridges to be constructed, the type of construction to be made on each section of such roads or on such bridges, the proposed widths of the roadway, together with an estimate of the cost of such construction. The county board shall certify the resolution to the proper election officials, who shall submit at an election such proposition in accordance with the general election law. Notice of the referendum shall be given and the referendum shall be held in accordance with the general election law of the State.[1] The proposition shall be in substantially the following form:

Shall county bonds for county unit district roads be issued to the amount of $....?	YES	
	NO	

If a majority of the voters voting on such question vote in favor of the proposition, the county board may at once issue the bonds and take the necessary steps to construct the roads provided for. Such bonds shall be issued to mature within 20 years from the date of issue, shall be upon such terms and conditions and shall bear such rate of interest not in excess of the amount permitted pursuant to "An Act to authorize public corporations to issue bonds, other evidences of indebtedness and tax anticipation warrants subject to interest rate limitations set forth therein", approved May 26, 1970, as amended,[2] as shall be fixed by the county board. Such bonds shall be sold upon competitive bids; and the county board may, if it is of the opinion that the bids are unsatisfactory, reject the same and re-advertise and solicit other bids. At the time or before issuing any such bonds, the county board shall adopt a resolution fixing the details of such bonds and providing for the levy of a direct annual tax to pay the principal and interest on such bonds as the same become due. A register of all bonds so issued shall be kept in the office of the county clerk, and it shall be the duty of the county clerk to annually extend a tax upon all the taxable property of the county sufficient to pay the interest and principal on such bonds, as the same shall become due. Such tax shall not be subject to any limitation as to rate or amount. However, if it has been certified to the county clerk that funds from other sources have been allocated and set aside for the purpose of paying the principal or interest, or both, of such bonds, the county clerk shall, in extending the tax and fixing the rate of tax under this Section make proper allowance and reduction in such extension of tax and tax rate to the extent of the funds so certified to be available for the payment of such principal or interest, or both.

Laws 1959, p. 203, § 6–513. Amended by Laws 1961, p. 2817, § 1; P.A. 76–174, § 1, eff. July 1, 1969; P.A. 77–1155, § 1, eff. Aug. 17, 1971; P.A. 81–165, § 25, eff. Aug. 11, 1979; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 84–1325, § 1, eff. Jan. 1, 1987; P.A. 91–357, § 225, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–513.

[1] So in enrolled bill.

[2] 30 ILCS 305/0.01 et seq.

5/6–514. Issuance of refunding bonds after township organization abandoned

§ 6–514. Whenever any county has elected to abandon township organization and the newly elected county board has created road districts as provided by law, and any township therein which has boundaries that were the same as

the boundaries of a road district so created, has outstanding bonds for road purposes, and which bonds, or any part thereof, are past due and no funds are available to pay the same, then such county board may, upon the petition of the highway commissioner and road district clerk of such road district, omit the levy of taxes to pay such debts as contemplated by Section 25–25 of the Township Code,[1] provided such highway commissioner and road district clerk shall proceed to authorize, issue and exchange, as contemplated by Sections 6–515 through 6–522 of this Article of this Code, refunding bonds for such past due road bonds of the township. When any such refunding bonds are proposed to be issued, a plan therefor shall be submitted to the county board and such refunding bonds shall not be issued unless such plan shall have been approved by such board.

If such refunding bonds shall not have been issued as contemplated by such plan within one year subsequent to the date of presentation of the plan to the board, then the county board shall cause taxes to be levied and extended against all of the taxable property situated within the territory which previously constituted such township in an amount sufficient to pay principal of and interest on such past due bonds. However, if the refunding bonds are issued, then the county board shall not levy taxes to pay such indebtedness, but the county clerk annually in manner and form provided by law shall cause taxes to be extended, and same shall be collected in amounts sufficient to pay such refunding bonds so issued by the highway commissioner and road district clerk as herein contemplated.

If such highway commissioner and road district clerk petition such board for authority to issue refunding bonds to take up and retire any bonds issued by such prior existing township which are not then due, such officers shall have authority to issue such refunding bonds if the county board shall find that it is for the best interests of such road district that same be issued. Such refunding bonds to take up and retire bonds not then due shall be issued pursuant to procedure similar to that herein provided for the issuance of refunding bonds to take up and retire past due bonds.

Nothing herein contained shall be construed to impair the obligation of outstanding township road bonds.

Laws 1959, p. 203, § 6–514. Amended by P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 88–670, Art. 3, § 3–78, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–514.

[1] 60 ILCS 1/25–25.

5/6–515. Refunding bonds; coupons or authorized interest

§ 6–515. The highway commissioner and the road district clerk of any road district, without submitting the question to the electors thereof for approval, may authorize by resolution the issuance of refunding bonds (1) to refund its bonds prior to their maturity; (2) to refund its unpaid matured bonds; (3) to refund matured coupons evidencing interest upon its unpaid bonds; (4) to refund interest at the coupon rate upon its unpaid matured bonds that has accrued since the maturity of those bonds; and (5) to refund its bonds which by their terms are subject to redemption before maturity.

The refunding bonds may be made registerable as to principal and may bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, payable at such time and place as may be provided in the bond resolution.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 6–515. Amended by P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–515.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/6–516. Resolution authorizing refund bonds; tax

§ 6–516. The resolution authorizing the refunding bonds shall prescribe all details thereof and shall provide for the levy and collection of a direct annual tax upon all the taxable property within the road district sufficient to pay the principal thereof and interest thereon as it matures. This tax shall be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the road district. Tax limitations applicable to the road district provided by other statutes of this State shall not apply to taxes levied for payment of these refunding bonds.

A certified copy of the bond resolution shall be filed with the county clerk of the county in which the road district or any portion thereof is situated, and shall constitute the authority for the extension and collection of refunding bond and interest taxes as required by the constitution.

Laws 1959, p. 203, § 6–516.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–516.

5/6–517. Exchange of bonds; sale; cancellation of bonds exchanged or paid

§ 6–517. The refunding bonds may be exchanged for the bonds to be refunded on the basis of dollar for dollar for the par value of the bonds, interest coupons, and interest not represented by coupons, if any, or they may be sold at not less than their par value and accrued interest. The proceeds received from their sale shall be used to pay the bonds, interest coupons, and interest not represented by coupons, if any. This payment may be made without any prior appropriation therefor under any budget law.

Bonds and interest coupons which have been received in exchange or paid shall be cancelled and the obligation for interest, not represented by coupons, which has been discharged, shall be evidenced by a written acknowledgment of the exchange or payment thereof.

Laws 1959, p. 203, § 6–517.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–517.

5/6–518. Refunding bonds; form; denomination; execution; maturity; purchasing or calling

§ 6–518. The refunding bonds shall be of such form and denomination, payable at such place, bear such date, and be executed by such officials as may be provided by the highway

commissioner and the road district clerk of the road district in the bond resolution. They shall mature within not to exceed 20 years from their date, and may be made callable on any interest payment date at par and accrued interest after notice has been given at the time and in the manner provided in the bond resolution.

If there is no default in payment of the principal of or interest upon the refunding bonds, and there is sufficient money on hand to set aside a sum of money equal to the amount of interest that will accrue on the refunding bonds, and a sum of money equal to the amount of principal that will become due thereon, within the next 6 months period, the treasurer of the road district shall use the money available from the proceeds of taxes levied for the payment of the refunding bonds in calling them for payment, if, by their terms, they are subject to redemption. However, a road district may provide in the bond resolution that, whenever the road district is not in default in payment of the principal of or interest upon the refunding bonds and has set aside the sums of money provided in this paragraph for interest accruing and principal maturing within the next 6 months period, the money available from the proceeds of taxes levied for the payment of refunding bonds shall be first used in the purchase of the refunding bonds at the lowest price obtainable, but not to exceed their par value and accrued interest, after sealed tenders for their purchase have been advertised for as may be directed by the corporate authorities thereof.

Refunding bonds called for payment and paid or purchased under this section shall be marked paid and cancelled.

Laws 1959, p. 203, § 6–518.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–518.

5/6–519. Reduction of taxes after purchase and cancellation of refunding bonds

§ 6–519. Whenever any refunding bonds are purchased and cancelled, as provided in Section 6–518, the taxes thereafter to be extended for payment of the principal of and interest on the remainder of the issue shall be reduced in an amount equal to the principal of and the interest that would have thereafter accrued upon the refunding bonds so cancelled, if a resolution has been adopted by the highway commissioner and the road district clerk of the road district finding these facts and a certified copy of the resolution has been filed with the county clerk specified in Section 6–516.

Whenever refunding bonds are issued, proper reduction of taxes theretofore levied for the payment of the bonds refunded and next to be extended for collection, shall be made by the county clerk upon receipt of a certificate signed by the clerk of the road district, showing the bonds refunded and the tax to be abated.

Laws 1959, p. 203, § 6–519.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–519.

5/6–520. Refunding bond and interest sinking fund account; investment of funds

§ 6–520. Money which becomes available from taxes that were levied for prior years for payment of bonds or interest coupons that were paid or refunded before those taxes were collected, after payment of all warrants that may have been issued in anticipation of these taxes, shall be placed in the sinking fund account provided in this section. It shall be used to purchase, call for payment, or to pay at maturity refunding bonds and interest thereon as herein provided.

Money received from the proceeds of taxes levied for the payment of the principal of and interest upon refunding bonds shall be deposited in a special fund of the road district, designated the "Refunding Bond and Interest Sinking Fund Account of _____". This fund shall be applied to the purchase or payment of refunding bonds and the interest thereon.

If the money in this fund is not immediately necessary for the payment of refunding bonds or if refunding bonds can not be purchased before maturity, then, under the direction of the highway commissioner and the road district clerk of the road district, the money may be invested by the treasurer of the road district in bonds or other interest bearing obligations of the United States or in bonds of the State of Illinois, the maturity date of which securities shall be prior to the due date of any issue of refunding bonds of the road district. The highway commissioner and the road district clerk may sell these securities whenever necessary to obtain cash to meet bond and interest payments.

Laws 1959, p. 203, § 6–520.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–520.

5/6–521. Refunding plan; agreements; expenditures

§ 6–521. The highway commissioner and the road district clerk of a road district may take any action necessary to inform the owners of unpaid bonds regarding the financial condition of the road district, the necessity of refunding its unpaid bonds and readjusting the maturities thereof in order that sufficient taxes may be collected to purchase or pay for the bonds. The highway commissioner and the road district clerk may enter into any agreement required to prepare and carry out any refunding plan and, without any previous appropriation therefor under any budget law, may incur and pay expenditures necessary in order to accomplish the refunding of the bonds of the road district.

Laws 1959, p. 203, § 6–521.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–521.

5/6–522. Application; additional powers

§ 6–522. Sections 6–515 through 6–521 of this Code shall apply to any road district other than a county unit road district, regardless of the law under which it is organized and operating, and shall constitute complete authority for issuing refunding bonds as herein provided without reference to other laws and shall be construed as conferring powers in addition to, but not as limiting powers granted under, other laws.

Laws 1959, p. 203, § 6–522.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–522.

DIVISION 6. GRAVEL, ROCK, MACADAM AND OTHER TOWNSHIP AND DISTRICT ROAD IMPROVEMENT BY SPECIAL TAX

5/6–601. Petition for road or improvement; election; form of proposition

§ 6–601. (a) On the petition of 25 legal voters of any road district to the district clerk he shall order a referendum on the proposition for or against an annual tax not to exceed .167% of the value of the taxable property, as equalized or assessed by the Department of Revenue, for the purpose of constructing or maintaining gravel, rock, macadam or other hard roads, or for improving, maintaining or repairing earth roads by draining, grading, oil treating or dragging. Such petition shall state the location and route of the proposed road or roads, and shall also state the annual rate per cent

not exceeding .167% of the value, as equalized or assessed by the Department of Revenue. The referendum shall be held at the next annual town meeting, at a special town meeting called for that purpose, or at an election in accordance with the general election law. If the referendum is ordered to be held at the town meeting, or at a special town meeting called for that purpose, the district clerk shall give notice that at the next annual town meeting or special town meeting the proposition shall be voted upon. Such notice shall set forth the proposition and shall be given by publication in a newspaper of general circulation in the township and by posting notices in at least 10 of the most public places in the town at least 10 days prior to the annual or special meeting. If the referendum is ordered to be held at an election, the district clerk shall certify that proposition to the proper election officials, who shall submit the proposition in accordance with the general election law.

The proposition shall be substantially in the following form:

Shall a special tax for road purposes be levied?	YES	
	NO	

(b) The preceding rate of .167% of the value of the taxable property, as equalized or assessed by the Department of Revenue, may be increased to .25% when authorized by a referendum held in accordance with the general election law.

Laws 1959, p. 203, § 6–601. Amended by Laws 1967, p. 893, § 1; P.A. 77–1156, § 1, eff. Aug. 17, 1971; P.A. 81–779, § 1, eff. Jan. 1, 1980; P.A. 81–821, § 1, eff. Jan. 1, 1980; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. I, § 83, eff. Sept. 26, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980; P.A. 82–11, § 1, eff. June 16, 1981; P.A. 83–897, § 1, eff. July 1, 1984; P.A. 86–710, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–601.

5/6–602. Levy of tax; donations

§ 6–602. If a majority of all the ballots cast at such election on such proposition are in favor of such special tax, then the township board of trustees or highway board of trustees, as the case may be, or the highway commissioner in a county not under township organization of the road district shall levy an annual tax in accordance with such vote and certify the same to the county clerk. This certification may occur at any time after the election. That board of trustees or commissioner shall also cause a copy of such certificate of levy to be filed in the office of the district clerk as provided in Section 6–502 of this Code. The county clerk shall cause such levy, thus certified to him to be extended on the tax books for the current year and for each succeeding year as other taxes are extended. The highway commissioner of the road district may also receive donations in money, labor, materials or other valuable things to aid in such road construction.

Such special tax levy shall remain in effect until repealed by the legal voters of the road district, as provided in Section 6–617 of this Code.

Laws 1959, p. 203, § 6–602. Amended by P.A. 77–2787, § 1, eff. Oct. 1, 1972; P.A. 81–779, § 1, eff. Jan. 1, 1980; P.A. 81–821, § 1, eff. Jan. 1, 1980; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 98–454, § 5, eff. Aug. 16, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–602.

5/6–603. Levy and collection of tax

§ 6–603. The county clerk, when making out the tax books for the State and county tax for the collector, shall in each year extend the special tax in separate columns against each taxpayer's name or taxable property in the district, as other taxes are extended, which shall be collected the same as State and county taxes, and known as the permanent road fund of the district; provided that such special tax shall not be extended in any road district located in any county in which a county unit road district has been established after the effective date, as provided in Section 6–125 of this Code, upon which the county takes over and becomes responsible for the construction, maintenance and repair of all county unit district roads in such county.

Laws 1959, p. 203, § 6–603. Amended by P.A. 81–821, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–603.

5/6–604. Bond of treasurer

§ 6–604. The treasurer of the district, before receiving any of such fund provided for in this Division of this Code, shall execute a good and sufficient bond, with two or more sureties, to be filed with the district clerk for the benefit of the district, in double the amount which will probably come into his hands by virtue of this Division of this Code if individuals act as sureties on such bond or in the amount only of such moneys if a surety company authorized to do business in this State acts as surety on such bonds.

Laws 1959, p. 203, § 6–604.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–604.

5/6–605. Tax collector; duty; commission

§ 6–605. The tax, when collected shall be paid to such treasurer as fast as collected, except such rate per cent as shall be allowed for collecting the same and such tax shall be known and kept as the permanent road fund of the district.

Laws 1959, p. 203, § 6–605.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–605.

5/6–615. Extension of road within municipality

§ 6–615. Whenever a special tax shall have been levied under the provisions of this Division of this Code, the highway commissioner of any road district may, by agreement with the corporate authorities of any municipality of less than 20,000 population, extend any road improved under the provisions of this Division of this Code within or through the corporate limits of such municipality. The provisions of this Section shall also apply to any municipality of more than 20,000 population when a portion of such municipality lies within the road district and the population of such portion does not exceed 20,000. However, such extension within such municipality shall be of the same cost and kind of material as the road outside such municipality, to be paid for out of such special tax and after completion to be maintained by the corporate authorities of such municipality at the cost of such municipality.

Laws 1959, p. 203, § 6–615. Amended by Laws 1959, p. 785, § 1, eff. July 14, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–615.

5/6–616. Surplus fund; disposition

§ 6–616. All surplus funds remaining in the hands of the treasurer of the district after the completion of the construction of any road provided for under this Division of this

Code, shall be turned over to the regular road fund of such road district except so much thereof as the highway commissioner may order retained for the purpose of repairing such permanent road.

Laws 1959, p. 203, § 6–616.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–616.

5/6–617. Repeal of tax; referendum

§ 6–617. To repeal the special tax, once levied, 25 legal voters of the road district shall petition the district clerk. Such petition shall contain a request for a referendum. The district clerk shall order a referendum on such proposition at the next annual town meeting, or at an election in accordance with the general election law. If the referendum is ordered to be held at the town meeting, the district clerk shall give notice that at the next annual town meeting the proposition shall be voted upon. Such notice shall set forth the proposition and shall be given by publication in a newspaper of general circulation in the township and by posting notices in at least 10 of the most public places in the town at least 10 days prior to the annual meeting. If the referendum is ordered to be held at an election, the district clerk shall certify that proposition to the proper election officials, who shall submit the proposition in accordance with the general election law.

Provided, that after a referendum is held in accordance with this Section, at least 12 months must elapse before another referendum may be held for the same purpose.

The question shall be substantially in the following form:

Shall the special tax for road purposes be repealed?	YES	
	NO	

If a majority of the vote cast on the question is in favor of such tax, then the township board of auditors or highway board of auditors, as the case may be, or the highway board of auditors in counties not under township organization, may levy an annual tax under the provisions of this Section.

Laws 1959, p. 203, § 6–617, added by P.A. 81–821, § 1, eff. Jan. 1, 1980. Amended by P.A. 81–1535, § 28, eff. Dec. 19, 1980; P.A. 82–11, § 1, eff. June 16, 1981.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–617.

5/6–620. Validation of certain levies

§ 6–620. Validation of certain levies.

(a) Any road district tax that was authorized by the electors at an annual or special town meeting during the years 1975 through 1979 for a period not exceeding 5 years, but that was not re-authorized within 5 years after it was authorized due to Public Acts 81–779, 81–821, and 81–1509, which repealed the 5–year limitation, is hereby validated for all tax levy years subsequent to 1980 only to the extent that the authority to tax did not automatically expire after 1980.

(b) Any road district tax that was levied prior to 1980 shall not be subject to the requirements of subsection (b) of Section 30–20 of the Township Code if that tax was or is:

(i) re-authorized by the electors at an annual or special town meeting after the year 1980; and

(ii) levied at least once during the 3–year period preceding the reauthorization.

Laws 1959, p. 203, § 6–620, added by P.A. 94–692, § 10, eff. Nov. 3, 2005.

DIVISION 7. USE OF MOTOR FUEL TAX FUNDS

5/6–701. Use by road districts

§ 6–701. Motor fuel tax funds allocated for use in road districts shall be used for one or more of the purposes stated in Sections 6–701.1 through 6–701.9.

Laws 1959, p. 203, § 6–701. Amended by Laws 1959, p. 1189, § 1; Laws 1959, p. 1801, § 1; Laws 1965, p. 429, § 1; P.A. 76–375, § 1, eff. July 8, 1969; P.A. 77–734, § 1, eff. Aug. 12, 1971; P.A. 80–691, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.

5/6–701.1. Construction of township or district roads; construction of grade separations and approaches; procedure

§ 6–701.1. (a) The construction of any township or district road located within the road district.

(b) The construction of grade separations and approaches thereto which avoid or replace grade crossings at intersections of township or district roads and railroad tracks.

The highway commissioners of the several road districts, in cooperation with the county superintendent of highways of their respective counties, shall select the roads and grade separations to be constructed with motor fuel tax funds. In the selection of roads, preference shall be given to public school bus routes and rural free delivery mail routes. The county superintendent of highways, in cooperation with the respective highway commissioners, shall prepare, or cause to be prepared maps showing the roads and grade separations selected and shall prepare the necessary plans, specifications and estimates of cost of such construction, all of which shall be submitted to the Department for approval. The type of construction selected shall be adequate for present or reasonably anticipated traffic needs as determined by the county superintendent of highways and the respective highway commissioners and approved by the Department.

The construction provided for in this Section may be done by contract or day labor with county or road district equipment and forces as the county superintendent of highways and the respective highway commissioners may determine. Contracts shall be advertised for and let by the county board to the lowest responsible bidder subject to the approval of the highway commissioner and such contracts also shall be subject to approval by the Department. The construction work shall be carried on under the immediate supervision of the highway commissioner and under the general supervision of the county superintendent of highways and all work upon such projects shall be subject to approval by the Department.

In any county in which a county unit road district has been created the county superintendent of highways for such county shall perform all of the functions of a highway commissioner under this Section with respect to the district roads in such county.

Laws 1959, p. 203, § 6–701.1. Amended by P.A. 77–1628, § 1, eff. Sept. 23, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.1.

5/6–701.2. Maintenance of certain township roads, district roads and grade separations

§ 6–701.2. Maintenance of any township or district road as defined in Section 2–103 or any grade separation constructed as provided in Section 6–701.1, subject to the ap-

proval of the county superintendent of highways and the Department.

Maintenance work may be done with county or road district equipment or forces as the county superintendent of highways and the respective highway commissioners may determine. If any road or grade separation constructed in any road district as provided in this Section is not maintained in a manner satisfactory to the Department and the county, no further funds shall be expended in such road district until such road or grade separation is so maintained or provision for such maintenance is made.

Laws 1959, p. 203, § 6–701.2. Amended by Laws 1965, p. 429, § 1; P.A. 76–1822, eff. Oct. 9, 1969; P.A. 77–1628, § 1, eff. Sept. 23, 1971; P.A. 78–819, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.2.

5/6–701.3. Administration and engineering costs

§ 6–701.3. Payment of administration and engineering costs which the county superintendent of highways may incur, with the approval of the county board, to carry out his duties under the provisions of Sections 6–701.1, 6–701.2 or 6–701.4 of this Code. The administration and engineering services may be paid out of any funds available in the county treasury, but not including motor fuel tax funds advanced to the county under the provisions of Sections 5–701.1 to 5–701.7, inclusive, of this Code, and reimbursement shall be made either (1) on an actual cost basis of such administration and engineering services, or (2) on a fixed per cent of the construction or maintenance costs, such procedure and actual cost basis or per cent to be subject to approval by the Department.

Laws 1959, p. 203, § 6–701.3. Amended by Laws 1959, p. 1189, § 1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.3.

5/6–701.4. Indebtedness incurred on motor fuel tax road or grade separation; engineering costs; procedure

§ 6–701.4. With the approval of the Department, the payment of any indebtedness hereafter incurred in the construction of any road or grade separation selected under the provisions of Section 6–701.1 as a road or grade separation to be constructed under Section 6–701.1 and the payment of engineering costs incurred in connection therewith; but if the road district desires to use motor fuel tax funds for this purpose it shall follow the same procedure in expending moneys secured in the creation of the indebtedness as if the construction was to be paid for directly with motor fuel tax funds under the provisions of Section 6–701.1.

Laws 1959, p. 203, § 6–701.4. Amended by P.A. 77–1628, § 1, eff. Sept. 23, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.4.

5/6–701.5. Allocation of money to local Mass Transit Districts

§ 6–701.5. Any township may also turn over a portion of the money allotted to it to a local Mass Transit District if the township is a participating municipality in such District pursuant to the "Local Mass Transit District Act" enacted by the Seventy-first General Assembly.[1]

Laws 1959, p. 203, § 6–701.5, added by Laws 1959, p. 1801, § 1, eff. July 21, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.5.

[1] 70 ILCS 3610/1 et seq.

5/6–701.6. Payment of principal and interest of road or grade separation bonds; procedure

§ 6–701.6. With the approval of the Department of Transportation, the payment of the principal and interest on bonds issued for construction or improvement of township or district roads or grade separations located within the road district. If the road district desires to use motor fuel tax funds for this purpose it shall follow the same procedure in expending moneys secured in the creation of the indebtedness as if the construction or improvement was to be paid for directly with motor fuel tax funds under the provisions of Section 6–701.1 of this Code.

Laws 1959, p. 203, § 6–701.6, added by P.A. 76–375, § 1, eff. July 1, 1969. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 77–1628, § 1, eff. Sept. 23, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.6.

5/6–701.7. Signs or markings indicating bicycle routes

§ 6–701.7. The placement, erection and maintenance of signs or surface markings or both to indicate officially designated bicycle routes along township or district roads.

Laws 1959, p. 203, § 6–701.7, added by P.A. 77–734, § 1, eff. Aug. 12, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.7.

5/6–701.8. Use of formula allocation for township and road districts

§ 6–701.8. The formula allocation for township and road districts for the distribution of motor fuel tax funds, provided for in Section 8 in the "Motor Fuel Tax Law",[1] may be used by the highway commissioner, subject to the conditions set out in Sections 6–301, 6–701.1 and 6–701.2 as respects the methods, equipment and materials appropriate for such maintenance or improvement, and, in township counties, with the approval of the board of town trustees, for the maintenance or improvement of nondedicated subdivision roads established prior to July 23, 1959. Any such road improved becomes, by operation of law, a part of the township and district road system providing such road meets standards as established by the county. In township counties, the board of town trustees shall condition its approval, as required by this Section, upon proportional matching contributions, whether in cash, kind, services or otherwise, by property owners in the subdivision where such a road is situated. No more than the amount of the increase in allocation attributable to this amendatory Act of 1979 and any subsequent amendatory Act plus 50% of such funds otherwise allocated under the formula as provided in Section 8 in the "Motor Fuel Tax Law" and subsequently approved as provided in this Section, may be expended on eligible nondedicated subdivision roads.

Laws 1959, p. 203, § 6–701.8, added by P.A. 78–1252, § 2, eff. Dec. 4, 1974. Amended by P.A. 81–3, 2nd Sp.Sess., § 5, eff. Sept. 19, 1979; P.A. 82–783, Art. X, § 23, eff. July 13, 1982; P.A. 83–957, § 1, eff. July 1, 1984; P.A. 92–800, § 5, eff. Aug. 16, 2002.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.8.

[1] 35 ILCS 505/8.

5/6–701.9. Township's share of Great River Road projects

§ 6–701.9. The township's share of any project constructed under Section 3–104.3 of this Code.

Laws 1959, p. 203, § 6–701.9, added by P.A. 80–691, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–701.9.

5/6–702. Needs of county

§ 6–702. Payment of money to each county by the Department of Transportation for the purposes stated in Sections 6–701.1 through 6–701.8, shall be made as soon as possible after the allotment is made. Such money shall be utilized by the county in accordance with the needs of the county in a manner satisfactory to the Department.

However, if any county, after having been given reasonable notice by the Department, fails to expend motor fuel tax funds in a manner satisfactory to the Department, no further payment of motor fuel tax funds shall be made to such county for construction or maintenance purposes until it corrects its unsatisfactory use of motor fuel tax funds.

Laws 1959, p. 203, § 6–702. Amended by Laws 1959, p. 1801, § 1; Laws 1967, p. 3238, § 1; P.A. 76–372, § 1, eff. July 8, 1969; P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 78–1252, § 2, eff. Dec. 4, 1974; P.A. 78–1274, § 1, eff. July 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–702.

DIVISION 8. PROPERTY ACQUISITION AND DISPOSITION

5/6–801. Acquisition of land and property for township or district roads; eminent domain

§ 6–801. The highway commissioner may acquire any lands, rights or other property necessary for the construction, maintenance or operation of any township or district road or necessary for the locating, relocating, widening, altering, extending or straightening thereof, by purchase or gift or, if the compensation or damages cannot be agreed upon, by the exercise of the right of eminent domain under the eminent domain laws of this State. The highway commissioner shall not be required to furnish bond in any eminent domain proceeding.

Laws 1959, p. 203, § 6–801.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–801.

5/6–802. Acquisition of property necessary to straighten ditch, etc.

§ 6–802. When the highway commissioner deems it necessary to build, widen, alter, relocate or straighten any ditch, drain or watercourse in order to drain or protect any road or road structure he is authorized to construct, maintain or operate, or when he deems it necessary to acquire materials for the construction, maintenance or operation of any such road, he may acquire the necessary property, or such interest or right therein as may be required, by gift or purchase or, if the compensation or damages cannot be agreed upon, by the exercise of the right of eminent domain under the eminent domain laws of this State. The highway commissioner shall not be required to furnish bond in any eminent domain proceeding.

Laws 1959, p. 203, § 6–802.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–802.

5/6–803. Surveys; entry by commissioner on lands or waters

§ 6–803. For the purpose of making surveys and the determination of the amount of property necessary to be taken or damaged in connection with any township or district road project, the highway commissioner, his agents or employees, after notice to the owner, may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damages that may be occasioned thereby.

Laws 1959, p. 203, § 6–803.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–803.

5/6–803.1. Surplus public real estate

§ 6–803.1. Surplus public real estate. A road district may sell surplus real estate owned by the district as provided in this Section.

(a) In road districts in counties under township organization, at an annual or special township meeting the electors of the road district by resolution may authorize the sale of surplus public real estate owned by the road district. The value of the real estate shall be determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the highway commissioner or a person designated by the highway commissioner or by listing the real estate with local licensed real estate agencies (in which case the terms of the agent's compensation shall be included in the resolution). The resolution shall be published at the first opportunity following passage in a newspaper published in the road district or, if there is none, then in a newspaper published in the county in which the road district is located. The resolution shall also contain pertinent information concerning the size, use, and zoning of the real estate and the terms of sale. The highway commissioner may accept any contract proposal he determines to be in the best interest of the township, but in no event shall the real estate be sold at a price less than 80% of its appraised value.

(b) In road districts in counties not under township organization, the highway commissioner may sell surplus public real estate owned by the road district. The value of the real estate shall be determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser. The appraisal shall be available for public inspection. The sale may be conducted by the highway commissioner or a person designated by the highway commissioner or by listing the real estate with local licensed real estate agencies. A notice of the highway commissioner's intent to sell the real estate shall be published at the first opportunity in a newspaper published in the road district or, if there is none, then in a newspaper published in the county in which the road district is located. The notice shall also contain pertinent information concerning the size, use, and zoning of the real estate and the terms of sale (including the terms of the real estate agent's compensation, if applicable). The highway commissioner may accept any contract proposal he determines to be in the best interest of the road district, but in no event shall the real estate be sold at a price less than 80% of its appraised value.

Laws 1959, p. 203, § 6–803.1, added by P.A. 87–1208, § 10, eff. Jan. 1, 1993.

Formerly Ill.Rev.Stat., ch. 121, ¶ 6–803.1.

5/6–804. County unit road district; powers of county; eminent domain

§ 6–804. When in any county a county unit road district has been created, the county has the powers provided in Division 8 of Article 5 of this Code to acquire property and rights therein for district road purposes.

Laws 1959, p. 203, § 6–804.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–804.

5/6–805. Township road districts

§ 6–805. Township road districts. Township road districts may acquire the fee simple title, or any lesser interest the district desires, to any land, rights, or other property incidental to road district purposes by purchase or gift.

Laws 1959, p. 203, § 6–805, added by P.A. 90–439, § 10, eff. Aug. 16, 1997.

DIVISION 9. STATE FUNDING OF ROAD DISTRICT BRIDGES

Date Effective

Division 9 was added by P.A. 79–1491, eff. Dec. 15, 1976.

5/6–901. Annual appropriation for construction of bridges

§ 6–901. Annually, the General Assembly shall appropriate to the Department of Transportation from the road fund, the general revenue fund, any other State funds or a combination of those funds, $15,000,000 for apportionment to counties for the use of road districts for the construction of bridges 20 feet or more in length, as provided in Sections 6–902 through 6–905.

The Department of Transportation shall apportion among the several counties of this State for the use of road districts the amounts appropriated under this Section. The amount apportioned to a county shall be in the proportion which the total mileage of township or district roads in the county bears to the total mileage of all township and district roads in the State. Each county shall allocate to the several road districts in the county the funds so apportioned to the county. The allocation to road districts shall be made in the same manner and be subject to the same conditions and qualifications as are provided by Section 8 of the "Motor Fuel Tax Law", approved March 25, 1929, as amended, [1] with respect to the allocation to road districts of the amount allotted from the Motor Fuel Tax Fund for apportionment to counties for the use of road districts, but no allocation shall be made to any road district that has not levied taxes for road and bridge purposes and for bridge construction purposes at the maximum rates permitted by Sections 6–501, 6–508 and 6–512 of this Act, without referendum. "Road district" and "township or district road" have the meanings ascribed to those terms in this Act.

Road districts in counties in which a property tax extension limitation is imposed under the Property Tax Extension Limitation Law [2] that are made ineligible for receipt of this appropriation due to the imposition of a property tax extension limitation may become eligible if, at the time the property tax extension limitation was imposed, the road district was levying at the required rate and continues to levy the maximum allowable amount after the imposition of the property tax extension limitation. The road district also becomes eligible if it levies at or above the rate required for eligibility by Section 8 of the Motor Fuel Tax Law.

The amounts apportioned under this Section for allocation to road districts may be used only for bridge construction as provided in this Division. So much of those amounts as are not obligated under Sections 6–902 through 6–904 and for which local funds have not been committed under Section 6–905 within 48 months of the date when such apportionment is made lapses and shall not be paid to the county treasurer for distribution to road districts.

Laws 1959, p. 203, § 6–901, added by P.A. 79–1491, eff. Dec. 15, 1976. Amended by P.A. 81–1377, § 1, eff. Aug. 9, 1980; P.A. 90–110, § 10, eff. July 14, 1997; P.A. 96–366, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–901.

[1] 35 ILCS 505/8.

[2] 35 ILCS 200/18–185 et seq.

5/6–902. Selection of bridges; priorities; maps and specifications

§ 6–902. The highway commissioners of the several road districts, in cooperation with the county superintendent of highways of their respective counties, shall select the bridges to be constructed with moneys allocated under Section 6–901. In the selection of bridges, the highest priority shall be given to the safe and expeditious transportation of school pupils. The second priority shall be the movement of agricultural equipment and products; the third priority shall be given rural free delivery mail routes; and, the fourth priority shall be meeting the anticipated traffic needs of the general public. The county superintendent of highways, in cooperation with the respective highway commissioners, shall prepare, or cause to be prepared maps showing the bridges selected and shall prepare or cause to be prepared the necessary plans, specifications and estimates of cost of such construction, all of which shall be submitted to the Department for approval. The type of construction selected shall be adequate for present or reasonably anticipated traffic needs as determined by the county superintendent of highways and the respective highway commissioners and approved by the Department.

Laws 1959, p. 203, § 6–902, added by P.A. 79–1491, § 1, eff. Dec. 15, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–902.

5/6–903. Payment of indebtedness

§ 6–903. With the approval of the Department, a road district may use funds allocated under Section 6–901 for the payment of any indebtedness incurred after the effective date of this amendatory Act of 1976, in the construction of any bridge selected under Section 6–902 as a bridge to be constructed under Section 6–902 and the payment of engineering costs incurred in connection therewith; but if the road district desires to use such allocated funds for this purpose it shall follow the same procedure in expending moneys secured in the creation of the indebtedness as if the construction was to be paid for directly with funds under Section 6–902.

Laws 1959, p. 203, § 6–903, added by P.A. 79–1491, § 1, eff. Dec. 15, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–903.

5/6–904. Notice of allotment; unsatisfactory use of funds

§ 6–904. The Department of Transportation shall notify the county superintendent of highways of each county of the apportionment and allotment under Section 6–901 for the purposes stated in Sections 6–901, 6–902 and 6–903, as soon

as possible after the allotment is made. Any payment made pursuant to such apportionment may be utilized by the county in accordance with the needs of the county in a manner satisfactory to the Department. However, if any county, after having been given reasonable notice by the Department, fails to expend such funds in a manner satisfactory to the Department, no further payment of such funds shall be made to such county for bridge construction purposes until it corrects its unsatisfactory use of such funds.

Laws 1959, p. 203, § 6–904, added by P.A. 79–1491, § 1, eff. Dec. 15, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–904.

5/6–905. Local contribution for eligibility

§ 6–905. The amount of grant for an approved road district project shall require at least $1 of local funds committed to the project for each $4 that may be allocated under Section 6–901.

Laws 1959, p. 203, § 6–905, added by P.A. 79–1491, § 1, eff. Dec. 15, 1976. Amended by P.A. 81–1377, § 1, eff. Aug. 9, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–905.

5/6–906. Payment to county treasurer

§ 6–906. So much of the amount apportioned to a county under Section 6–901 that is obligated under Sections 6–902 through 6–904 and for which local funds have been committed under Section 6–905, within 4 years from the date the apportionment is made, shall, upon certification by the Department, be paid to the county treasurer, who shall apply those funds to the payment of such obligations. Any funds allocated to a county under Section 6–901 that are not obligated within 48 months under Sections 6–902 through 6–904 shall revert to the Road Fund.

Laws 1959, p. 203, § 6–906, added by P.A. 79–1491, § 1, eff. Dec. 15, 1976. Amended by P.A. 81–1377, § 1, eff. Aug. 9, 1980; P.A. 84–1308, Art. III, § 64, eff. Aug. 25, 1986; P.A. 98–244, § 5, eff. Aug. 9, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 6–906.

ARTICLE 7. MUNICIPAL ADMINISTRATION OF STREETS

DIVISION 1. GENERAL POWERS

5/7–101. Streets and alleys; laying out, etc.; extensions

§ 7–101. Streets and alleys, including bridges and other structures, which are or will become part of the municipal street system may be laid out, established, constructed, reconstructed, altered, widened, relocated, improved, maintained, repaired and vacated by the respective municipalities in the manner provided in the Illinois Municipal Code, as heretofore or hereafter amended;[1] provided that the Department and counties may locate and extend State and county highways into or through a municipality in the manner provided in this Code. In addition to the powers granted to municipalities by the Illinois Municipal Code, municipalities have powers granted and duties imposed by this Code.

Laws 1959, p. 203, § 7–101. Amended by Laws 1961, p. 1415, § 1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–101.

[1] 65 ILCS 5/1–1–1 et seq.

DIVISION 2. USE OF MOTOR FUEL TAX FUNDS

5/7–202. Use by municipalities

§ 7–202. Motor fuel tax funds allotted to the several municipalities shall be used for one or more of the purposes stated in Sections 7–202.1 through 7–202.22.

Laws 1959, p. 203, § 7–202. Amended by Laws 1959, p. 1801, § 1; Laws 1961, p. 3663, § 1; Laws 1965, p. 427, § 1; Laws 1967, p. 393, § 1; P.A. 76–180, § 1, eff. July 1, 1969; P.A. 76–375, § 1, eff. July 8, 1969; P.A. 76–2258, § 1, eff. July 1, 1970; P.A. 85–1010, § 3, eff. March 2, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.

5/7–202.1. Construction and maintenance of State highways; maintenance of federal secondary highways

§ 7–202.1. The construction and maintenance of State highways in the municipality, or the maintenance of federal secondary highways.

Laws 1959, p. 203, § 7–202.1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.1.

5/7–202.1a. Construction and maintenance of county highways

§ 7–202.1a. The construction and maintenance of county highways and county highway extensions in the municipality.

Laws 1959, p. 203, § 7–202.1a, added by Laws 1963, p. 967, § 1. Amended by Laws 1965, p. 427, § 1, eff. July 1, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.1a.

5/7–202.1b. Construction and maintenance of type II or federal aid urban system streets

§ 7–202.1b. Construction and maintenance of any municipal street designated as a part of the federal aid primary, or the federal aid urban system of streets within the municipality.

Laws 1959, p. 203, § 7–202.1b, added by P.A. 76–189, § 1, eff. July 1, 1969. Amended by P.A. 77–1409, § 1, eff. Aug. 31, 1971; P.A. 85–1010, § 3, eff. March 2, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.1b.

5/7–202.1c. Reconstruction, maintenance, repair or improvement of non-arterial residential streets; municipalities over 500,000

§ 7–202.1c. Twenty-five percent of all funds received pursuant to the Motor Fuel Tax Law[1] by municipalities over 500,000 population shall be expended only for the reconstruction, maintenance, repair or improvement of non-arterial residential streets.

Laws 1959, p. 203, § 7–202.1c, added by P.A. 83–12, § 3.1, eff. Jan. 1, 1984. Amended by P.A. 83–1363, § 1, eff. Sept. 11, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.1c.

[1] 35 ILCS 505/1 et seq.

5/7–202.2. Construction and maintenance of municipal streets and alleys

§ 7–202.2. The construction and maintenance of municipal streets and alleys as may be designated by the corporate authorities and approved by the Department.

Laws 1959, p. 203, § 7–202.2. Amended by P.A. 76–371, § 1, eff. July 8, 1969; P.A. 78–1274, § 1, eff. July 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.2.

5/7–202.3. Construction and maintenance of extensions of municipal streets outside corporate limits

§ 7–202.3. The construction and maintenance of extensions of municipal streets outside the corporate limits of the municipality, including parts of such streets that extend into another municipality if such construction and maintenance is done pursuant to an agreement between the municipalities.

Laws 1959, p. 203, § 7–202.3. Amended by P.A. 76–371, § 1, eff. July 8, 1969; P.A. 78–1252, § 2, eff. Dec. 4, 1974; P.A. 78–1274, § 1, eff. July 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.3.

5/7–202.4. Construction and maintenance of extensions of municipal streets within park district

§ 7–202.4. The construction and maintenance of extensions of municipal streets within the corporate limits of any park district whose territorial limits are coterminous with the territorial limits of the municipality.

Laws 1959, p. 203, § 7–202.4. Amended by P.A. 76–371, § 1, eff. July 8, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.4.

5/7–202.5. Construction or maintenance on municipal streets of automatic traffic signals and school crossing signals

§ 7–202.5. The construction or maintenance, or both, on municipal streets on which such construction is authorized by law, of:

(a) Official traffic control signals, or

(b) Permanently mounted school crossing signals meeting the warrants and conforming to the specifications contained in the Manual authorized by Section 11–301 of The Illinois Vehicle Code [1].

Laws 1959, p. 203, § 7–202.5. Amended by P.A. 76–180, § 1, eff. July 1, 1969; P.A. 76–371, § 1, eff. July 8, 1969; P.A. 76–2257, § 1, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.5.

[1] 625 ILCS 5/11–301.

5/7–202.6. Construction or maintenance of street lighting systems; municipal streets; county highways; state highways

§ 7–202.6. The construction, reconstruction, maintenance and operation of street lighting systems on improved municipal streets, county highways or State highways and streets or thoroughfares constructed and paid for by special assessments levied under Division 2 of Article 9 of the Illinois Municipal Code, as heretofore or hereafter amended,[1] within the municipality, where such improvement has been authorized by the Department.

Laws 1959, p. 203, § 7–202.6. Amended by Laws 1961, p. 1415, § 1; P.A. 76–371, § 1, eff. July 8, 1969; P.A. 79–418, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.6.

[1] 65 ILCS 5/9–2–1 et seq.

5/7–202.7. Construction or maintenance of storm sewers; municipal streets; county highways; state highways

§ 7–202.7. The construction or maintenance of storm sewers and appurtenances thereto, or combination storm and sanitary sewers and appurtenances thereto where legally authorized, on municipal streets, county highways or State highways, within the municipality or outside the municipality to the nearest suitable drainage course.

Laws 1959, p. 203, § 7–202.7. Amended by P.A. 76–371, § 1, eff. July 8, 1969; P.A. 79–539, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.7.

5/7–202.8. Construction and maintenance of pedestrian subways or overhead crossings; municipal streets; county highways; state highways

§ 7–202.8. The construction, reconstruction and maintenance of pedestrian subways or over head crossings under or over municipal streets, county highways or State highways in the municipality; provided the Department finds that traffic conditions warrant such construction, reconstruction or maintenance.

Laws 1959, p. 203, § 7–202.8. Amended by P.A. 76–371, § 1, eff. July 8, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.8.

5/7–202.10. Payment of municipality's share of federal aid transportation project

§ 7–202.10. The payment of the municipality's share, not to exceed 50%, of the cost of any federal aid transportation project either now existing or hereafter established within the corporate limits of the municipality, which payments shall be used to match funds allotted to the State for the construction of those federal aid transportation projects .

Laws 1959, p. 203, § 7–202.10. Amended by P.A. 88–580, § 5, eff. Jan. 1, 1995.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.10.

5/7–202.11. Investigations, etc.

§ 7–202.11. The payment for investigations requisite to determine the reasonably anticipated need for any of the work described in this Division. Such investigations may include, but shall not be limited to, the making of traffic surveys, the study of transportation facilities, research concerning the development of the several areas within the municipality and contiguous territory as affected by growth and changes in population and economic activity and the collection and review of data relating to all factors affecting the judicious planning of construction, reconstruction, improvement and maintenance of highways. The investigations for which any such payments are made may also be conducted in cooperation with other municipalities, counties, the State of Illinois, the United States, other states of the United States, agencies of any such governments or other persons in pursuance of agreements to share the costs thereof and authority to enter into such agreements is hereby conferred upon municipalities.

Laws 1959, p. 203, § 7–202.11.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.11.

5/7–202.12. Engineering costs

§ 7–202.12. The payment of engineering costs in connection with all work described in this Division of this Code.

The municipality may contract for such services with any Professional Engineer.

Laws 1959, p. 203, § 7–202.12. Amended by P.A. 77–1371, § 1, eff. Aug. 31, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.12.

5/7–202.13. Municipal indebtedness

§ 7–202.13. The payment of any municipal indebtedness which has been or may be incurred in the completion of any improvement or maintenance described in this Division, or in the payment of engineering costs in connection therewith.

Laws 1959, p. 203, § 7–202.13.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.13.

5/7–202.14. Allocation of money to local Mass Transit Districts

§ 7–202.14. Any municipality may by ordinance of the corporate authorities turn over a portion of its allotment to:

(a) a local Mass Transit District if the municipality created such a District pursuant to the "Local Mass Transit District Act", approved July 21, 1959, as now or hereafter amended; [1]

(b) a local Transit Commission if the municipality established such commission pursuant to Section 14–101 of The Public Utilities Act; [2] or

(c) the Chicago Transit Authority established pursuant to the "Metropolitan Transit Authority Act", approved April 12, 1945, as now or hereafter amended.[3]

Laws 1959, p. 203, § 7–202.14, added by Laws 1959, p. 1801, § 1. Amended by P.A. 76–808, § 1, eff. Aug. 18, 1969; P.A. 85–1209, Art. III, § 3–131, eff. Aug. 30, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.14.

[1] 70 ILCS 3610/1 et seq.

[2] 220 ILCS 5/14–101.

[3] 70 ILCS 3605/1 et seq.

5/7–202.15. Construction, maintenance or repair of sidewalks or other pedestrian paths

§ 7–202.15. The construction, maintenance, or repair of sidewalks or other pedestrian paths located within the right of way of any street in the municipality.

Laws 1959, p. 203, § 7–202.15, added by Laws 1961, p. 3663, § 1, eff. Aug. 19, 1961. Amended by P.A. 88–580, § 5, eff. Jan. 1, 1995.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.15.

5/7–202.16. Construction of toll bridges; feasibility studies; bonds

§ 7–202.16. The payment for engineering studies for and studies to determine the feasibility of constructing a toll bridge to cross a river within this State or forming a border between this and another State. If bonds are issued for construction of such a toll bridge, however, the proceeds from the sale of those bonds shall first be applied to return to the motor fuel tax funds the amount of the payment made under this Section.

Laws 1959, p. 203, § 7–202.16, added by Laws 1967, p. 393, § 1, eff. July 1, 1967.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.16.

5/7–202.17. Off street parking facilities

§ 7–202.17. Any municipality may also by ordinance use motor fuel tax funds to acquire property for the purpose of providing off street parking and to construct and maintain such parking areas. Any revenue derived from the use of those parking lots shall, however, be used to maintain those lots before motor fuel tax funds may be used for such maintenance. Any surplus funds received from parking lots may also be used to acquire, construct and maintain additional parking areas as needed. Surplus funds not needed for these purposes shall be used to reimburse the motor fuel tax account for funds originally advanced.

Laws 1959, p. 203, § 7–202.16, added by Laws 1967, p. 3573, § 1. Renumbered § 7–202.17 and amended by Laws 1968, p. 408, § 1, eff. July 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.17.

5/7–202.18. Payment of principal and interest on street bonds

§ 7–202.18. The payment of the principal and interest on bonds issued for construction or improvement of highways within the municipality.

Laws 1959, p. 203, § 7–202.18, added by P.A. 76–375, § 1, eff. July 8, 1969. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 77–1628, § 1, eff. Sept. 23, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.18.

5/7–202.19. Motor vehicle safety inspection lanes

§ 7–202.19. Any municipality may also by ordinance use motor fuel tax funds for operation and maintenance of motor vehicle safety inspection lanes, when such lanes are of a permanent nature and in operation on a regular basis throughout the year.

Laws 1959, p. 203, § 7–202.18, added by P.A. 76–1542, § 1, eff. Sept. 22, 1969. Renumbered § 7–202.19 and amended by P.A. 76–2258, § 1, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.19.

5/7–202.20. Use of funds for bicycles

§ 7–202.20. Any municipality may also by ordinance use motor fuel tax funds to place, erect, and maintain signs or surface markings or both to indicate officially designated bicycle routes along streets within the municipality. In addition, a municipality may use motor fuel tax funds for the construction and maintenance of bicycle paths, lanes, or bicycle parking facilities within the municipality.

Laws 1959, p. 203, § 7–202.20, added by P.A. 77–734, § 1, eff. Aug. 12, 1971. Amended by P.A. 88–580, § 5, eff. Jan. 1, 1995.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.20.

5/7–202.21. Construction and maintenance of grade separations and approaches

§ 7–202.21. The construction and maintenance of grade separations and approaches thereto which replace or avoid grade crossings at intersections of municipal streets and railroad tracks.

Laws 1959, p. 203, § 7–202.20, added by P.A. 77–1628, § 1, eff. Sept. 23, 1971. Renumbered § 7–202.21 by P.A. 77–1849, § 1, eff. July 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.21.

5/7–202.21a. Motor fuel tax funds; maintenance or improvement of nondedicated subdivision roads

§ 7–202.21a. The formula allocation for municipalities for the distribution of motor fuel tax funds, provided for in Section 8 in the "Motor Fuel Tax Law",[1] may be used by the municipal authority for the maintenance or improvement of nondedicated subdivision roads established prior to July 23, 1959. Any such improved road becomes, by operation of law, a part of the municipal street system of such municipality. The municipal authority shall condition its approval, as required by this Section, upon proportional matching contributions, whether in cash, kind, services or otherwise, by property owners in the subdivision where such a road is situated. No more than the amount of the increase in allocation of such funds allocated under the formula as provided in Section 8 in the "Motor Fuel Tax Law" which is attributable to this amendatory Act and any subsequent amendatory Act and subsequently approved as provided in this Section, may be expended on eligible nondedicated subdivision roads.

Laws 1959, p. 203, § 7–202.21a, added by P.A. 83–957, § 1, eff. July 1, 1984. Amended by P.A. 86–447, § 3, eff. Aug. 30, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.21a.

[1] 35 ILCS 505/8.

5/7–202.22. Increase of allocation in formula for distribution of motor fuel tax funds

§ 7–202.22. If the formula for the distribution of motor fuel tax funds, provided for in Section 8 of the "Motor Fuel Tax Law", approved March 25, 1929, as amended,[1] is changed from that in effect on January 1, 1974, so that the percentage allocated for use in municipalities is increased, the amount of any such increase received by a municipality having 500,000 or more inhabitants shall be expended only for the construction, reconstruction, or improvement of unimproved or partially improved non-arterial residential streets.

Laws 1959, p. 203, § 7–202.22, added by P.A. 78–1252, § 2, eff. Dec. 4, 1974.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–202.22.

[1] 35 ILCS 505/8.

5/7–203. Ordinances; priority; bids; contracts; department approval; inspection

§ 7–203. The corporate authorities of the municipality shall from time to time pass ordinances or resolutions stating specifically the purpose or purposes for which motor fuel tax funds shall be used and such ordinances or resolutions shall be subject to the approval of the Department.

In case motor fuel tax funds are to be used for construction, the ordinance or resolution shall specify the location, type or types, length and width of the proposed construction and the portion of the construction for which these funds are to be used, which portion, subject to the approval of the Department, may be part or all as the municipality may elect. Such construction shall be either with or without continuous grade separation, and of such type and not to exceed such width as is required, in the judgment of the municipality and the Department, to care for traffic and parking needs. When the ordinance or resolution has been approved by the Department, the municipality may cause surveys, plans, specifications and estimates of such construction to be made and submitted to the Department for approval.

Whenever the corporate authorities or a municipality determine that any construction consisting of paving, repaving, altering, opening, widening or otherwise improving any such streets or State highways shall be performed and that a portion of the cost thereof shall be raised by the assessment of property specially benefited, the construction shall be performed pursuant to Division 2 of Article 9 of the Illinois Municipal Code, as now or hereafter amended;[1] provided that, as between 2 State highway projects or between 2 municipal street projects or between any other 2 projects of the same designation, so far as practicable, priority in the allocation of motor fuel tax funds received from the State shall be given the project for which a portion of the cost is to be raised by assessment of property specially benefited.

The municipality may advertise for bids and let contracts for all construction to the lowest responsible bidder; or, with the approval of the Department, may do the work itself through its officers, agents and employees. No contract shall be let without the approval of the Department, nor shall bids be advertised for until the surveys, plans, specifications and estimates have been approved by the Department. All work shall be performed in accordance with the approved ordinances or resolutions, plans, specifications, and contracts, as the case may be, and the Department shall inspect the work to such degree as may be necessary to insure compliance with this provision.

Laws 1959, p. 203, § 7–203. Amended by Laws 1961, p. 1415, § 1; P.A. 76–371, § 1, eff. July 8, 1969; P.A. 77–1371, § 1, eff. Aug. 31, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–203.

[1] 65 ILCS 5/9–2–1 et seq.

5/7–203.1. Motor fuel tax highway programs; submission to department; advertisement of construction contract; special assessments

§ 7–203.1. The corporate authorities of the municipality may adopt ordinances or resolutions outlining a motor fuel tax highway program for the ensuing year which shall include all proposed uses of motor fuel tax funds by the municipality for the purposes permitted in Section 7–202, in a format established by the Department in cooperation with the municipalities.

The program shall be submitted by the municipality to the Department. The uses of motor fuel tax funds as listed in the program are subject to the approval of the Department. The program may be amended from time to time by the corporate authorities of the municipality by ordinance or resolution which shall be submitted to the Department.

The municipality, with the approval of the Department, may do the work itself through its officers, agents, and employees. No advertisement to receive construction contract bids shall be made until surveys, plans, and estimates have been approved by the Department except as provided in Section 7–203.2.

Whenever the corporate authorities of a municipality determine that any construction consisting of paving, repaving, altering, opening, widening or otherwise improving any such streets or State highways shall be performed and that a portion of the cost thereof shall be raised by the assessment of property specially benefited, the construction shall be performed pursuant to Division 2 of Article 9 of the Illinois Municipal Code, as now or hereafter amended.[1] However, as between 2 State highway projects or between 2 municipal street projects or between any other 2 projects of the same designation, so far as practicable, priority in the allocation of

motor fuel tax funds received from the State shall be given the project for which a portion of the cost is to be raised by assessment of property specially benefited.

Laws 1959, p. 203, § 7–203.1, added by P.A. 77–1371, § 1, eff. Aug. 31, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–203.1.

[1] 65 ILCS 5/9–2–1 et seq.

5/7–203.2. Authority of municipality to construct and maintain streets or highways; conditions

§ 7–203.2. The municipality shall also have the authority upon the Department satisfying itself that (1) the municipality has complied with the requirements of Section 7–301, and (2) has appointed a full time city or public engineer and (3) that the city or public engineer's office in the municipality is adequately organized, staffed, equipped and financed to discharge satisfactorily the duties and requirements of this Section to construct and maintain streets or highways or sections of highways when such projects are financed, in whole or in part, with any motor fuel tax street or road funds received from the State except Federal-aid funds, without the approval and supervision of the Department, provided the municipality enters into an agreement of understanding with the Department. The Department, in cooperation with the municipality, shall establish the terms of the agreement of understanding to assure that the funds are expended within the intent of the law and under the rules and regulations deemed necessary by the Department. The approval and supervision of the Department may be required anew if the Department deems that the municipality, which was exempted from such supervision and approval, has not satisfactorily complied with the terms of the agreement of understanding.

Laws 1959, p. 203, § 7–203.2, added by P.A. 77–1371, § 1, eff. Aug. 31, 1971.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–203.2.

5/7–204. Needs of municipality

§ 7–204. Payment of motor fuel tax funds by the Department of Transportation to the municipality for the purposes stated in Sections 7–202.1 through 7–202.22 shall be made as soon as possible after the allotment is made. Such money shall be utilized by the municipality in accordance with the needs of the municipality in a manner satisfactory to the Department.

However, if any municipality, after having been given reasonable notice by the Department fails to expend motor fuel tax funds in a manner satisfactory to the Department or fails to have construction contracts approved by the Department, no further payment of motor fuel tax funds shall be made to such municipality for construction or maintenance purposes until it corrects its unsatisfactory use of motor fuel tax funds or secures approval of construction contracts by the Department.

Laws 1959, p. 203, § 7–204. Amended by Laws 1959, p. 1801, § 1; Laws 1967, p. 3238, § 1; P.A. 76–372, § 1, eff. July 8, 1969; P.A. 77–173, § 1, eff. Jan. 1, 1972; P.A. 77–1157, § 1, eff. Aug. 17, 1971; P.A. 77–2829, § 58, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 85–1010, § 3, eff. March 2, 1988.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–204.

DIVISION 3. PLANNING AND PROGRAMMING

5/7–301. Municipal long-range planning

§ 7–301. In order to properly plan the utilization of motor fuel tax funds each municipality of over 5,000 population shall be required to develop and update a 20 year long-range highway transportation plan. The plan shall contain an estimate of revenues which will become available during that period and a statement of intention with respect to the construction, maintenance, and other related work to be done insofar as it is possible to make such estimates. In addition, the long-range plan shall show the location of existing municipal streets and the general corridors of future highways, the projected future traffic usage on each street for a 20 year period, a tabulation showing the design standards and the geometric features associated with different levels of traffic usage, and a listing of the major improvements anticipated within 5 years of the date of each plan. A copy of the plan shall be filed with the County Superintendent of Highways in the county or counties in which the municipality is located and with the Secretary of the Department of Transportation. The initial plan shall be on file with the designated agencies by July 1, 1971 and shall be updated on an annual basis thereafter.

Laws 1959, p. 203, § 7–301, added by P.A. 76–376, § 1, eff. July 8, 1969. Amended by P.A. 77–173, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 7–301.

ARTICLE 8. FREEWAYS

5/8–101. Establishment and regulation

§ 8–101. The Department, the county board of any county, or the corporate authorities of any municipality are hereby authorized, when the safety and convenience of highway traffic will be promoted and the public interest subserved thereby, to designate and establish any existing or proposed highway under each of their respective jurisdiction and control and for the maintenance of which any one of which aforesaid governmental authorities is or will be wholly responsible as a freeway, and to plan, locate, relocate, construct, reconstruct, maintain, alter, improve, vacate and regulate the use of such freeway in the same manner as they now are or hereafter may be authorized by law relating to highways under their respective jurisdiction and control. The Department, the county board of any county, or the corporate authorities of any municipality are further authorized to include in the foregoing freeway designation such related portions of intersecting highways, roads, streets and other public ways not under their jurisdiction and control and for the maintenance of which they are not wholly responsible, as require such designation to promote the safety and convenience of highway traffic.

Laws 1959, p. 203, § 8–101. Amended by Laws 1965, p. 978, § 1, eff. July 1, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–101.

5/8–102. Access by abutting owners; easements

§ 8–102. When an existing highway has been designated and established as a freeway as provided in this Article, no owner of or person having interest in land abutting such freeway shall lay out, provide or construct any new means or enlarge or extend any existing means of ingress to or egress from said abutting land from or to the freeway except upon written consent of the Department, any county board or the corporate authorities of any municipality, as the case may be,

and the Department, county board, or the corporate authorities of any municipality, as the case may be, shall have full authority to deny their respective consent or to specify and enforce the terms and conditions under which new means of ingress or egress may be provided or existing means enlarged or extended. The Department, the county board, or the corporate authorities of any municipality, as the case may be, shall also have authority to extinguish by purchase or condemnation any existing rights or easements of access, crossing, light, air or view to, from or over the freeway vested in abutting land, in the same manner as the Department, county board, or corporate authorities of any municipality now is or hereafter may be authorized by law to acquire private property and property rights in connection with highways under their respective jurisdiction and control.

Laws 1959, p. 203, § 8–102.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–102.

5/8–103. Acquisition of property

§ 8–103. When a proposed highway is designated and established as a freeway as provided in this Article, the Department, the county board, or the corporate authorities of any municipality shall have the right to acquire by purchase or condemnation, in the manner the Department, county board, or corporate authorities of any municipality now is or hereafter may be authorized by law, all property and property rights necessary for the location, construction, maintenance and use of such freeway, including any rights or easements of access, crossing, light, air or view to, from or over the freeway vested in property not so taken and abutting the freeway. However, the Department, county board, or corporate authorities of any municipality, as the case may be, may designate by agreement or stipulation points at which access will be permitted from the abutting property to the freeway and specify and enforce the terms and conditions thereof.

Laws 1959, p. 203, § 8–103.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–103.

5/8–104. Severing of tract; crossing permitted

§ 8–104. Whenever property held under one ownership is severed by a freeway, the Department, the county board, or the corporate authorities of any municipality, as the case may be, may grant a limited or restricted easement permitting crossing of the freeway at a designated location and under specified terms and conditions to be used solely for passage from one severed tract to the other. If such severed tracts at any time cease to be held under one ownership, the Department, county board, or corporate authorities of any municipality, as the case may be, may terminate and revoke such easement.

Laws 1959, p. 203, § 8–104.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–104.

5/8–105. Local service drives

§ 8–105. In connection with the development of any freeway, the Department, the county board, or the corporate authorities of any municipality, as the case may be, is authorized, when traffic conditions justify, to lay out and construct local service drives or to designate existing highways or streets as local service drives to provide access to the freeway from adjacent areas at entrances provided for that purpose by the Department, county board, or the corporate authorities of any municipality or to provide access to any existing highway, road, street, alley or other public way from adjacent areas. Such local service drives shall be of appropriate design and construction and shall be separated from the freeway by parkways, curbs or other effective devices.

Laws 1959, p. 203, § 8–105. Amended by Laws 1965, p. 2825, § 1, eff. Aug. 9, 1965.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–105.

5/8–106. Elimination of highway crossings

§ 8–106. When as a result of an engineering and traffic study it is determined that it is necessary to traffic safety and convenience, the Department, or county board of any county may:

(a) Relocate the crossing or junction at grade of the freeway with any existing highway, road, street, alley or other public way or eliminate such crossing or junction at grade by carrying such public way over or under the freeway or by connecting it to a local service drive and may relocate or alter any such intersecting public ways in such manner as is necessary thereto. The Department, or county board, shall have the right to acquire by purchase or condemnation, in the manner the Department or county board now is, or hereafter may be authorized by law, all property and property rights necessary for such relocations and grade separations. The Department, and the county board is authorized to maintain, or to enter into maintenance agreements with the agencies having jurisdiction over the public ways prior to said relocation, for the public ways so relocated; or

(b) Eliminate the crossing or junction at grade of the freeway with any existing highway, road, street, alley or other public way by closing such public way at its intersection with the boundary of the freeway subject to the following conditions:

(1) Where the freeway is not a part of the National System of Interstate and Defense Highways or is not a highway where the authority to control access has been exercised to permit access only at certain selected public roads, by agreement with the county, road district, municipality or other authority having jurisdiction over the public way to be closed; or

(2) Where the freeway is a part of the National System of Interstate and Defense Highways or is a highway where the authority to control access has been exercised to permit access only at certain selected public roads, the Department and county board may close such public way, but only after holding a public hearing, in the county where the crossing or junction at grade is situated, at which hearing the needs of local traffic and the effect of such closing on other highways in the locality shall be considered. Such hearing shall be held prior to the preparation of final construction plans, but only after reasonable notice has been given, and shall be conducted in accordance with rules and regulations prescribed by the Department. No crossings shall be eliminated which shall unduly discommode or interfere with local traffic, or will destroy reasonable access to schools, churches, markets, trade or community centers, and all crossings not eliminated shall be grade separated with the through traffic lanes of the interstate highway or the highway where the authority to control access has been exercised to permit access only at certain selected public roads. If the closing of a public way, as herein provided, makes it necessary to construct a new or additional highway connection to serve the public need, the Department and county board shall construct such connection. When property is damaged by the closing of any public way, the damage shall be ascertained and paid as provided by law.

Laws 1959, p. 203, § 8–106. Amended by P.A. 76–181, § 1, eff. July 1, 1969.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–106.

5/8–107. New highway intersections or crossings; consent

§ 8–107. No new highway or other public way shall be opened into or connect with or be carried over or under any freeway until and unless the Department, the county board, or the corporate authorities of any municipality, as the case may be, consents thereto in writing, and the Department, county board, or the corporate authorities of any municipality, as the case may be, may give or withhold their respective consent or fix such terms and conditions as will best subserve the public interest.

Laws 1959, p. 203, § 8–107.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–107.

5/8–107.1. Telephone service within rights-of-way of fully controlled access highways

§ 8–107.1. Subject to regulations prescribed by the Department, county board, or the corporate authorities of any municipality, as the case may be, such highway authority may issue permits to a telephone company for the establishment of telephone service within the rights-of-way of fully controlled access highways at points where proper access to and from the main traveled lanes has been established, and where such facilities are necessary to the safety and welfare of the highway users.

Laws 1959, p. 203, § 8–107.1, added by Laws 1959, p. 1799, § 1, eff. July 21, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–107.1.

5/8–108. Continuation of existing freeways

§ 8–108. Any highway which prior to the effective date of this Code was a freeway shall continue to be a freeway under the provisions of this Article.

Laws 1959, p. 203, § 8–108.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–108.

5/8–109. Cumulative powers

§ 8–109. The provisions of this Article are cumulative and shall be considered as conferring additional powers on the Department, the county board of any county, or the corporate authorities of any municipality and not as limitations upon powers now exercised by the Department, county board, or corporate authorities of any municipality with respect to highways under their respective jurisdiction and control.

Laws 1959, p. 203, § 8–109.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 8–109.

ARTICLE 9. GENERAL HIGHWAY PROVISIONS

5/9–101. Cooperative agreements among governmental agencies

§ 9–101. Nothing in this Code shall prevent the execution of cooperative agreements among governmental agencies.

Any municipality may negotiate an agreement with the Department whereby the municipality may use such funds as are available to it for that purpose for the construction or maintenance of a State highway within its boundaries or with the corporate authority of a county or road district for the construction or maintenance of a highway on the county highway system or township or district road system outside of its municipal boundaries.

The county board may negotiate an agreement with the Department whereby the county may use such funds as are available to it for that purpose for the construction or maintenance of a highway on the State highway system or with a municipality for the construction or maintenance of streets on the municipal street system of such municipality.

Laws 1959, p. 203, § 9–101.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–101.

5/9–101.1. Drainage construction or improvement; stormwater detention requirements

§ 9–101.1. Whenever the proper highway authority is about to construct or improve the drainage structures of a State highway, county highways, or county unit district road, the highway authority shall meet and consult with the authorities of any municipality adjacent to or through which such highway or road runs. The purpose of such meetings is to work out an agreement with such municipality and all other interested agencies and units of local government as to the extent of such drainage construction or improvement.

If a county or State highway, in a county of under 1,000,000 population, adjoins a parcel of land proposed to be subdivided, the subdivider of the parcel shall notify the proper highway authority in writing of the proposed subdivision and provide the proper local authority that would approve the subdivision a copy of the notice. The notice shall request of the proper highway authority its need to have provided, at the cost of the highway authority or as otherwise provided by law, additional capacity in any stormwater detention facility to be constructed in the subdivision for the future availability of the highway authority for meeting the stormwater detention requirements of any future public construction on the highway. The highway authority shall within 30 days of receipt of the written notice provide written information to the proper local authority relative to the request. The parties may then work out by agreement the extent of the inclusion of those stormwater detention needs, if any, in the subdivision. The proper highway authority may provide to the subdivider any funds generally available for highway construction to provide for the highway authority's proportionate share of the design of the stormwater detention and the proportionate share of the cost of the property required for the stormwater detention including the impact of density changes on said parcel as the parties may agree within 60 days of the reply to the notice issued by the highway authority. In the event that the parties are not able to reach agreement within the 60 days the parcel may be subdivided as may be approved by the proper local authority without the inclusion of said stormwater detention needs identified by the highway authority.

Laws 1959, p. 203, § 9–101.1, added by P.A. 77–718, § 1, eff. Aug. 12, 1971. Amended by P.A. 88–79, § 5, eff. Jan. 1, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–101.1.

5/9–101.5. Standardized electronic toll collection systems

§ 9–101.5. Standardized electronic toll collection systems. The General Assembly finds that electronic toll collection systems in Illinois should be standardized to promote safety, efficiency, and traveler convenience. The Department shall cooperate with the Illinois State Toll Highway Authority and with other public and private entities to further the goal of standardized toll collection in Illinois. If electronic toll collection is used on any highway constructed or maintained by

the Department or by a private entity pursuant to an agreement with the Department, the Department shall require the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority. The Department may enter into an intergovernmental agreement with the Illinois State Toll Highway Authority to provide for such compatibility or to have the Authority provide electronic toll collection or toll violation enforcement services.

Laws 1959, p. 203, § 9–101.5, added by P.A. 97–252, § 5, eff. Aug. 4, 2011.

5/9–102. Keeping vehicles off highways during construction or repairs; erection of signs

§ 9–102. The proper highway authorities are authorized to keep vehicles of every kind off the public highways where necessary to properly construct or repair the same.

Whenever any public highway including any bridge or culvert thereon is being constructed or repaired, the highway authorities having such work in charge shall, when they deem it necessary, erect or cause to be erected at such points as they deem desirable, suitable barriers, with signs thereon, stating that such highway is closed.

Such authorities shall also erect or cause to be erected at such places as they deem best, detour signs directing travel around such construction or repair work.

Such signs and barricades shall conform to the Manual of Uniform Traffic Control Devices adopted by the Department.

Laws 1959, p. 203, § 9–102. Amended by Laws 1961, p. 3509, § 1, eff. Aug. 18, 1961; P.A. 90–513, § 2, eff. Aug. 22, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–102.

5/9–103. Removal or possession of control device or sign; penalty

§ 9–103. Removal or possession of control device or sign; penalty. Whenever a highway has been closed as provided in Section 9–102 or wherever traffic control devices or signs have been erected on any public highway as provided under this Code it is unlawful for any person to remove or knowingly possess any such barrier, traffic control device or sign, or to deface or injure the same, or to walk, ride or drive upon any part of such highway so closed, except such persons as are duly authorized to do so.

Whoever knowingly violates the provisions of this Section shall be guilty of a Class A misdemeanor, punishable by a fine of at least $500, as well as any other penalty which may be imposed. In addition thereto, such person convicted shall be held liable for any and all damages caused to such highway, including, but not limited to, any bridge or culvert work, traffic control device or sign, by reason of such violation.

The highway authorities or their duly authorized agents in direct charge of the work, are authorized to exercise in their respective jurisdictions, all the common law and statutory powers conferred upon sheriffs, and such highway authorities, or their duly authorized agents in direct charge of the work aforesaid, shall arrest without process any person who violates the provisions of this Section, and in so doing they shall be held to be acting for the State.

Any person or persons so arrested shall be delivered by the person making the arrest to some judge, sheriff, or police officer at some station or place within the county in which the offense was committed, for trial, according to law.

Laws 1959, p. 203, § 9–103. Amended by Laws 1961, p. 2818, § 1; Laws 1965, p. 356, § 1; P.A. 77–1265, § 1, eff. Aug. 24, 1971; P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 83–672, § 2, eff. Jan. 1, 1984; P.A. 88–673, § 5, eff. July 1, 1995.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–103.

5/9–104. Corner stones

§ 9–104. In grading highways corner stones marking sectional or other corners shall not be disturbed, except to lower such stones so that they will not rise above the surface of the highway. If a corner stone is covered to a depth greater than 12 inches or is covered with a highway surfacing material other than road oil, the location of the corner stone shall be preserved by setting a suitable monument over the stone which shall be level with the highway surface or by setting at least 3 offset monuments in locations where they will not be disturbed. When any corner stone is lowered or when a monument is set over a stone or when offset monuments are set it shall be done in the presence of and under the supervision of a Registered Illinois Land Surveyor who shall record the type and location of the reference monuments with respect to the corner stone in the office of the recorder in the county in which such stone is located.

Laws 1959, p. 203, § 9–104.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–104.

5/9–105. Entrance culverts

§ 9–105. In constructing a public highway, if a ditch is made at the junction of highways, or at the entrance of gates or other openings of adjoining premises, the highway authorities shall construct good and sufficient culverts or other convenient crossings. New entrance culverts or crossings or additions to existing entrance culverts or crossings along an existing public highway or street where there is a ditch may be made with the consent of the highway authorities, provided the applicant for such entrance culvert or crossing constructs at the applicant's expense a good and sufficient culvert or other convenient crossing of the type and size specified by the highway authorities, which structure shall then become the property of the public.

Laws 1959, p. 203, § 9–105.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–105.

5/9–106. Oiling of roadways; protection of intersecting all-weather highways

§ 9–106. Wherever a highway, driveway, parking lot or other area open to traffic that has been freshly treated with road oil, liquid asphalt or similar material intersects with or is otherwise located or partially located within 300 feet of a durable all-weather highway of any type except gravel or crushed stone, the highway authorities or any person responsible for applying such material shall cause such freshly treated highway, driveway, parking lot or other such area to be barricaded or covered with crushed aggregate or other suitable cover material so that traffic will not carry the fresh road oil, liquid asphalt or similar material onto the travel ways of the durable all-weather highway.

Laws 1959, p. 203, § 9–106. Amended by P.A. 76–181, § 1, eff. July 1, 1969; P.A. 80–528, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–106.

5/9–107. Tile drains; contract with owners or occupants of adjoining lands

§ 9–107. Whenever the highway authorities are about to lay a tile drain along any public highway the highway authorities may contract with the owners or occupants of adjoining lands to lay larger tile than would be necessary to drain the highway, and permit connection therewith by such contracting parties to drain their lands.

Laws 1959, p. 203, § 9–107. Amended by Laws 1961, p. 2815, § 1, eff. Aug. 4, 1961; P.A. 94–59, § 5, eff. June 17, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–107.

5/9–108. Willow hedges; public nuisance

§ 9–108. Where willow hedges, or a line of willow trees have been planted along the margin of a highway, so as to render tiling impracticable, the highway authority having jurisdiction of such highway may contract with the owner for their destruction; and they shall be destroyed before tiling. The planting of such hedges or trees hereafter on the margin of highways is declared to be a public nuisance.

Laws 1959, p. 203, § 9–108.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–108.

5/9–109. Capacity of bridges or culverts; violations

§ 9–109. It is unlawful to construct any bridge or culvert upon any ravine, creek, drainage ditch or river upon a public highway in this State unless such bridge or culvert shall have the capacity of sustaining highway traffic with safety.

Any person who violates the provisions of this Section shall be guilty of a petty offense.

The fact that any such bridge or culvert does not conform with the specifications of the Department in effect at the time when the contract for such bridge or culvert is let, is prima facie evidence that the bridge or culvert does not have the capacity of sustaining highway traffic with safety.

Laws 1959, p. 203, § 9–109. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–109.

5/9–110. Patented articles; use for constructing or maintaining public highways, etc.

§ 9–110. Any article, material or process covered by a patent granted by the United States government may be specified and used for constructing or maintaining any public highway if such specifications are drawn so as to provide for an alternative method or methods of construction or maintenance so that competition may be had between different types of materials answering the same general purpose.

Laws 1959, p. 203, § 9–110.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–110.

5/9–111. Weed control; penalty

§ 9–111. The highway authorities shall annually, at the proper season, to prevent the spread of noxious weeds as defined in the "Illinois Noxious Weed Law", approved August 17, 1971, as amended,[1] destroy or cause to be destroyed, all such noxious weeds growing upon public highways under their respective jurisdictions. The highway authorities shall seasonably mow or manage all weeds and other vegetation growing along the highways under their respective jurisdictions.

Any highway officer failing to comply with the provisions of this Section shall be guilty of a petty offense and shall be liable to a fine of not less than $10 nor more than $25 for each season in which he neglects such requirements.

Laws 1959, p. 203, § 9–111. Amended by P.A. 76–695, § 1, eff. Aug. 7, 1969; P.A. 77–60, § 1, eff. July 1, 1971; P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 83–333, § 69, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–111.

[1] 505 ILCS 100/1 et seq.

5/9–111.1. Streams and culverts; removal of driftwood and other accumulations

§ 9–111.1. The highway authorities shall from time to time inspect the bridges and culverts on the public highways and streets under their respective jurisdictions which span streams and watercourses and shall remove driftwood and other materials accumulated within the right of way at such structures which obstruct the free flow of either low or high water. Any general funds, and any forces and equipment available for maintenance of the public highways or streets may be used for the removal of such accumulated material.

Laws 1959, p. 203, § 9–111.1, added by Laws 1961, p. 2627, § 1, eff. Aug. 2, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–111.1.

5/9–112. Obstructions at grade crossings; signs or signals

§ 9–112. At all grade crossings of public highways with railroads outside the corporate limits of any municipality, the highway authority having jurisdiction of such highways shall remove, or cause to be removed from the highway all removable obstructions to view at such grade crossings, such as unauthorized signs and billboards, brush and shrubbery, and shall trim, or cause to be trimmed, all hedges and trees upon the highway for a distance of not less than 300 feet from each side of such crossings.

No person shall place, or cause to be placed, any sign or signal on a public highway within a distance of 300 feet of any grade crossing, except official traffic control devices authorized in an Act in relation to the regulation of traffic, approved July 9, 1935, as now or hereafter amended,[1] any signs or signals required by law or the Illinois Commerce Commission for the protection of such crossings.

Any person who violates any of the provisions of this Section shall be guilty of a petty offense and fined not less than $10 nor more than $100 for each offense.

Laws 1959, p. 203, § 9–112. Amended by Laws 1959, p. 2047, § 1; Laws 1961, p. 2818, § 1; Laws 1963, p. 1454, § 1; Laws 1965, p. 1289, § 1; P.A. 76–793, § 1, eff. Aug. 15, 1969; P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–112.

[1] Former Ill.Rev.Stat. ch. 95½, ¶ 114 (repealed).

5/9–112.1. Billboards or advertising

§ 9–112.1. No person shall place or cause to be placed any sign or billboard or any advertising of any kind or description upon any State highway or on any other highway outside the corporate limits of any municipality except as may be required by this Code or "The Illinois Vehicle Code", as now or hereafter amended.[1] This provision also shall apply to signs, billboards, or any other advertising upon any bridge, other structure, wire, cable, or other device, over or above such highway, whether constructed by the Department or others except signs designating the name of the railroad

and the clearance provided. This Section does not prohibit or prevent any public utility from placing upon, above, below or near any of its facilities any signs or markers giving notice of the existence, identification or location of such facilities located upon or adjacent to any such highway. Such signs or markers shall be limited in size and shape to the minimum necessary consistent with the safety of the public in accordance with rules and regulations as promulgated by the Department.

Any person who violates any of the provisions of this Section shall be guilty of a petty offense and fined not less than $10 nor more than $100 for each offense.

Laws 1959, p. 203, § 9–112.1, added by P.A. 76–793, § 1, eff. Aug. 15, 1969. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 81–840, § 49, eff. Sept. 19, 1979.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–112.1.

[1] 625 ILCS 5/1–100 et seq.

5/9–112.2. Signs, billboards and advertising similar to traffic control signs or devices prohibited; oscillating, rotating or flashing lights prohibited

§ 9–112.2. No person shall place, or cause to be placed upon or in view of any public highway any sign or billboard or any advertising of any kind or description which in wording, color or shape is similar to official traffic control signs or other official traffic control devices erected by the proper authority having jurisdiction over such highway in compliance with the Manual of Uniform Traffic Control Devices for Streets and Highways, as now or hereafter adopted by the Department.

No person shall place, or cause to be placed upon any building or other structure, within 200 feet of any public highway, oscillating, rotating or flashing lights which are of such intensity, when illuminated, to be visible at any time from such highway. This prohibition does not apply to a pole-supported business or brand identification sign with constant illumination and color and in which the only movement is a slow rotation of the entire body of the sign so as to be visible from all directions. This prohibition does not apply to airport lights.

Any person who violates any of the provisions of this Section shall be guilty of a petty offense and fined not less than $10 nor more than $100 for each offense.

Laws 1959, p. 203, § 9–112.2, added by P.A. 76–793, § 1, eff. Aug. 15, 1969. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 77–2624, § 1, eff. Oct. 1, 1972; P.A. 78–255, § 51, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–112.2.

5/9–112.3. Shelters for public transportation passengers

§ 9–112.3. Shelters for the convenience and comfort of persons waiting for buses or other public transportation may be placed and maintained within the right of way of any street or highway, including right of way for streets and highways within municipalities, after a license or permit for the shelter and location is obtained from the highway authority having jurisdiction. Placement and location of shelters on any street or highway within a municipality shall be subject to the approval of the corporate authorities of such municipality. The owners may place advertising on the shelters if authorized by the license or permit, provided, however, that no political advertising shall be placed on any shelter on any street or highway at any time and further provided that advertising on shelters shall be limited to one-third of the vertical surface of the shelter. Shelters shall not be placed or maintained on that portion of the right of way designed and used for vehicle traffic and further shall not be so placed as to impair the street or highway or interfere with the free and safe flow of traffic.

Laws 1959, p. 203, § 9–112.3, added by P.A. 81–436, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–112.3.

5/9–112.4. Signs located over sidewalks inside municipal corporate limits; removal

§ 9–112.4. Signs on a State highway right of way located over sidewalks inside the corporate limits of a municipality that do not interfere with vehicular or pedestrian traffic, as determined by Department rule, shall not be removed by the Department.

Laws 1959, p. 203, § 9–112.4, added by P.A. 88–286, § 5, eff. Jan. 1, 1994.

5/9–112.5. Signs, billboards, and advertising in commuter parking lots

§ 9–112.5. Signs, billboards, and advertising in commuter parking lots. Signs, billboards, and advertising, placed in a publicly owned and operated commuter parking lot servicing public transportation and adjoined on 2 sides by interstate highways, that do not interfere with vehicular or pedestrian traffic, as determined by Department rule, shall not be removed by the Department.

Laws 1959, p. 203, § 9–112.5, added by P.A. 89–319, § 5, eff. Jan. 1, 1996.

5/9–113. Use by public utility company; consent; rules, regulations and specifications; non-toll federal-aid fully access-controlled state highways

§ 9–113. (a) No ditches, drains, track, rails, poles, wires, pipe line or other equipment of any public utility company, municipal corporation or other public or private corporation, association or person shall be located, placed or constructed upon, under or along any highway, or upon any township or district road, without first obtaining the written consent of the appropriate highway authority as hereinafter provided for in this Section.

(b) The State and county highway authorities are authorized to promulgate reasonable and necessary rules, regulations, and specifications for highways for the administration of this Section. In addition to rules promulgated under this subsection (b), the State highway authority shall and a county highway authority may adopt coordination strategies and practices designed and intended to establish and implement effective communication respecting planned highway projects that the State or county highway authority believes may require removal, relocation, or modification in accordance with subsection (f) of this Section. The strategies and practices adopted shall include but need not be limited to the delivery of 5 year programs, annual programs, and the establishment of coordination councils in the locales and with the utility participation that will best facilitate and accomplish the requirements of the State and county highway authority acting under subsection (f) of this Section. The utility participation shall include assisting the appropriate highway authority in establishing a schedule for the removal, relocation, or modification of the owner's facilities in accordance with subsection (f) of this Section. In addition, each

utility shall designate in writing to the Secretary of Transportation or his or her designee an agent for notice and the delivery of programs. The coordination councils must be established on or before January 1, 2002. The 90 day deadline for removal, relocation, or modification of the ditches, drains, track, rails, poles, wires, pipe line, or other equipment in subsection (f) of this Section shall be enforceable upon the establishment of a coordination council in the district or locale where the property in question is located. The coordination councils organized by a county highway authority shall include the county engineer, the County Board Chairman or his or her designee, and with such utility participation as will best facilitate and accomplish the requirements of a highway authority acting under subsection (f) of this Section. Should a county highway authority decide not to establish coordination councils, the 90 day deadline for removal, relocation, or modification of the ditches, drains, track, rails, poles, wires, pipe line, or other equipment in subsection (f) of this Section shall be waived for those highways.

(c) In the case of non-toll federal-aid fully access-controlled State highways, the State highway authority shall not grant consent to the location, placement or construction of ditches, drains, track, rails, poles, wires, pipe line or other equipment upon, under or along any such non-toll federal-aid fully access-controlled State highway, which:

(1) would require cutting the pavement structure portion of such highway for installation or, except in the event of an emergency, would require the use of any part of such highway right-of-way for purposes of maintenance or repair. Where, however, the State highway authority determines prior to installation that there is no other access available for maintenance or repair purposes, use by the entity of such highway right-of-way shall be permitted for such purposes in strict accordance with the rules, regulations and specifications of the State highway authority, provided however, that except in the case of access to bridge structures, in no such case shall an entity be permitted access from the through-travel lanes, shoulders or ramps of the non-toll federal-aid fully access-controlled State highway to maintain or repair its accommodation; or

(2) would in the judgment of the State highway authority, endanger or impair any such ditches, drains, track, rails, poles, wires, pipe lines or other equipment already in place; or

(3) would, if installed longitudinally within the access control lines of such highway, be above ground after installation except that the State highway authority may consent to any above ground installation upon, under or along any bridge, interchange or grade separation within the right-of-way which installation is otherwise in compliance with this Section and any rules, regulations or specifications issued hereunder; or

(4) would be inconsistent with Federal law or with rules, regulations or directives of appropriate Federal agencies.

(d) In the case of accommodations upon, under or along non-toll federal-aid fully access-controlled State highways the State highway authority may charge an entity reasonable compensation for the right of that entity to longitudinally locate, place or construct ditches, drains, track, rails, poles, wires, pipe line or other equipment upon, under or along such highway. Such compensation may include in-kind compensation.

Where the entity applying for use of a non-toll federal-aid fully access-controlled State highway right-of-way is a public utility company, municipal corporation or other public or private corporation, association or person, such compensation shall be based upon but shall not exceed a reasonable estimate by the State highway authority of the fair market value of an easement or leasehold for such use of the highway right-of-way. Where the State highway authority determines that the applied-for use of such highway right-of-way is for private land uses by an individual and not for commercial purposes, the State highway authority may charge a lesser fee than would be charged a public utility company, municipal corporation or other public or private corporation or association as compensation for the use of the non-toll federal-aid fully access-controlled State highway right-of-way. In no case shall the written consent of the State highway authority give or be construed to give any entity any easement, leasehold or other property interest of any kind in, upon, under, above or along the non-toll federal-aid fully access-controlled State highway right-of-way.

Where the compensation from any entity is in whole or in part a fee, such fee may be reasonably set, at the election of the State highway authority, in the form of a single lump sum payment or a schedule of payments. All such fees charged as compensation may be reviewed and adjusted upward by the State highway authority once every 5 years provided that any such adjustment shall be based on changes in the fair market value of an easement or leasehold for such use of the non-toll federal-aid fully access-controlled State highway right-of-way. All such fees received as compensation by the State highway authority shall be deposited in the Road Fund.

(e) Any entity applying for consent shall submit such information in such form and detail to the appropriate highway authority as to allow the authority to evaluate the entity's application. In the case of accommodations upon, under or along non-toll federal-aid fully access-controlled State highways the entity applying for such consent shall reimburse the State highway authority for all of the authority's reasonable expenses in evaluating that entity's application, including but not limited to engineering and legal fees.

(f) Any ditches, drains, track, rails, poles, wires, pipe line, or other equipment located, placed, or constructed upon, under, or along a highway with the consent of the State or county highway authority under this Section shall, upon written notice by the State or county highway authority be removed, relocated, or modified by the owner, the owner's agents, contractors, or employees at no expense to the State or county highway authority when and as deemed necessary by the State or county highway authority for highway or highway safety purposes. The notice shall be properly given after the completion of engineering plans, the receipt of the necessary permits issued by the appropriate State and county highway authority to begin work, and the establishment of sufficient rights-of-way for a given utility authorized by the State or county highway authority to remain on the highway right-of-way such that the unit of local government or other owner of any facilities receiving notice in accordance with this subsection (f) can proceed with relocating, replacing, or reconstructing the ditches, drains, track, rails, poles, wires, pipe line, or other equipment. If a permit application to relocate on a public right-of-way is not filed within 15 days of the receipt of final engineering plans, the notice precondition of a permit to begin work is waived. However, under no circumstances shall this notice provision be construed to require the State or any government department or agency to purchase additional rights-of-way to accommodate utilities. If, within 90 days after receipt of such written notice, the ditches, drains, track, rails, poles, wires, pipe line, or other equipment have not been removed, relocated, or modified to the reasonable satisfaction of the State or county highway

authority, or if arrangements are not made satisfactory to the State or county highway authority for such removal, relocation, or modification, the State or county highway authority may remove, relocate, or modify such ditches, drains, track, rails, poles, wires, pipe line, or other equipment and bill the owner thereof for the total cost of such removal, relocation, or modification. The scope of the project shall be taken into consideration by the State or county highway authority in determining satisfactory arrangements. The State or county highway authority shall determine the terms of payment of those costs provided that all costs billed by the State or county highway authority shall not be made payable over more than a 5 year period from the date of billing. The State and county highway authority shall have the power to extend the time of payment in cases of demonstrated financial hardship by a unit of local government or other public owner of any facilities removed, relocated, or modified from the highway right-of-way in accordance with this subsection (f). This paragraph shall not be construed to prohibit the State or county highway authority from paying any part of the cost of removal, relocation, or modification where such payment is otherwise provided for by State or federal statute or regulation. At any time within 90 days after written notice was given, the owner of the drains, track, rails, poles, wires, pipe line, or other equipment may request the district engineer or, if appropriate, the county engineer for a waiver of the 90 day deadline. The appropriate district or county engineer shall make a decision concerning waiver within 10 days of receipt of the request and may waive the 90 day deadline if he or she makes a written finding as to the reasons for waiving the deadline. Reasons for waiving the deadline shall be limited to acts of God, war, the scope of the project, the State failing to follow the proper notice procedure, and any other cause beyond reasonable control of the owner of the facilities. Waiver must not be unreasonably withheld. If 90 days after written notice was given, the ditches, drains, track, rails, poles, wires, pipe line, or other equipment have not been removed, relocated, or modified to the satisfaction of the State or county highway authority, no waiver of deadline has been requested or issued by the appropriate district or county engineer, and no satisfactory arrangement has been made with the appropriate State or county highway authority, the State or county highway authority or the general contractor of the building project may file a complaint in the circuit court for an emergency order to direct and compel the owner to remove, relocate, or modify the drains, track, rails, poles, wires, pipe line, or other equipment to the satisfaction of the appropriate highway authority. The complaint for an order shall be brought in the circuit in which the subject matter of the complaint is situated or, if the subject matter of the complaint is situated in more than one circuit, in any one of those circuits.

(g) It shall be the sole responsibility of the entity, without expense to the State highway authority, to maintain and repair its ditches, drains, track, rails, poles, wires, pipe line or other equipment after it is located, placed or constructed upon, under or along any State highway and in no case shall the State highway authority thereafter be liable or responsible to the entity for any damages or liability of any kind whatsoever incurred by the entity or to the entity's ditches, drains, track, rails, poles, wires, pipe line or other equipment.

(h) Except as provided in subsection (h–1), upon receipt of an application therefor, consent to so use a highway may be granted subject to such terms and conditions not inconsistent with this Code as the highway authority deems for the best interest of the public. The terms and conditions required by the appropriate highway authority may include but need not be limited to participation by the party granted consent in the strategies and practices adopted under subsection (b) of this Section. The petitioner shall pay to the owners of property abutting upon the affected highways established as though by common law plat all damages the owners may sustain by reason of such use of the highway, such damages to be ascertained and paid in the manner provided by law for the exercise of the right of eminent domain.

(h–1) With regard to any public utility, as defined in Section 3–105 of the Public Utilities Act, engaged in public water or public sanitary sewer service that comes under the jurisdiction of the Illinois Commerce Commission, upon receipt of an application therefor, consent to so use a highway may be granted subject to such terms and conditions not inconsistent with this Code as the highway authority deems for the best interest of the public. The terms and conditions required by the appropriate highway authority may include but need not be limited to participation by the party granted consent in the strategies and practices adopted under subsection (b) of this Section. If the highway authority does not have fee ownership of the property, the petitioner shall pay to the owners of property located in the highway right-of-way all damages the owners may sustain by reason of such use of the highway, such damages to be ascertained and paid in the manner provided by law for the exercise of the right of eminent domain. The consent shall not otherwise relieve the entity granted that consent from obtaining by purchase, condemnation, or otherwise the necessary approval of any owner of the fee over or under which the highway or road is located, except to the extent that no such owner has paid real estate taxes on the property for the 2 years prior to the grant of the consent. Owners of property that abuts the right-of-way but who acquired the property through a conveyance that either expressly excludes the property subject to the right-of-way or that describes the property conveyed as ending at the right-of-way or being bounded by the right-of-way or road shall not be considered owners of property located in the right-of-way and shall not be entitled to damages by reason of the use of the highway or road for utility purposes, except that this provision shall not relieve the public utility from the obligation to pay for any physical damage it causes to improvements lawfully located in the right-of-way. Owners of abutting property whose descriptions include the right-of-way but are made subject to the right-of-way shall be entitled to compensation for use of the right-of-way. If the property subject to the right-of-way is not owned by the owners of the abutting property (either because it is expressly excluded from the property conveyed to an abutting property owner or the property as conveyed ends at or is bounded by the right-of-way or road), then the petitioner shall pay any damages, as so calculated, to the person or persons who have paid real estate taxes for the property as reflected in the county tax records. If no person has paid real estate taxes, then the public interest permits the installation of the facilities without payment of any damages. This provision of this amendatory Act of the 93rd General Assembly is intended to clarify, by codification, existing law and is not intended to change the law.

(i) Such consent shall be granted by the Department in the case of a State highway; by the county board or its designated county superintendent of highways in the case of a county highway; by either the highway commissioner or the county superintendent of highways in the case of a township or district road, provided that if consent is granted by the highway commissioner, the petition shall be filed with the commissioner at least 30 days prior to the proposed date of the beginning of construction, and that if written consent is not given by the commissioner within 30 days after receipt of the petition, the applicant may make written application to

the county superintendent of highways for consent to the construction. This Section does not vitiate, extend or otherwise affect any consent granted in accordance with law prior to the effective date of this Code to so use any highway.

(j) Nothing in this Section shall limit the right of a highway authority to permit the location, placement or construction or any ditches, drains, track, rails, poles, wires, pipe line or other equipment upon, under or along any highway or road as a part of its highway or road facilities or which the highway authority determines is necessary to service facilities required for operating the highway or road, including rest areas and weigh stations.

(k) Paragraphs (c) and (d) of this Section shall not apply to any accommodation located, placed or constructed with the consent of the State highway authority upon, under or along any non-toll federal-aid fully access-controlled State highway prior to July 1, 1984, provided that accommodation was otherwise in compliance with the rules, regulations and specifications of the State highway authority.

(*l*) Except as provided in subsection (l–1), the consent to be granted pursuant to this Section by the appropriate highway authority shall be effective only to the extent of the property interest of the State or government unit served by that highway authority. Such consent shall not be binding on any owner of the fee over or under which the highway or road is located and shall not otherwise relieve the entity granted that consent from obtaining by purchase, condemnation or otherwise the necessary approval of any owner of the fee over or under which the highway or road is located. This paragraph shall not be construed as a limitation on the use for highway or road purposes of the land or other property interests acquired by the public for highway or road purposes, including the space under or above such right-of-way.

(*l*–1) With regard to any public utility, as defined in Section 3–105 of the Public Utilities Act, engaged in public water or public sanitary sewer service that comes under the jurisdiction of the Illinois Commerce Commission, the consent to be granted pursuant to this Section by the appropriate highway authority shall be effective only to the extent of the property interest of the State or government unit served by that highway authority. Such consent shall not be binding on any owner of the fee over or under which the highway or road is located but shall be binding on any abutting property owner whose property boundary ends at the right-of-way of the highway or road. For purposes of the preceding sentence, property that includes a portion of a highway or road but is subject to the highway or road shall not be considered to end at the highway or road. The consent shall not otherwise relieve the entity granted that consent from obtaining by purchase, condemnation or otherwise the necessary approval of any owner of the fee over or under which the highway or road is located, except to the extent that no such owner has paid real estate taxes on the property for the 2 years prior to the grant of the consent. This provision is not intended to absolve a utility from obtaining consent from a lawful owner of the roadway or highway property (i.e. a person whose deed of conveyance lawfully includes the property, whether or not made subject to the highway or road) but who does not pay taxes by reason of Division 6 of Article 10 of the Property Tax Code. This paragraph shall not be construed as a limitation on the use for highway or road purposes of the land or other property interests acquired by the public for highway or road purposes, including the space under or above such right-of-way.

(m) The provisions of this Section apply to all permits issued by the Department of Transportation and the appropriate State or county highway authority.

Laws 1959, p. 203, § 9–113. Amended by Laws 1959, p. 1799, § 1; Laws 1961, p. 3757, § 1; Laws 1963, p. 966, § 1; Laws 1965, p. 1416, § 1; P.A. 76–188, § 1, eff. July 1, 1969; P.A. 80–895, § 1, eff. Oct. 1, 1977; P.A. 83–1363, § 1, eff. Sept. 11, 1984; P.A. 85–540, § 1, eff. Jan. 1, 1988; P.A. 92–470, § 5, eff. Jan. 1, 2002; P.A. 93–357, § 5, eff. Jan. 1, 2004.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–113.

5/9–113.01. Repair of damage caused by utilities; local government

§ 9–113.01. Except when otherwise provided for by contract, permit or ordinance, a unit of local government having jurisdiction over streets or roads may repair damage to any such streets or roads caused by a public or private utility and bill the utility for the cost thereof if the utility fails to complete such repairs within 30 days after receipt of written notice from the unit of local government that such repairs must be made. Primary responsibility for such repairs shall remain with the utility.

As used in this Section, "unit of local government" means a county, municipality, township or other unit designated as a unit of local government by law.

Laws 1959, p. 203, § 9–113.01, added by P.A. 81–1377, § 1, eff. Aug. 9, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–113.01.

5/9–113.02. Damage to State-owned or local government-owned roadway property

§ 9–113.02. Damage to State-owned or local government-owned roadway property. Any agency or instrumentality of the State of Illinois or unit of local government may seek recovery for the cost of the repair or replacement of damaged or destroyed roadway property. As used in this Section, "roadway property" includes road safety equipment and emergency equipment. Depreciation may not be used as a factor in determining the cost of the damaged or destroyed roadway property for which recovery is sought.

Laws 1959, p. 203, § 113.02, added by P.A. 93–793, § 5, eff. July 22, 2004. Amended by P.A. 97–373, § 5, eff. Jan. 1, 2012.

5/9–113.1. Commercial establishments within right-of-way, etc.; solicitation of donations at courtesy rest stop; vending machines in safety rest areas

§ 9–113.1. (a) Except as otherwise provided in Sections 4–201.19 and 8–107.1 of this Code and in subsection (b) of this Section, and except to the extent authorized in "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Authority, and to define its powers and duties, to make an appropriation in conjunction therewith", approved August 7, 1967, as amended,[1] no commercial establishment for serving motorists or highway users shall be constructed or located within the right-of-way of, or on publicly-owned or publicly-leased land acquired or used for or in connection with a highway. Nothing in this Act shall affect or impair the application of Sections 4–210 and 4–211 of the Illinois Highway Code, as now or hereafter amended to that portion of any highway where the rights of direct private access thereto generally from abutting property have not been extinguished by due process.

Nothing in this Code shall prohibit the solicitation of donations or contributions by a local nonprofit organization at a courtesy rest stop which has been established by that organization. A courtesy rest stop is a temporary facility, locally sponsored, to encourage safety only on nationally recognized holidays by promoting a "refreshment break" for motorists. The courtesy rest stop must be conducted for the express purpose of improving the safety of highway travel and not primarily as an advertisement for any organization or other activity.

All courtesy rest stop activity shall be conducted completely within existing safety rest areas located on freeways or other State highways and only on those days recognized as national holidays. Before granting authorization to establish a courtesy rest area, the Department shall determine that sufficient parking in the safety rest area or stop is available without requiring vehicles to stop or park on any ramp or other surface used for the movement of vehicles. The refreshments and any other service offered must be free of charge to the motorists. However, solicitation of free-will donations or contributions shall be permitted. The Department shall cooperate with the sponsoring organizations in the establishment of courtesy rest stops.

(b) The Department may permit the placement and operation of vending machines in safety rest areas constructed or located on rights-of-way of non-toll fully access controlled State highways. The Department shall adopt rules and regulations governing the type of services provided, location and operation of machines, and all other aspects necessary to provide the best public service consistent with federal and State statutes. The Department, when allowing for the installation of vending machines, shall provide for the operation of such facilities through the Department of Human Services, which is the State licensing agency designated pursuant to Section 2(a)(5) of the federal Randolph–Sheppard Vending Stand Act of June 20, 1936 (49 Stat. 1559, Title 20, Sections 107–107F). The Department of Human Services shall assign licensed blind vendors to operate these vending facilities. However, if, after notification to all licensed blind vendors of the availability of a particular site, none is interested in operating that site, the Department of Human Services may contract for the operation of that site by a private contractor. Any income, after deduction for cost of items, labor and a negotiated percentage of profit, shall accrue to the Department of Human Services for the exclusive benefit of the vending facilities for the blind program or other programs of rehabilitation and training for the blind administered by the Department of Human Services. The Department of Human Services shall periodically notify licensed blind vendors of the availability of such contractually operated sites and make them available to interested licensed blind vendors.

(c) The Department of Transportation may not charge the operators of vending facilities for any portion of the cost of rest area maintenance or oversight services provided by its employees prior to the effective date of this amendatory Act of 1985. The Department shall not require the vending machine operators to perform any services other than those related to servicing and operating the approved vending machines.

Laws 1959, p. 203, § 9–113.1, added by Laws 1959, p. 1799, § 1. Amended by P.A. 77–1158, § 1, eff. Aug. 17, 1971; P.A. 78–377, § 1, eff. Oct. 1, 1973; P.A. 78–516, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 43, eff. March 4, 1975; P.A. 81–840, § 49, eff. Sept. 19, 1979; P.A. 84–843, § 1, eff. Jan. 1, 1986; P.A. 84–959, § 1, eff. Sept. 25, 1985; P.A. 84–1308, Art. II, § 166, eff. Aug. 25, 1986; P.A. 89–507, Art. 90, § 90E–27, eff. July 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–113.1.

[1] 605 ILCS 10/1 et seq.

5/9–114. Right of owner to make crossing; costs

§ 9–114. Any person owning, using, or occupying lands on both sides of any public highway has the privilege of making a crossing under the highway for the purpose of letting his cattle and other domestic animals across such highway. However, such person shall erect at his own expense, a good and substantial bridge, with good railings on each side thereof, and build an embankment, of easy grade, on either side of the bridge. The bridge shall be not less than 16 feet wide, and be approved by the appropriate highway authorities having jurisdiction of such public highway. The bridge shall be kept constantly in good repair by the owner or occupant of the land, the construction subject always to the consent and approval of such appropriate highway authorities.

In case such crossing is made on any waterway or natural channel for water and where a culvert or bridge is maintained as required for highway purposes, the owners or occupants shall not be required to pay for or construct any more of the crossings than the additional cost of such crossing over and above the necessary cost of a suitable culvert or bridge for highway purposes at such place.

Laws 1959, p. 203, § 9–114.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–114.

5/9–115. Excavation or removal of lateral support; deposit of spoil from excavations; violations

§ 9–115. It is unlawful for any person to excavate or remove or cause the excavation or removal of the lateral support within a distance of 10 feet plus one and one-half times the depth of any excavation adjacent to the established right-of-way of any public highway located outside the corporate limits of any municipality, except that if any of the excavated materials be of solid rock, the depth of such solid rock shall not be considered in computing the limit of excavation from such right-of-way line of such public highway.

It is unlawful for any person to deposit spoil or cause the spoil from any excavation to be deposited in such a manner that the toe of such spoil will be nearer than 20 feet to any established right-of-way of any public highway located outside the corporate limits of any municipality.

Whenever any person violates or causes the foregoing provisions of this Section to be violated, he shall be guilty of a petty offense for each day such violation occurs and until such unlawful excavation is backfilled or unlawful spoil banks are removed, either by the offenders or by the public authorities as provided hereinafter in this Section.

Where any such violation occurs along any public highway the proper highway authority having jurisdiction of that particular highway is authorized to take the necessary steps as required by law to enter upon the property where such violation occurs and backfill or cause to be backfilled the unlawful excavation or remove or cause to be removed the unlawful spoil banks, whichever case it may be, or both, in such a manner as will conform with the foregoing provisions of this Section, and the costs of such work, together with court costs, may be recovered from such violators in the circuit court in the county where such violation occurred.

Nothing in this Section shall prohibit the construction and maintenance of grade separation crossings of any public utility, private corporation or individuals, or in any way conflict with any other laws governing such grade separations; nor shall the provisions of this Section in any way apply to pipe line construction or maintenance where such work is done to the satisfaction of the highway authorities having jurisdiction over such public highway; nor to the excavation of earth necessary for the construction of foundations or basement walls.

Laws 1959, p. 203, § 9–115. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 83–345, § 82, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–115.

5/9–115.1. Unlawful activities; drainage facilities; earthen berms

§ 9–115.1. It is unlawful for any person to construct or cause to be constructed any drainage facility for the purpose of the detention or retention of water within a distance of 10 feet plus one and one-half times the depth of any drainage facility adjacent to the right-of-way of any public highway without the written permission of the highway authority having jurisdiction over the public highway.

It is unlawful for any person to construct or cause to be constructed any earthen berm such that the toe of such berm will be nearer than 10 feet to the right-of-way of any public highway without the written permission of the highway authority having jurisdiction over the public highway.

Laws 1959, p. 203, § 9–115.1, added by P.A. 86–616, § 1, eff. Jan. 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–115.1.

5/9–116. Hedge fences; trimming; violations

§ 9–116. The owner of any hedge fence growing along the right-of-way line of any public highway shall during the year next after such hedge has obtained the age of 7 years and during each year thereafter, trim such hedge fence to a height not exceeding 5 feet, except for Osage hedge which shall be trimmed annually after the second year from the first trimming to a height not exceeding 4 feet, and the owner shall trim all such hedges on the road side so that foliage will not extend over the right-of-way line for a distance in excess of 4 feet. All such trimming so required shall be done prior to October first.

The highway authority having jurisdiction over the highway, upon application of the owner of a farm, may permit such owner to grow a hedge fence to any desired height for a distance not to exceed one-fourth the total length of the hedge fence along the highway to serve as a windbreak for livestock. Such permit is revocable at any time.

The provisions of this Section do not apply to any hedge protecting either an orchard or a building.

Any failure or refusal to comply with the provisions of this Section is a petty offense and is punishable by a fine of not less than $10 nor more than $50 for each year of such failure or refusal.

Laws 1959, p. 203, § 9–116. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–116.

5/9–117. Injuring or obstructing highways

§ 9–117. If any person injures or obstructs a public highway by felling a tree or trees in, upon or across the same, or by placing or leaving any other obstruction thereon, or encroaching upon the same with any fence, or by plowing or digging any ditch or other opening thereon, or by turning a current of water so as to saturate, wash or damage the same, or by plowing in or across or on the slopes of the side gutters or ditches, or by placing any material in such ditches, or in any way interfering with the free flow of water therein, or leaves the cuttings of any hedge thereon for more than 10 days, without the permission of the highway authority having jurisdiction over such highway, he shall be guilty of a petty offense and fined for every such offense not less than $50 nor more than $500; and in case of placing any obstruction on the highway, an additional sum of not exceeding $50 per day for every day he allows such obstruction to remain after he has been ordered to remove it by the highway authority having jurisdiction over such highway. Any person feeling himself aggrieved or any such highway authority may make a complaint under this Section.

The highway authority having jurisdiction over such highway, after having given 10 days' notice to the owners of the obstruction or person so obstructing, or plowing, or digging ditches upon such highway or interfering with the free flow of water in the side gutters or ditches, of the obstruction, plowing or digging of ditches, interfering with drainage, or of the encroachment of any fence, may remove any such fence or other obstruction, fill up any ditch or excavation except ditches necessary to the drainage of an adjoining farm emptying into a ditch upon the highway, or regrade such side gutters or ditches, and recover the necessary cost of such removal or filling of any such ditch or excavation, or regrading of such side gutters or ditches from such owner or other person obstructing or damaging such highway aforesaid, to be collected by the highway authority having jurisdiction of the highway whereon such offense was committed. Any such cost recovered shall be deposited in the road fund of the political division having jurisdiction over the highway adjudged to have been obstructed or injured, and shall be used only for maintenance or construction of public highways under the jurisdiction of that division.

The 10 day notice requirement of this Section is not required for any obstruction to traffic flow including nonadherence to the provisions of a permit issued by the highway authority having jurisdiction under Section 4–209, 5–413, or 9–113 of this Code.

However, this section shall not apply to any person who shall lawfully fell any tree for use and shall immediately remove the same out of the highway, nor to any person through or along whose land a public highway may pass, who shall desire to drain his land, and who shall give due notice to the proper highway authority of such intention, and who shall first secure from such highway authority written permission for any work, ditching or excavating he proposes to do within the limits of the highway.

Laws 1959, p. 203, § 9–117. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 88–233, § 5, eff. Jan. 1, 1994; P.A. 93–177, § 5, eff. July 11, 2003.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–117.

5/9–118. Planting along highway

§ 9–118. Any association, society, person or persons may, upon obtaining a permit from the highway authorities having jurisdiction over the particular highway, and the consent in writing of the owners of adjacent property, plant or set out trees, shrubs, plants or flowers in or upon the right-of-way of any highway within this State, provided that no such tree, shrub, or flower shall be permitted to obstruct the vision of persons traveling upon or across such highways. Consent in writing of the owners of the adjacent property shall not be mandatory, as the highway authority shall determine, for

plantings in a median or in those portions of a highway where direct access from the adjacent property is not provided. The highway authority having jurisdiction may place suitable signs giving notice of the association, society, person, or persons doing the planting.

Laws 1959, p. 203, § 9–118. Amended by P.A. 91–775, § 10, eff. June 9, 2000.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–118.

5/9–119. Penalty for destroying plants on highway; trimming; removing

§ 9–119. Whoever wilfully drives upon, picks, removes, destroys, cuts down, or in any manner injures any tree, shrub, plant or flower planted or growing within the right-of-way of any public highway, shall be guilty of a petty offense and fined not more than $100. However, the provisions of this section shall not preclude the highway authority having jurisdiction over the highway from trimming, transplanting, or removing such trees, shrubs, plants or flowers when necessary, in the discretion of such authority, to facilitate the use of such highways for public travel.

Laws 1959, p. 203, § 9–119. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–119.

5/9–119.5. Hay harvesting permit

§ 9–119.5. Hay harvesting permit.

(a) The Department may issue a hay harvesting permit authorizing the mowing and harvesting of hay on a specified right-of-way in this State. An owner or owner's designee has priority until July 30 of each year to receive a permit for the portion of right-of-way that is adjacent to the owner's land. After July 30 of each year, a permit may be issued to an applicant that is not the owner of the land adjacent to the right-of-way for a maximum distance of 5 miles each year. A permit issued under this subsection may be valid from July 15 of each year until September 15 of each year, and the Department must include the timeframe that the permit is valid on every permit issued under this subsection. Commencement of harvesting activity notice instructions must be included on every permit under this subsection in accordance with paragraph (1) of subsection (c) of this Section. The non-refundable application fee for every permit under this subsection is $40, and all fees collected by the Department shall be deposited into the Road Fund.

(b) An applicant for a permit in subsection (a) must:

(1) sign a release acknowledging that the applicant (i) assumes all risk for the quality of the hay harvested under the permit, (ii) assumes all liability for accidents or injury that results from the activities permitted by the Department, (iii) is liable for any damage to the right-of-way described in paragraphs (5) and (6) of subsection (c), and (iv) understands that the State or any instrumentality thereof assumes no risk or liability for the activities permitted by the Department;

(2) demonstrate proof that a liability insurance policy in the amount of not less than $1,000,000 is in force to cover any accident, damage, or loss that may occur to persons or property as a result of the activities permitted by the Department; and

(3) pay a non-refundable application fee of $40.

(c) The usage of a permit in subsection (a) is subject to the following limitations:

(1) The permittee must give the Department 48 hours notice prior to commencing any activities permitted by the Department;

(2) The permittee must identify the location of noxious weeds pursuant to the Noxious Weed Law. Noxious weeds may be mowed but may not be windrowed or baled;

(3) The permittee may use the permit only during the timeframes specified on the permit;

(4) The permittee must carry a copy of the permit at all times while performing the activities permitted by the Department;

(5) The permittee may use the permit only when soil in the right-of-way is dry enough to prevent rutting or other similar type of damage to the right-of-way; and

(6) The permittee may not alter, damage, or remove any right-of-way markers, land monuments, fences, signs, trees, shrubbery or similar landscape vegetation, or other highway features or structures.

(d) The Department may immediately terminate a permit in subsection (a) issued to a permittee for failure to comply with the use limitations of subsection (c).

(e) The Department or the permittee may cancel the permit at any time upon 3 days written notice.

(f) The Department may promulgate rules for the administration of this Section.

Laws 1959, p. 203, § 9–119.5, added by P.A. 96–415, § 5, eff. Aug. 13, 2009. Amended by P.A. 97–813, § 595, eff. July 13, 2012.

5/9–119.6. Switchgrass production permit

§ 9–119.6. Switchgrass production permit.

(a) The Department may issue a switchgrass production permit authorizing the planting and harvesting of switchgrass on a specified right-of-way in this State. An owner or owner's designee has priority until March 1 of each year to receive a permit for the portion of right-of-way that is adjacent to the owner's land and for which no permit is in effect. After March 1 of each year, a permit may be issued to an applicant that is not the owner of the land adjacent to the right-of-way for a maximum distance of 5 miles. A permit issued under this subsection may be valid for a period of 5 years, and the Department must include the timeframe that the permit is valid on every permit issued under this subsection. Commencement of harvesting activity notice instructions must be included on every permit under this subsection in accordance with paragraph (1) of subsection (c) of this Section. The non-refundable application fee for every permit under this subsection is $200, and all fees collected by the Department shall be deposited into the Road Fund.

(b) An applicant for a permit in subsection (a) must:

(1) sign a release acknowledging that the applicant (i) assumes all risk for the quality of the switchgrass produced under the permit, (ii) assumes all liability for accidents or injury that results from the activities permitted by the Department, (iii) is liable for any damage to the right-of-way described in paragraphs (3) and (4) of subsection (c), and (iv) understands that the State or any instrumentality thereof assumes no risk or liability for the activities permitted by the Department;

(2) demonstrate proof that a liability insurance policy in the amount of not less than $1,000,000 is in force to cover any accident, damage, or loss that may occur to persons or property as a result of the activities permitted by the Department; and

(3) pay a non-refundable application fee of $200.

(c) The usage of a permit in subsection (a) is subject to the following limitations:

(1) The permittee must give the Department 48 hours notice prior to commencing any activities permitted by the Department;

(2) The permittee must carry a copy of the permit at all times while performing the activities permitted by the Department;

(3) The permittee may use the permit only when soil in the right-of-way is dry enough to prevent rutting or other similar type of damage to the right-of-way; and

(4) The permittee may not alter, damage, or remove any right-of-way markers, land monuments, fences, signs, trees, shrubbery or similar landscape vegetation, or other highway features or structures.

(d) The Department may immediately terminate a permit in subsection (a) issued to a permittee for failure to comply with the use limitations of subsection (c).

(e) The Department or the permittee may cancel the permit at any time upon 3 days written notice.

(f) The Department may promulgate rules for the administration of this Section.

Laws 1959, p. 203, § 9–119.6, added by P.A. 97–134, § 5, eff. Jan. 1, 2012. Amended by P.A. 97–813, § 595, eff. July 13, 2012.

5/9–121. Depositing in highway of weeds, garbage, etc.; penalty

§ 9–121. It is unlawful for any person to deposit in a public highway or rest area weeds, trash, garbage or other offensive matter or any broken bottles, glass, boards containing projecting nails or any other thing likely to cause punctures in the tires of motor vehicles; and any person so offending shall be guilty of a petty offense. However, this Section shall not apply to proper deposits of harmless materials made in good faith and in a proper manner to repair the roads or to the proper disposal of travel and picnic trash in the waste containers provided for such purpose at rest areas.

Laws 1959, p. 203, § 9–121. Amended by Laws 1967, p. 1874, § 1; P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 81–551, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–121.

5/9–122. Injuring sidewalk, bridge, etc.; penalty

§ 9–122. If any person purposely destroys or injures any sidewalk, public bridge, culvert, or causeway, or removes any of the timber or plank thereof, or obstructs the same, he shall be guilty of a petty offense, fined not more than $100, and shall be liable for all damages occasioned thereby and all necessary costs for rebuilding or repairing the same.

Laws 1959, p. 203, § 9–122. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–122.

5/9–123. Discharge of sewage into open ditches along street or highway

§ 9–123. No person, firm, corporation, or institution, public or private, shall discharge or empty any type of sewage, including the effluent from septic tanks or other sewage treatment devices, or any other domestic, commercial or industrial waste, or any putrescible liquids, or cause the same to be discharged or emptied in any manner into open ditches along any public street or highway, or into any drain or drainage structure installed solely for street or highway drainage purposes.

Any person, firm, corporation, or institution, public or private, in violation of this Section, shall be guilty of a petty offense and in addition shall be fined $25 per day for each day such violation exists.

The highway authority having jurisdiction over the public street or highway affected by such violation shall enter a complaint in the proper court against any violator of this Section. Upon the failure of any such highway authority to so act, any other person, may in the name of the political division or municipality, enter such complaint.

Laws 1959, p. 203, § 9–123. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–123.

5/9–124. Camping on public highway prohibited; violations; duty of highway authorities

§ 9–124. It is unlawful for any person to camp on any public highway in this State or to make, other than in an emergency, a rest stop except at areas designated for such rest stops.

Any resident of this State may enter complaint before the circuit court against any person or persons found violating this Section and the court shall issue a warrant for the arrest of such violators and have them brought forthwith before such court for examination. Any such violator shall be guilty of a Class C misdemeanor.

Laws 1959, p. 203, § 9–124. Amended by P.A. 77–2238, § 1, eff. Jan. 1, 1973; P.A. 78–628, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–124.

5/9–124.1. Feeding stock, cows, etc., on public highway; punishment

§ 9–124.1. It is unlawful for any person to tether or turn loose any stock, cows, horses or other animals on any public highway in this State for the purpose of feeding the same.

Any resident of this State may enter complaint before the circuit court against any person or persons found violating this Section and the court shall issue a warrant for the arrest of such violators and have them brought forthwith before such court for examination. Any such violator shall be guilty of a Class C misdemeanor.

Laws 1959, p. 203, § 9–124.1, added by P.A. 78–628, § 1, eff. Oct. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–124.1.

5/9–125. Suits for recovery of fines or penalties

§ 9–125. The appropriate highway authorities shall seasonably prosecute for all fines and penalties provided for in this Code for violations committed on highways under their respective jurisdictions.

Whenever any person complains of a violation of this Code to the highway authority that has jurisdiction over the particular highway where the violation of this Code is alleged to have been committed, such highway authority shall proceed to investigate as to the reason for such complaint and, if the complaint is found to be just, shall at once proceed to prosecution of the offender.

In case the highway authority fails to prosecute, complaint may be made by any person before any court of proper jurisdiction.

Laws 1959, p. 203, § 9–125.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–125.

5/9–126. Disposition of fines and penalties

§ 9–126. Fines and penalties recovered under the provisions of this Code shall be paid over to the treasurer of the highway authority responsible for the maintenance and upkeep of the public street or highway upon or along which the violation or offense occurred, and all such monies shall be used only for the construction or maintenance of such streets or highways.

Laws 1959, p. 203, § 9–126.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–126.

5/9–127. Vacated highways; title

§ 9–127. (a) Except as provided in subsections (b), (c), and (d) and in cases where the deed, or other instrument, dedicating a highway or part thereof, has expressly provided for a specific devolution of the title thereto upon the abandonment or vacation thereof, whenever any highway or any part thereof is vacated under or by virtue of any Act of this State or by the highway authority authorized to vacate the highway, the title to the land included within the highway or part thereof so vacated, vests in the then owners of the land abutting thereon, in the same proportions and to the same extent, as though the highway had been dedicated by a common law plat (as distinguished from a statutory plat) and as though the fee of the highway had been acquired by the owners as a part of the land abutting on the highway except, however, such vacation shall reserve to any public utility with facilities located in, under, over or upon the land an easement for the continued use, if any, by such public utility.

(b) When any highway authority determines to vacate a highway under its jurisdiction, or part thereof, established within a subdivision by a statutory plat, that authority may vacate such highway and convey the highway authority's interest in such highway to any bona fide organization of property owners of the subdivision which (1) is so organized as to be able to receive, hold and convey real property, (2) has petitioned the highway authority for the vacation of the highway, and (3) undertakes to develop the property for the use and benefit of the public. If the association abandons the property, it passes as provided in subsection (a).

(c) When any highway authority determines to vacate a highway or part of a highway under its jurisdiction established within a subdivision by a statutory plat, that authority may vacate the highway and convey the highway authority's interest in the highway to any township road district which (1) has petitioned the highway authority for the vacation of the highway and (2) undertakes to develop the property as a bike path or alley for the use and benefit of the public. If the property is subsequently incorporated within a municipality, the township road district may transfer its interest to the municipality. If the township road district or municipality abandons the property, it passes as provided in subsection (a).

(d) When any highway authority determines to vacate a highway or a part of a highway under its jurisdiction, the authority may sell the vacated highway property to any third party at fair market value if (1) the authority has either a fee simple interest in the vacated highway property or a dedication of that property by statutory plat and (2) the right of first refusal with regard to the vacated highway property has been granted to adjoining landowners for fair market value.

Laws 1959, p. 203, § 9–127. Amended by P.A. 86–402, § 1, eff. Jan. 1, 1990; P.A. 93–321, § 5, eff. July 23, 2003; P.A. 94–476, § 5, eff. Aug. 4, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–127.

5/9–128. Damaging signs or traffic control devices

§ 9–128. Any person who intentionally damages or removes an official sign or other traffic control device erected by the proper authority having jurisdiction over such highway authorized by Chapter 11, Article III of The Illinois Vehicle Code, as now or hereafter amended,[1] or any other sign authorized and approved by this Code shall be guilty of a Class C misdemeanor, punishable by a fine of at least $250 in addition to any other penalties which may be imposed. This Section does not apply to persons properly authorized to repair or remove such signs or other traffic control device.

Laws 1959, p. 203, § 9–128, added by Laws 1967, p. 2746, § 1. Amended by P.A. 77–78, § 1, eff. July 1, 1971; P.A. 77–2830, Art. 97, § 1, eff. Jan. 1, 1973; P.A. 83–672, § 2, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–128.

[1] 625 ILCS 5/11–301 et seq.

5/9–129. Agricultural aircraft; use of county highways or township roads; liability for personal injuries

§ 9–129. Agricultural aircraft used for crop dusting or other activities in aid of agriculture as authorized by the Division of Aeronautics of the Department of Transportation may use any county highway or township road as defined under Sections 2–204 and 2–205 of this Code, if granted permission by the County Superintendent of Highways or the Highway Commissioner, whoever shall have proper jurisdiction over such road. Permission to use county highways or township roads shall only be granted by the County Superintendent of Highways or the Highway Commissioner if the average daily traffic count is less than 200. Roads used by agricultural aircraft shall be blocked by barricades conforming to the Manual of Uniform Traffic Control Devices adopted by the Department and shall be accompanied at all times, while in place upon such road, by a flagman. All barricades and flagmen shall be furnished by any individual applying for permission to use any such roads for agricultural aircraft. Traffic shall not be delayed by the use of a county highway or township road by agricultural aircraft by more than 15 minutes in each 30 minute period, and no emergency vehicle shall be delayed at any time unless the safety of either the plane or emergency vehicle would be seriously threatened if the emergency vehicle were allowed to proceed.

A county, county superintendent of highways, township or township commissioner shall not be liable for any personal injuries caused as a result of the operation of agricultural aircraft on such highways.

Laws 1959, p. 203, § 9–129, added by P.A. 83–92, § 1, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–129.

5/9–130. Deposit of snow or ice upon public highway; prohibition

§ 9–130. No person, firm, corporation or institution, public or private, shall plow or remove or cause to be plowed or removed ice or snow from any shopping center, parking lot, commercial or institutional service area or driveway or any other public or private service area or driveway and deposit such ice or snow upon a public highway or along the shoulder or edge of a public highway. Such prohibition shall not pertain to a residential driveway or sidewalk.

Any person, firm, corporation or institution, public or private, who violates this Section is guilty of a petty offense.

Laws 1959, p. 203, § 9–129, added by P.A. 83–957, § 1, eff. July 1, 1984. Renumbered § 9–130 and amended by P.A. 83–1362, Art. II, § 148, eff. Sept. 11, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 9–130.

5/9–131. Installation of fiber-optic network conduit

§ 9–131. Installation of fiber-optic network conduit.

(a) For purposes of this Section:

"Fiber-optic network conduit" means a pipe or duct used to enclose fiber-optic cable facilities buried alongside the roadway or surface mounted on bridges, overpasses, and other facilities where below ground placement is impossible or impractical.

(b) In order to ensure affordable high-speed, world-class core information and communication networks are available throughout Illinois, the Illinois Department of Transportation and the Department of Central Management Services shall collaborate to install fiber-optic network conduit where it does not already exist in every new State-funded construction project that opens, bores, or trenches alongside a State-owned infrastructure, including, but not limited to, roadways and bridges. The Department of Central Management Services or the Department of Transportation may permit a third party to manage the fiber and conduit leasing. The Department of Central Management Services and the Department of Transportation shall take reasonable steps to ensure market-based, non-discriminatory pricing. Public bidding notices for such projects must describe the need for fiber-optic conduit or cable. The Department of Transportation shall report annually to the Governor and the General Assembly on the progress and any associated costs incurred by this Section. This Section does not prohibit the State from purchasing or installing fiber-optic cable within the fiber-optic network conduit.

Laws 1959, p. 203, § 9–131, added by P.A. 96–37, § 70–15, eff. July 13, 2009.

Validity

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

ARTICLE 10. SPECIAL PROVISIONS CONCERNING BRIDGES, FERRIES, TERMINALS AND OTHER HIGHWAY STRUCTURES

DIVISION 1. DEPARTMENT ACQUISITION BY GIFT OF BRIDGES AND APPROACHES ACROSS STREAMS FORMING STATE BOUNDARY AND MAINTENANCE THEREOF

5/10–101. Gift to Department

§ 10–101. The Department may acquire, by gift, any bridge or part of a bridge and its approaches located in Illinois which cross any stream forming a boundary line between this State and any adjoining state whenever the bridge and its approaches constitute a direct continuation of a State highway and of an improved highway in the adjoining state.

Laws 1959, p. 203, § 10–101.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–101.

5/10–102. Conditions precedent

§ 10–102. Before acquiring any bridge or part of a bridge and its approaches as provided in this Division of this Article, the Department shall ascertain, except as otherwise provided in Section 10–102.1, that the bridge and its approaches are structurally sound and in a good state of repair, that all bonds or other obligations issued to finance the cost of constructing or acquiring the bridge and its approaches have been fully retired and that all interest charges in connection therewith have been fully paid and that there are no mortgages, liens or encumbrances of any nature outstanding against the bridge and its approaches or the real property acquired in connection therewith, and, in case the bridge is across a navigable stream, that authority to construct, maintain and operate the bridge and approaches was granted by Act of Congress and that the Act, or a subsequent Act or Acts of Congress in connection therewith, granted full authority to sell, assign or transfer all rights, powers and privileges conferred by the Act of Congress. The conveyance shall be by warranty deed and run to the State of Illinois. The conveyance shall include any interest in real property acquired in connection with the bridge, and shall assign and transfer to the State all rights, powers and privileges conferred by any Act or Acts of Congress in connection with the bridge and approaches.

Laws 1959, p. 203, § 10–102. Amended by P.A. 92–679, § 10, eff. July 16, 2002.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–102.

5/10–102.1. Transfer of McKinley Bridge

§ 10–102.1. Transfer of McKinley Bridge.

(a) Findings. The General Assembly makes the following findings:

(1) The McKinley Bridge, which spans the Mississippi River between Venice, Illinois and St. Louis, Missouri, has historically played an important role in the regional highway transportation system by carrying as many as 15,000 vehicles per day over the Mississippi River, with the majority of that traffic during rush hour.

(2) The City of Venice, Illinois has owned and operated the McKinley Bridge as a toll bridge since 1958.

(3) The City of Venice has not been able to collect sufficient toll revenue from the McKinley Bridge to meet the cost of operating it.

(4) The McKinley Bridge has deteriorated to the point that the Illinois Department of Transportation closed it to vehicular traffic due to safety concerns on October 30, 2001.

(5) The City of Venice wants to transfer the McKinley Bridge to the State of Illinois and the State of Missouri.

(6) The City of Venice does not have the financial resources to defease outstanding toll revenue bonds and repair the McKinley Bridge to a structurally sound condition.

(b) Transfer of funds. The Department shall determine the sum of the amounts owing on all outstanding bonds relating to the McKinley Bridge and certify that sum to the Comptroller. The Comptroller shall transfer 50% of that

sum or $2,100,000, whichever is less, from the Road Fund to the McKinley Bridge Fund, which is hereby created as a special fund in the State Treasury. All amounts not expended by the Department as provided in this Section shall be retransferred to the Road Fund.

(c) Payment by Department. Subject to appropriation, moneys in the McKinley Bridge Fund may be used by the Department for the purpose of paying or reimbursing up to 50% of the sum of the amounts necessary to defease all outstanding bonds relating to the McKinley Bridge.

(d) Transfer of bridge. Upon the payment of all outstanding bonds, the release of all liens, and the payment or release of all debts and other encumbrances relating to the McKinley Bridge, the City of Venice, or the current owner or owners, shall convey the McKinley Bridge and all associated improvements, including approaches and roadways, to the Department and the Missouri Department of Transportation, jointly. The Department may not acquire the McKinley Bridge until all of the outstanding bonds have been paid in full, all of the liens have been released, and all other debts and encumbrances relating to the McKinley Bridge have been paid in full or otherwise extinguished. Notwithstanding any provision in Section 10–102 or any other provision of this Code to the contrary, the Department may acquire the McKinley Bridge pursuant to this Section regardless of whether it or its approaches are structurally sound and in a good state of repair.

(e) Intergovernmental agreements. The Department is authorized to enter into agreements with units of local government within this State, with the State of Missouri, and with units of local government in Missouri, and to enter into any other agreements necessary or appropriate to carry out the provisions of this Section.

Laws 1959, p. 203, § 10–102.1, added by P.A. 92–679, § 10, eff. July 16, 2002.

5/10–103. Maintenance of bridge

§ 10–103. (a) When the Department has acquired title to any bridge or part of a bridge and its approaches as provided in this Division, it is authorized to assume jointly with the adjoining state, or a political subdivision of the adjoining state, responsibility for the future maintenance, operation and control of such bridge. However, the Department shall not pay more than one-half of the cost of the future maintenance, operation and control of the entire bridge and its approaches, except that the Department's share may be proportionate to the length of the bridge within Illinois where required for compatibility with the adjoining state's statutes. The Department may contract with the adjoining state or with a political subdivision of the adjoining state for the maintenance, operation and control of the entire bridge and its approaches by the adjoining state or its political subdivision and for the reimbursement by the Department for the share of the cost properly chargeable to the State of Illinois. In such cases, the Department may also contract to maintain, operate and control the entire bridge itself if the contract also provides for reimbursement of the Department by the adjoining state or its political subdivision of the share of the cost properly chargeable to such adjoining state or its political subdivision.

(b) Any such contract between the Department and the adjoining state or a political subdivision of the adjoining state entered into under paragraph (a) of this Section shall be for a period not to exceed 50 years and shall be

1. renewable annually in the discretion of the Department, and

2. subject to an adequate annual appropriation by the General Assembly to fund the proportionate share of the costs of the maintenance, operation and control of the bridge and its approaches properly chargeable to the State of Illinois.

Laws 1959, p. 203, § 10–103. Amended by P.A. 77–104, § 1, eff. July 1, 1971; P.A. 81–456, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–103.

DIVISION 2. COUNTY CONSTRUCTION AND MAINTENANCE OF FREE BRIDGES ON STATE BOUNDARIES

5/10–201. Construction and repair; county proportion of expenses

§ 10–201. Bridges across streams forming the boundary line between this and any adjoining state, or bridges upon any road which lies upon the boundary line between this and any adjoining state, may be constructed or repaired by any county or counties of this State contiguous to the proposed construction or repair, acting in conjunction with any county, municipality or subordinate division of the adjoining state, as provided in this Division of this Article. A bridge may likewise be constructed at the point of intersection of any highway with the boundary line between this and any adjoining state, or a bridge already constructed at such point may likewise be repaired, as provided in this Division of this Article. A county shall be deemed contiguous to such construction or repair if any part of such county lies within 80 rods thereof. The total of the cost to be borne by any county (or counties) of this State shall not exceed one-half of the total cost of such construction or repair.

Laws 1959, p. 203, § 10–201.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–201.

5/10–202. Appropriations by county boards; petition; bonds; election

§ 10–202. The county board of any such county is empowered to appropriate moneys for the purpose of assisting in the construction or repair of any such bridge or bridges, or bonds of such county may be issued for that purpose as follows: Upon the filing with the county clerk of a petition signed by 100 electors of such county who are owners of land therein, requesting that the proposition of issuing bonds of that county for such purpose be submitted to the electors of such county for their approval or rejection, the county clerk shall certify the petition to the proper election officials, who shall submit the proposition at a regular election. Such referendum shall be conducted and notice given in accordance with the general election law.

Laws 1959, p. 203, § 10–202. Amended by P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–202.

5/10–203. Form of proposition

§ 10–203. Such proposition shall be in substantially the following form:

Shall county bonds for the purpose of ..... be issued to the amount of .....?	YES	
	NO	

Laws 1959, p. 203, § 10–203. Amended by P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–203.

5/10–204. Bonds; issuance; rate; register by county clerk; tax levy

§ 10–204. If a majority of the legal voters voting at such election on such question, voted in favor of the proposition, the county clerk shall issue (from time to time as the work progresses) a sufficient amount, in the aggregate, of the bonds of such county for the purpose of assisting in the construction or repair of any such bridge or bridges, as set forth in this Division of this Article, and in accordance with the prayer of the petition. Such bonds shall be of such denominations, upon such time, bear such rate of interest (not exceeding the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract), and be disposed of, as the necessities and convenience of such county may require. However, such bonds shall not be sold nor disposed of, either by sale or by payment to contractors for labor or materials, for less than par value. Such bonds shall be issued in not less than 5 nor more than 30 annual series, the first series of which shall mature not more than 5 years from the date of issue, and each succeeding series in succeeding years thereafter. A register of all issues of such bonds shall be kept in the office of the county clerk of such county, showing the date, amount, rate of interest, maturity, and the purpose for which such bonds were issued, and it shall be the duty of such county clerk, to extend annually against all the property in such county, a tax sufficient to pay the interest of such bonds in each year prior to the maturity of such first series, and thereafter he shall extend a tax in each year sufficient to pay each series as it matures, together with interest thereon and with the interest upon the unmatured bonds outstanding. Such bonds may be lithographed and the interest for each year evidenced by interest coupons thereto attached, which coupons shall be signed with the original or facsimile signatures by the same officers who executed the bonds.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 10–204. Amended by P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–204.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/10–205. Contracts; approval; bond of contractor

§ 10–205. The plans and specifications for the construction or repair of any such bridge or bridges shall be approved by the county superintendent of highways (or county superintendents of highways, in case two counties of this State are assisting in such construction or repair), and by the Department. The contract for any such work shall be let by the county board (or county boards, in case two counties of this State are assisting in such construction or repair), acting jointly with the corporate authorities of the county, municipality, or other subordinate division of the adjoining state. However, no contract shall be considered as let unless the contractor shall within 15 days after the final award of same, file with the county clerk of such county (or of each such county) a bond, with good and sufficient sureties, in a sum equal to the part of the total cost which that county is to bear, conditioned upon the faithful performance of such contract.

Laws 1959, p. 203, § 10–205.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–205.

5/10–206. Payments of contractor; prerequisites; partial payment

§ 10–206. If the cost of such construction or repair is $1,000 or less, such county (or counties) shall not be liable for any part of such expense until all the work has been fully completed, and has been accepted by the county superintendent of highways (or by each county superintendent of highways). Such official (or officials) shall certify such acceptance to his county board (or to their respective county boards), and shall accompany such certificate with an itemized statement of all expenditures in such construction or repair.

If the total cost of the construction or repair exceeds $1,000, partial payments not oftener than once a month, and not to exceed 90% of the work actually completed, may be paid the contractor by the county (or counties). No such partial payments shall be made unless approved by the county superintendent of highways (or by each county superintendent of highways), and no partial payments shall in any way be deemed an acceptance of the work until such work has been fully completed and accepted by the county superintendent (or by each county superintendent of highways) and such acceptance certified as provided above.

Laws 1959, p. 203, § 10–206.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–206.

DIVISION 3. COUNTY TOLL BRIDGES

5/10–301. Bridges over streams within county or forming boundary line; authority of county; bridge commission

§ 10–301. Each county of this State, is authorized to acquire by purchase or otherwise, to construct, repair, maintain and operate a bridge or bridges over and across any navigable or non-navigable stream within such county, or forming a boundary line between such county and any other county in the State of Illinois, or forming a boundary line between the State of Illinois and any adjoining state, and shall have authority to exercise all such powers within its boundaries and in adjacent territory within this State, and in any adjoining state, after first having obtained authority, if any be necessary, from the Department and the United States. Such powers may be exercised either directly through the county board of any such county, or through a bridge commission created as in this Division of this Article provided.

For the purposes of this Division of this Article "Bridge" means any bridge over or across any stream, navigable or non-navigable, including any bridges and the approaches thereto, and all necessary elevated structures to eliminate

intersection at grade with any streets, tunnels, public roads, thoroughfares, highways, railroads or street railroads.

Laws 1959, p. 203, § 10–301.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–301.

5/10–302. Operation of bridge and approaches; rules and regulations; toll charges

§ 10–302. Every county which, by ordinance, determines to exercise the powers granted by this Division of this Article has the right to acquire by purchase or otherwise, to construct, repair, maintain and operate any such bridge and its approaches across, above or under any railroad or public utility right-of-way, and in, upon, under or above any public or private road, highway, street, alley or public ground, or upon any property owned by any municipality, political subdivision or agency of this State, and for the purpose of acquiring property or easements necessary or incidental in the construction, repair, maintenance or operation of any such bridge and the approaches thereto, any such county shall have the right of eminent domain as provided by the Eminent Domain Act.[1] The county board of each such county has power to make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, maintenance, operation, management, care or protection of any such bridge, and such county board shall establish rates of toll or charges for the use of each such bridge which shall be sufficient at all times to pay the cost of maintenance and operation of such bridge and its approaches, and the principal of and interest on all bonds issued and all other obligations incurred by such county under the provisions of this Division of this Article. Rules and regulations shall be established from time to time by ordinance.

Rates of toll or charges for the use of each such bridge shall be established, revised, maintained, be payable and be enforced, including by administrative adjudication as provided in Section 10–302.5, as the county board of each such county may determine by ordinance.

The General Assembly finds that electronic toll collection systems in Illinois should be standardized to promote safety, efficiency, and traveler convenience. If electronic toll collection is used on such bridge, the county shall configure the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority. The county may enter into an intergovernmental agreement with the Illinois State Toll Highway Authority to provide for such compatibility or to have the Authority provide electronic toll collection or toll violation enforcement services. Any toll bridges in Winnebago County that are in operation and collecting tolls on the effective date of this amendatory Act of the 97th General Assembly are exempt from the provisions of the Act.

Laws 1959, p. 203, § 10–302. Amended by P.A. 82–783, Art. XI, § 255, eff. July 13, 1982; P.A. 89–120, § 4, eff. July 7, 1995; P.A. 94–1055, Art. 95, § 95–10–355, eff. Jan. 1, 2007; P.A. 97–252, § 5, eff. Aug. 4, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–302.

[1] 735 ILCS 30/1–1–1 et seq.

5/10–302.5. Administrative adjudication of toll violations

§ 10–302.5. Administrative adjudication of toll violations.

(a) The county may provide by ordinance for a system of administrative adjudication for fixing, assessing, and collecting civil fines for a vehicle's operation on a county toll bridge if the required toll or charge has not been paid.

(b) An ordinance establishing a system of administrative adjudication under this Section shall provide for the following:

(1) Written notice of the alleged violation sent by first class U.S. mail.

(2) Availability of a hearing in which the violation may be contested on its merits and the time and manner in which the hearing may be held.

(3) An opportunity for the person who allegedly violated the ordinance to appear at the hearing and contest the merits of the alleged violation. The rules of evidence shall not apply to the hearing.

(4) A civil fine not to exceed $500 imposed as the result of an administrative adjudication.

(5) A burden of proof on the county to establish a violation by a preponderance of the evidence.

(6) Judicial review of final determinations of ordinance violations, subject to the provisions of the Administrative Review Law.[1]

(c) The county may enter into an intergovernmental agreement with the Illinois State Toll Highway Authority under which the Authority may provide administrative adjudication of toll violations occurring on a county toll bridge.

Laws 1959, p. 203, § 10–302.5, added by P.A. 89–120, § 4, eff. July 7, 1995. Amended by P.A. 97–252, § 5, eff. Aug. 4, 2011.

[1] 735 ILCS 5/3–101 et seq.

5/10–303. Issuance of revenue bonds

§ 10–303. For the purpose of acquiring by purchase or otherwise or the constructing of any such bridge, the county board of each such county is authorized to borrow money and in evidence thereof to issue the bonds of such county, and to refund the same from time to time, payable solely from the revenues derived from the operation of such bridge. Such bonds may be issued as serial or term bonds, shall mature in not to exceed 40 years from the date thereof, and may be made redeemable, prior to maturity, with or without premium. Such bonds may be issued in such amounts as may be necessary to provide sufficient funds to pay the cost of acquiring or constructing such bridge and the approaches thereto, including all property real or personal, necessary or incidental in the acquisition or construction of such bridge and its approaches, including reasonable legal and engineering, traffic survey, and architectural fees, costs of financing, and interest during construction and for not less than 12 months thereafter. Such bonds shall bear interest at a rate not to exceed that permitted in "An Act to authorize public corporations to issue bonds, other evidences of indebtedness and tax anticipation warrants subject to interest rate limitations set forth therein", approved May 26, 1970, as amended,[1] payable semi-annually. Bonds issued under the provisions of this Division of this Article have the qualities and incidents of negotiable instruments under the laws of the State of Illinois, shall be executed in the name of the county by the chairman of the county board and the county clerk of such county, and shall be sealed with the corporate seal of the county, and the interest coupons attached to such bonds shall be executed by the facsimile signatures of such chairman and county clerk, and such officials by the execution of such bonds shall adopt as and for their own proper signatures their respective facsimile signatures appearing on such coupons. In case any officer whose signature appears on any such bonds or cou-

pons ceases to be such officer before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

Such bonds may be registered as to principal at any time prior to maturity in the name of the holder on the books of the county in the office of the county treasurer, such registration to be noted on the reverse side of the bonds by the county treasurer, and thereafter the principal of such registered bonds shall be payable only to the registered holder, his legal representatives or assigns. Such registered bonds shall be transferable to another registered holder, or back to bearer, only upon presentation to the county treasurer with the legal assignment duly acknowledged or approved. Registration of any such bonds shall not affect negotiability of the coupons thereto attached, but such coupons shall be transferable by delivery merely.

All such bonds issued by any such county shall be sold in such manner and at such time as the governing body shall determine. Whenever the governing body of any such county determines to issue bonds as provided for in this Division of this Article, it shall adopt an ordinance describing in a general way the bridge to be acquired or constructed and its general location. Such ordinance shall set out the aggregate amount of the estimated cost of the acquisition or construction of such bridge, as prepared by the engineers employed for that purpose, determine the period of usefulness thereof and fix the amount of revenue bonds to be issued, the maturity or maturities, redemption privileges, the interest rate, sinking fund, and all other details in connection with such bonds, including such reserve accounts as the county board of such county may deem necessary. Such ordinance may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. Revenue bonds issued under the provisions of this Division of this Article shall be payable solely from the revenue derived from such bridge, and such bonds shall not, in any event constitute or be deemed an indebtedness of such county within the meaning of any constitutional provisions or statutory limitation as to debt, and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness within any constitutional or statutory limitation. Such ordinance shall be published within 30 days after its passage in a newspaper, published and having a general circulation in such county, and shall not become effective until 10 days after its publication.

Laws 1959, p. 203, § 10–303. Amended by P.A. 83–225, § 1, eff. Sept. 7, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–303.

[1] 30 ILCS 305/1 et seq.

5/10–304. Sinking fund to pay principal and interest

§ 10–304. Any ordinance authorizing the issuance of bonds under this Division of this Article shall provide for the creation of a sinking fund into which shall be payable from the revenues of such bridge, from month to month, as such revenues are collected, such sums in excess of the cost of maintenance and operation and the sums necessary to maintain any reserve accounts created by such ordinance, as will be sufficient to pay the accruing interest and retire the bonds at or before maturity. The moneys in such sinking fund shall be applied solely in the payment of matured interest on bonds authorized under the provisions of this Division of this Article and for the retirement of such bonds at or prior to maturity in the manner herein provided. All sums in the sinking fund in excess of the amount required for the payment of interest and principal of all outstanding bonds for the current year shall be paid out upon the order of the governing body for the purchase or redemption of bonds issued under the provisions of this Division of this Article, for the account of which such sinking fund has been accumulated, where it is possible to purchase or redeem the same at not more than par and accrued interest. If such bonds cannot be purchased or redeemed, such funds shall be used to pay the principal or interest on bonds issued under the provisions of this Division of this Article as the same become due. Any excess sums in the sinking fund which cannot be applied to the purchase or redemption of bonds may be invested in securities of the United States maturing not more than 6 months after the date such sums can be applied to the retirement of the bonds at maturity.

Upon the issuance of any bonds as in this Division of this Article provided and while any of such bonds are outstanding, all revenues, in excess of the sums required for maintenance and operation of the bridge, and the maintenance of the reserve accounts created, shall be deposited in the sinking fund, and shall be used for the purchase, redemption or payment at maturity of the interest and principal of bonds as provided in this section, that have been issued in accordance with the provisions of this Division of this Article.

Laws 1959, p. 203, § 10–304.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–304.

5/10–305. County treasurer; duties relative to funds

§ 10–305. The county treasurer of each such county shall be the legal custodian of all funds derived from the issuance of bonds provided for under this Division of this Article and of all revenues derived from the operation of any such bridge, and before he shall receive any such funds he shall be required to post with the county board of such county and subject to their approval, a separate corporate surety bond in an amount to be determined by resolution of such county board. He shall be required to keep proceeds of bonds issued and revenues derived from the operation of any such bridge separate and apart from all other funds which come into his hands as the county treasurer, and the proceeds of bonds issued and the revenues derived from the operation of the bridge shall be by him deposited in separate bank or savings and loan association accounts to be designated for that purpose by the county board of the county. No money shall be paid out of such accounts by the county treasurer except upon an order signed by the chairman of the county board or the chairman of the finance committee of such county board and the county clerk. All such orders shall specify the purpose for which the amount thereof is to be paid with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable, and it shall be paid from the fund constituted for such purpose and from no other fund.

Laws 1959, p. 203, § 10–305. Amended by P.A. 83–541, § 70, eff. Sept. 17, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–305.

5/10–306. Accounts; audit

§ 10–306. The county board of each such county shall install and maintain a proper system of accounts, showing the receipts from the operation of the bridge and the application of the same, and the county board shall at least once a

year cause such accounts to be properly audited by a certified public accountant and copies of such audit shall be filed in the office of the county clerk and shall be open for inspection at all proper times to any taxpayer, bondholder or other creditor of such county.

Laws 1959, p. 203, § 10–306.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–306.

5/10–307. Compelling performance of duties

§ 10–307. Any holder of a bond or bonds, or any of the coupons of any bond or bonds issued under the provisions of this Division of this Article may, by action, mandamus, injunction or other proceeding, enforce or compel the performance of all duties required by this Division of this Article, including the fixing, maintaining and collecting of such rates of toll or charges for the use of such bridge and its approaches as will be sufficient for all the purposes provided by this Division of this Article and the application of the income and revenue therefor. All bonds issued under the provisions of this Division of this Article shall enjoy equal rights in respect of the revenues of each such bridge regardless of the time of the actual issuance or delivery thereof.

Laws 1959, p. 203, § 10–307. Amended by P.A. 83–345, § 82, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–307.

5/10–308. Bonds payable only from revenues; letting contracts

§ 10–308. The county board of each such county shall have no power to borrow money for the acquisition or construction of any such toll bridge or bridges except as in this Division of this Article provided and all money borrowed and obligations incurred by each such county in the acquisition or construction, and in the repair, maintenance and operation of each such bridge shall be payable solely and only from the revenues derived from the operation of each such toll bridge.

All contracts for the construction of any such bridge and its approaches involving the sum of $500 or more, shall be let to the lowest responsible bidder therefor after notice inviting bids shall have been given by the county board. Notice inviting bids shall be published at least once in a daily or weekly newspaper, published and of general circulation in the county, the date of publication to be not less than 15 days prior to the date set for receiving bids. The county board shall have the right to reject all proposals or bids submitted, in which event a new date must be set for receiving bids and a new advertisement inviting bids published, as required in the first instance.

Laws 1959, p. 203, § 10–308.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–308.

5/10–309. Title to property

§ 10–309. Title to all property acquired pursuant to this Division of this Article shall be taken in the name of the county.

Laws 1959, p. 203, § 10–309.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–309.

5/10–310. Budget for fiscal year

§ 10–310. The county board of each such county shall establish by ordinance the beginning and ending of a fiscal year for the operation of each such bridge, which period shall constitute the budget year for the maintenance and operation of each such bridge, and at least 30 days prior to the beginning of the first full fiscal year after the completion of each such bridge, the county board shall prepare a tentative budget which shall include all proposed operation and maintenance expenses for the ensuing fiscal year. Such budget shall be considered by the county board and after consideration and any revision as may be determined by such county board, it shall be adopted within 30 days after the beginning of each fiscal year by such county board as the budget for the ensuing year and no expenditures in excess of the budget shall be made during such fiscal year unless authorized and directed by a four-fifths vote of the county board of each such county. It shall not be necessary to include in such budget any statement of necessary expenditures for debt service or capital outlay incurred in any preceding year, but the county board shall make provision for such payments as they become due. Upon the adoption of such budget a copy thereof shall be filed in the office of the county clerk and shall be open for inspection by the public. The funds of the county derived from the operation of any such bridge shall not be subject to the provisions of "An Act in relation to the budgets of counties not required by law to pass an annual appropriation bill," approved July 10, 1933, as amended.[1]

Laws 1959, p. 203, § 10–310.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–310.

[1] Former Ill.Rev.Stat. ch. 34, ¶ 2101 et seq. (repealed, see, now, 55 ILCS 5/6–1001 et seq.)

5/10–311. Bridge commission

§ 10–311. The county board of each such county may in its discretion, by ordinance, create a bridge commission for the purpose of exercising the powers conferred by this Division of this Article if such county board deems it expedient and necessary. The chairman of the county board, subject to the approval of the county board, shall appoint 4 persons, all of whom, in counties under township organization, shall be members of the county board of such county, who with such chairman, ex officio, shall constitute a bridge commission to be designated the ". . . . . County Bridge Commission."

All members appointed to such commission shall be legal voters of said county, and shall have resided in said county for at least 2 years prior to the date of their appointment to such commission. Any person holding an elective or appointive public office shall not be eligible for appointment to the commission, and any person who has held an elective or appointive public office shall not be eligible for one year after the expiration of his term of office; provided, however, such restrictions as to eligibility for appointment shall not be applicable to members of the county board of the county who shall be eligible for appointment nevertheless.

One of such appointees shall be appointed for a term of one year, one for a term of 2 years, one for a term of 3 years, and one for a term of 4 years, and annually thereafter appointments to fill the expired terms shall be made in like manner except that the term of each such appointee shall be for a term of 4 years. Vacancies shall be filled for any unexpired term in the same manner as the original appointment. Such bridge commission shall elect a chairman and vice-chairman from its membership and a secretary who need not be a member of such commission. The members of the commission shall receive no compensation for their service and shall give such bond as may be required from time to time by the county board of the county. The commission shall fix the compensation of the secretary subject to the approval thereof by the governing body of the county. The commission shall have power to establish by-laws, rules and

regulations for its own government and shall have general supervision over the construction, operation, and management of each such bridge proposed or constructed by each county under the provisions of this Division of this Article; may employ engineering, structural and construction experts, inspectors and attorneys and such other employees as may be necessary in its opinion, fix their compensation and prescribe their duties. All salaries and compensation shall be obligations of the county, payable solely from the revenues derived from the operation of the bridge as provided under this Division of this Article. The office records, books and accounts of the bridge commission shall be maintained in the office of the county clerk of the county.

Each such bridge commission may be authorized and directed by the county board to prepare all necessary plans and specifications for the construction of such bridge or bridges, select the location for the same, determine the size, type, method of construction, make all necessary estimates of the probable cost of the construction and the acquisition of land and rights necessary and incidental to the construction of the bridge and its approaches and enter into all contracts to build and construct such bridge and its approaches subject to the limitations provided in this Division of this Article. No plans and specifications or estimate of cost for the construction of any such bridge and its approaches shall be adopted by the bridge commission until it has first been submitted to the county board of the county and approved by such county board, and such bridge commission shall not enter into any contract or incur any liabilities in connection with the construction of any such bridge or its approaches unless and until such contracts or liabilities have been approved by the county board of such county.

Such bridge commission shall operate, manage and control any such bridge constructed or acquired under the provisions of this Division of this Article, fix the rates of toll, or charges for the use thereof, establish rules and regulations for the use and operation of such bridge, and if and when authorized by the county board of any such county shall have power to reconstruct, extend and enlarge any such bridge or bridges.

Laws 1959, p. 203, § 10–311.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–311.

5/10–312. Cumulative powers

§ 10–312. The provisions of this Division of this Article shall be cumulative and shall be considered as conferring additional power on counties and as additions to and not as limitations upon the power of counties to acquire, construct, maintain or operate bridges, and as authorizing the issuance of bonds payable solely from the revenues derived from the operation of such bridges without submitting the proposition of issuing such bonds to the voters.

Laws 1959, p. 203, § 10–312.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–312.

DIVISION 5. MUNICIPAL BRIDGES AND APPROACHES

5/10–501. Building, acquisition and maintenance

§ 10–501. Each municipality in this State is authorized to construct or acquire by purchase, lease or gift, and to maintain bridges and the approaches thereto within the corporate limits, or at any point within 3 miles of the corporate limits of such municipality. All such bridges shall be free to the public, and no toll shall ever be collected by any such municipality except as hereinafter in this Division of this Article provided.

Laws 1959, p. 203, § 10–501.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–501.

5/10–502. Collection of toll

§ 10–502. In all cases where a bridge shall heretofore have been constructed or shall hereafter be constructed across a navigable stream by any municipality in whole or in part without the territorial limits of such city, where the population of such municipality furnishing the principal part of the expenses thereof shall not exceed 10,000 inhabitants, and where it is necessary to maintain a draw and lights, then a reasonable toll may be collected by the municipality building such bridge, to be set apart and appropriated to the expense of maintaining such bridge and keeping such bridge in repair, and of maintaining, opening and closing proper draws therefor, and lights, and to the payment of bonds or interest thereon, issued therefor, as hereinafter provided in this Division of this Article.

The General Assembly finds that electronic toll collection systems in Illinois should be standardized to promote safety, efficiency, and traveler convenience. If electronic toll collection is used on such bridge, the municipality shall configure the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority. The municipality may enter into an intergovernmental agreement with the Illinois State Toll Highway Authority to provide for such compatibility or to have the Authority provide electronic toll collection or toll violation enforcement services.

Laws 1959, p. 203, § 10–502. Amended by P.A. 97–252, § 5, eff. Aug. 4, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–502.

5/10–503. Municipal control; county aid

§ 10–503. Every bridge so owned, acquired or controlled by such municipality and the approaches thereto when in whole or in part outside the corporate limits thereof shall be subject to the municipal control and ordinances of such municipality, the same to all intents and purposes and in effect, as though such bridge and approaches thereto were entirely situated within the corporate limits of such municipality, and in such case the county may assist in the construction of such bridge as is provided by law.

Laws 1959, p. 203, § 10–503.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–503.

5/10–504. Bonds; submission; limitations

§ 10–504. Any municipality within this state for the purpose of acquiring, paying for, maintaining, or constructing any such bridge or bridges, and the approaches thereto as in this Division of this Article provided, is authorized to issue such bonds under the general laws of this state in an amount which, together with all the other indebtedness of such municipality, shall not exceed 5% on the assessed valuation of the taxable property within the corporate limits of such municipality as provided by law, the same to be payable out of the general revenue and funds of such municipality.

Provided, such municipality is also authorized to issue for the purposes aforesaid, or any of them, bonds in such sum as may be necessary for the purposes aforesaid or any of them, in addition to and over and above the bonds first in this section hereinbefore provided for, in excess of the said 5% of the assessed valuation of the property within any such mu-

nicipality. Such bonds shall not, however, be payable out of nor be in charge upon any of the general revenue or funds of such municipality, but shall be payable out of the income derived by such municipality from the operation and maintenance of any such bridge or bridges. And provided further, that before any such bonds shall be issued, the question of the issuance thereof shall be submitted to a vote of the legal voters of the municipality at an election in accordance with the general election law and approved by a majority of those voting on the question at such election: And provided further, that for the purpose of securing such bonds so issued in excess of 5% of the assessed valuation of the taxable property within such municipality, such municipality may by the ordinance providing for the issuance of such bonds, mortgage or pledge any such bridge or approaches, and the income derived or to be derived therefrom, for the payment of such bonds, and the interest thereon: And provided further, nothing herein shall prevent such municipality from paying any such bonds issued in excess of said 5% of such assessed valuation or the interest thereon out of the general funds or revenue of such municipality, if it shall see fit so to do, if at the time of so paying same out of such general funds and revenue of such municipality, such municipality shall not be indebted in excess of 5% of the assessed valuation of the taxable property within such municipality in excess of the amount so paid by such municipality out of its general revenue and funds in the payment of such bonds. But nothing herein shall be deemed, taken or held to entitle the holder or holders of any such bond or bonds to payment of the same or of the interest thereon out of any such general funds or revenue of such municipality.

Laws 1959, p. 203, § 10–504. Amended by P.A. 81–1489, § 117, eff. Dec. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–504.

DIVISION 6. MUNICIPAL BRIDGES, FERRIES AND TERMINALS

5/10–601. Acquisition and regulation of ferries and bridges

§ 10–601. The corporate authorities of any municipality, have the power to acquire by purchase, lease, or gift, ferries, bridges, the approaches thereto, and not exceeding 4 acres of land within the corporate limits, or within 5 miles of the corporate limits thereof for each ferry or bridge. They also have the power to maintain, regulate and fix the tolls on these ferries and bridges.

Laws 1959, p. 203, § 10–601.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–601.

5/10–602. Acquisition and maintenance of ferries and bridges; river forming state boundary; aid road districts; issuance of bonds; tolls

§ 10–602. Every municipality has the power:

(1) To construct, or acquire by purchase, lease, gift, or condemnation in the manner provided for the exercise of the right of eminent domain under the Eminent Domain Act, [1] ferries and bridges, the necessary land therefor, and the approaches thereto, whenever the ferry, bridge, land, or approaches are within the corporate limits, or within 5 miles of the corporate limits of the municipality, and also to maintain the specified property;

(2) To construct and maintain highways within 5 miles of the corporate limits of the municipality connecting with either end of such a bridge or ferry;

(3) To construct or acquire by purchase, lease, gift, or condemnation in the manner provided for the exercise of the right of eminent domain under the Eminent Domain Act, ferries and bridges, the necessary land therefor, and the approaches thereto, within 5 miles of the corporate limits of the municipality, over any river forming a boundary of the State of Illinois, and also to maintain the specified property;

(4) To donate money to aid the road districts in which is situated any ferry, bridge, or highway connecting therewith, specified in this section, in constructing, or improving the same, and to issue the bonds of the municipality for that purpose.

All such ferries, bridges, and highways shall be free to the public and no toll shall ever be collected by the municipality except that:

(1) Tolls may be collected for transit over and use of bridges defined in Section 10–801, as provided for in Sections 10–802 and 10–805.

(2) Any municipality which, within the provisions of this section, bears the principal expense and becomes indebted for any ferry, bridge, or the approach thereto, over any river forming a boundary of the State of Illinois, may collect a reasonable toll, for the use thereof, to be set apart and appropriated to the payment of that indebtedness, the interest thereon, and the expense of maintenance of that bridge, ferry, and approach thereto, but for no other purpose;

(3) Where any municipality is the owner of any toll bridges or ferries which it is keeping up and maintaining by authority of law, all ownership and rights vested in the municipality shall continue and be held and exercised by it, and the municipality from time to time may fix the rates of toll on those bridges and ferries; and

(4) In all cases where, after July 1, 1881, a bridge has been constructed, or a ferry has been acquired across a navigable stream, by any municipality in whole or in part, and where the population of the municipality furnishing the principal part of the expense thereof did not exceed 5,000, and where it is necessary to maintain a draw and lights, and where a debt was incurred by the municipality for these purposes, a reasonable toll may be collected by the municipality contracting the indebtedness. This toll shall be set apart and appropriated to the payment of that indebtedness, the interest thereon, and the expense of keeping the bridge in repair and of maintaining, opening, and closing the draws and lights, or, in case of a ferry, keeping the approaches and boat in repair and for operating the ferry.

(5) The General Assembly finds that electronic toll collection systems in Illinois should be standardized to promote safety, efficiency, and traveler convenience. If electronic toll collection is used on such bridge or ferry, the municipality shall configure the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority. The municipality may enter into an intergovernmental agreement with the Illinois State Toll Highway Authority to provide for such compatibility or to have the Authority

provide electronic toll collection or toll violation enforcement services.

Laws 1959, p. 203, § 10–602. Amended by P.A. 82–783, Art. XI, § 255, eff. July 13, 1982; P.A. 94–1055, Art. 95, § 95–10–355, eff. Jan. 1, 2007; P.A. 97–252, § 5, eff. Aug. 4, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–602.

[1] 735 ILCS 30/1–1–1 et seq.

5/10–603. Bridges, ferries, and approaches; municipal control

§ 10–603. Every bridge or ferry and also the approaches thereto, owned or controlled by a municipality as provided in Section 10–602, when outside the corporate limits, are subject to the municipal control and ordinances of the municipality, the same as though the bridge or ferry and the approaches thereto, were situated within the corporate limits of the municipality. In such case the county may assist in the construction of such bridge, as is now provided by law.

Laws 1959, p. 203, § 10–603.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–603.

5/10–604. Bridges and terminal facilities; ownership and operation

§ 10–604. Every municipality with a population of less than 500,000 which is located on a navigable stream has the power to acquire, construct, maintain, and operate either within or without its corporate limits, bridges and approaches, and transportation and other terminal facilities.

Laws 1959, p. 203, § 10–604.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–604.

5/10–605. Special tax; referendum

§ 10–605. For the purposes specified in Section 10–604, such a municipality may levy and collect a special tax annually of not more than .25 per cent of the value, as equalized or assessed by the Department of Revenue, of taxable property situated in the municipality. This tax shall be in addition to all other taxes that the municipality may be authorized by law to levy and shall be in addition to the amount authorized to be levied for general purposes as provided in Section 8–3–1 of the Illinois Municipal Code, as now or hereafter amended.[1] However, this tax shall not be levied in the municipality until the question of levying the tax has been submitted, in accordance with the general election laws of this State, to the electors of the municipality at an election and has been approved by a majority of the electors voting thereon. The corporate authorities of the municipality may initiate the submission of such proposition to referendum by ordinance.

The proposition shall be in substantially the following form:

Shall (insert the name of municipality) be empowered to levy and collect a special tax annually of ..... per cent on each dollar of the valuation of the taxable property for the purpose of acquiring, constructing, maintaining or operating bridges or approaches and transportation and other terminal facilities, as provided in Section 10–605 of the Illinois Highway Code?	YES	
	NO	

If a majority of the electors of the municipality voting thereon vote for the levy and collection of the tax provided for in this Section, the municipality has the power to levy and collect the tax.

The foregoing limitation upon tax rate may be increased or decreased according to the referendum provisions of the General Revenue Law of Illinois.[2]

Laws 1959, p. 203, § 10–605. Amended by Laws 1961, p. 1415, § 1; P.A. 76–899, § 1, eff. Aug. 20, 1969; P.A. 76–1592, § 1, eff. Sept. 30, 1969; P.A. 76–2259, § 1, eff. July 1, 1970; P.A. 77–1159, § 1, eff. Aug. 17, 1971; P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 81–1509, Art. IV, § 127, eff. Sept. 26, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–605.

[1] 65 ILCS 5/8–3–1.

[2] 35 ILCS 205/1 et seq. (repealed).

5/10–606. Issuance of bonds

§ 10–606. Any municipality specified in Section 10–604 may issue bonds for the purposes specified in Section 10–604. The amount of these bonds, including the existing indebtedness of the municipality, shall not exceed, in the aggregate, 5% of the value of the taxable property therein. This value shall be ascertained by the last assessment for State and county taxes previous to the issue of these bonds. The bonds authorized by this section to be issued shall not be subject to the limit of indebtedness provided for in Division 5 of Article 8 of the Illinois Municipal Code, as heretofore or hereafter amended.[1]

Laws 1959, p. 203, § 10–606. Amended by Laws 1961, p. 1415, § 1, eff. July 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–606.

[1] 65 ILCS 5/8–5–1 et seq.

DIVISION 7. MUNICIPAL TOLL BRIDGES—ADDITIONAL AUTHORIZATION TO ACQUIRE, CONSTRUCT, MAINTAIN, ETC.

5/10–701. Definitions

§ 10–701. In this Division of this Article, unless the context otherwise requires:

(1) "Bridge" means any bridge over or across a river, including any bridges on the approaches thereto to eliminate intersection at grade with any street, tunnel, public road, thoroughfare, highway, railroad or street railroad, where the complete project is located entirely within the State;

(2) "Net Revenue" means the gross revenue of a bridge less the reasonable cost of operating, maintaining, and repairing the bridge;

(3) "United States" means the United States of America and any agent or agency thereof;

(4) "Holder" means the holder or holders of any of the bonds issued under this Division of this Article.

Laws 1959, p. 203, § 10–701.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–701.

5/10–702. Powers of municipalities

§ 10–702. Every municipality has the power:

(1) To acquire, by purchase or otherwise, construct, operate and maintain, and repair any bridge within the corporate limits, or within 5 miles of the corporate limits of the municipality, including the necessary land therefor and the approaches thereto. In the exercise of the authority

herein granted, the municipality may acquire such property, or any portion thereof or interest therein through condemnation proceedings for the exercise of the right of eminent domain under the Eminent Domain Act. [1]

(2) To acquire, purchase, hold, use, lease, mortgage, sell, transfer, and dispose of any property, real, personal, mixed, tangible or intangible, or any interest therein in connection with such a bridge or bridges;

(3) To fix, alter, charge, collect, segregate, and apply tolls and other charges for transit over and use of such a bridge or bridges, provided that, if electronic toll collection is used on such bridge or ferry, the municipality shall configure the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority;

(4) To borrow money, make and issue bonds payable from and secured by a pledge of net revenue of the bridge for the construction of which such bonds may be issued;

(5) To make contracts of every kind and nature and to execute all instruments necessary or convenient for the carrying out of the purposes of this Division of this Article;

(6) To accept grants from the United States and to enter into contracts with the United States in connection therewith;

(7) To enter upon any lands, areas, and premises for the purpose of making soundings, surveys and examinations;

(7.5) To enter into intergovernmental agreements with the Illinois State Toll Highway Authority to provide for the compatibility of electronic toll collection services or to have the Authority provide electronic toll collection or toll violation enforcement services; and

(8) To do all things necessary to carry out the powers given in this Division of this Article.

Laws 1959, p. 203, § 10–702. Amended by P.A. 82–783, Art. XI, § 255, eff. July 13, 1982; P.A. 94–1055, Art. 95, § 95–10–355, eff. Jan. 1, 2007; P.A. 97–252, § 5, eff. Aug. 4, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–702.

[1] 735 ILCS 30/1–1–1 et seq.

5/10–703. Issuance of revenue bonds

§ 10–703. Without limiting any other powers granted in this Division of this Article, each municipality has the power to provide for the payment of the cost of acquiring or constructing any bridge or for the payment of any portion of the cost by one or more issues of revenue bonds of the municipality, payable solely from the net revenue of the bridge so acquired or constructed. These bonds shall be authorized by ordinance of the corporate authorities of the municipality and shall be in substantially the form set forth in the ordinance. The bonds may be serial or term; redeemable, with or without premium, or non-redeemable; shall bear interest at a rate not exceeding the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, payable at such times as may be provided; shall mature at such times not exceeding the life of the bridge, for the acquisition or construction of which they are issued, as estimated by the corporate authorities, but in no event exceeding 40 years; and shall be issued in such amounts and at such place as shall be prescribed in the ordinance authorizing their issuance.

The bonds shall be signed by such officers as the corporate authorities shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signatures of such officers as the corporate authorities shall determine; all as shall be prescribed in the ordinance authorizing the bonds. The bonds may be issued and delivered, notwithstanding the fact that an officer signing the bonds, or whose facsimile signature appears upon any of the coupons has ceased to hold his office at the time that the bonds are actually delivered.

The bonds of the municipality may be sold in such manner, at such times, and at such prices as the corporate authorities may determine, but no sale shall be made at a price which would make the interest cost to maturity on the money received therefor computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract. The principal of and interest upon the bonds shall be payable solely from the net revenue derived from the operation of the bridge acquired or constructed with proceeds of the sale of the bonds. No bond issued pursuant to this Division of this Article shall constitute an indebtedness of a municipality within the meaning of any constitutional, statutory, or charter limitation. It shall be plainly stated on the face of each bond in substance that the bond has been issued under the provisions of this Division of this Article and that the taxing power and general credit of the municipality issuing the bond are not pledged to the payment of the bond, or interest thereon, and that the bond and the interest thereon are payable solely from the net revenue of the bridge to acquire or construct which the bond is issued.

The cost of the bridge or improvement thereto shall include interest during construction, and for not exceeding 12 months thereafter, and also all engineering, legal, architectural, traffic surveying, and other expenses incident to the construction and the acquisition of the necessary property, and incident to the financing thereof, including the cost of acquiring existing franchises, rights, plans, and works of and relating to the bridge. If the proceeds of the bonds issued shall exceed the cost as finally determined, the excess shall be applied to the payment, purchase, or redemption of the bonds. Bonds and interest coupons issued under this Division of this Article shall possess all the qualities of negotiable instruments.

No ordinance pursuant to this section shall become effective until after the plans and specifications relating to the project have been submitted to and approved by the Department.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 10–703. Amended by P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–703.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/10–704. Ordinance; publication

§ 10–704. An ordinance authorizing bonds under this Division of this Article may contain provisions, which shall be part of the contract with the holders of the bonds, as to (1) the dates, maturities, denominations, rate of interest, places, and medium of payment of the bonds and other details in connection with the bonds or their issuance, (2) the rates of tolls and other charges to be charged by the municipality for transit over or use of the bridge, and their segregation and application, (3) the registration of the bonds as to principal only or as to both principal and interest, and the interchangeability and exchangeability of the bonds, (4) the redemption of the bonds, and the price at which they are redeemable, (5) the setting aside of reserves or sinking funds and the regulation and disposition thereof, (6) limitations upon the issuance of additional bonds payable from the revenue of the bridge or upon the rights of the holders of these additional bonds, and (7) other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of these holders.

After the passage of an ordinance providing for the issuance of revenue bonds under this Division of this Article, the ordinance shall be published in the same manner and form as is required for other ordinances of the municipality. The ordinance shall become effective 10 days after publication, or, if approval of the plans and specifications by the Department is subsequent thereto, upon the date of such approval.

Laws 1959, p. 203, § 10–704.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–704.

5/10–705. Toll charges; record; free bridge

§ 10–705. The municipality shall fix rates of toll to be charged for transit over and use of such a bridge. These rates shall be so fixed, charged, and adjusted as to provide revenue at all times sufficient, (1) to pay the reasonable cost of maintaining (including insurance), operating, and repairing the bridge; (2) to provide a sinking fund and reserves sufficient to pay the principal of and interest on the bonds, including refunding bonds, if any, out of the revenue from the bridge, as the bonds mature and fall due; (3) to pay the redemption or repurchase price of all bonds redeemed or repurchased before maturity as provided in this Division of this Article; (4) to fulfill the terms and provisions of any agreement with holders of the bonds; and (5) to provide, in addition to the toll purposes specified in clauses (1) to (4), both inclusive, of this sentence, a sinking fund of accumulated tolls and revenue in such amount (determined by a registered professional engineer and approved by the Secretary of Transportation) that the annual interest therefrom will provide adequate income to pay the reasonable cost and extraordinary expenses of maintaining (including insurance), operating, improving and repairing the bridge when and as long as the municipality operates the bridge as a free bridge. The rates provided for by clause (5) of the preceding sentence may be charged for a period not to exceed 18 months after sufficient funds to pay all bonds, including interest thereon, have been accumulated in the sinking fund provided for by clause (2).

An accurate record of the cost of each bridge, the expenditures for maintaining, operating and repairing the bridge, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested. The municipality shall classify in a reasonable way all traffic over the bridge, and the tolls shall be fixed and adjusted by it as to be uniform in their application to all traffic falling within any such reasonable class.

The municipality shall operate the bridge as a toll bridge until all bonds payable out of the revenue thereof are paid in full, and thereafter shall operate the bridge as a free bridge.

Laws 1959, p. 203, § 10–705. Amended by Laws 1965, p. 3554, § 1; P.A. 77–173, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–705.

5/10–706. Refunding revenue bonds payable from income; issuance; registration; interest

§ 10–706. Any municipality may by ordinance authorize the issue of refunding revenue bonds, payable solely from the revenues of a bridge to refund the principal or accrued interest, or both, of its outstanding revenue bonds issued hereunder, prior to their maturity, and the principal and accrued interest of its matured outstanding revenue bonds issued under the provisions of this Division of this Article, and which by their terms are payable solely from the net revenues of the bridge. The refunding revenue bonds may be made registerable as to principal and bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, payable at such time or at such place as may be provided for in the ordinance authorizing the issue thereof.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 10–706. Amended by P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–706.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/10–707. Bond ordinance; terms

§ 10–707. The ordinance authorizing such refunding revenue bonds shall prescribe all the details thereof and the bonds shall be in such form and denomination payable at such places, bear such date and be executed by such officials as may be provided in the bond ordinance. The ordinance also shall determine the life of the bridge. The refunding revenue bonds shall mature within the life of the bridge as so determined and shall mature, in any event, within not to exceed 40 years from their date, and may be made callable on any interest payment date at a price of par and accrued interest, after notice shall be given by publication or otherwise at any time or times and in the manner as may be prescribed for in the bond ordinance.

The ordinance may contain such covenants and restrictions upon the issuance of additional refunding revenue bonds, or revenue bonds for the improvement and extension of such bridge as may be deemed necessary or advisable for the assurance of the payment of the refunding revenue bonds thereby authorized; such bonds shall be payable from the net revenues of the bridge and such bonds shall not, in any

event, constitute an indebtedness of the municipality within the meaning of any constitutional or statutory limitation, and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness of the municipality within any constitutional or statutory provision or limitation.

The validity of any refunding revenue bonds shall remain unimpaired, although one or more of the officials executing the same shall cease to be such officer or officers before delivery thereof, and such bonds shall have all the qualities of negotiable instruments under the Law Merchant and the Negotiable Instrument Law.[1]

Laws 1959, p. 203, § 10–707.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–707.

[1] 815 ILCS 105/0.01 et seq.

5/10–708. Bond ordinance; publication

§ 10–708. After the ordinance providing for the issuance of refunding revenue bonds has been passed, it shall be published in the same manner and form as is required for other ordinances of the municipality. The ordinance shall become effective 30 days after publication, which publication shall include a notice of (1) the specific number of voters required to sign a petition requesting that the question of the adoption of the ordinance be submitted to the electors of the municipality; (2) the time in which the petition must be filed; and (3) the date of the prospective referendum, unless within such period a petition is filed with the municipal clerk, signed by electors of the district numbering 10% or more of the number of registered voters in the district, asking that the question of issuing such bonds be submitted to the electors of the municipality. The municipal clerk shall provide a petition form to any individual requesting one. Upon the filing of such petition the municipal clerk shall certify the proposition to the proper election officials, who shall submit at an election such proposition in the manner provided by the general election law. Such referendum shall be held and notice given in accordance with the general election law. If a majority of the electors voting upon the proposition voted in favor of the issuance of the bonds, the ordinance shall be in effect; but if a majority of the votes cast are against the issuance of the bonds, the ordinance shall not go into effect.

Laws 1959, p. 203, § 10–708. Amended by P.A. 81–1489, § 117, eff. Dec. 1, 1980; P.A. 82–1014, Art. II, § 20, eff. Jan. 1, 1983; P.A. 87–767, § 116, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–708.

5/10–709. Refunding revenue bonds; sale or exchange

§ 10–709. Such refunding revenue bonds may be exchanged on a basis of par for the securities to be refunded, or such bonds may be sold at not less than their par value and accrued interest and the proceeds received shall be used to pay the bonds which are to be refunded thereby.

Laws 1959, p. 203, § 10–709.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–709.

5/10–710. Sinking fund publicity; refunding agreements; expenditures without prior appropriation

§ 10–710. The corporate authorities of any such municipality are authorized to take any action that may be necessary to inform owners of outstanding bonds regarding the financial condition of the fund out of which the bonds are payable and the necessity of refunding the same and readjusting the maturities thereof and the corporate authorities may enter into any agreements required to prepare and carry out any refunding plan, and without previous appropriation therefor under any law may incur and pay expenditures that may be necessary in order to accomplish the refunding of such bonds.

Laws 1959, p. 203, § 10–710.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–710.

5/10–711. Compelling performance of duties; receivership

§ 10–711. The holder of any bond or refunding bond or interest coupon by a civil action, may enforce and compel performance of all duties of the issuing municipality as required by this Division of this Article and the ordinance authorizing the issuance of the bonds, including the duties of fixing sufficient tolls and charges and the collection, segregation, and application of the revenue derived from the operation of the bridge. In case of default, a receiver may be appointed by a judge of the circuit court to take possession of, operate, and maintain the bridge, charge and collect tolls, and segregate and apply the money received in accordance with the ordinance relating thereto.

Laws 1959, p. 203, § 10–711. Amended by P.A. 77–994, § 1, eff. Aug. 17, 1971; P.A. 79–1366, § 44, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–711.

5/10–712. Revenue bonds; issuance without referendum

§ 10–712. Revenue bonds, including refunding bonds, may be issued under this Division of this Article without submitting the proposition of the approval of the ordinance or the question of the issuance of the bonds to the electors of the municipality, except as otherwise provided in Section 10–708.

Laws 1959, p. 203, § 10–712.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–712.

5/10–713. Bridge Commission

§ 10–713. Any municipality may by ordinance provide for the establishment of a Bridge Commission, to consist of 3 persons resident therein to be appointed by the Mayor, for terms of 4 years and until their successors are appointed; provided that of the Commissioners first appointed, one shall be appointed for a term of 2 years, one for 3 years and one for 4 years, as designated by the Mayor. The Commissioners shall receive no compensation for their services but shall be reimbursed for actual expenses incurred in the discharge of their duties. Vacancies in the office of any Commissioner shall be filled by the Mayor by appointment for the unexpired term.

The ordinance may vest in the Bridge Commission the duties and responsibilities incident to the acquisition or construction of the bridge project, the operation and maintenance of the bridge project, the execution of contracts for the acquisition, construction and maintenance thereof, the collection of the tolls and other charges of the municipality for transit over or use of the bridge, and such other powers as the corporate authorities may deem necessary or desirable. Nothing in this section shall be construed to authorize a delegation of power to the Bridge Commission to adopt any ordinance pertaining to the issuance of revenue bonds or refunding revenue bonds or the fixing of rates of toll.

Laws 1959, p. 203, § 10–713.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–713.

5/10–714. Projects involving two or more municipalities

§ 10–714. Where a municipality desires to undertake a bridge project under this Division of this Article which involves property within the corporate limits of another municipality or municipalities, the powers designated in this Division of this Article shall not be exercised in respect to such property except with the consent of the corporate authorities of such other municipality or municipalities as evidenced by an ordinance or ordinances thereof. The municipalities involved may by agreement determine their respective rights, duties and obligations thereunder.

Laws 1959, p. 203, § 10–714.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–714.

5/10–715. Bonds as legal investments

§ 10–715. The State and all counties, municipalities and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, saving banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, including refunding bonds, issued pursuant to this Division of this Article, it being the purpose of this Section to authorize the investment in such bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers. However, nothing contained in this Section may be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities for purchase or investment.

Laws 1959, p. 203, § 10–715.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–715.

DIVISION 8. MUNICIPAL BRIDGES OVER RIVER FORMING STATE BOUNDARY

5/10–801. Definitions

§ 10–801. In this Division of this Article, unless the context otherwise requires:

(1) "Bridge" means any bridge over any river forming a boundary of this State carrying highway, rail or other traffic, or any deck, level or part of such bridge whether or not the entire bridge is owned or to be owned by the municipality, and all property, rights-of-way, easements, approaches, and franchises in connection therewith, and may mean two or more of such bridges, decks, levels or parts thereof;

(2) "Net revenue" means the gross revenue of a bridge less the reasonable cost of operating, maintaining, and repairing the bridge;

(3) "United States" means the United States of America and any agent, agency, department, bureau, commission or authority thereof of whatsoever kind;

(4) "Holder" means the holder or holders of any of the bonds issued under the authority of this Division of this Article.

Laws 1959, p. 203, § 10–801. Amended by Laws 1961, p. 2575, § 1, eff. Aug. 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–801.

5/10–802. Powers of municipalities

§ 10–802. Each municipality has the power:

(1) To acquire, by purchase or otherwise, construct, reconstruct, improve, enlarge, better, operate, maintain and repair any bridge within the corporate limits or within 5 miles of the corporate limits of the municipality;

(2) To acquire, purchase, hold, use, lease, mortgage, sell, transfer and dispose of any property, real or personal or mixed, tangible or intangible, or any interest therein, in connection with such a bridge, including the power and authority to grant perpetual easements or franchises to any railroad or public transportation facility or any assignee thereof, as a part of the consideration of the purchase of any such bridge, for the exclusive right to the use of a portion or portions of any such bridge for the transportation of persons or property across such bridge;

(3) To fix, alter, charge, collect, segregate, and apply tolls and other charges for transit over and use of such a bridge, provided that, if electronic toll collection is used on such bridge or ferry, the municipality shall configure the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority;

(4) To borrow money, make and issue bonds payable from and secured by a pledge of the net revenue of the bridge for the acquisition, construction, reconstruction, improvement, enlargement, betterment or repair of which such bonds may be issued;

(5) To cooperate with any adjoining state, or any political subdivision, agency, department, bureau, commission or authority thereof, of whatsoever kind, in the acquisition, construction, reconstruction, improvement, enlargement, betterment, operation, maintenance and repair of any bridge, and in defraying the cost thereof;

(6) To make contracts of every kind and nature and to execute all instruments necessary or convenient for the carrying out of the purposes of this Division of this Article;

(7) Without limitation of the foregoing, to borrow money and to accept grants from the United States or any person, and to enter into contracts with the United States and such person in connection therewith;

(7.5) To enter into intergovernmental agreements with the Illinois State Toll Highway Authority to provide for the compatibility of electronic toll collection services or to have the Authority provide electronic toll collection or toll violation enforcement services; and

(8) To alter, widen, lay out, open or construct any streets, avenues or boulevards within or without any municipality deemed necessary to provide adequate traffic regulation and approach or approaches to such bridge or bridges, and to borrow money and issue bonds for such purpose as provided by this Division of this Article.

Laws 1959, p. 203, § 10–802. Amended by Laws 1961, p. 2575, § 1, eff. Aug. 1, 1961; P.A. 97–252, § 5, eff. Aug. 4, 2011.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–802.

5/10–803. Issuance of revenue bonds

§ 10–803. Without limiting any other powers granted in this Division of this Article, each municipality has the power to provide for the payment of the cost of acquiring, constructing, reconstructing, improving, enlarging, bettering or repairing any bridge or for the payment of any portion of such cost by one or more issues of revenue bonds of the municipality, payable solely from the net revenue of such

bridge. These bonds shall be authorized by ordinance of the corporate authorities of the municipality and shall be in substantially the form set forth in the ordinance. The bonds may be serial or term; redeemable, with or without premium, or non-redeemable; shall bear interest at such rate or rates, not exceeding the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, payable at such times as may be provided; shall mature at such times not exceeding the life of the bridge, for the acquisition, construction, reconstruction, improvement, enlargement, betterment or repair of which they are issued, as estimated by the corporate authorities, but in no event exceeding 40 years; and shall be issued in such amounts and payable at such place or places, within or without the State, as shall be prescribed in the ordinance authorizing their issuance. The bonds of any issue may be delivered in such installments from time to time, and at such place or places, within or without the State, as the corporate authorities may, by resolution, determine.

The bonds shall be signed by such officer or officers as the corporate authorities shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signatures of such officer or officers as the corporate authorities shall determine, in the ordinance authorizing the bonds. The signature of only one of the officers signing the bonds need be a manual signature, and the signature of any other officers signing the bonds may be facsimile signatures. A facsimile of the seal of the municipality may be imprinted on the bonds. The bonds may be issued and delivered notwithstanding the fact that an officer signing the bonds or whose facsimile signature appears upon any of the bonds or coupons has ceased to hold his office at the time that the bonds are actually delivered, and notwithstanding the fact that an officer whose facsimile signature appears upon the bonds or coupons has ceased to hold his office at the time that the bonds are manually signed by the officer or officers required to sign the bonds manually.

The bonds of the municipality may be sold in such manner, at such times, and at such prices as the corporate authorities may determine, but no sale shall be made at a price which would make the interest cost to maturity on the money received therefor computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, exceed 6% annually. The principal of and interest upon the bonds shall be payable solely from the net revenue derived from the operation of the bridge acquired, constructed, reconstructed, improved, enlarged, bettered or repaired with the proceeds of the sale of the bonds. No bond issued pursuant to this Division of this Article shall constitute an indebtedness of a municipality within the meaning of any constitutional, statutory or charter limitation. It shall be plainly stated on the face of each bond in substance that the bond has been issued under the provisions of this Division of this Article and that the taxing power and general credit of the municipality issuing the bond are not pledged to the payment of the bond, or interest thereon, and that the bond and the interest thereon are payable solely from the net revenue of the bridge to acquire, construct, reconstruct, improve, enlarge, better or repair which the bond is issued.

The cost of the acquisition, construction, reconstruction, improvement, enlargement, betterment or repair of any bridge shall include debt service reserves to secure the payment of bonds issued therefor under this Division of this Article, interest during the period, as estimated by the corporate authorities, of such construction, reconstruction, improvement, enlargement, betterment or repair and for not exceeding 12 months thereafter, and also all engineering, legal, architectural, traffic surveying and other expenses incident to such acquisition, construction, reconstruction, improvement, enlargement, betterment or repair and incident to the acquisition of any and all necessary property in connection therewith and also incident to the financing thereof, including the cost of acquiring existing franchises, easements, rights, plans, and works of and relating to the bridge. If the proceeds of the bonds issued shall exceed the cost as finally determined, the excess shall be applied to the payment, purchase or redemption of the bonds. Bonds and interest coupons issued under this Division of this Article shall possess all the qualities of negotiable instruments. Such bonds shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies, and insurance companies organized under the laws of the State of Illinois.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 10–803. Amended by Laws 1961, p. 2575, § 1, eff. Aug. 1, 1961; P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–803.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/10–804. Ordinance; publication

§ 10–804. An ordinance authorizing bonds under this Division of this Article may contain provisions, which shall be part of the contract with the holders of the bonds, as to (1) the dates, maturities, denominations, rate of interest, places and medium of payment of the bonds and other details in connection with the bonds or their issuance, (2) the rates of tolls and other charges to be charged by the municipality for transit over or use of the bridge, and their segregation and application, (3) the registration of the bonds as to principal only or as to both principal and interest, and the interchangeability and exchangeability of the bonds, (4) the redemption of the bonds, and the price at which they are redeemable, (5) the setting aside of reserves or sinking funds and the regulation and disposition thereof, (6) limitations upon the issuance of additional bonds payable from the revenue of the bridge or upon the rights of the holders of these additional bonds, and (7) other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of these holders.

After the passage of an ordinance providing for the issuance of the revenue bonds under this Division of this Article, the ordinance shall be published in the same manner and form as is required for other ordinances of the municipality. The ordinance shall become effective 10 days after publication.

Laws 1959, p. 203, § 10–804.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–804.

5/10–805. Rates of toll; records; surplus revenues

§ 10–805. The municipality shall fix rates of toll to be charged for transit over and use of such a bridge. These rates shall be so fixed, charged, and adjusted as to provide revenue at all times sufficient (1) to pay the reasonable cost of maintaining (including insurance), operating and repairing the bridge; (2) to provide a sinking fund and reserves sufficient to pay the principal of and interest on the bonds out of the revenue from the bridge, as the bonds mature and fall due; (3) to pay the redemption or repurchase price of all bonds redeemed or repurchased before maturity as provided in this Division of this Article; and (4) to fulfill the terms and provisions of any agreement with holders of the bonds.

An accurate record of the cost of each bridge, the expenditures for maintaining, operating, and repairing the bridge, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested. The municipality shall classify in a reasonable way all traffic over the bridge, and the tolls shall be fixed and adjusted by it as to be uniform in their application to all traffic falling within any such reasonable class.

The municipality shall operate the bridge as a toll bridge and after all the covenants contained in the ordinance authorizing the issuance of any revenue bonds have been complied with annually and there be any surplus revenues remaining such surplus may be appropriated by such municipality for any proper corporate purpose, or pledged for the payment of any revenue bonds issued under this Division of this Article by the municipality for the construction or acquisition of any other bridge or bridges. After all bonds payable out of the revenues thereof have been paid in full, the municipality may continue to operate such bridge as a toll bridge and rates shall be fixed, charged and adjusted so as to produce revenue annually in an amount not to exceed 5% of the cost of the bridge as shown by the records of the municipality required to be kept as in this Division of this Article provided. The revenues thus produced shall be used to maintain, operate and repair such bridge, provided any surplus remaining after properly setting aside sums for maintenance, operation and repair of the bridge may be appropriated for any corporate purpose or pledged for the payment of any revenue bonds issued under this Division of this Article by the municipality for the construction or acquisition of any other bridge or bridges.

Laws 1959, p. 203, § 10–805.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–805.

5/10–806. Refunding revenue bonds

§ 10–806. Any municipality may by ordinance authorize the issue of refunding revenue bonds under this Division of this Article payable solely from the net revenue of one or more bridges to refund the principal, premium, if any, and accrued interest of any one or more issues of its outstanding revenue bonds issued under the provisions of this Division of this Article and which by their terms are payable solely from the revenue of any bridge or bridges, such refunding to be made at or after maturity or prior to maturity with the consent of the holders thereof, provided that such consent shall not be required if such bonds are subject to redemption prior to maturity, and any such refunding revenue bonds may bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended [1] at the time of the making of the contract, payable at such times as may be provided by the ordinance authorizing the issue thereof. All of the provisions of this Division of this Article with respect to the form, maturities and other details of bonds and the security therefor and covenants with respect thereto shall be applicable to such refunding bonds, and such refunding bonds may be consolidated with and be a part of an issue of revenue bonds issued pursuant to the provisions of this Division of this Article for the payment of the cost of acquiring, constructing, reconstructing, improving, enlarging, bettering or repairing any bridge or for the payment of any portion of such cost. Any ordinance authorizing such refunding revenue bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds as may be deemed necessary or advisable for the assurance of the payment of the revenue bonds thereby authorized.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts [2] are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

Laws 1959, p. 203, § 10–806. Amended by Laws 1961, p. 2575, § 1, eff. Aug. 1, 1961; P.A. 86–4, § 69, eff. June 6, 1989.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–806.

[1] 30 ILCS 305/0.01 et seq.

[2] 5 ILCS 70/8.

5/10–807. Compelling performance of duties; receivership

§ 10–807. The holder of any bond or interest coupon may, by mandamus, injunction, civil action or proceeding, enforce and compel performance of all duties of the issuing municipality as required by this Division of this Article and the ordinance authorizing the issuance of the bonds, including the duties of fixing sufficient tolls and charges and the collection, segregation, and application of the revenue derived from the operation of the bridge. In case of default, a receiver may be appointed by a judge of the circuit court to take possession of, operate, and maintain the bridge, charge and collect tolls, and segregate and apply the money received in accordance with the ordinance relating thereto.

Laws 1959, p. 203, § 10–807. Amended by P.A. 79–1366, § 44, eff. Oct. 1, 1976; P.A. 83–334, § 109, eff. Sept. 14, 1983; P.A. 83–345, § 82, eff. Sept. 14, 1983; P.A. 84–1308, Art. III, § 64, eff. Aug. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–807.

5/10–808. Revenue bonds; issuance without referendum

§ 10–808. Revenue bonds may be issued under this Division of this Article without submitting the proposition of the approval of the ordinance or the question of the issuance of the bonds to the electors of the municipality.

Laws 1959, p. 203, § 10–808.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–808.

5/10–809. Validation of proceedings and bond issues

§ 10–809. All proceedings heretofore taken by any municipality under this or any prior Act for the acquisition, con-

struction, reconstruction, improvement, enlargement, betterment or repair of any bridge over any river forming a boundary of this State, and all revenue bonds issued by any municipality for the financing of the acquisition, construction, reconstruction, improvement, enlargement, betterment or repair thereof are hereby ratified, validated and confirmed.

Laws 1959, p. 203, § 10–809, added by Laws 1961, p. 2575, § 1, eff. Aug. 1, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–809.

DIVISION 9. DEPARTMENT ACQUISITION AND OPERATION OF CERTAIN FERRIES

Date Effective

Division 9 was added to Article 10 by Laws 1959, p. 1190, eff. July 15, 1959.

5/10–901. Authority to acquire

§ 10–901. The Department may acquire, by purchase or by condemnation, the franchise and all equipment, boats, landing facilities, and other appurtenances of any ferry in existence on March 15, 1959, operating on the Illinois River and connecting any road a part of the county highway system in any county having not more than 7,000 inhabitants, as determined by the 1950 Federal census, with any State highway in any county having not more than 16,000 inhabitants, as determined by the same census.

Laws 1959, p. 203, § 10–901, added by Laws 1959, p. 1190, § 1, eff. July 15, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–901.

5/10–902. Maintenance and operation

§ 10–902. The Department may maintain and operate any ferry acquired under Section 10–901 of this Code as a free ferry service for the conveyance of persons, motor vehicles and other property across the Illinois River so long as such operation is justified by the amount of traffic using such ferry. The location of ferry landings and the route of any ferry acquired and operated under the authority of these sections shall be such as the Department determines will be most convenient to the majority of the users of such service considering economy of operation of such service. If deemed desirable and feasible by the Department the operation of such service may be relocated by the Department and new approaches and facilities constructed to serve the relocated site of operation.

Laws 1959, p. 203, § 10–902, added by Laws 1959, p. 1190, § 1, eff. July 15, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–902.

5/10–903. Use of funds

§ 10–903. The Department may use funds regularly appropriated to it for the construction and maintenance of highways for the purposes set forth in Section 10–901 and 10–902 of this Code.

Laws 1959, p. 203, § 10–903, added by Laws 1959, p. 1190, § 1, eff. July 15, 1959.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–903.

DIVISION 10. DEPARTMENT MAINTENANCE AND CONTROL OF COVERED BRIDGES

Date Effective

Division 10 was added to Article 10 by Laws 1963, p. 3473, eff. Aug. 28, 1963.

5/10–1001. Duty of department

§ 10–1001. The Department shall repair, maintain, operate, control and preserve every covered bridge (and the abutments and approaches thereof) in this State, meaning every structure which spans a watercourse, chasm, ravine, road or railroad in or forming a boundary line of this State and affording passage from one bank or side thereof to the other, and which is enclosed in such manner as to prevent a clear, unimpeded view of the interior thereof from the top or longitudinal sides thereof.

Laws 1959, p. 203, § 10–1001, added by Laws 1963, p. 3473, § 1, eff. Aug. 28, 1963.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 10–1001.

ARTICLE 11. EFFECT OF CODE, REPEAL AND OTHER PROVISIONS

5/11–101. Effect of headings

§ 11–101. Article and Division headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or Division hereof.

Laws 1959, p. 203, § 11–101.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 11–101.

5/11–102. Cross references

§ 11–102. Where, in this Code, reference is made to a Section, Division or Article by its number and no Act is specified, the reference is to the correspondingly numbered Section, Division or Article of this Code. Where reference is made to "this Article" or "this Division" or "this Section" and no Act is specified, the reference is to the Article, Division or Section of this Code in which the reference appears. If any Section, Division or Article of this Code is hereafter amended, the reference shall thereafter be treated and considered as a reference to the Section, Division or Article as so amended.

Laws 1959, p. 203, § 11–102.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 11–102.

5/11–103. Partial invalidity

§ 11–103. The invalidity of any provision of this Code shall not affect the validity of the remainder of this Code.

Laws 1959, p. 203, § 11–103.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 11–103.

5/11–104. Saving provisions; continuation of prior statutes

§ 11–104. The repeal of a statute or part thereof by this Code shall not affect any action pending or rights existing at the time this Code takes effect; neither shall this Code impair the validity of any proceedings taken or tax levied or extended under such prior statute or impair the validity of any bonds or other indebtedness outstanding at the time this Code takes effect.

The provisions of this Code insofar as they are the same or substantially the same as those of any prior statute, shall be construed as a continuation of such prior statute and not as a new enactment.

If in any other statute reference is made to an Act of the General Assembly, or a Section of such an Act, which is continued in this Code, such reference shall be held to refer to the Act or Section thereof so continued in this Code.

When a road district comprises a single township under the provisions of this Code, the term "road district" shall be construed as being synonymous with the term "township" as used in any law repealed by this Code.

Laws 1959, p. 203, § 11–104.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 11–104.

5/11–105. Outstanding bonds; amortization and retirement under prior Acts

§ 11–105. Any bond or other evidence of indebtedness issued under the provisions of any Act repealed by this Code which is outstanding and unpaid on the effective date of this Code shall be amortized and retired by taxation or revenue in the manner provided by the Act under which such indebtedness was incurred, notwithstanding the repeal of such Act.

However, the provisions of this Section shall not be construed to prevent the refunding of any such indebtedness under the provisions of this Code or as may be otherwise provided by law.

Laws 1959, p. 203, § 11–105.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 11–105.

5/11–106. Cumulative powers

§ 11–106. The provisions of this Code shall be cumulative in effect and if any provision is inconsistent with another provision of this Code or with any other Act not expressly repealed by Section 11–107 it shall be considered as an alternative or additional power and not as a limitation upon any other power granted to or possessed by the several highway authorities.

Laws 1959, p. 203, § 11–106.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 11–106.

ACT 10. TOLL HIGHWAY ACT

10/1. Legislative declaration

§ 1. It is hereby declared, as a matter of legislative determination, that in order to promote the public welfare, and to facilitate vehicular traffic by providing convenient, safe, modern and limited access highways designed for the accommodation of the needs of the traveling public through and within the State of Illinois, that it is necessary in the public interest to provide for the construction, operation, regulation and maintenance of a toll highway or a system of toll highways, incorporating therein the benefits of advanced engineering skill, design, experience and safety factors, to eliminate existing traffic hazards, and to prevent automotive injuries and fatalities, and to create The Illinois State Toll Highway Authority, as an instrumentality and administrative agency of the State of Illinois, and to confer upon and vest in said Authority all powers necessary or appropriate to enable said Authority to carry out the foregoing stated legislative purpose and determination.

Laws 1967, p. 2748, § 1, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–1.

10/1.1. Short title

§ 1.1. Short title. This Act may be cited as the Toll Highway Act.

Laws 1967, p. 2748, § 1.1, added by P.A. 86–1324, § 867, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–1.1.

10/2. Definitions

§ 2. The following words and terms as used in this Act shall have the following meanings:

(a) The word "Authority" shall mean The Illinois State Toll Highway Authority.

(b) The word "person," shall mean any individual, firm, association, partnership, corporation, trustee or legal representative.

(c) The word "owner," shall include all individuals, copartnerships, firms, associations, corporations, trustees or legal representatives, and others having any title or interest in any property, rights or easements authorized to be acquired by this Act.

(d) The words "toll highway" or "toll highways," shall mean such highways as are so designed and constructed, in the best professional judgment of the engineering staff responsible, as to accomplish the purposes of this Act.

(e) The word "toll" or "tolls" shall mean the compensation to be paid to The Illinois State Toll Highway Authority for the privilege of using any toll highway, or portions or parts thereof, by vehicular or other traffic.

(f) The word "cost" as applied to a toll highway shall embrace the cost of construction, including bridges over or under existing highways and railroads, the cost of acquisition of all land, rights of way, property, rights, easements and interests acquired by the Authority for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of diverting highways, interchange of highways, access to roads to private property, including the cost of lands or easements therefor, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and for one or more years after completion of construction, cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such toll highway, administrative expenses and such other expense as may be necessary or incident to the construction of the toll highway, the financing of such construction and the placing of the highway in operation.

Laws 1967, p. 2748, § 2, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–2.

10/3. State toll highway authority; creation; composition; appointments; contract powers

§ 3. There is hereby created an Authority to be known as The Illinois State Toll Highway Authority, which is hereby constituted an instrumentality and an administrative agency of the State of Illinois. The said Authority shall consist of 11 directors; the Governor and the Secretary of the Department of Transportation, ex officio, and 9 directors appointed by the Governor with the advice and consent of the Senate, from the State at large, which said directors and their successors are hereby authorized to carry out the provisions of this Act, and to exercise the powers herein conferred. Of

the 9 directors appointed by the Governor, no more than 5 shall be members of the same political party. Vacancies shall be filled for the unexpired term in the same manner as original appointments. All appointments shall be in writing and filed with the Secretary of State as a public record. It is the intention of this section that the Governor's appointments shall be made with due consideration to the location of proposed toll highway routes so that maximum geographic representation from the areas served by said toll highway routes may be accomplished insofar as practicable. The said Authority shall have the power to contract and be contracted with, to acquire, hold and convey personal and real property or any interest therein including rights of way, franchises and easements; to have and use a common seal, and to alter the same at will; to make and establish resolutions, by-laws, rules, rates and regulations, and to alter or repeal the same as the Authority shall deem necessary and expedient for the construction, operation, relocation, regulation and maintenance of a system of toll highways within and through the State of Illinois.

Appointment of the additional directors provided for by this amendatory Act of 1980 shall be made within 30 days after the effective date of this amendatory Act of 1980.

Laws 1967, p. 2748, § 3, eff. April 1, 1968. Amended by P.A. 77–180, § 1, eff. Jan. 1, 1972; P.A. 78–4, § 26, eff. April 12, 1973; P.A. 81–1363, § 1, eff. Aug. 1, 1980; P.A. 86–1164, § 1, eff. Aug. 10, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–3.

10/3.1. § 3.1. Repealed by P.A. 92–850, § 55, eff. Aug. 26, 2002

10/4. Chairman of authority; designation; powers and duties; compensation

§ 4. Of the directors appointed by the Governor, one such director shall be appointed by the Governor as chairman and shall hold office for 4 years from the date of his appointment, and until his successor shall be duly appointed and qualified, but shall be subject to removal by the Governor for incompetency, neglect of duty or malfeasance.

The chairman shall preside at all meetings of the Board of Directors of the Authority; shall exercise general supervision over all powers, duties, obligations and functions of the Authority; and shall approve or disapprove all resolutions, by-laws, rules, rates and regulations made and established by the Board of Directors, and if he shall approve thereof, he shall sign the same, and such as he shall not approve he shall return to the Board of Directors with his objections thereto in writing at the next regular meeting of the Board of Directors occurring after the passage thereof. Such veto may extend to any one or more items contained in such resolution, by-law, rule, rate or regulation, or to its entirety; and in case the veto extends to a part of such resolution, by-law, rule, rate or regulation, the residue thereof shall take effect and be in force, but in case the chairman shall fail to return any resolution, by-law, rule, rate or regulation with his objections thereto by the time aforesaid, he shall be deemed to have approved the same, and the same shall take effect accordingly. Upon the return of any resolution, by-law, rule, rate or regulation by the chairman, the vote by which the same was passed shall be reconsidered by the Board of Directors, and if upon such reconsideration two-thirds of all the Directors agree by yeas and nays to pass the same, it shall go into effect notwithstanding the chairman's refusal to approve thereof.

The chairman shall receive a salary of $18,000 per annum, or as set by the Compensation Review Board, whichever is greater, payable in monthly installments, together with reimbursement for necessary expenses incurred in the performance of his duties. The chairman shall be eligible for reappointment.

Laws 1967, p. 2748, § 4, eff. April 1, 1968. Amended by Laws 1968, p. 199, § 1, eff. Aug. 20, 1968; P.A. 81–1363, § 1, eff. Aug. 1, 1980; P.A. 83–1177, § 26, eff. July 17, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–4.

10/5. Directors; tenure; reappointment; salaries

§ 5. Of the original directors, other than the chairman, so appointed by the Governor, 3 shall hold office for 2 years and 3 shall hold office for 4 years, from the date of their appointment and until their respective successors shall be duly appointed and qualified, but shall be subject to removal by the Governor for incompetency, neglect of duty or malfeasance. In case of vacancies in such offices during the recess of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate when he shall nominate some person to fill such office and any person so nominated, who is confirmed by the Senate, shall hold office during the remainder of the term and until his successor shall be appointed and qualified. The respective term of the first directors appointed shall be designated by the Governor at the time of appointment, but their successors shall each be appointed for a term of four years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Directors shall be eligible for reappointment.

In making the initial appointments of the 2 additional directors provided for by this amendatory Act of 1980, the respective terms of the 2 additional directors first appointed shall be designated by the Governor at the time of appointment in such manner that the term of one such additional director shall expire at the same time as the terms of 4 of the other directors and the term of the other additional director shall expire at the same time as the terms of 3 of the other directors; thereafter the terms shall be 4 years.

Each such director, other than ex officio members shall receive an annual salary of $15,000, or as set by the Compensation Review Board, whichever is greater, payable in monthly installments, and shall be reimbursed for necessary expenses incurred in the performance of his duties.

Laws 1967, p. 2748, § 5, eff. April 1, 1968. Amended by P.A. 81–1363, § 1, eff. Aug. 1, 1980; P.A. 83–1177, § 26, eff. July 17, 1984; P.A. 86–1164, § 1, eff. Aug. 10, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–5.

10/6. Secretary; quorum

§ 6. Immediately after such appointment and qualification as hereinafter provided said chairman and directors shall enter upon their duties. The directors shall biennially select a secretary, who may or may not be a director, and if not a director fix his compensation. Six directors shall constitute a quorum. No vacancy in the said Board of Directors shall impair the right of a quorum of the directors to exercise all the rights and perform all the duties of the Authority.

Laws 1967, p. 2748, § 6, eff. April 1, 1968. Amended by P.A. 81–1363, § 1, eff. Aug. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–6.

10/7. Bonds of chairman and directors; participation in pension and insurance plans

§ 7. The chairman of the Board of Directors shall execute and file as hereinafter provided, a bond in the penal sum of $100,000. Each other director, other than the ex officio directors shall qualify by executing and filing, as hereinafter provided, a bond in the penal sum of $25,000, and the secretary, if not a member of the Authority, shall execute and file, as hereinafter provided, a bond in the penal sum of $15,000. All such bonds shall be payable to the People of the State of Illinois, and be conditioned upon the faithful performance of the duties imposed upon such chairman, directors or secretary under this Act. Said bonds shall be subject to the approval of the Governor and of the Attorney General of the State of Illinois, and shall, when executed and so approved, be filed in the office of the Secretary of State. The said bonds herein required to be furnished shall be with a surety company, or companies, authorized to do business in this State under the laws thereof, and the cost of any official bonds required to be furnished hereunder shall be paid out of any fund subject to expenditure by the Authority.

The chairman, directors and secretary of the Authority shall be eligible to participate in all pensions, accident, health and benefit plans established by the Authority for its employees in the same manner and form as all other employees.

Laws 1967, p. 2748, § 7, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–7.

10/7.5. Public comments at board meetings

§ 7.5. Public comments at board meetings. The board of directors shall set aside a portion of each meeting of the board that is open to the public pursuant to the provisions of the Open Meetings Act [1] during which members of the public who are present at the meeting may comment on any subject.

Laws 1967, p. 2748, § 7.5, added by P.A. 90–681, § 5, eff. July 31, 1998.

[1] 5 ILCS 120/1 et seq.

10/8. General powers of authority

§ 8. The Authority shall have the power:

(a) To acquire, own, use, hire, lease, operate and dispose of personal property, real property (except with respect to the headquarters building and surrounding land of the Authority located at 2700 Ogden Avenue, Downers Grove, Illinois, which may be sold or mortgaged only as provided in Section 7.5 of the State Property Control Act[1] to the extent that such property is subject to the State Property Control Act[2] at the time of the proposed sale), any interest therein, including rights-of-way, franchises and easements.

(b) To enter into all contracts and agreements necessary or incidental to the performance of its powers under this Act. All employment contracts let under this Act shall be in conformity with the applicable provisions of "An Act regulating wages of laborers, mechanics and other workers employed under contracts for public works," approved June 26, 1941, as amended.

(c) To employ and discharge, without regard to the requirements of any civil service or personnel act, such administrative, engineering, traffic, architectural, construction, and financial experts, and inspectors, and such other employees, as are necessary in the Authority's judgment to carry out the purposes of this Act; and to establish and administer standards of classification of all of such persons with respect to their compensation, duties, performance, and tenure; and to enter into contracts of employment with such persons for such periods and on such terms as the Authority deems desirable.

(d) To appoint by and with the consent of the Attorney General, assistant attorneys for such Authority, which said assistant attorneys shall be under the control, direction and supervision of the Attorney General and shall serve at his pleasure.

(e) To retain special counsel, subject to the approval of the Attorney General, as needed from time to time, and fix their compensation, provided however, such special counsel shall be subject to the control, direction and supervision of the Attorney General and shall serve at his pleasure.

(f) To acquire, construct, relocate, operate, regulate and maintain a system of toll highways through and within the State of Illinois. However, the Authority does not have the power to acquire, operate, regulate or maintain any system of toll highways or toll bridges or portions of them (including but not limited to any system organized pursuant to Division 108 of Article 11 of the Illinois Municipal Code[3]) in the event either of the following conditions exists at the time the proposed acquisition, operation, regulation or maintenance of such system is to become effective:

(1) the principal or interest on bonds or other instruments evidencing indebtedness of the system are in default; or

(2) the principal or interest on bonds or other instruments evidencing indebtedness of the system have been in default at any time during the 5 year period prior to the proposed acquisition.

To facilitate such construction, operation and maintenance and subject to the approval of the Division of Highways of the Department of Transportation, the Authority shall have the full use and advantage of the engineering staff and facilities of the Department.

Laws 1967, p. 2748, § 8, eff. April 1, 1968. Amended by P.A. 77–180, § 1, eff. Jan. 1, 1972; P.A. 81–840, § 50, eff. Sept. 19, 1979; P.A. 81–992, § 47, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 85, eff. Sept. 26, 1980; P.A. 83–1258, § 2, eff. Aug. 15, 1984; P.A. 93–19, § 30, eff. June 20, 2003.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–8.

[1] 30 ILCS 605/7.5.

[2] 30 ILCS 605/1 et seq.

[3] 65 ILCS 5/11–108–1.

10/8.5. Toll Highway Inspector General

§ 8.5. Toll Highway Inspector General.

(a) The Governor shall, with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote, appoint a Toll Highway Inspector General for the purpose of detection, deterrence, and prevention of fraud, corruption, and mismanagement in the Authority. The Toll Highway Inspector General shall serve a 5–year term. If, during a recess of the Senate, there is a vacancy in the office of the Toll Highway Inspector General, the Governor shall make a temporary appointment until the next meeting of the Senate when the Governor shall make a nomination to fill that office. No person rejected for the office of the Toll Highway Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. The Governor may not appoint a relative, as defined by item (6) of Section 10–15 of the State Officials and Employees Ethics Act, as the Toll Highway Inspector General. The Toll Highway Inspector General

may be removed only for cause and may be removed only by the Governor.

(b) The Toll Highway Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another state, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has 5 or more years of cumulative service (i) with a federal, state, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (ii) as a federal, state, or local prosecutor; (iii) as a federal or state judge with a criminal docket; (iv) as a senior manager or executive of a federal, state, or local agency; or (v) representing any combination of (i) through (iv).

(c) The term of the initial Toll Highway Inspector General shall commence upon qualification and shall run through June 30, 2015. The initial appointments shall be made within 60 days after the effective date of this amendatory Act of the 96th General Assembly. After the initial term, each Toll Highway Inspector General shall serve for 5–year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. A Toll Highway Inspector General may be reappointed to one or more subsequent terms. A vacancy occurring other than at the end of a term shall be filled by the Governor only for the balance of the term of the Toll Highway Inspector General whose office is vacant. Terms shall run regardless of whether the position is filled.

(d) The Toll Highway Inspector General shall have jurisdiction over the Authority and all board members, officers, and employees of, and vendors, subcontractors, and others doing business with the Authority. The jurisdiction of the Toll Highway Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance. Investigations may be based on complaints from any source, including anonymous sources, and may be self-initiated, without a complaint. An investigation may not be initiated more than five years after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The authority to investigate alleged violations of the State Officials and Employees Ethics Act by officers, employees, vendors, subcontractors, and others doing business with the Authority shall remain with the Office of the Governor's Executive Inspector General. The Toll Highway Inspector General shall refer allegations of misconduct under the State Officials and Employees Ethics Act to the Office of the Governor's Executive Inspector General for investigation. Upon completion of its investigation into such allegations, the Office of the Governor's Executive Inspector General shall report the results to the Toll Highway Inspector General, and the results of the investigation shall remain subject to any applicable confidentiality provisions in the State Officials and Employees Ethics Act. Where an investigation into a target or targets is split between allegations of misconduct under the State Officials and Employees Ethics Act, investigated by the Office of the Governor's Executive Inspector General, and allegations that are not of misconduct under the State Officials and Employees Ethics Act, investigated by the Toll Highway Inspector General, the Toll Highway Inspector General shall take reasonable steps, including continued consultation with the Office of the Governor's Executive Inspector General, to ensure that its investigation will not interfere with or disrupt any investigation by the Office of the Governor's Executive Inspector General or law enforcement authorities. In instances in which the Toll Highway Inspector General continues to investigate other allegations associated with allegations that have been referred to the Office of the Governor's Executive Inspector General pursuant to this subsection, the Toll Highway Inspector General shall report the results of its investigation to the Office of the Governor's Executive Inspector General.

(e)(1) If the Toll Highway Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance has occurred, then the Toll Highway Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate authority pursuant to paragraph (3) of subsection (f) of this Section, which shall have 20 days to respond to the report.

(2) The summary report of the investigation shall include the following:

(A) a description of any allegations or other information received by the Toll Highway Inspector General pertinent to the investigation.

(B) a description of any alleged misconduct discovered in the course of the investigation.

(C) recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(D) other information the Toll Highway Inspector General deems relevant to the investigation or resulting recommendations.

(3) Within 60 days after issuance of a final summary report that resulted in a suspension of at least 3 days or termination of employment, the Toll Highway Inspector General shall make the report available to the public by presenting the report to the Board of the Authority and by posting to the Authority's public website. The Toll Highway Inspector General shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Toll Highway Inspector General determines it is appropriate to protect the identity of a person before the report is made public. The Toll Highway Inspector General may also redact any information that he or she believes should not be made public, taking into consideration the factors set forth in this subsection and paragraph (1) of subsection (k) of this Section and other factors deemed relevant by the Toll Highway Inspector General to protect the Authority and any investigations by the Toll Highway Inspector General, other inspector general offices or law enforcement agencies. Prior to publication, the Toll Highway Inspector General shall permit the respondents and the appropriate authority pursuant to paragraph (3) of subsection (f) of this Section to review the report and the documents to be made public and offer suggestions for redaction or provide a response that shall be made public with the summary report, provided, however, that the Toll Highway Inspector General shall have the sole and final authority to decide what redactions should be made. The Toll Highway Inspector General may make available to the public any other summary report and any such responses or a redacted version of the report and responses.

(4) When the Toll Highway Inspector General concludes that there is insufficient evidence that a violation has occurred, the Toll Highway Inspector General shall close the investigation. The Toll Highway Inspector General shall provide the appropriate authority pursuant to paragraph (3) of subsection (f) of this Section with a written statement of the Toll Highway Inspector General's decision to close the investigation. At the request of the subject of the investigation, the Toll Highway Inspector General shall provide a written statement to the subject of the investigation of the Toll Highway Inspector General's decision to close the investigation. Closure by the Toll Highway Inspector General does not bar the Toll Highway Inspector General from resuming the investigation if circumstances warrant.

(f) The Toll Highway Inspector General shall:

(1) have access to all information and personnel necessary to perform the duties of the office.

(2) have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Section. A subpoena may be issued under this subparagraph (2) only by the Toll Highway Inspector General and not by members of the Toll Highway Inspector General's staff. Any person subpoenaed by the Toll Highway Inspector General has the same rights, under Illinois law, as a person subpoenaed by a grand jury. The power to subpoena or to compel the production of books and papers, however, shall not extend to the person or documents of a labor organization or its representatives insofar as the person or documents of a labor organization relate to the function of representing an employee subject to investigation under this Section. Subject to a person's privilege against self-incrimination, any person who fails to appear in response to a subpoena, answer any question, or produce any books or papers pertinent to an investigation under this Section, except as otherwise provided in this Section, or who knowingly gives false testimony in relation to an investigation under this Section is guilty of a Class A misdemeanor.

(3) submit reports as required by this Section and applicable administrative rules. Final reports and recommendations shall be submitted to the Authority's Executive Director and the Board of Directors for investigations not involving the Board. Final reports and recommendations shall be submitted to the Chair of the Board and to the Governor for investigations of any Board member other than the Chair of the Board. Final reports and recommendations for investigations of the Chair of the Board shall be submitted to the Governor.

(4) assist and coordinate with the ethics officer for the Authority.

(5) participate in or conduct, when appropriate, multijurisdictional investigations provided the investigation involves the Authority in some way, including, but not limited to, joint investigations with the Office of the Governor's Executive Inspector General, or with State, local, or federal law enforcement authorities.

(6) serve as the Authority's primary liaison with law enforcement, investigatory, and prosecutorial agencies and, in that capacity, the Toll Highway Inspector General may request any information or assistance that may be necessary for carrying out the duties and responsibilities provided by this Section from any local, state, or federal governmental agency or unit thereof.

(7) review hiring and employment files of the Authority to ensure compliance with Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), and with all applicable employment laws.

(8) establish a policy that ensures the appropriate handling and correct recording of all investigations conducted by the Office, and ensures that the policy is accessible via the Internet in order that those seeking to report suspected wrongdoing are familiar with the process and that the subjects of those allegations are treated fairly.

(9) receive and investigate complaints or information from an employee of the Authority concerning the possible existence of an activity constituting a violation of law, rules or regulations, mismanagement, abuse of authority, or substantial and specific danger to the public health and safety. Any employee of the Authority who knowingly files a false complaint or files a complaint with reckless disregard for the truth or falsity of the facts underlying the complaint may be subject to discipline.

(10) review, coordinate, and recommend methods and procedures to increase the integrity of the Authority.

(g) Within six months of appointment, the initial Toll Highway Inspector General shall propose rules, in accordance with the provisions of the Illinois Administrative Procedure Act, establishing minimum requirements for initiating, conducting, and completing investigations. The rules must establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but is not limited to, site visits, telephone contacts, personal interviews, or requests for written responses. The rules must establish the process, contents, and timing for final reports and recommendations by the Toll Highway Inspector General and for a response and any remedial, disciplinary, or both action by an individual or individuals receiving the final reports and recommendations. The rules must also clarify how the Office of the Toll Highway Inspector General shall interact with other local, state, and federal law enforcement authorities and investigations. Such rules shall provide that investigations and inquiries by the Office of the Toll Highway Inspector General must be conducted in compliance with the provisions of any collective bargaining agreement that applies to the affected employees of the Authority and that any recommendation for discipline or other action against any employee by the Office of the Toll Highway Inspector General must comply with the provisions of any applicable collective bargaining agreement.

(h) The Office of the Toll Highway Inspector General shall be an independent office of the Authority. Within its annual budget, the Authority shall provide a clearly delineated budget for the Office of the Toll Highway Inspector General. The budget of the Office of the Toll Highway Inspector General shall be adequate to support an independent and effective office. Except with the consent of the Toll Highway Inspector General, the Authority shall not reduce the budget of the Office of the Toll Highway Inspector General by more than 10 percent (i) within any fiscal year or (ii) over the five-year term of each Toll Highway Inspector General. To the extent allowed by law and the Authority's policies, the Toll Highway Inspector General shall have sole responsibility for organizing the Office of the Toll Highway Inspector General within the budget established by the Toll Highway Board, including the recruitment, supervision, and discipline of the employees of that office. The Toll Highway Inspector General shall report directly to the Board of Directors of the Authority with respect to the prompt and efficient operation of the Office of the Tollway Highway Inspector General.

(i)(1) No Toll Highway Inspector General or employee of the Office of the Toll Highway Inspector General may, during his or her term of appointment or employment:

(A) become a candidate for any elective office;

(B) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(C) be actively involved in the affairs of any political party or political organization; or

(D) advocate for the appointment of another person to an appointed public office or elected office or position or actively participate in any campaign for any elective office. As used in this paragraph (1), "appointed public office" means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(2) No Toll Inspector General or employee of the Office of the Toll Highway Inspector General may, for one year after the termination of his or her appointment or employment:

(A) become a candidate for any elective office;

(B) hold any elected public office; or

(C) hold any appointed State, county, or local judicial office.

(3) The requirements of subparagraph (C) of paragraph (2) of this subsection may be waived by the Executive Ethics Commission.

(j) All Board members, officers and employees of the Authority have a duty to cooperate with the Toll Highway Inspector General and employees of the Office of the Toll Highway Inspector General in any investigation undertaken pursuant to this Section. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements. Failure to cooperate with an investigation pursuant to this Section is grounds for disciplinary action, including termination of employment. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(k)(1) The identity of any individual providing information or reporting any possible or alleged misconduct to the Toll Highway Inspector General shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(2) Subject to the provisions of subsection (e) of this Section, the Toll Highway Inspector General, and employees and agents of the Office of the Toll Highway Inspector General, shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(*l*) If the Toll Highway Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Toll Highway Inspector General, the Toll Highway Inspector General shall refer the reported allegations to the appropriate Inspector General, appropriate ethics commission or other appropriate body. If the Toll Highway Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Toll Highway Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority. If a Toll Highway Inspector General determines that any alleged misconduct resulted in the loss of public funds in an amount of $5,000 or greater, the Toll Highway Inspector General shall refer the allegations regarding that misconduct to the Attorney General and any other appropriate law enforcement authority.

(m) The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority, and the General Assembly a summary of reports and investigations made under this Section no later than March 31 and September 30 of each year. The summaries shall detail the final disposition of the Inspector General's recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly.

(n) Any employee of the Authority subject to investigation or inquiry by the Toll Highway Inspector General or any agent or representative of the Toll Highway Inspector General concerning misconduct that is criminal in nature shall have the right to be notified of the right to remain silent during the investigation or inquiry and the right to be represented in the investigation or inquiry by an attorney or a representative of a labor organization that is the exclusive collective bargaining representative of employees of the Authority. Any investigation or inquiry by the Toll Highway Inspector General or any agent or representative of the Toll Highway Inspector General must be conducted in accordance with the rights of the employees as set forth in State and federal law and applicable judicial decisions. Any recommendations for discipline or any action taken against any employee by the Toll Highway Inspector General or any representative or agent of the Toll Highway Inspector General must comply with the provisions of the collective bargaining agreement that applies to the employee.

(*o*) Nothing in this Section shall diminish the rights, privileges, or remedies of a State employee under any other federal or State law, rule, or regulation or under any collective bargaining agreement.

Laws 1967, p. 2748, § 8.5, added by P.A. 96–1347, § 5, eff. Jan. 1, 2011.

10/9. Authority powers

§ 9. The Authority shall have the power:

(a) To prepare, or cause to be prepared detailed plans, specifications and estimates, from time to time, for the construction, relocation, repair, maintenance and operation of toll highways within and through the State of Illinois.

(b) To acquire, hold and use real and personal property, including rights, rights-of-way, franchises, easements and other interests in land as it may desire, or as may be necessary or convenient for its authorized purposes by purchase, gift, grant or otherwise, and to take title thereto; to acquire in the manner that may now or hereafter be provided for by the law of eminent domain of this State, any real or personal property (including road building materials and public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof, or rights therein, of any person, railroad, public service, public utility, or municipality or political subdivision) necessary or convenient for its authorized purpose. Such acquisition of real property, whether by purchase, gift, condemnation or otherwise, wherever necessary or convenient in the discretion of the Authority, may include the extension of existing rights and easements of access, use and crossing held by any person or persons, interests in land abutting on exist-

ing highways, and remnants or remainder property; and such acquisitions of real property may be free and clear of, and without any rights or easements of access, use and crossing in favor of any person or persons including interest in any land adjacent or contiguous to the land so acquired, provided however, that nothing herein contained shall be construed to authorize the taking or damaging of any private property for such purposes by the Authority, without just compensation.

(c) To accept conveyance of fee simple title to, or any lesser interest in, land, rights or property conveyed by the Department of Transportation under Section 4–508.1 of the Illinois Highway Code.[1]

(c–1) To establish presently the approximate locations and widths of rights of way for future additions to the toll highway system to inform the public and prevent costly and conflicting development of the land involved.

The Authority shall hold a public hearing whenever approximate locations and widths of rights of way for future toll highway additions are to be established. The hearing shall be held in or near the county or counties in which the land to be used is located and notice of the hearing shall be published in a newspaper or newspapers of general circulation in the county or counties involved. Any interested person or his or her representative may be heard. The Authority shall evaluate the testimony given at the hearing.

The Authority shall make a survey and prepare a map showing the location and approximate widths of the rights of way needed for future additions to the toll highway system. The map shall show existing highways in the area involved and the property lines and owners of record of all land that will be needed for the future additions and all other pertinent information. Approval of the map with any changes resulting from the hearing shall be indicated in the record of the hearing and a notice of the approval and a copy of the map shall be filed in the office of the recorder for all counties in which the land needed for future additions is located.

Public notice of the approval and filing shall be given in newspapers of general circulation in all counties in which the land is located and shall be served by registered mail within 60 days thereafter on all owners of record of the land needed for future additions.

The Authority may approve changes in the map from time to time. The changes shall be filed and notice given in the manner provided for an original map.

After the map is filed and notice thereof given to the owners of record of the land needed for future additions, no person shall incur development costs or place improvements in, upon, or under the land involved nor rebuild, alter, or add to any existing structure without first giving 60 days' notice by registered mail to the Authority. This prohibition shall not apply to any normal or emergency repairs to existing structures. The Authority shall have 45 days after receipt of that notice to inform the owner of the Authority's intention to acquire the land involved, after which it shall have an additional 120 days to acquire the land by purchase or to initiate action to acquire the land through the exercise of the right of eminent domain. When the right of way is acquired by the Authority, no damages shall be allowed for any construction, alteration, or addition in violation of this subsection (c–1) unless the Authority has failed to acquire the land by purchase or has abandoned an eminent domain proceeding initiated in accordance with this subsection (c–1).

Any right of way needed for additions to the toll highway system may be acquired at any time by the Authority. The time of determination of the value of the property to be taken under this Section for additions to the toll highway system shall be the date of the actual taking, if the property is acquired by purchase, or the date of the filing of a complaint for condemnation, if the property is acquired through the exercise of the right of eminent domain, rather than the date when the map of the proposed right of way was filed of record.

(c–2) Not more than 10 years after a protected corridor is established under subsection (c–1), and not later than the expiration of each 10–year period thereafter, the Authority shall hold a public hearing to discuss the viability and feasibility of the protected corridor. Following the hearing and giving due consideration to the information obtained at the hearing, the Board of Directors of the Authority shall vote to either continue or abolish the protected corridor.

(d) It is hereby declared, as a matter of legislative determination, that the fundamental goal of the people of Illinois is the educational development of all persons to the limits of their capacities, and this educational development requires the provision of environmentally and physically safe facilities.

If the building line of a building used primarily for the purpose of educating elementary or secondary students lies within 100 feet of any ingress or egress ramp that is used or that has been used by traffic exiting or entering any toll highway operated by the Toll Highway Authority, the Toll Highway Authority shall acquire the building, together with any property owned, leased, or utilized adjacent to it and pertaining to its educational operations, from the school district that owns or operates it, for just compensation. "Just compensation" for purposes of this subsection (d) means the replacement cost of the building and adjacent property so that the students educated in the building have the opportunity to be educated according to standards prevailing in the State of Illinois.

Laws 1967, p. 2748, § 9, eff. April 1, 1968. Amended by P.A. 83–1258, § 2, eff. Aug. 15, 1984; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 89–297, § 5, eff. Aug. 11, 1995; P.A. 90–681, § 5, eff. July 31, 1998.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–9.

[1] 605 ILCS 5/4–508.1.

10/9.5. Acquisition by purchase or by condemnation

§ 9.5. Acquisition by purchase or by condemnation. The Authority is authorized to acquire by purchase or by condemnation, in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act, [1] any and all lands, buildings, and grounds necessary or convenient for its authorized purpose. The Authority shall comply with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, Public Law 91–646, as amended, [2] and the implementing regulations in 49 CFR Part 24 and is authorized to operate a relocation program and to pay relocation costs. If there is a conflict between the provisions of this amendatory Act of 1998 and the provisions of the federal law or regulations, however, the provisions of this amendatory Act of 1998 shall control with the exception that the Authority shall use whichever law or regulation provides the highest payment limit. The Authority is authorized to exceed the maximum payment limits of the federal Uniform Relocation Assistance and Real Property Acquisition Policies

Act when necessary to ensure the provision of decent, safe, or sanitary housing, or to secure a suitable relocation site. The Authority may not adopt rules to implement the federal law or regulations referenced in this Section unless those rules have received the prior approval of the Joint Committee on Administrative Rules.

Laws 1967, p. 2748, § 9.5, added by P.A. 90–681, § 5, eff. July 31, 1998. Amended by P.A. 94–1055, Art. 95, § 95–10–360, eff. Jan. 1, 2007; P.A. 98–736, § 5, eff. July 16, 2014.

[1] 735 ILCS 30/1–1–1 et seq.

[2] 42 U.S.C.A. § 4601 et seq.

10/9.7. Eminent domain

§ 9.7. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Laws 1967, p. 2748, § 9.7, added by P.A. 94–1055, Art. 95, § 95–5–750, eff. Jan. 1, 2007.

10/9.10. Acquisition of property

§ 9.10. Acquisition of property.

(a) Prior to the initiation of negotiations, the Authority shall establish an amount that it believes is just compensation for the property. The amount shall not be less than the appraisal of the fair market value of the property. Promptly thereafter, the Authority shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer. For owner-occupied dwellings, upon the owner's request, the Authority shall exchange its approved appraisal with the owner's appraisal obtained from a State-certified general real estate appraiser.

(b) The Authority shall make every reasonable effort to contact the owner or the owner's representative and discuss its offer to purchase the property. The owner shall be given every reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property, including an appraisal obtained by the owner from a State-certified general real estate appraiser, and to suggest modifications in the proposed terms and conditions of the purchase. The Authority shall pay for the cost of the owner's appraisal for an owner-occupied dwelling.

(c) To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or caused by the likelihood that the property would be acquired for the project, other than that due to the physical deterioration of the property that was within the reasonable control of the owner. If comparable sales of similar properties are factored into the amount of just compensation offered by the Authority, those comparable sales must have been with respect to property located outside the protected corridor.

(d) When the Authority acquires an owner-occupied dwelling the Authority shall reimburse the property owner up to $500 for reasonable attorney's fees actually incurred by the property owner related to closing costs in conjunction with the property owner's purchase of a replacement dwelling.

Laws 1967, p. 2748, § 9.10, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.12. Land disclosure requirements

§ 9.12. Land disclosure requirements.

(a) Disclosure required. The Authority may not enter into any agreement or understanding for the use or acquisition of land that is intended to be used or acquired for toll highway purposes unless full disclosure of all beneficial interests in the land is made under this Section.

(b) Condemnation proceedings. If the Authority commences condemnation proceedings to acquire land that is intended to be used or acquired for toll highway purposes, the holders of all beneficial interests in the land must make full disclosure under this Section unless the court determines that the disclosure would cause irreparable harm to one or more holders of a beneficial interest.

(c) Beneficial interests. Each holder of any beneficial interest in the land, including without limitation beneficial interests in a land trust, must be disclosed, including both individuals and other entities. If any beneficial interest is held by an entity, other than an entity whose shares are publicly traded, and not by an individual, then all the holders of any beneficial interest in that entity must be disclosed. This requirement continues at each level of holders of beneficial interests until all beneficial interests of all individuals in all entities, other than entities whose shares are publicly traded, have been disclosed.

(d) Written statement. Disclosure must be made by a written statement filed (i) with the Authority contemporaneously with the execution of the agreement or understanding or (ii) in the case of a condemnation proceeding, with the Authority and the court within a time period ordered by the court. Each individual and entity must be disclosed by name and address and by a description of the interest held, including the percentage interest in the land held by the individual or entity. The statement must be verified, subject to penalty of perjury, by the individual who holds the greatest percentage of beneficial interest in the land.

(e) Recordation. The Authority must file the statement of record with the recorder of each county in which any part of the land is located within 3 business days after the statement is filed with the Authority.

(f) Agreements and understandings void. Any agreement or understanding in violation of this Act is void.

(g) Penalty. A person who knowingly violates this Section is guilty of a business offense and shall be fined $10,000.

(h) Other disclosure requirements. The disclosure required under this Act is in addition to, and not in lieu of, any other disclosure required by law.

Laws 1967, p. 2748, § 9.12, added by P.A. 92–759, § 5, eff. Aug. 2, 2002.

10/9.15. Owner retention of certain items

§ 9.15. Owner retention of certain items. The owner of property to be acquired by the Authority shall have the right to retain ownership of a dwelling's cabinets, moldings, and fixtures. If the Authority acquires the dwelling, the property owner may remove cabinets, moldings, and fixtures if stipulated in the agreement to purchase the property.

Laws 1967, p. 2748, § 9.15, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.20. Condemnation proceeding expenses

§ 9.20. Condemnation proceeding expenses. The owner of property to be acquired by the Authority shall be reimbursed for any reasonable expenses, including reasonable

attorney, appraisal, and engineering fees, that the owner actually incurred because of a condemnation proceeding if:

(1) the final judgement of the court is that the Authority cannot acquire the property by condemnation; or

(2) the condemnation proceeding is abandoned by the Authority other than under an agreed-upon settlement.

Laws 1967, p. 2748, § 9.20, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.25. Comparable replacement dwelling; additional or supplemental housing payment

§ 9.25. Comparable replacement dwelling; additional or supplemental housing payment. Whenever the cost of a comparable replacement dwelling is greater than what the Authority paid the property owner, the Authority shall provide additional or supplemental housing payments. No person shall be required to move from a dwelling unless comparable replacement housing is available to the person. The total of additional or supplemental housing payments to a property owner under this Section shall not exceed $25,000.

Laws 1967, p. 2748, § 9.25, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.30. Moving Expenses and Direct Losses of Personal Property Caused by Displacement

§ 9.30. Moving Expenses and Direct Losses of Personal Property Caused by Displacement. The Authority is authorized to pay, as part of the cost of construction of any project on a toll highway, to any person displaced by the highway project (1) actual reasonable expenses in moving himself or herself, his or her family, and his or her business, farm operation, or other personal property; (2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the Authority; (3) actual reasonable expenses in searching for a replacement business or farm; and (4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed $10,000.

Laws 1967, p. 2748, § 9.30, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.35. Expense and Dislocation Allowance

§ 9.35. Expense and Dislocation Allowance. In lieu of the payments authorized to be paid under this Act, the Authority may pay any person displaced from a dwelling, who elects to accept the payment, an expense and dislocation allowance which shall be determined according to a schedule established by the Authority.

Laws 1967, p. 2748, § 9.35, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.40. Relocation Payments

§ 9.40. Relocation Payments. In lieu of the payments authorized to be paid under this Act, the Authority may pay any person who moves or, discontinues his or her business or farm operation, who elects to accept the payment, a fixed relocation payment in an amount equal to the average annual net earnings of the business or the farm operation, except that the payment shall be not less than $1,000 nor more than $20,000.

Laws 1967, p. 2748, § 9.40, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.45. Additional Payments for Dwelling and Rental of Dwelling

§ 9.45. Additional Payments for Dwelling and Rental of Dwelling.

(a) In addition to the amounts authorized to be paid under this Act by the Authority, the Authority may, as a part of the cost of construction, make a payment not to exceed $25,000 to any displaced person who is displaced from a dwelling acquired for a toll highway project actually owned and occupied by the displaced person for not less than 180 days before the initiation of negotiations for the acquisition of the property. The payment shall include the following elements:

(1) The amount, if any, which, when added to the acquisition cost of the dwelling acquired equals the reasonable cost of a comparable replacement dwelling determined in accordance with standards established by the Authority to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced person, reasonably accessible to public services and places of employment, and available on the private market.

(2) The amount, if any, which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of any such comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the Authority was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days before the initiation of negotiations for the acquisition of the dwelling.

(3) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) The additional payment authorized under subsection (a) shall not exceed $25,000 and shall be made only to a displaced person who purchases and occupies a replacement dwelling that meets the standards established by the Authority to be decent, safe and sanitary, not later than the end of the one year period beginning on the date on which he or she receives from the Authority final payment of all costs of the acquired dwelling, or on the date on which he or she moves from the dwelling acquired for the highway project, whichever is the later date.

(c) Any displaced person who is not eligible to receive payment under subsection (a) and who is displaced from any dwelling which was actually and lawfully occupied by the displaced person for not less than 90 days before the initiation of negotiations for acquisition of the dwelling, may be paid by the Authority either (1) an amount necessary to enable the displaced person to lease or rent, for a period not to exceed 42 months, a decent, safe, and sanitary dwelling of standards adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his or her place of employment, but not to exceed the sum of $5,250, or (2) the amount necessary to enable the person to make a down payment, including incidental expenses described in item (1) of this subsection (c), on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial.

facilities, but not to exceed the amount payable under item (1) of this subsection (c), except that in the case of a homeowner who owned and occupied the displaced dwelling for at least 90 days but not more than 180 days immediately before the initiating of negotiations, the down payment shall not exceed the amount payable under this Act for persons who owned and occupied the property for 180 days before the initiation of negotiations.

(d) If comparable replacement sale or rental housing is not available within the limitations of this Section, the Authority may make a payment in excess of the maximum payments authorized by this Section as required to provide replacement housing.

Laws 1967, p. 2748, § 9.45, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.50. Reimbursement for Certain Expenses and Mortgage Penalty

§ 9.50. Reimbursement for Certain Expenses and Mortgage Penalty. In addition to the other amounts authorized to be paid under this Act, the Authority may reimburse the owner of real property acquired for a toll highway project the reasonable and necessary expenses incurred for (1) recording fees, transfer taxes, and similar expenses incidental to conveying the real property; and (2) penalty costs for prepayment of any pre-existing recorded mortgages entered into in good faith encumbering the real property.

Laws 1967, p. 2748, § 9.50, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/9.60. Construction in Relation to Eminent Domain

§ 9.60. Construction in Relation to Eminent Domain. Nothing contained in this amendatory Act of 1998 creates in any proceedings brought under the power of eminent domain any element of damages not in existence on the effective date of this amendatory Act of 1998.

Laws 1967, p. 2748, § 9.60, added by P.A. 90–681, § 5, eff. July 31, 1998.

10/10. Powers over Authority affairs, fines, traffic rules and regulations, toll rates, land acquisition

§ 10. The Authority shall have power:

(a) To pass resolutions, make by-laws, rules and regulations for the management, regulation and control of its affairs, and to fix tolls, and to make, enact and enforce all needful rules and regulations in connection with the construction, operation, management, care, regulation or protection of its property or any toll highways, constructed or reconstructed hereunder.

(a–5) To fix, assess, and collect civil fines for a vehicle's operation on a toll highway without the required toll having been paid. The Authority may establish by rule a system of civil administrative adjudication to adjudicate only alleged instances of a vehicle's operation on a toll highway without the required toll having been paid, as detected by the Authority's video or photo surveillance system. In cases in which the operator of the vehicle is not the registered vehicle owner, the establishment of ownership of the vehicle creates a rebuttable presumption that the vehicle was being operated by an agent of the registered vehicle owner. If the registered vehicle owner liable for a violation under this Section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator in the circuit court. Rules establishing a system of civil administrative adjudication must provide for written notice, by first class mail or other means provided by law, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State or to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of the lease, of the alleged violation and an opportunity to be heard on the question of the violation and must provide for the establishment of a toll-free telephone number to receive inquiries concerning alleged violations. The notice shall also inform the registered vehicle owner that failure to contest in the manner and time provided shall be deemed an admission of liability and that a final order of liability may be entered on that admission. A duly authorized agent of the Authority may perform or execute the preparation, certification, affirmation, or mailing of the notice. A notice of violation, sworn or affirmed to or certified by a duly authorized agent of the Authority, or a facsimile of the notice, based upon an inspection of photographs, microphotographs, videotape, or other recorded images produced by a video or photo surveillance system, shall be admitted as prima facie evidence of the correctness of the facts contained in the notice or facsimile. Only civil fines, along with the corresponding outstanding toll, and costs may be imposed by administrative adjudication. A fine may be imposed under this paragraph only if a violation is established by a preponderance of the evidence. Judicial review of all final orders of the Authority under this paragraph shall be conducted in the circuit court of the county in which the administrative decision was rendered in accordance with the Administrative Review Law. [1]

The Authority may maintain a listing or searchable database on its website of persons or entities that have been issued one or more final orders of liability with a total amount due of more than $1,000 for tolls, fines, unpaid late fees, or administrative costs that remain unpaid after the exhaustion of, or the failure to exhaust, the judicial review procedures under the Administrative Review Law. Each entry may include the person's or entity's name as listed on the final order of liability.

Any outstanding toll, fine, additional late payment fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Administrative Review Law are a debt due and owing the Authority and may be collected in accordance with applicable law. After expiration of the period in which judicial review under the Administrative Review Law may be sought, unless stayed by a court of competent jurisdiction, a final order of the Authority under this subsection (a–5) may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. Notwithstanding any other provision of this Act, the Authority may, with the approval of the Attorney General, retain a law firm or law firms with expertise in the collection of government fines and debts for the purpose of collecting fines, costs, and other moneys due under this subsection (a–5).

A system of civil administrative adjudication may also provide for a program of vehicle immobilization, tow, or impoundment for the purpose of facilitating enforcement of any final order or orders of the Authority under this subsection (a–5) that result in a finding or liability for 5 or more violations after expiration of the period in which judicial review under the Administrative Review Law may be sought. The registered vehicle owner of a vehicle immobilized, towed, or impounded for nonpayment of a final order of the Authority under this subsection (a–5) shall have the right to request a hearing before the Authority's civil administrative adjudica-

tory system to challenge the validity of the immobilization, tow, or impoundment. This hearing, however, shall not constitute a readjudication of the merits of previously adjudicated notices. Judicial review of all final orders of the Authority under this subsection (a–5) shall be conducted in the circuit court of the county in which the administrative decision was rendered in accordance with the Administrative Review Law.

No commercial entity that is the lessor of a vehicle under a written lease agreement shall be liable for an administrative notice of violation for toll evasion issued under this subsection (a–5) involving that vehicle during the period of the lease if the lessor provides a copy of the leasing agreement to the Authority within 21 days of the issue date on the notice of violation. The leasing agreement also must contain a provision or addendum informing the lessee that the lessee is liable for payment of all tolls and any fines for toll evasion. Each entity must also post a sign at the leasing counter notifying the lessee of that liability. The copy of the leasing agreement provided to the Authority must contain the name, address, and driver's license number of the lessee, as well as the check-out and return dates and times of the vehicle and the vehicle license plate number and vehicle make and model.

As used in this subsection (a–5), "lessor" includes commercial leasing and rental entities but does not include public passenger vehicle entities.

The Authority shall establish an amnesty program for violations adjudicated under this subsection (a–5). Under the program, any person who has an outstanding notice of violation for toll evasion or a final order of a hearing officer for toll evasion dated prior to the effective date of this amendatory Act of the 94th General Assembly and who pays to the Authority the full percentage amounts listed in this paragraph remaining due on the notice of violation or final order of the hearing officer and the full fees and costs paid by the Authority to the Secretary of State relating to suspension proceedings, if applicable, on or before 5:00 p.m., Central Standard Time, of the 60th day after the effective date of this amendatory Act of the 94th General Assembly shall not be required to pay more than the listed percentage of the original fine amount and outstanding toll as listed on the notice of violation or final order of the hearing officer and the full fees and costs paid by the Authority to the Secretary of State relating to suspension proceedings, if applicable. The payment percentage scale shall be as follows: a person with 25 or fewer violations shall be eligible for amnesty upon payment of 50% of the original fine amount and the outstanding tolls; a person with more than 25 but fewer than 51 violations shall be eligible for amnesty upon payment of 60% of the original fine amount and the outstanding tolls; and a person with 51 or more violations shall be eligible for amnesty upon payment of 75% of the original fine amount and the outstanding tolls. In such a situation, the Executive Director of the Authority or his or her designee is authorized and directed to waive any late fine amount above the applicable percentage of the original fine amount. Partial payment of the amount due shall not be a basis to extend the amnesty payment deadline nor shall it act to relieve the person of liability for payment of the late fine amount. In order to receive amnesty, the full amount of the applicable percentage of the original fine amount and outstanding toll remaining due on the notice of violation or final order of the hearing officer and the full fees and costs paid by the Authority to the Secretary of State relating to suspension proceedings, if applicable, must be paid in full by 5:00 p.m., Central Standard Time, of the 60th day after the effective date of this amendatory Act of the 94th General Assembly. This amendatory Act of the 94th General Assembly has no retroactive effect with regard to payments already tendered to the Authority that were full payments or payments in an amount greater than the applicable percentage, and this Act shall not be the basis for either a refund or a credit. This amendatory Act of the 94th General Assembly does not apply to toll evasion citations issued by the Illinois State Police or other authorized law enforcement agencies and for which payment may be due to or through the clerk of the circuit court. The Authority shall adopt rules as necessary to implement the provisions of this amendatory Act of the 94th General Assembly. The Authority, by a resolution of the Board of Directors, shall have the discretion to implement similar amnesty programs in the future. The Authority, at its discretion and in consultation with the Attorney General, is further authorized to settle an administrative fine or penalty if it determines that settling for less than the full amount is in the best interests of the Authority after taking into account the following factors: (1) the merits of the Authority's claim against the respondent; (2) the amount that can be collected relative to the administrative fine or penalty owed by the respondent; (3) the cost of pursuing further enforcement or collection action against the respondent; (4) the likelihood of collecting the full amount owed; and (5) the burden on the judiciary. The provisions in this Section may be extended to other toll facilities in the State of Illinois through a duly executed agreement between the Authority and the operator of the toll facility.

(b) To prescribe rules and regulations applicable to traffic on highways under the jurisdiction of the Authority, concerning:

(1) Types of vehicles permitted to use such highways or parts thereof, and classification of such vehicles;

(2) Designation of the lanes of traffic to be used by the different types of vehicles permitted upon said highways;

(3) Stopping, standing, and parking of vehicles;

(4) Control of traffic by means of police officers or traffic control signals;

(5) Control or prohibition of processions, convoys, and assemblages of vehicles and persons;

(6) Movement of traffic in one direction only on designated portions of said highways;

(7) Control of the access, entrance, and exit of vehicles and persons to and from said highways; and

(8) Preparation, location and installation of all traffic signs; and to prescribe further rules and regulations applicable to such traffic, concerning matters not provided for either in the foregoing enumeration or in the Illinois Vehicle Code. [2] Notice of such rules and regulations shall be posted conspicuously and displayed at appropriate points and at reasonable intervals along said highways, by clearly legible markers or signs, to provide notice of the existence of such rules and regulations to persons traveling on said highways. At each toll station, the Authority shall make available, free of charge, pamphlets containing all of such rules and regulations.

(c) The Authority, in fixing the rate for tolls for the privilege of using the said toll highways, is authorized and directed, in fixing such rates, to base the same upon annual estimates to be made, recorded and filed with the Authority. Said estimates shall include the following: The estimated total amount of the use of the toll highways; the estimated amount of the revenue to be derived therefrom, which said revenue, when added to all other receipts and income, will be sufficient to pay the expense of maintaining and operating said toll highways, including the administrative expenses of

the Authority, and to discharge all obligations of the Authority as they become due and payable.

(d) To accept from any municipality or political subdivision any lands, easements or rights in land needed for the operation, construction, relocation or maintenance of any toll highways, with or without payment therefor, and in its discretion to reimburse any such municipality or political subdivision out of its funds for any cost or expense incurred in the acquisition of land, easements or rights in land, in connection with the construction and relocation of the said toll highways, widening, extending roads, streets or avenues in connection therewith, or for the construction of any roads or streets forming extension to and connections with or between any toll highways, or for the cost or expense of widening, grading, surfacing or improving any existing streets or roads or the construction of any streets and roads forming extensions of or connections with any toll highways constructed, relocated, operated, maintained or regulated hereunder by the Authority. Where property owned by a municipality or political subdivision is necessary to the construction of an approved toll highway, if the Authority cannot reach an agreement with such municipality or political subdivision and if the use to which the property is being put in the hands of the municipality or political subdivision is not essential to the existence or the administration of such municipality or political subdivision, the Authority may acquire the property by condemnation.

Laws 1967, p. 2748, § 10, eff. April 1, 1968. Amended by P.A. 83–1258, § 2, eff. Aug. 15, 1984; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 89–120, § 5, eff. July 7, 1995; P.A. 94–636, § 5, eff. Aug. 22, 2005; P.A. 98–559, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–10.

[1] 735 ILCS 5/3–101 et seq.

[2] 625 ILCS 5/1–100 et seq.

10/11. Authority powers

§ 11. The Authority shall have power:

(a) To enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as may be necessary, expedient or convenient for the purposes of this Act, and such entry shall not be deemed to be a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, however, that the Authority shall make reimbursement for any actual damage resulting to such lands, waters and premises as the result of such activities.

(b) To construct, maintain and operate stations for the collection of tolls or charges upon and along any toll highways.

(c) To provide for the collection of tolls and charges for the privilege of using the said toll highways. Before it adopts an increase in the rates for toll, the Authority shall hold a public hearing at which any person may appear, express opinions, suggestions, or objections, or direct inquiries relating to the proposed increase. Any person may submit a written statement to the Authority at the hearing, whether appearing in person or not. The hearing shall be held in the county in which the proposed increase of the rates is to take place. The Authority shall give notice of the hearing by advertisement on 3 successive days at least 15 days prior to the date of the hearing in a daily newspaper of general circulation within the county within which the hearing is held. The notice shall state the date, time, and place of the hearing, shall contain a description of the proposed increase, and shall specify how interested persons may obtain copies of any reports, resolutions, or certificates describing the basis on which the proposed change, alteration, or modification was calculated. After consideration of any statements filed or oral opinions, suggestions, objections, or inquiries made at the hearing, the Authority may proceed to adopt the proposed increase of the rates for toll. No change or alteration in or modification of the rates for toll shall be effective unless at least 30 days prior to the effective date of such rates notice thereof shall be given to the public by publication in a newspaper of general circulation, and such notice, or notices, thereof shall be posted and publicly displayed at each and every toll station upon or along said toll highways.

(d) To construct, at the Authority's discretion, grade separations at intersections with any railroads, waterways, street railways, streets, thoroughfares, public roads or highways intersected by the said toll highways, and to change and adjust the lines and grades thereof so as to accommodate the same to the design of such grade separation and to construct interchange improvements. The Authority is authorized to provide such grade separations or interchange improvements at its own cost or to enter into contracts or agreements with reference to division of cost therefor with any municipality or political subdivision of the State of Illinois, or with the Federal Government, or any agency thereof, or with any corporation, individual, firm, person or association. Where such structures have been built by the Authority and a local highway agency did not enter into an agreement to the contrary, the Authority shall maintain the entire structure, including the road surface, at the Authority's expense.

(e) To contract with and grant concessions to or lease or license to any person, partnership, firm, association or corporation so desiring the use of any part of any toll highways, excluding the paved portion thereof, but including the right of way adjoining, under, or over said paved portion for the placing of telephone, telegraph, electric, power lines and other utilities, and for the placing of pipe lines, and to enter into operating agreements with or to contract with and grant concessions to or to lease to any person, partnership, firm, association or corporation so desiring the use of any part of the toll highways, excluding the paved portion thereof, but including the right of way adjoining, or over said paved portion for motor fuel service stations and facilities, garages, stores and restaurants, or for any other lawful purpose, and to fix the terms, conditions, rents, rates and charges for such use.

By January 1, 2016, the Authority shall construct and maintain at least one electric vehicle charging station at any location where the Authority has entered into an agreement with any entity pursuant to this subsection (e) for the purposes of providing motor fuel service stations and facilities, garages, stores, or restaurants. The Authority shall charge a fee for the use of these charging stations to offset the costs of constructing and maintaining these charging stations. The Authority shall adopt rules to implement the erection, user fees, and maintenance of electric vehicle charging stations pursuant to this subsection (e).

The Authority shall also have power to establish reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called public utilities) of any public utility as defined in the Public Utilities Act [1] along, over or under any toll road project. Whenever the Authority shall determine that it is necessary that any such public utility facilities which now are located in, on, along, over or

under any project or projects be relocated or removed entirely from any such project or projects, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the Authority. All costs and expenses of such relocation or removal, including the cost of installing such facilities in a new location or locations, and the cost of any land or lands, or interest in land, or any other rights required to accomplish such relocation or removal shall be ascertained and paid by the Authority as a part of the cost of any such project or projects, and further, there shall be no rent, fee or other charge of any kind imposed upon the public utility owning or operating any facilities ordered relocated on the properties of the said Authority and the said Authority shall grant to the said public utility owning or operating said facilities and its successors and assigns the right to operate the same in the new location or locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate such facilities in their former location or locations.

(f) To enter into an intergovernmental agreement or contract with a unit of local government or other public or private entity for the collection, enforcement, and administration of tolls, fees, revenue, and violations.

The General Assembly finds that electronic toll collection systems in Illinois should be standardized to promote safety, efficiency, and traveler convenience. The Authority shall cooperate with other public and private entities to further the goal of standardized toll collection in Illinois and is authorized to provide toll collection and toll violation enforcement services to such entities when doing so is in the best interest of the Authority and consistent with its obligations under Section 23 of this Act.

Laws 1967, p. 2748, § 11, eff. April 1, 1968. Amended by P.A. 83–550, § 1, eff. Jan. 1, 1984; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 90–681, § 5, eff. July 31, 1998; P.A. 94–636, § 5, eff. Aug. 22, 2005; P.A. 97–252, § 10, eff. Aug. 4, 2011; P.A. 98–442, § 15, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–11.

[1] 220 ILCS 5/1–101 et seq.

10/11.1. Public-private partnerships

§ 11.1. Public-private partnerships. The Authority may exercise all powers granted to it under the Public–Private Partnerships for Transportation Act.

Laws 1967, p. 2748, § 11.1, added by P.A. 97–502, § 945, eff. Aug. 23, 2011.

10/12. Sign showing accessible traffic generators; erection and maintenance

§ 12. The Authority shall erect and maintain at connecting roads on each toll highway suitable signs showing the name of the chief accessible traffic generator in either direction along each such connecting road. The size and designations on such signs and the distance from intersections where they shall be erected shall conform with the Illinois Manual on Uniform Traffic Control Devices for Streets and Highways.

Laws 1967, p. 2748, § 12, eff. April 1, 1968. Amended by P.A. 83–1258, § 2, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–12.

10/13. Transactions with federal government

§ 13. The Authority is authorized, without limitation to the foregoing powers, to accept grants from and enter into contracts, leases, or other transactions with the Federal Government, or any agency thereof, necessary or expedient to carry out the provisions of this Act.

Laws 1967, p. 2748, § 13, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–13.

10/14. Additional toll highways; approval by Governor of proposed study; local advisory committee

§ 14. (a) The Authority shall, prior to the commencement of any engineering and traffic study or studies to determine the feasibility of constructing additional toll highways within the State of Illinois, submit to the Governor for his approval, the route, or routes, proposed for additional toll highways together with an estimate of the cost of the proposed study or studies. If the Governor shall approve such proposed study or studies and the estimated cost thereof, or shall fail to disapprove such proposed study or studies and estimate of cost thereof, within 30 days after receipt thereof, the Authority may, thereupon, proceed with such study or studies.

(b) The Authority shall create a local advisory committee of members from each county in which any portion of an additional toll highway is proposed to be constructed. The committee members shall be designated by township and municipal governing bodies in proportion to the percentage of corridor property situated within the unincorporated area of a township and incorporated municipalities located in the same township. No less than 50% of the members of this committee shall be representatives of organized citizen groups directly affected by the proposed corridor. All meetings shall be held in compliance with the Open Meetings Act.[1] The committee shall consider and advise the Authority with respect to the impact on property owners, land use, and other impacts of the proposed highway. The committee shall be dissolved when one year has elapsed since the opening of the tollway for which the committee was created.

Laws 1967, p. 2748, § 14, eff. April 1, 1968. Amended by P.A. 90–681, § 5, eff. July 31, 1998; P.A. 96–304, § 5, eff. Aug. 11, 2009.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–14.

[1] 5 ILCS 120/1 et seq.

10/14.1. Approval of plans and estimates of cost by Governor

§ 14.1. The Authority shall, prior to the issuance of any bonds under this Act, except refunding bonds, prepare and submit to the Governor for his approval preliminary plans showing the proposed location of the route or routes of the particular toll highway for which the bonds are to be issued, which plans shall designate the approximate point of the commencement and the termination of said route or routes and shall also designate the municipalities to be afforded reasonable connections therewith, and to be served thereby. The Authority shall at the same time submit to the Governor for his approval preliminary estimates of the cost of the construction of the toll highway, shown on said preliminary plans. If the Governor shall approve the preliminary plans and the estimate of the cost thereof, the Authority may thereupon proceed with the issuance of bonds as hereinafter provided. Prior to the issuance of bonds for or the commencement of construction of any new toll highway, however, that particular toll highway shall be authorized by joint resolution of the General Assembly.

Laws 1967, p. 2748, § 14.1, eff. April 1, 1968. Amended by P.A. 80–974, § 1, eff. Oct. 1, 1977; P.A. 83–1258, § 2, eff. Aug. 15, 1984; P.A. 86–1164, § 1, eff. Aug. 10, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–14.1.

10/14.2. Public hearing prior to submission to Governor; place of hearing; notice; transcription

§ 14.2. Prior to submission of preliminary plans to the Governor, the Authority shall hold a public hearing at which any person may appear, express opinions, suggestions or objections or direct inquiries relating to the proposed toll highway to the Directors. Any person may submit a written statement to the Authority at the hearing, whether appearing in person or not. The hearing shall be held in a county through which the proposed toll highway is to be constructed and shall be attended by at least 5 Directors. The Authority shall give notice of the hearing by advertisement on three successive days at least 15 days prior to the date of the hearing in a daily newspaper published in and of general circulation in each county through which the proposed toll highway is to be constructed or, if there be no such newspaper, then in a daily newspaper of general circulation in the county. Such notice shall state the date, time and place of the hearing, the route of the proposed toll highway, the municipalities to be afforded immediate access thereto, and the estimated cost of the proposed toll highway. The proceedings at the hearing shall be transcribed, the transcript shall thereafter be made available at reasonable hours for public inspection and a copy thereof together with a copy of all written statements submitted at the hearing, shall be submitted to the Governor with the Authority's preliminary plans.

Laws 1967, p. 2748, § 14.2, added by P.A. 77–2194, § 1, eff. Oct. 1, 1972. Amended by P.A. 81–1363, § 1, eff. Aug. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–14.2.

10/15. Attorney general; duties

§ 15. The Attorney General of the State of Illinois, shall be ex officio attorney for the said Authority and he shall be its legal adviser and legal representative. In addition to the specific duties imposed upon the said Attorney General, under the provisions of this Act, it shall be his further duty to act as attorney for the Authority in all of its transactions, and to represent the Authority in all of its litigation, and to examine and approve all contracts, leases, bonds or other undertakings or obligations entered into by the Authority, as to their form and constitutionality prior to their execution and delivery.

Laws 1967, p. 2748, § 15, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–15.

10/16. Contracts and bids

§ 16. All contracts let for the construction of any work authorized to be done under the provisions of the Act, where the amount thereof is in excess of a small purchase amount, as defined in Section 20–20 of the Illinois Procurement Code, shall be let to the lowest responsible bidder, or bidders, on open, competitive bidding after public advertisement made at least 15 days prior to the opening of bids, in the Illinois Procurement Bulletin, in such manner and at such intervals, as may be prescribed by the Authority except for contracts for the completion of a terminated or defaulted contract. The successful bidders for such work shall enter into contracts furnished and prescribed by the Authority. Such contracts shall contain a provision that such successful bidder shall indemnify and save harmless the State of Illinois for any accidental injuries or damages arising out of his negligence in the performance of such contract, and shall, and in addition, execute and give bonds, payable to the Authority, with a corporate surety authorized to do business under the laws of the State of Illinois, equal to at least 50% of the contract price, one conditioned upon faithful performance of the contract and the other for the payment of all labor furnished and materials supplied in the prosecution of the contracted work.

Laws 1967, p. 2748, § 16, eff. April 1, 1968. Amended by P.A. 80–1010, § 1, eff. Oct. 1, 1977; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 96–592, § 5, eff. Aug. 18, 2009.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–16.

10/16.1. Contracts for services or supplies; requisites

§ 16.1. (A) All contracts for services or supplies required from time to time by the Authority in the maintenance and operation of any toll highway or part thereof under the provisions of this Act or all direct contracts for supplies to be used in the construction of any toll highway or part thereof to be awarded under this Section, rather than as a part of a contract pursuant to Section 16 of this Act,[1] when the amount of any such supplies or services is in excess of a small purchase amount, as defined in Section 20–20 of the Illinois Procurement Code, shall be let to the lowest responsible bidder or bidders, on open, competitive bidding after public advertisement made at least 5 days prior to the opening of bids, in the Illinois Procurement Bulletin, in such manner and on one or more occasions as may be prescribed by the Authority, except that bidding shall not be required in the following cases:

1. Where the goods or services to be procured are economically procurable from only one source, such as contracts for telephone service, electric energy and other public utility services, housekeeping services, books, pamphlets and periodicals and specially designed business equipment and software.

2. Where the services required are for professional, technical or artistic skills.

3. Where the services required are for advertising, promotional and public relations services.

4. In emergencies, provided that an affidavit of the person or persons authorizing the expenditure shall be filed with the Authority and the Auditor General within 10 days after such authorization setting forth the conditions and circumstances requiring the emergency purchase, the amount expended and the name of the vendor or contractor involved; if only an estimate is available, however, within the 10 days allowed for filing the affidavit, the actual cost shall be reported immediately after it is determined.

5. In case of expenditures for personal services.

6. Contracts for equipment and spare parts in support thereof for the maintenance and operation of any toll highway, or any part thereof, whenever, the Authority shall, by resolution, declare and find that a particular make and type of equipment is required for efficient maintenance and operation and proper servicing, for uniformity in and integration with the spare parts program and inventory control, or for other reasons peculiar to the problems of the toll highway or its previously acquired equipment; however, competition and competitive bids shall be obtained by the Authority with respect to such specified equipment or spare parts, insofar as possible, and when effective, pursuant to public advertisement as hereinbefore provided.

7. Contracts for insurance, fidelity and surety bonds.

8. Contracts or agreements for the completion of a terminated or defaulted contract or agreement.

(B) The solicitation for bids shall be in conformance with accepted business practices and the method of solicitation shall be set out in detail in the rules and regulations of the Authority.

(C) Proposals received pursuant to public advertisement shall be publicly opened at the day and hour and at the place specified in the solicitation for such bids.

(D) Successful bidders for such services and supplies shall enter into contracts furnished and prescribed by the Authority.

(E) All purchases, contracts or other obligations or expenditures of funds by the Authority shall be in accordance with rules and regulations governing the Authority's procurement practice and procedures and the Authority shall promulgate and publish such practices and procedures in sufficient number for distribution to persons interested in bidding on purchases or contracts to be let by the Authority. Such rules and regulations shall be kept on file with the Secretary of the Authority at all times and shall be available for inspection by members of the public at all reasonable times and hours.

Such rules and regulations shall be filed and become effective in connection with the Illinois Administrative Procedure Act. [2]

(F) Any contract entered into for purchase or expenditure of funds of the Authority made in violation of this Act or the rules and regulations in pursuance thereof is void and of no effect.

(G) Warrant. All sellers to the Authority shall attach a statement to the delivery invoice attesting that the standards set forth in the contracts have been met. The statement shall be substantially in the following form:

"The Seller,. . . . hereby certifies that the goods, merchandise and wares shipped in accordance with the attached delivery invoice have met all the required standards set forth in the purchasing contract.

. . . .(Seller)."

(H) Whoever violates the provisions of this Section, or the rules and regulations adopted in pursuance thereof, is guilty of a Class A misdemeanor.

Laws 1967, p. 2748, § 16.1, eff. April 1, 1968. Amended by P.A. 76–121, § 1, eff. July 1, 1969; P.A. 77–2239, § 1, eff. Jan. 1, 1973; P.A. 80–1010, § 1, eff. Oct. 1, 1977; P.A. 83–333, § 70, eff. Sept. 14, 1983; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 96–592, § 5, eff. Aug. 18, 2009.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–16.1.

[1] 605 ILCS 10/16.

[2] 5 ILCS 100/1–1 et seq.

10/16.2. Financial benefit prohibited

§ 16.2. Financial benefit prohibited.

(a) A director, employee, or agent of the Authority may not receive a financial benefit from a contract let by the Authority during his or her term of service with the Authority and for a period of one year following the termination of his or her term of service as a director of the Authority or as an employee or agent of the Authority.

(b) A member of the immediate family or household of a director, employee, or agent of the Authority may not receive a financial benefit from a contract let by the Authority during the immediate family or household member's term of service with the Authority and for a period of one year following the termination of the immediate family or household member's term of service as a director of the Authority or as an employee or agent of the Authority.

(c) A director, employee, or agent of the Authority may not use material non-public information for personal financial gain nor may he or she disclose that information to any other person for that person's personal financial gain when that information was obtained as a result of his or her directorship, employment, or agency with the Authority.

(d) A member of the immediate family or household of a director, employee, or agent of the Authority may not use material non-public information for personal financial gain nor may he or she disclose that information to any other person for that person's personal financial gain when that information was obtained as a result of his or her immediate family or household member's directorship, employment, or agency with the Authority.

(e) For purposes of this Section, "immediate family or household member" means the spouse, child, parent, brother, sister, grandparent, or grandchild, whether of the whole blood or half blood or by adoption, or a person who shares a common dwelling with a director of the Authority or with an employee or agent of the Authority.

Laws 1967, p. 2748, § 16.2, added by P.A. 94–636, § 5, eff. Aug. 22, 2005.

10/16.3. Duties of Authority

§ 16.3. Consistent with general law, the Authority shall:

(a) set goals for the award of contracts to disadvantaged businesses and attempt to meet the goals;

(b) attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the Authority;

(c) give disadvantaged businesses full access to the Authority's contact bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify and take all reasonable steps to remove barriers to the businesses' participation in the process.

Laws 1967, p. 2748, § 16.3, added by P.A. 94–636, § 5, eff. Aug. 22, 2005.

10/17. Bonds; issuance; terms; sale; use of proceeds; rights of holders

§ 17. (a) The Authority may from time to time issue bonds for any lawful purpose including, without limitation, the costs of issuance thereof and all such bonds or other obligations of the Authority issued pursuant to this Act shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws.

(b) The bonds of every issue shall be payable solely out of revenues of the Authority, accumulated reserves or sinking funds, bond proceeds, proceeds of refunding bonds, or investment earnings as the Authority shall specify in a bond resolution.

(c) The bonds may be issued as serial bonds or as term bonds, or the Authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by a bond resolution of the Authority, may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 25 years from their respective date or dates of issue, bear interest at such rate or rates, fixed or

variable, without regard to any limit contained in any other statute or law of the State of Illinois, be payable as to principal and interest at such time or times, be in such denominations, be in such form, either coupon or fully registered, carry such registration and conversion privileges, be payable in lawful money of the United States of America at such places, be subject to such terms of redemption and may contain such other terms and provisions, as such bond resolution or resolutions may provide. The bonds shall be executed by the manual or facsimile signatures of the Chairman and the Secretary. In case any of the officers whose signature appears on the bonds or coupons, if any, shall cease to be an officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he had remained in office until such delivery. The bonds shall be sold in such manner as the Authority shall determine. The proceeds from the sale of such bonds shall be paid to the Treasurer of the State of Illinois as ex officio custodian. Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any bond resolution, or trust indenture entered into pursuant to a bond resolution, may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to: (i) pledging or creating a lien upon all or part of the revenues of the Authority or any reserves, sinking funds, bond proceeds or investment earnings; (ii) the setting aside of reserves or sinking funds, and the regulation, investment and disposition thereof; (iii) the use and maintenance requirements for the toll highways; (iv) the purposes to which or the investments in which the proceeds of sale of any series or issue of bonds then or thereafter to be issued may be applied; (v) the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the purposes for such additional bonds, and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to other bonds; (vi) the refunding of outstanding bonds; (vii) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (viii) defining the acts or omissions to act which shall constitute a default in the duties of the Authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; (ix) any other matters relating to the bonds which the Authority deems desirable.

(e) Neither the directors of the Authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The Authority shall have power out of any funds available therefor to purchase its bonds. The Authority may hold, pledge, cancel or resell such bonds subject to and in accordance with agreements with bondholders.

(g) In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust indenture by and between the Authority and a trustee or trustees, which may be any trust company or bank in the State of Illinois having the powers of a trust company and possessing capital and surplus of not less than $50,000,000. The bond resolution or trust indenture providing for the issuance of bonds so secured shall pledge such revenues of the Authority, sinking funds, bond proceeds, or investment earnings as may be specified therein, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any bond resolution or trust indenture of the Authority, and may restrict the individual right of action by bondholders. In addition to the foregoing, any bond resolution or trust indenture may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders, including, but not limited to, the purchase of bond insurance and the arrangement of letters of credit, lines of credit or other credit or liquidity enhancement facilities; provided there shall be no pledge of the toll highway or any part thereof. All expenses incurred in carrying out the provisions of any bond resolution or trust indenture may be treated as a part of the cost of the operation of the toll highways.

(h) Bonds issued under the authority of this Act do not, and shall state upon the face of each bond that they do not, represent or constitute a debt of the Authority or of the State of Illinois within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the Authority or the State of Illinois, or grant to the owners or holders thereof any right to have the Authority or the General Assembly levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds shall be payable and shall state that they are payable solely from the revenues and the sources authorized under this Act and pledged for their payment in accordance with the bond resolution or trust indenture.

Nothing in this Act shall be construed to authorize the Authority or any department, board, commission or other agency to create an obligation of the State of Illinois within the meaning of the Constitution or Statutes of Illinois.

(i) Any resolution or trust indenture authorizing the issuance of the bonds may include provision for the issuance of additional bonds. All resolutions of the Authority to carry such adopted bond resolutions into effect, to provide for the sale and delivery of the bonds, for letting of contracts for the construction of toll highways and the acquisition of real and personal property deemed by the Authority necessary or convenient for the construction thereof, shall not require the approval of the Governor or of any other department, division, commission, bureau, board or other agency of the State.

Laws 1967, p. 2748, § 17, eff. April 1, 1968. Amended by P.A. 76–625, § 1, eff. Aug. 5, 1969; P.A. 80–974, § 1, eff. Oct. 1, 1977; P.A. 83–345, § 83, eff. Sept. 14, 1983; P.A. 83–1258, § 2, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–17.

10/18. Repayment of state funds

§ 18. The sums of money appropriated by the General Assembly for the payment of ordinary and contingent expenses of the Authority or the payment of compensation of the members of the Authority expended as a part of the cost of a toll highway financed by revenue bonds issued and sold by the Authority under this Act shall be repaid to the State Treasury out of the proceeds of the sale of such bonds, for deposit in the fund from which such sums were appropriated. Any such sums remaining unpaid because expended for preliminary investigation of toll highway routes not constructed shall be repaid by the Authority out of the proceeds of the sale of any of such bonds issued to finance additional toll highways or extensions of existing toll highways. If no such new bonds are issued, and the money appropriated by the General Assembly has not otherwise been repaid in full, then the Authority shall, after payment of all existing bonds and interest thereon, continue to collect tolls for the privilege of using the toll highways constructed pursuant to the au-

thority of "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Commission, and to define its powers and duties and to repeal an Act therein named", approved July 13, 1953, as amended,[1] until such time as the tolls collected are sufficient to repay any such unpaid money. The tolls so collected shall be paid by the Authority to the State treasury for deposit in the fund from which such sums were appropriated.

Laws 1967, p. 2748, § 18, eff. April 1, 1968. Amended by Laws 1968, p. 199, § 1, eff. Aug. 20, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–18.

1 Former Ill.Rev.Stat. ch. 121, ¶ 314a26 et seq. (repealed).

10/19. Tolls and charges; sinking fund

§ 19. The Authority shall fix and revise from time to time, tolls or charges or rates for the privilege of using each of the toll highways constructed pursuant to this Act. Such tolls shall be so fixed and adjusted at rates calculated to provide the lowest reasonable toll rates that will provide funds sufficient with other revenues of the Authority to pay, (a) the cost of the construction of a toll highway authorized by joint resolution of the General Assembly pursuant to Section 14.1 and the reconstruction, major repairs or improvements of toll highways, (b) the cost of maintaining, repairing, regulating and operating the toll highways including only the necessary expenses of the Authority, and (c) the principal of all bonds, interest thereon and all sinking fund requirements and other requirements provided by resolutions authorizing the issuance of the bonds as they shall become due. In fixing the toll rates pursuant to this Section 19 and Section 10(c) of this Act, the Authority shall take into account the effect of the provisions of this Section 19 permitting the use of the toll highway system without payment of the covenants of the Authority contained in the resolutions and trust indentures authorizing the issuance of bonds of the Authority. No such provision permitting the use of the toll highway system without payment of tolls after the date of this amendatory Act of the 95th General Assembly shall be applied in a manner that impairs the rights of bondholders pursuant to any resolution or trust indentures authorizing the issuance of bonds of the Authority. The use and disposition of any sinking or reserve fund shall be subject to such regulation as may be provided in the resolution or trust indenture authorizing the issuance of the bonds. Subject to the provisions of any resolution or trust indenture authorizing the issuance of bonds any moneys in any such sinking fund in excess of an amount equal to one year's interest on the bonds then outstanding secured by such sinking fund may be applied to the purchase or redemption of bonds. All such bonds so redeemed or purchased shall forthwith be cancelled and shall not again be issued. No person shall be permitted to use any toll highway without paying the toll established under this Section except when on official Toll Highway Authority business which includes police and other emergency vehicles. However, any law enforcement agency vehicle, fire department vehicle, public or private ambulance service vehicle engaged in the performance of an emergency service or duty that necessitates the use of the toll highway system, or other emergency vehicle that is plainly marked shall not be required to pay a toll to use a toll highway. A law enforcement, fire protection, or emergency services officer driving a law enforcement, fire protection, emergency services agency vehicle, or public or private ambulance service vehicle engaging in the performance of emergency services or duties that is not plainly marked must present an Official Permit Card which the law enforcement, fire protection, or emergency services officer receives from his or her law enforcement, fire protection, emergency services agency, or public or private ambulance service in order to use a toll highway without paying the toll. A law enforcement, fire protection, emergency services agency, or public or private ambulance service engaging in the performance of emergency services or duties must apply to the Authority to receive a permit, and the Authority shall adopt rules for the issuance of a permit, that allows public or private ambulance service vehicles engaged in the performance of emergency services or duties that necessitate the use of the toll highway system and all law enforcement, fire protection, or emergency services agency vehicles of the law enforcement, fire protection, or emergency services agency to use any toll highway without paying the toll established under this Section. The Authority shall maintain in its office a list of all persons that are authorized to use any toll highway without charge when on official business of the Authority and such list shall be open to the public for inspection. In recognition of the unique role of the Suburban Bus Division of the Regional Transportation Authority in providing effective transportation in the Authority's service region and to give effect to the exemption set forth in subsection (b) of Section 2.06 of the Regional Transportation Authority Act, a vehicle owned or operated by the Suburban Bus Division of the Regional Transportation Authority that is being used to transport passengers for hire may use any toll highway without paying the toll.

Among other matters, this amendatory Act of 1990 is intended to clarify and confirm the prior intent of the General Assembly to allow toll revenues from the toll highway system to be used to pay a portion of the cost of the construction of the North–South Toll Highway authorized by Senate Joint Resolution 122 of the 83rd General Assembly in 1984.

Laws 1967, p. 2748, § 19, eff. April 1, 1968. Amended by P.A. 76–625, § 1, eff. Aug. 5, 1969; P.A. 80–974, § 1, eff. Oct. 1, 1977; P.A. 83–1258, § 2, eff. Aug. 15, 1984; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 90–152, § 5, eff. July 23, 1997; P.A. 95–327, § 5, eff. Jan. 1, 2008; P.A. 97–784, § 5, eff. Jan. 1, 2013.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–19.

10/19.1. Confidentiality of personally identifiable information obtained through electronic toll collection system

§ 19.1. Confidentiality of personally identifiable information obtained through electronic toll collection system.

(a) For purposes of this Section:

"Electronic toll collection system" is a system where a transponder, camera-based vehicle identification system, or other electronic medium is used to deduct payment of a toll from a subscriber's account or to establish an obligation to pay a toll.

"Electronic toll collection system user" means any natural person who subscribes to an electronic toll collection system or any natural person who uses a tolled transportation facility that employs the Authority's electronic toll collection system.

"Personally identifiable information" means any information that identifies or describes an electronic toll collection system user, including but not limited to travel pattern data, address, telephone number, e-mail address, license plate number, photograph, bank account information, or credit card number.

(b) Except as otherwise provided in this Section, the Authority may not sell or otherwise provide to any person or entity personally identifiable information of any electronic toll collection system user that the Authority obtains through the operation of its electronic toll collection system.

(c) The Authority may, within practical business and cost constraints, store personally identifiable information of an electronic toll collection system user only if the information is required to perform account functions such as billing, account settlement, or toll violation enforcement activities.

(d) By no later than December 31, 2011, the Authority shall establish a privacy policy regarding the collection and use of personally identifiable information. Upon its adoption, the policy shall be posted on the Authority's website and a copy shall be included with each transponder transmitted to a user. The policy shall include but need not be limited to the following:

(1) A description of the types of personally identifiable information collected by the Authority.

(2) The categories of third-party persons or entities with whom the Authority may share personally identifiable information and for what purposes that information is shared.

(3) The process by which the Authority notifies electronic toll collection system users of material changes to its privacy policy.

(4) The process by which an electronic toll collection system user may review and request changes to any of his or her personally identifiable information.

(5) The effective date of the privacy policy.

(e) This Section does not prohibit the Authority from:

(1) providing aggregated traveler information derived from collective data relating to a group or category of electronic toll collection system users from which personally identifiable information has been removed;

(2) sharing data with another transportation agency or third-party vendor to comply with interoperability specifications and standards regarding electronic toll collection devices and technologies, provided that the other transportation agency or third-party vendor may not use personally identifiable information obtained under this Section for a purpose other than described in this Section;

(3) performing financial, legal and accounting functions such as billing, account settlement, toll violation enforcement, or other activities required to operate and manage its toll collection system;

(4) communicating about products and services offered by itself, a business partner, or another public agency;

(5) using personally identifiable information in research projects, provided that appropriate confidentiality restrictions are employed to protect against the unauthorized release of such information;

(6) releasing personally identifiable information in response to a warrant, subpoena or lawful order from a court of competent jurisdiction;

(7) releasing personally identifiable information to law enforcement agencies in the case of an emergency when obtaining a warrant or subpoena would be impractical; and

(8) releasing personally identifiable information to the Authority's Inspector General or, at the Inspector General's direction, to law enforcement agencies under paragraphs (5) and (6) of subsection (f) of Section 8.5 of this Act.

(f) In any agreement allowing another public entity to use the Authority's toll collection system in a transportation facility, the Authority shall require the other public entity to comply with the requirements of this Section.

(g) Personally identifiable information generated through the Authority's toll collection process that reveals the date, time, location or direction of travel by an electronic toll collection system user shall be exempt from release under the Illinois Freedom of Information Act. The exemption in this subsection shall not apply to information that concerns (i) the public duties of public employees and officials; (ii) whether an electronic toll collection system user has paid tolls; (iii) whether the Authority is enforcing toll violation penalties against electronic toll collection users who do not pay tolls; (iv) accidents or other incidents that occur on highways under the jurisdiction of the Authority; or (v) the obligation, receipt, and use of the funds of the Authority. The exemption in this subsection (g) shall not be a limitation or restriction on other Freedom of Information Act exemptions applicable to personally identifiable information or private information.

Laws 1967, p. 2748, § 19.1, added by P.A. 97–342, § 10, eff. Aug. 12, 2011.

10/20.1. Refunding or advance refunding bonds; use of proceeds; rights of holders; duties and obligations of Authority

§ 20.1. (a) The Authority is hereby authorized, by resolution, to provide for the issuance, from time to time, of refunding or advance refunding bonds for the purpose of refunding any bonds then outstanding at maturity or on any redemption date, whether an entire issue or series, or one or more issues or series, or any portions or parts of any issue or series, which shall have been issued by the Authority or its predecessor, the Illinois State Toll Highway Commission.

(b) The proceeds of any such refunding bonds may be used for any one or more of the following purposes:

(1) To pay the principal amount of any outstanding bonds to be retired at maturity or redeemed prior to maturity;

(2) To pay the total amount of any redemption premium incident to redemption of such outstanding bonds to be refunded;

(3) To pay the total amount of any interest accrued or to accrue to the date or dates of redemption or maturity of such outstanding bonds to be refunded;

(4) To pay any and all costs or expenses incident to such refunding;

(5) To make deposits into an irrevocable trust in accordance with subsection (f) of this Section 20.1. Refunding bonds may be issued in amounts sufficient to accomplish any one or more of the foregoing purposes, taking into consideration the income earned on bond proceeds prior to the application thereof or without taking such income into consideration.

(c) The issuance of refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this Act, insofar as the same may be applicable, and may in harmony therewith be adjusted and modified to conform to the facts and circumstances prevailing in each instance of issuance of such refunding bonds. The Authority need not comply with the requirements of any other law applicable to the issuance of bonds other than as set forth in this Act.

(d) With reference to the investment of the proceeds of any such refunding bonds, the Authority shall not authorize or anticipate investment earnings exceeding such as are authorized or permitted under prevailing federal laws, regulations and administrative rulings and interpretations relating to arbitrage bonds.

(e) The proceeds of any such refunding bonds (together with any other funds available for application to refunding purposes, if so provided or permitted by resolution authorizing the issuance of such refunding bonds, or in a trust indenture securing the same) may be placed in trust to be applied to the purchase, retirement at maturity or redemption of the bonds to be refunded on such dates as may be determined by the Authority. Pending application thereof, the proceeds of such refunding bonds and such other available funds, if any, may be invested in direct obligations of, or obligations the principal of which and any interest on which are unconditionally guaranteed by, the United States of America which shall mature, or which shall be subject to redemption by the holder thereof at its option, not later than the respective date or dates when such proceeds and other available funds, if any, will be required for the refunding purpose intended or authorized.

(f) Upon (1) the deposit of the proceeds of the refunding bonds (together with any other funds available for application to refunding purposes, if so provided or permitted by resolution authorizing the issuance of such refunding bonds, or in a trust indenture securing the same) in an irrevocable trust pursuant to a trust agreement with a trustee requiring the trustee to satisfy the obligations of the Authority to timely pay at maturity or upon prior redemption the outstanding bonds for which the proceeds of the refunding bonds and other funds, if any, are deposited, in an amount sufficient to satisfy the obligations of the Authority to timely pay at maturity or upon prior redemption such outstanding bonds, or (2) the deposit in such irrevocable trust of direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America in an amount sufficient, without regard to investment earnings thereon, to satisfy the obligations of the Authority to timely pay at maturity or upon prior redemption such outstanding bonds, or (3) the deposit in such irrevocable trust of obligations referred to in (2) above in an amount sufficient so that, taking into account investment earnings, upon maturity (or upon optional redemption by the trustee) of such obligations amounts will be produced on a timely basis sufficient to satisfy the obligations of the Authority to timely pay at maturity or upon prior redemption such outstanding bonds, such outstanding bonds shall be deemed paid and no longer be deemed to be outstanding for purposes of such resolution or trust indenture and all rights and obligations under any such prior resolution or trust indenture shall be deemed discharged notwithstanding any provision of any such outstanding bonds or any resolution or trust indenture authorizing the issuance of such outstanding bonds; provided, however, that the holders of such outstanding bonds shall have an irrevocable and unconditional right to payment in full of all principal of and premium, if any, and interest on such outstanding bonds, at maturity or upon prior redemption, from the amounts on deposit in such trust. The trustee shall be any trust company or bank in the State of Illinois having the power of a trust company possessing capital and surplus of not less than $100,000,000.

(g) It is hereby found and determined that the contractual rights of the bondholders under any such prior resolution or trust indenture will not be impaired by a refunding pursuant to the provisions of this Section 20.1 in that, the payment of such outstanding bonds having been provided for as set forth herein, the bondholders' rights and security as to payment of the principal of, premium, if any, and interest on such outstanding bonds will have been enhanced, and the bondholders shall suffer no financial loss. It is hereby further found and determined that a refunding of any outstanding bonds of the Authority pursuant to this Section 20.1 shall further the purposes set forth in Section 1.

Laws 1967, p. 2748, § 20.1, added by P.A. 83–1258, § 2, eff. Aug. 15, 1984. Amended by P.A. 92–16, § 84, eff. June 28, 2001.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–20.1.

10/21. Toll highways becoming part of state highway system

§ 21. When all bonds including refunding bonds and all interest thereon have been paid, or a sufficient amount for the payment of all bonds and interest due or accrued thereon has been set aside in trust for the benefit of the bondholders and shall continue to be held for that purpose, and when all money appropriated by the General Assembly has been repaid as provided by Section 18 of this Act, the toll highways and any connecting tunnels, bridges, approaches or other appurtenances to such toll highways shall become a part of the system of the State highways of the State of Illinois, and be maintained and operated free of tolls.

When all the obligations and all bonds including refunding bonds of the Authority have been paid, or the payment therefor has been provided as is required herein, the Authority shall be dissolved and all funds of the Authority not required for the payment of bonds, interest, machinery, equipment, property or other obligations of the Authority shall be paid to the State Treasurer.

Laws 1967, p. 2748, § 21, eff. April 1, 1968. Amended by Laws 1968, p. 199, § 1, eff. Aug. 20, 1968; P.A. 80–974, § 1, eff. Oct. 1, 1977; P.A. 83–1258, § 2, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–21.

10/22. Exemption from taxation

§ 22. All property belonging to the Authority, and the toll highways, shall be exempt from taxation. However, such part of that property as has heretofore been or shall hereafter be leased by the Authority to a private individual, association or corporation for a use which is not exempted from taxation under Article 15 of the Property Tax Code[1] is subject to taxation as provided in Section 9–195 of the Property Tax Code,[2] regardless of any provision in such a lease to the contrary.

Laws 1967, p. 2748, § 22, eff. April 1, 1968. Amended by P.A. 78–336, § 1, eff. Oct. 1, 1973; P.A. 88–670, Art. 3, § 3–79, eff. Dec. 2, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–22.

[1] 35 ILCS 200/15–5 et seq.

[2] 35 ILCS 200/9–195.

10/23. Legislative declaration; Authority budget

§ 23. Legislative declaration; Authority budget.

(a) It is hereby declared, as a matter of legislative determination, that it is in the best interest of the State of Illinois, the public, and the holders of Authority bonds that Authority funds be expended only on goods and services that protect and enhance the efficiency, safety, and environmental quality of the toll highway system.

(b) The Authority shall spend moneys received from the issuance of bonds and as tolls or otherwise in the operation of the toll highway system only on the following:

(1) operations and maintenance expenditures that are reasonable and necessary to keep the toll highway system in a state of good repair in accordance with contemporary highway safety and maintenance standards;

(2) principal and interest payments and payment of other obligations the Authority has incurred in connection with bonds issued under this Act;

(3) renewal and replacement expenditures necessary and sufficient to protect and preserve the long-term structural integrity of the toll highway system; and

(4) system improvement expenditures necessary and sufficient to improve and expand the toll highway system, subject to the requirements of this Act.

(c) Any moneys remaining after the expenditures listed in subsection (b) may be spent only for reasonable and necessary Authority purposes that will enhance the safety, efficiency, and environmental quality of the toll highway system in a cost-effective manner. Authority funds may not be spent for purposes not reasonably related to toll highway operations and improvements or in a manner that is not cost-effective.

(d) The Authority must at all times maintain a reserve for maintenance and operating expenses that is no more than 130% of the operating expenses it has budgeted for its current fiscal year, unless the requirements of any bond resolution or trust indenture then securing obligations of the Authority mandate a greater amount.

(e) The Authority shall file with the Governor, the Clerk of the House of Representatives, the Secretary of the Senate, and the Commission on Government Forecasting and Accountability, on or prior to March 15th of each year, a written statement and report covering its activities for the preceding calendar year. The Authority shall present, to the committees of the House of Representatives designated by the Speaker of the House and to the committees of the Senate designated by the President of the Senate, an annual report outlining its planned revenues and expenditures. The Authority shall prepare an annual capital plan which identifies capital projects by location and details the project costs in correct dollar amounts. The Authority shall also prepare and file a ten-year capital plan that includes a listing of all capital improvement projects contemplated during the ensuing ten-year period. The first ten-year capital plan shall be filed in 1991 and thereafter on the anniversary of each ten-year period.

(f) It shall be the duty of the Auditor General of the State of Illinois, annually to audit or cause to be audited the books and records of the Authority and to file a certified copy of the report of such audit with the Governor and with the Legislative Audit Commission, which audit reports, when so filed, shall be open to the public for inspection.

(g) The Authority shall hold a public hearing on its proposed annual budget, not less than 15 days before its directors meet to consider adoption of the annual budget, at which any person may appear, express opinions, suggestions, or objections, or direct inquiries relating to the proposed budget. The Authority must give notice of the hearing at least 15 days prior to the hearing stating the time, place, and purpose of the hearing in a daily newspaper of general circulation throughout the Authority's service area and by posting the meeting notice and a copy of the proposed budget on the Authority's website. The proceedings at the hearing shall be transcribed. The transcript shall be made available at reasonable hours for public inspection, and a copy of the transcript, together with a copy of all written statements submitted at the hearing, shall be submitted to the directors before the vote on adoption of the proposed annual budget.

(h) The Authority shall post on its website copies of its annual report and its budget for the current year, along with any other financial information necessary to adequately inform the public of the Authority's financial condition and capital plan.

(i) The requirements set forth in subsections (b) through (g) may not be construed or applied in a manner that impairs the rights of bondholders under any bond resolution or trust indenture entered into in accordance with a bond resolution authorized by the Authority's directors, nor may those requirements be construed as a limitation on the Authority's powers as set forth elsewhere in this Act.

Laws 1967, p. 2748, § 23, eff. April 1, 1968. Amended by P.A. 81–660, § 4, eff. Sept. 14, 1979; P.A. 83–973, § 1, eff. Dec. 6, 1983; P.A. 86–1164, § 1, eff. Aug. 10, 1990; P.A. 91–256, § 5, eff. Jan. 1, 2000; P.A. 93–1067, § 130, eff. Jan. 15, 2005; P.A. 94–636, § 5, eff. Aug. 22, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–23.

10/24. State Toll Highway Authority Fund; custody; bond of Treasurer

§ 24. Except as otherwise provided in any bond resolution, the proceeds derived from the sale of bonds, and all receipts and income derived from tolls, licenses, gifts, donations, concessions, fees, rentals, and all other revenues from whatever source derived, shall, within three days after receipt thereof, be paid to the Treasurer of the State of Illinois, and held by him as a special fund known as the Illinois State Toll Highway Authority Fund, except that the Authority may retain portions of the Illinois State Toll Highway Authority Fund as a locally maintained construction fund revolving account and as a revenue fund revolving account, where authorized by a bond resolution, and as locally maintained change funds, where necessary for the operations of the Authority. The State Treasurer shall be ex officio custodian of such special fund, which fund shall be held, invested and disbursed for the purposes provided herein upon the order of the Authority and in accordance with provisions and covenants of any bond resolution authorizing the issuance of bonds which have not been paid or deemed paid. The interest accruing on said special fund shall be computed and added to the principal thereof every six months. In addition to the special audits prescribed by this Act, the said fund shall also be subject to audit in the same manner as is now, or may hereinafter be, provided for the audit of State funds and accounts. The said special fund shall be protected by a corporate surety bond, executed by the Treasurer, with a surety authorized to do business under the laws of the State of Illinois. The amount of said bond shall be fixed by resolution of the Authority, approved by the Governor, and may be increased or diminished at any time. The premiums on said bond shall be payable from the funds of the Authority. The bond shall be subject to the approval of the Governor and Attorney General of the State of Illinois, and, when so approved, shall be filed in the office of the Secretary of State. Said special fund shall be considered always appropriated for the purposes of disbursements, as provided in this Act, and shall be paid out and disbursed only as provided herein, and shall not, at any time be appropriated or diverted to any other use or purpose.

Laws 1967, p. 2748, § 24, eff. April 1, 1968. Amended by P.A. 82–386, § 1, eff. Sept. 3, 1981; P.A. 83–1258, § 2, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–24.

10/25. Payment for costs of operation

§ 25. After the issuance of revenue bonds to finance the construction of toll highways, and repayment from the proceeds of such bonds of any amount repayable to the state treasury pursuant to Section 18, the expenses of the Authority, and the compensation of the members thereof, and all other costs of said toll highways and its administration and operation shall be paid from the proceeds of such bond issues or from the moneys received by the Authority as tolls or otherwise in the operation of said toll highways.

Laws 1967, p. 2748, § 25, eff. April 1, 1968. Amended by P.A. 83–1258, § 2, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–25.

10/25.1. Levy of taxes or pledge of property; prohibition

§ 25.1. The Authority shall have no power to levy taxes, or to pledge any of its property, other than income from whatever source derived for the payments of any of its debts or obligations.

Laws 1967, p. 2748, § 25.1, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–25.1.

10/26. Violations

§ 26. Any person who violates any resolution, rule or regulation, adopted or promulgated by the Authority, pursuant to Section 10, paragraph (b) of this Act, shall be guilty of a petty offense.

Laws 1967, p. 2748, § 26, eff. April 1, 1968. Amended by P.A. 77–2239, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–26.

10/27. Littering; penalty

§ 27. It is unlawful for any person to deposit within the right-of-way limits of the toll highways trash, glass, weeds, garbage or other offensive matter; and any person so offending shall be guilty of a petty offense and shall be fined not more than $500.00. However, this section shall not apply to proper deposits of harmless materials made in good faith and in a proper manner to repair the toll highways.

Laws 1967, p. 2748, § 27, eff. April 1, 1968. Amended by P.A. 77–2239, § 1, eff. Jan. 1, 1973; P.A. 89–386, § 5, eff. Aug. 18, 1995.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–27.

10/27.1. Spurious or counterfeit tickets, coupons or tokens; penalty

§ 27.1. Any person who shall use any spurious or counterfeit tickets, coupons or tokens in payment of any toll required to be paid by the Authority under the provisions of this Act, or who shall attempt to use the highway without payment of the tolls prescribed by the Authority, shall be deemed guilty of a petty offense and shall be fined not less than $5 nor more than $100 for each such offense. The fine range set forth in this Section for prosecution of toll evasion as a petty offense shall not apply to toll evasion offenses that are adjudicated in the Authority's administration system.

The provisions in this Section may be extended to other public toll facilities in this State through a duly executed intergovernmental agreement between the Authority and another public body.

Laws 1967, p. 2748, § 27.1, eff. April 1, 1968. Amended by P.A. 77–2239, § 1, eff. Jan. 1, 1973; P.A. 94–636, § 5, eff. Aug. 22, 2005.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–27.1.

10/27.2. Obstruction of registration plate visibility to electronic image recording.

§ 27.2. Obstruction of registration plate visibility to electronic image recording.

(a) A person may not operate on a toll highway any motor vehicle that is equipped with tinted plastic or tinted glass registration plate covers or any covers, coating, wrappings, materials, streaking, distorting, holographic, reflective, or other devices that obstruct the visibility or electronic image recording of the plate. This subsection (a) shall not apply to automatic vehicle identification transponder devices, cards or chips issued by a governmental body or authorized by a governmental body for the purpose of electronic payment of tolls or other authorized payments, the exemption of which shall preempt any local legislation to the contrary.

(b) If a State or local law enforcement officer having jurisdiction observes that a cover or other device or material or substance is obstructing the visibility or electronic image recording of the plate, the officer shall issue a Uniform Traffic Citation and shall confiscate the cover or other device that obstructs the visibility or electronic image recording of the plate. If the State or local law enforcement officer having jurisdiction observes that the plate itself has been physically treated with a substance or material that is obstructing the visibility or electronic image recording of the plate, the officer shall issue a Uniform Traffic Citation and shall confiscate the plate. The Secretary of State shall revoke the registration of any plate that has been found by a court or administrative tribunal to have been physically altered with any chemical or reflective substance or coating that obstructs the visibility or electronic image recording of the plate. A fine of $750 shall be imposed in any instance where a plate cover obstructs the visibility or electronic image recording of the plate. A fine of $1,000 shall be imposed where a plate has been physically altered with any chemical or reflective substance or coating that obstructs the visibility or electronic image recording of the plate.

(c) The Illinois Attorney General may file suit against any individual or entity offering or marketing the sale, including via the Internet, of any product advertised as having the capacity to obstruct the visibility or electronic image recording of a license plate. In addition to injunctive and monetary relief, punitive damages, and attorneys fees, the suit shall also seek a full accounting of the records of all sales to residents of or entities within the State of Illinois.

(d) The provisions in this Section may be extended to other public toll facilities in the State of Illinois through a duly executed intergovernmental agreement between the Authority and another public body.

Laws 1967, p. 2748, § 27.2, added by P.A. 94–636, § 5, eff. Aug. 22, 2005.

10/28. Toll collection devices; breaking with intent to commit larceny

§ 28. Whoever wilfully, maliciously and forcibly breaks any mechanical or electronic toll collection device of the Authority or any appurtenance thereto with intent to commit larceny shall be deemed guilty of a Class 4 felony.

Laws 1967, p. 2748, § 28, eff. April 1, 1968. Amended by P.A. 77–2239, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–28.

10/28.1. Directors and officers; pecuniary interest

§ 28.1. No director or officer of the Authority shall be interested, directly or indirectly, in any contract, agreement, lease, work or business of the Authority, or in the sale of any article whenever the expense, price or consideration of the contract, agreement, lease, work, business or sale is paid by the Authority. No director or officer of the Authority shall be interested, directly or indirectly, in the purchase, sale or lease of any property which (1) belongs to the Authority, (2) is sold, leased or any interest therein is acquired by the Authority, or (3) is sold by virtue of legal process at the suit of the Authority.

Laws 1967, p. 2748, § 28.1, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–28.1.

10/29. Misconduct of directors and officers

§ 29. Every chairman, director, or officer of the Authority who is guilty of a palpable omission of duty, or who is guilty of willful and corrupt oppression, malconduct, or misfeasance in office in discharge of the duties of his office shall be liable to indictment in any court of competent jurisdiction and shall be guilty of a Class A misdemeanor. Any conviction hereunder shall constitute grounds for removal as provided in Sections 4 and 5 of this Act.

Laws 1967, p. 2748, § 29, eff. April 1, 1968. Amended by Laws 1968, p. 199, § 1, eff. Aug. 20, 1968; P.A. 77–2239, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–29.

10/30. Bonds as legal investments

§ 30. Counties, cities, villages, incorporated towns, and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance associations and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or refunding bonds issued by the Authority. It is the purpose of this section to authorize the investment in such bonds, or refunding bonds, of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this section may be construed as relieving any officer, person, firm or corporation from any duty of exercising reasonable care in selecting securities.

Laws 1967, p. 2748, § 30, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–30.

10/31. Suits against authority; consent

§ 31. The State of Illinois hereby consents to suits against the Authority solely as in this section provided:

(a) The holder or holders of any bonds or coupons issued by the Authority may bring civil actions to compel the observance by the Authority or by any of its officers, agents, or employees of any contract or covenant made by the Authority with the holders of such bonds or coupons, and to compel the Authority and any of its officers, agents or employees, to perform any duties required to be performed for the benefit of the holders of said bonds or coupons by the provisions of the resolution authorizing their issuance, or by this Act, or to enjoin the Authority and any of its officers, agents or employees from taking any action in conflict with such contract or covenant.

(b) Any person or persons may bring a civil action to recover damages for injury to his person or property caused by any act of the Authority or by any act of any of its officers, agents or employees done under its direction.

Laws 1967, p. 2748, § 31, eff. April 1, 1968. Amended by P.A. 79–1366, § 45, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–31.

10/32. Determinations by authority; conclusiveness

§ 32. All determinations made by the Authority in the exercise of its discretionary powers, with the approval of the Governor if such approval is expressly required by the provisions of this Act, including without limitation, the location and terminal points of any toll highway or section to be constructed by it, the materials to be used in its construction, the plans and specifications thereof, the tolls to be charged for the use thereof, and the letting of contracts for the construction of toll highways or any part thereof, or the sale of bonds, shall be conclusive and shall not be subject to review by the courts or by any administrative agency of the State.

Laws 1967, p. 2748, § 32, eff. April 1, 1968. Amended by P.A. 80–974, § 1, eff. Oct. 1, 1977; P.A. 83–1258, § 2, eff. Aug. 15, 1984.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–32.

10/32.1. Power to construct railroad tracks

§ 32.1. Power to construct railroad tracks. Upon written approval by the Governor, the Authority may exercise any powers that exist under this Act on the effective date of this amendatory Act of the 97th General Assembly to design and construct new railroad tracks. The Authority may charge an access fee to any passenger or freight rail operator who wishes to use tracks which the Authority has constructed using the powers granted by this Section. Moneys in the Road Fund may not be used to implement this Section. Authorization must be granted to the Authority for each individual and distinct railroad track project.

Laws 1967, p. 2748, § 32.1, added by P.A. 97–977, § 5, eff. Aug. 17, 2012.

10/33. Transfer of powers, duties and obligations from State Toll Commission

§ 33. On April 1, 1968, all duties, obligations, functions and powers of The Illinois State Toll Highway Commission, together with all property, whether real or personal, rights, privileges, interest and any and all other assets whether real, personal or mixed, shall be transferred to and shall vest in The Illinois State Toll Highway Authority, which shall own, operate and control the same in accordance with the provisions of "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Commission, and to define its powers and duties and to repeal an Act therein named", approved July 13, 1953, as amended,[1] and all terms, covenants and conditions set forth in any resolutions heretofore or hereafter adopted authorizing and providing for the issuance of Revenue Bonds by The Illinois State Toll Highway Commission under "An Act, in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Commission, and to define its powers and duties and to repeal an Act therein named", approved July 13, 1953, as amended, except as herein provided. The chairman and commissioners of The Illinois State Toll Highway Commis-

sion shall serve as the chairman and directors, respectively, of the Authority, with all of the rights, privileges and emoluments of such officers until such appointments are made by the Governor under Section 3 of this Act.

It is the intention and purpose of this Section to transfer management and operation of the existing toll highways of The Illinois State Toll Highway Commission to the board of directors of The Illinois State Toll Highway Authority, but to require that the Authority comply with all covenants, conditions, terms and provisions imposed by "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Commission, and to define its powers and duties and to repeal an Act therein named", approved July 13, 1953, as amended, until after all obligations of any kind or character whatsoever incurred by The Illinois State Toll Highway Commission under that Act have been paid in full from revenues, or income from whatever source derived, including but not limited to bonds issued under Section 17 herein. Title to such toll highway or toll highways after all such obligations have been paid in full shall be vested in the Authority hereby created, and the Authority hereby created is authorized to continue to establish tolls, rates and charges for use of such facilities and pledge the income therefrom, after maintenance and operation costs, to the payment of any or all bonds issued under this Act, until all bonds issued by the Authority under this Act have been paid in full, notwithstanding any other law to the contrary.

Laws 1967, p. 2748, § 33, eff. April 1, 1968. Amended by Laws 1968, p. 199, § 1, eff. Aug. 20, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–33.

[1] Former Ill.Rev.Stat. ch. 121, ¶ 314a26 et seq. (repealed).

10/34. Effective date; severability clause

§ 34. This Act becomes effective April 1, 1968 and the provisions of this Act are severable and if any of its provisions shall be held to be unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Laws 1967, p. 2748, § 34, eff. April 1, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–34.

10/35. Appropriation for expenses and compensation; repayment by authority

§ 35. (a) The sum of $1,914,000 is hereby appropriated from the Road Fund to The Illinois State Toll Highway Authority for the purpose of paying the ordinary and contingent expenses of the Authority necessary to finance engineering and traffic studies to determine the feasibility of constructing additional toll highways within the State of Illinois, to determine routes therefor, to prepare for a successful marketing of bonds to finance construction of the additional toll highways, and for the purpose of compensating all persons who must be employed for such purposes.

(b) Compensation of employees devoting their entire time in coordinating the necessary information and in determining the feasibility of constructing additional toll highways within the State of Illinois shall be paid from the amount herein appropriated, and in the case of any employee who is devoting part time to the coordination and procuring of the necessary material for a determination as to whether or not additional toll highways shall be constructed within the State of Illinois shall be paid from the amount herein appropriated, to the extent of the time devoted to such work, it being the intent and purpose that each employee account for the time so spent to be paid from this appropriation, to the end that no charges or expenses of any kind shall be made to any of the funds or accounts created by virtue of the issuing of bonds under "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways and to create The Illinois State Toll Highway Commission and to define its powers and duties and to repeal an Act therein named", approved July 13, 1953, as amended,[1] except those necessary to the maintenance, administration and operation of the existing toll highway constructed under the provisions of the act.

(c) The amount appropriated herein shall be repaid by the Authority as provided by Section 18 of this Act.

Laws 1967, p. 2748, § 35, eff. April 1, 1968. Amended by Laws 1968, p. 199, § 1, eff. Aug. 20, 1968.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 100–35.

[1] Former Ill.Rev.Stat. ch. 121, ¶ 314a26 et seq. (repealed).

ACT 15. DIRKSEN MEMORIAL HIGHWAY ACT

15/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Dirksen Memorial Highway Act.

P.A. 77–149, § 0.01, added by P.A. 86–1324, § 877, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 388.

15/1. Designation

§ 1. That part of Interstate Route 74 of the National System of Interstate and Defense Highways which is in the State of Illinois is designated as the Everett McKinley Dirksen Memorial Highway. Appropriate plaques may be erected by the Department of Transportation in rest areas along this route in recognition of this designation.

P.A. 77–149, § 1, eff. July 2, 1971. Amended by P.A. 81–840, § 52, eff. Sept. 19, 1979.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 389.

ACT 20. PEERSON MEMORIAL HIGHWAY ACT

20/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Peerson Memorial Highway Act.

P.A. 79–369, § 0.01, added by P.A. 86–1324, § 878, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 389.9.

20/1. Designation

§ 1. That part of Illinois Route 71 which begins at the southern city limits of Ottawa, Illinois and ends with the intersection of Route 71 and Illinois Route 47 is designated as the Cleng Peerson Memorial Highway. Appropriate plaques may be erected by the Department of Transportation in rest areas along this route in recognition of the designation.

P.A. 79–369, § 1, eff. Oct. 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 390.

ACT 25. JOLLIET–MARQUETTE TRAIL ACT

25/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Jolliet–Marquette Trail Act.

P.A. 79–820, § 0.01, added by P.A. 86–1324, § 879, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 390.9.

25/1. Designation of route

§ 1. Certain portage trails in Illinois between the City of Chicago and the City of Joliet which are locally marked are designated the "Jolliet-Marquette Trail—Route of the Voyageurs" and certain scenic all-weather routes in Illinois now existing and bordering the east and west banks of the Illinois River between the City of Joliet and the City of Grafton and designated the "Illinois River Road—Route of the Voyageurs", as herein described.

The Eastern "Illinois River Road—Route of the Voyageurs" is designated as follows:

Starting at the junction of US 6 and Ill. 7 at Joliet, US 6 through Channahon, Morris, Seneca, Marseilles, and Ottawa to its junction with Ill. 71; Ill. 71 through Starved Rock State Park and Oglesby, west through Cedar Point, Standard, Granville, and Mark to its junction with Ill. 26 at Hennepin; Ill. 26 south through Lacon, Spring Bay and Bay View Gardens to its junction with Ill. 116 north of East Peoria; Ill. 116 to its junction with Ill. 29 in East Peoria; Ill. 29 south through Creve Coeur to CH 16 (Manito Road) one mile south of Pekin; CH 16 west through Manito to Ill. 97 to Havana; Ill. 97 west to its junction with Ill. 78; Ill. 78 south through Bath to CH 7 (Beardstown Road) south of Chandlerville; CH 7 west through Beardstown to US 67 and Ill. 100 south of Beardstown; Ill. 100 south through Bluffs to its junction with US 36; US 36 east to FA 155; FA 155 south through Hillview and Eldred to its junction with Ill. 100 and 16; Ill. 100 and 16 south to its junction with Ill. 100; Ill. 100 south through Nutwood and Rosedale and bordering the west and south boundaries of Pere Marquette State Park to Grafton.

The Western "Illinois River Road—Route of the Voyageurs" is designated as follows:

Starting at the junction of US 6 and Ill. 7 in Joliet, US 6 south and west through Channahon, Morris, and Marseilles to Ill. 23 in Ottawa; Ill. 23 south to FAS 261 in Ottawa; FAS 261 west through Naplate to CH 34 at Buffalo Rock State Park; CH 34 west to its junction with Ill. 178; Ill. 178 north through Utica to its junction with US 6; US 6 west through LaSalle and Peru to its junction with Ill. 29 in Spring Valley; Ill. 29 west and south through DePue, Bureau Junction, Henry, Sparland, and Chillicothe to its point of merger with US 24 on Jefferson Avenue in Peoria; US 24 southwest through Bartonville, Kingston Mines, and Banner to its junction with Ill. 78 and 97; Ill. 78 and 97 south to its junction with US 136; US 136 west to its junction with Ill. 100; Ill. 100 southwest through Enion, Mabletown, Bluff City, Sheldon Grove, Browning, and Frederick to its junction with Ill. 103 and US 67; US 67 and Ill. 100 south to its junction with Ill. 100. Ill. 100 south through Bluffs and Oxville to its junction with US 36; west on US 36 and Ill. 100 through Florence to Detroit; (Alternate route through Brown County from the junction of US 67 and Ill. 100; Ill. 103 west to CH 9 west of Sugar Grove; CH 9 south through LaGrange and across Ill. 99 to CH 21 in Chambersburg; CH 21 south to CH 2 in Valley City; CH 2 west to CH 14 in Griggsville; CH 14 south to its junction with US 36 and Ill. 100 in Detroit); Ill. 100 south at Detroit through Milton, Pearl, and Kampsville to Hardin; Ill. 100 east across the Illinois River to East Hardin and south through Nutwood and Rosedale and bordering the west and south boundaries of Pere Marquette State Park to Grafton; (Alternate route from Hardin to Grafton; CH 1 south and east through Brussels to the Grafton Free Ferry across the Illinois River to Ill. 100; Ill. 100 east of Grafton).

P.A. 79–820, § 1, eff. Sept. 5, 1975.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 391.

25/2. Plaques; erection

§ 2. Appropriate plaques may be erected by the Department of Transportation and local agencies in their respective jurisdictions along the "Illinois River Road—Route of the Voyageurs" between the City of Joliet and the City of Grafton in recognition of this designation.

P.A. 79–820, § 2, eff. Sept. 5, 1975. Amended by P.A. 89–229, § 3, eff. Jan. 1, 1996.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 392.

ACT 30. BIKEWAY ACT

30/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Bikeway Act.

P.A. 78–850, Art. I, § 0.01, added by P.A. 86–1324, § 883, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 600.

30/1. Legislative declarations and findings

§ 1. Legislative declarations and findings. The General Assembly declares that since a third of the population owns bicycles, there is an urgent need for safe bikeways, for the use of both children and adults for transportation, healthy exercise and recreation.

The General Assembly finds that to coordinate plans for bikeways most effectively with those of the State and local governments as they affect roads, streets, schools, parks, and other publicly owned lands, lands not owned by a municipality, local unit of government, county, or the State of Illinois or one of its agencies or authorities by agreement, abandoned roadbeds and conservation areas, while maximizing the benefits from the use of tax dollars, a single State agency, eligible to receive federal matching funds, should be designated to establish and maintain a State-wide bikeways program.

P.A. 78–850, Art. I, § 1, eff. July 1, 1974. Amended by P.A. 88–676, § 25, eff. Dec. 14, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 601.

30/2. Responsible agency; bikeways program; use of funds

§ 2. Responsible agency; bikeways program; use of funds. (a) The Department of Transportation of the State of Illinois, referred to in this Act as "the Department", is designated as the State agency responsible for developing and coordinating a State-wide bikeways program and shall officially designate bikeways throughout the State.

For purposes of this Act, "bikeways program" includes, but is not limited to: surveys, safety measures, demonstration projects, research, education, proposed legislation, utilization of existing streets and walkways, provision of bicycle paths to and from schools affording a minimum of hazard from automobiles, provision of comfort stations and weather

shelters, provision of facilities in connection with commuter railroads to facilitate the use of bicycles by commuters in traveling to and from the railroad stations, and promulgation of standards, security measures and regulations for the registration and use of bicycles.

The Department and, with the Department's approval, the county board of any county or the corporate authorities of any municipality, conservation district, park district, or forest preserve district are hereby authorized to expend funds appropriated for purposes of this Act to acquire right-of-way, plan, locate, relocate, construct, reconstruct, maintain, alter, improve, vacate, and regulate the use of officially designated bikeways. For purposes of this Act a bikeway may be (1) a shared facility whereby both vehicles and bicycles may operate on the through lanes, parking lanes or shoulders of a street or highway, (2) a pathway on a street or highway right-of-way, on public land other than a street or highway right-of-way, or on lands not owned by a municipality, local unit of government, county, or the State of Illinois or one of its agencies or authorities by agreement with the owner for a minimum duration of 20 years. Property interests acquired for projects constructed under the terms of this Act shall not restrict the access, use or enjoyment of the bikeways by the public consistent with regulation by the agency of government with jurisdiction over each bikeway and shall protect the public investment for the useful life of the bikeways.

(b) Notwithstanding the requirement of paragraph 2(a) that any agreement for the acquisition of a property interest in lands not owned by a municipality, local unit of government, county, or the State of Illinois or one of its agencies or authorities shall be for a duration of not less than 20 years, the county board of a county with a population over 500,000 may also enter into agreements with a minimum duration of 5 years with any public utility or railroad for the use of any right-of-way of that public utility in excess of 60 feet in width or railroad right-of-way in the county as a bikeway. The county board shall have the authority to proceed under the terms of any such agreement for the construction and maintenance of the bikeway and shall have the authority to treat the construction and maintenance as it would for construction and maintenance of county highways including the use of any funds toward the bikeway construction and maintenance that are generally available for the construction and maintenance of county highways. The bikeway construction and maintenance shall be supervised by the county engineer. The county board has the authority to adopt an ordinance to regulate the use of the bikeways. Bikeways to be funded by the county may include segments in the railroad or utility corridor that otherwise meet the criteria of subsection (a) of this Section. Any bikeway constructed by a county under this subsection under an agreement with a public utility or railroad with a duration of less than 20 years shall not receive any support with funds appropriated to the Department.

P.A. 78–850, Art. I, § 2, eff. July 1, 1974. Amended by P.A. 79–473, § 2, eff. Oct. 1, 1975; P.A. 88–502, § 5, eff. July 1, 1994; P.A. 88–676, § 25, eff. Dec. 14, 1994.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 602.

30/3. Appropriations for Department; funds included; federal funds

§ 3. The annual appropriation to the Department for purposes of this Act shall include funds for the development of bicycle paths and a State-wide bikeways program in this State. In addition, the Department may accept and expend federal funds granted for bikeway purposes.

P.A. 78–850, Art. I, § 3, eff. July 1, 1974.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 603.

30/4. Cooperation with local governments, agencies and organizations; allocation of expenditures; interagency council; membership

§ 4. In expending funds available for purposes of this Act, the Department shall cooperate with municipalities, townships, counties, road districts, park districts and other appropriate agencies and organizations and, where possible and practicable, shall allocate its expenditures among the several regions of the State, proportionally to the bicycling population.

The Secretary of Transportation shall serve as chairman of and shall at least quarterly convene an interagency council on the bikeways program, comprised of the Director of Natural Resources, the Director of Commerce and Economic Opportunity, the State Superintendent of Education, a county engineer or county superintendent of highways chosen by the statewide association of county engineers, a representative of the Cook County Forest Preserve District, and the Secretary of Transportation, for the purpose of determining policy and priorities in effectuating the purposes of this Act.

P.A. 78–850, Art. I, § 4, eff. July 1, 1974. Amended by P.A. 81–1509, Art. IV, § 129, eff. Sept. 26, 1980; P.A. 89–337, § 5, eff. Jan. 1, 1996; P.A. 89–445, § 9A–77, eff. Feb. 7, 1996; P.A. 94–793, § 845, eff. May 19, 2006.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 604.

ACT 105. BRIDGE CONSTRUCTION ACT

105/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Bridge Construction Act.

Laws 1871–72, p. 209, § 0.01, added by P.A. 86–1324, § 869, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 191.

105/1. Construction of bridges; state assent; proviso

§ 1. That the assent of the State of Illinois is hereby given any corporation or association organized under the laws of this state, and subject thereto, to construct bridges across navigable rivers in this state, and upon the boundaries thereof, whenever authorized by the Congress of the United States, under such conditions and restrictions as the Congress may impose: Provided, that whenever any state bordering on the Ohio or Mississippi river has refused or neglected, and shall continue to refuse or neglect to grant privileges similar to those granted by this act, or has repealed, or shall hereafter repeal, any charter of any bridge company, organized for the purpose of building a bridge across the Ohio river or the Mississippi river, the provisions of this act shall not apply to the construction of any bridge not now commenced from any such state into this state, and no bridge shall hereafter be commenced and built into this state, or made to connect with any railroad in this state across the Ohio river or the Mississippi river from any state which has repealed or may hereafter repeal the charter of any bridge company, organized to build a bridge across the Ohio or Mississippi river, until the law repealing such bridge charter shall be repealed by such state.

Laws 1871–72, p. 209, § 1. Amended by Laws 1889, p. 62, § 1, eff. July 1, 1889.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 192.

ACT 110. BRIDGE PIER PROTECTION ACT

110/1. Bridge pier construction and protections

§ 1. Every person, firm or corporation owning, leasing or managing any bridge over a navigable portion of the Illinois River shall construct and maintain in good repair, contiguous to the channel of the river, adequate pier protection for the piers of such bridge, of modern construction, and adequate to meet navigation requirements existing at the time or reasonably to be expected in the future during the life of such piers.

Laws 1941, vol. 1, p. 1091, § 1.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 193a.

110/1.1. Short title

§ 1.1. Short title. This Act may be cited as the Bridge Pier Protection Act.

Laws 1941, vol. 1, p. 1091, § 1.1, added by P.A. 86–1324, § 870, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 193a.1.

ACT 115. TOLL BRIDGE ACT

115/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Toll Bridge Act.

R.S.1874, p. 1059, § 0.01, added by P.A. 86–1324, § 1088, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 0.01.

115/1. Erection across watercourse; consent of county board

§ 1. No toll bridge shall be established or erected across any lake, river, creek or other water course in this state without the consent of the county board of the county in which the same is to be established or erected.

R.S.1874, p. 1059, § 1, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 1.

115/2. Petition for establishment; drawbridges over navigable waters

§ 2. Any person or corporation may petition the county board for leave to establish and erect a toll bridge, and if said board shall deem such bridge necessary, it may authorize the establishment and erection thereof upon such terms and conditions as it shall deem for the public good: Provided, that no bridge shall be constructed over any navigable water without a suitable draw for the passage of water-craft, nor in such manner as to interfere with navigation.

R.S.1874, p. 1059, § 2, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 2.

115/3. Bridge between two counties; petition

§ 3. When the bridge is to be established between two counties, the petition shall be addressed to the county boards of both counties, and the consent of each of said boards shall be necessary to authorize the erection or establishment of such bridge.

R.S.1874, p. 1059, § 3, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 3.

115/4. Notice of application; publication

§ 4. No such consent shall be given unless the petitioner shall have given notice of his intended application in some newspaper published in the county, for at least four weeks, successively, next preceding the session of the county board at which the application is made; or, if no newspaper is published in such county, by posting notices in four public places therein, at least four weeks previous to such session. When the application is to several county boards, the notice shall be given in each county. At least four weeks' notice of such intended application shall be given in writing to the owners of the land adjoining to or embracing the water course over which such bridge is to be erected: Provided, that such written notice need not be given to any owner not residing in the state, or who cannot, upon due inquiry, be found.

R.S.1874, p. 1059, § 4, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 4.

115/5. Adjoining owners preferred as petitioners

§ 5. The proprietors of lands adjoining to, or embracing the water course over which a toll bridge is proposed to be established, shall have the preference, if they will apply before such privilege shall have been granted to any person or corporation.

R.S.1874, p. 1059, § 5, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 5.

115/6. Bond

§ 6. Any county board granting permission to erect any such bridge may require of the person or corporation to which such permission is granted, bonds in such sum, upon such conditions, and with such security as it shall deem proper, and may insert therein a provision for the payment of any damages that any person may sustain by reason of the construction of such bridge; and any person so damaged may bring suit thereon for his own use.

R.S.1874, p. 1059, § 6, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 6.

115/7. County board to fix tolls; when taking of toll prohibited

§ 7. The county board shall fix the rates of toll, and may from time to time, alter and change the same, and in case of the neglect of the owner of the bridge to keep the same in proper repair and safe for the crossing of persons and property, may prohibit the taking of toll.

The General Assembly finds that electronic toll collection systems in Illinois should be standardized to promote safety, efficiency, and traveler convenience. If electronic toll collection is used on such bridge, the county shall cause the configuration of the electronic toll collection system to be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority. The municipality may enter into an intergovernmental agreement with the Illinois State Toll Highway Authority to provide for such compatibility or to have the Authority provide electronic toll collection or toll violation enforcement services. Any toll bridges in Winnebago County that are in operation and collecting tolls on the effective date of this amendatory Act of the 97th General Assembly are exempt from the provisions of the Act.

R.S.1874, p. 1059, § 7, eff. July 1, 1874. Amended by P.A. 97–252, § 15, eff. Aug. 4, 2011.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 7.

115/8. List of tolls; posting; penalty for neglect

§ 8. Every person or corporation owning or operating any toll bridge, shall keep a list of the legal rates of toll, printed or written in a legible hand, constantly posted up in some public place, at or near the toll gate, or place where toll is collected. If any such person or corporation shall fail to comply with the provisions of this section, he shall, for every day such list is not posted up, forfeit $10 to the county.

R.S.1874, p. 1059, § 8, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 8.

115/9. Penalty for overcharge

§ 9. Every person or corporation who shall take or demand any greater rate of toll for the passage of any person or property over any bridge than is allowed by law, shall, for each offense, forfeit and pay to the party aggrieved the sum of $5, and such additional amount as shall have been illegally taken.

R.S.1874, p. 1059, § 9, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 9.

115/10. Side railing

§ 10. Every toll bridge shall be built with a good and substantial railing or siding, at least four and a half feet high, and no toll shall be collected for passing any bridge that has not such railing or siding.

R.S.1874, p. 1059, § 10, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 10.

115/12. Channel kept free

§ 12. Every person or corporation owning or operating a bridge over any navigable water course shall keep the channel thereof, above and below the bridge, free and clear from all deposits in any wise prejudicial to the navigation thereof, which may be formed or occasioned by the erection of such bridge.

R.S.1874, p. 1059, § 12, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 12.

115/13. Injuring toll gate; failure to pay; penalty

§ 13. Every person who shall willfully break, throw, draw or injure any gate erected on any toll bridge, or shall forcibly or fraudulently pass over any such bridge without having first paid or tendered the legal toll, shall be deemed guilty of a petty offense, and upon conviction shall be fined, in addition to the damage resulting from such wrongful act, in any sum not exceeding ten dollars.

R.S.1874, p. 1059, § 13, eff. July 1, 1874. Amended by Laws 1879, p. 315, § 1, eff. July 1, 1879; P.A. 77–2623, § 1, eff. Jan. 1, 1973; P.A. 89–657, § 185, eff. Aug. 14, 1996.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 13.

115/14. Eminent domain

§ 14. When it shall be necessary, for the establishment, erection, repair, extension or reconstruction of any toll bridge of public utility (including all necessary approaches thereto) that may be authorized to be established or erected pursuant to this act, or which may have been heretofore erected, to take or damage private property therefor, the same may be done, and the compensation therefor ascertained, in the manner then provided by law for the exercise of the right of eminent domain.

R.S.1874, p. 1059, § 14, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 14.

115/15. County may take toll bridge for public use; bridge situated in two counties

§ 15. Whenever the county board of any county shall deem it for the public interest that any toll bridge in such county should be made a free bridge, it may take and condemn the same for that purpose, in the manner then provided by law for the exercise of the right of eminent domain. If the bridge is situated in two counties, such right may be exercised, and the proceedings had in behalf of such counties, jointly.

R.S.1874, p. 1059, § 15, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 137, ¶ 15.

115/16. Eminent domain

§ 16. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

R.S.1874, p. 1059, § 16, added by P.A. 94–1055, Art. 95, § 95–5–755, eff. Jan. 1, 2007.

ACT 120. ILLINOIS ADOPT–A–HIGHWAY ACT

120/1. Short title

§ 1. Short title. This Act may be cited as the Illinois Adopt–A–Highway Act.

P.A. 87–1118, § 1, eff. Sept. 16, 1992.

120/5. Purpose

§ 5. Purpose. The Adopt–A–Highway program allows private citizens to support municipal, township, and county anti-litter efforts by allowing groups to adopt a section of highway for the purpose of litter collection. The following Sections set forth the uniform guidelines and requirements for the administration of Adopt–A–Highway programs in the State of Illinois.

P.A. 87–1118, § 5, eff. Sept. 16, 1992.

120/10. Definitions

§ 10. Definitions. For purposes of this Act:

"Group" means members or employees of civic or not-for-profit organizations, and commercial or private enterprises, who have requested to participate, or are participating in, an Adopt–A–Highway program.

"Litter" means any unsightly or offensive matter that may include, but is not limited to, disposable packaging, containers, cans, bottles, paper, ashes, and cigar and cigarette butts. Litter does not include hazardous, heavy, large items, or carcasses.

"Group coordinator" means the individual selected by a group to serve as its liaison with a sponsoring jurisdiction.

"Group president" means the individual who is the recognized leader, president, or chairman for a group.

"Adopted section" means a length of municipal, township, county, or State right-of-way identified by the sponsoring jurisdiction as a safe, adoptable section of right-of-way for

adoption by a group. Sections of rights-of-way may be determined inappropriate for adoption for safety reasons. No interstate highway shall be an adopted section.

"Director" means the designee or designees for any municipality, township, or county who has responsibility for the administration of a jurisdiction's Adopt–A–Highway programs.

"Sponsoring jurisdiction" means the Illinois Department of Transportation or any municipality, township, or county that establishes Adopt–A–Highway programs within its jurisdictional area.

P.A. 87–1118, § 10, eff. Sept. 16, 1992. Amended by P.A. 89–229, § 5, eff. Jan. 1, 1996.

120/15. Participation in Adopt–A–Highway Program

§ 15. Participation in Adopt–A–Highway Program. Groups may apply to a sponsoring jurisdiction for participation in the jurisdiction's Adopt–A–Highway program. The sponsoring jurisdiction shall establish the terms and procedures groups must follow in applying for participation in the Adopt–A–Highway program.

P.A. 87–1118, § 15, eff. Sept. 16, 1992.

120/20. Agreement

§ 20. Agreement.

(a) The sponsoring jurisdiction shall have sole responsibility in determining whether an application is rejected or accepted. If an application is approved, the group coordinator and group president shall execute a written agreement with the sponsoring jurisdiction that provides for the group's participation in the Adopt–A–Highway program.

(b) The agreement shall be in the form prescribed by the sponsoring jurisdiction and shall, at a minimum, contain the following:

(1) an acknowledgment by the group of the hazardous nature of the work involved in participating in the Adopt–A–Highway program;

(2) an agreement to comply with the terms and conditions in the Act and any other terms and conditions required by the sponsoring jurisdiction;

(3) an agreement that the volunteers or the volunteer's agents shall assume all liability for and hold the State and the State's agents or employees harmless from any and all claims of action resulting from the group's volunteers or agents work in the program, except for the negligent acts of the State, and the State's agents or employees;

(4) an agreement that the volunteers or the volunteer's agents shall assume all liability for and hold the sponsoring jurisdiction and the sponsoring jurisdiction's agents or employees harmless from any and all claims of action resulting from the group's volunteers or agents work in the program, except for the negligent acts of the sponsoring jurisdiction and the sponsoring jurisdiction's agents or employees;

(5) an agreement that the members of the group are jointly and severally bound by the terms and conditions set forth in the agreement; and

(6) the respective responsibilities of the group and the sponsoring jurisdiction as contained in Sections 25 and 30 of this Act.

P.A. 87–1118, § 20, eff. Sept. 16, 1992.

120/25. Responsibilities of the group

§ 25. Responsibilities of the group. Groups participating in an Adopt–A–Highway program shall:

(1) be required to obey and abide by all laws and regulations relating to safety and any other terms and conditions as required by the sponsoring jurisdiction;

(2) provide one adult supervisor for every 5 youths when persons under age 18 are present on an adopted section;

(3) not allow a person under the age of 10 to be a member of the group who would be volunteering for the purpose of litter collection;

(4) require all group members to attend a safety meeting conducted by the group before participation in any litter collection along an adopted section;

(5) require the group coordinator, or designee, to conduct group safety meetings and to receive safety training as required by the sponsoring jurisdiction;

(6) adopt a section for a minimum of 2 years;

(7) collect litter along an adopted section 4 times a year, or as required by the director;

(8) require the group coordinator to provide prior notice, as required by the director, whenever the group intends to collect litter along its adopted section;

(9) require group members to properly wear any safety apparel provided by the sponsoring jurisdiction while collecting litter on an adopted section;

(10) be responsible for prohibiting members from possessing, consuming, or being under the influence of alcohol or drugs while on an adopted section;

(11) maintain a first-aid kit and an adequate supply of drinking water while members are collecting litter along an adopted section;

(12) place litter in trashbags provided by the sponsoring jurisdiction and place filled trashbags at a location on the adopted section as designated by the director; and

(13) not subcontract or assign its duties or responsibilities to any other group or organization.

P.A. 87–1118, § 25, eff. Sept. 16, 1992.

120/30. Responsibilities of the sponsoring jurisdiction

§ 30. Responsibilities of the sponsoring jurisdiction. The sponsoring jurisdiction shall:

(1) determine the specific section of right-of-way that is adopted;

(2) erect a sign that conforms with Section 35 at each end of an adopted section with the name or acronym of the group displayed;

(3) provide a group with garbage bags;

(4) provide a group with safety apparel and signs cautioning the public, if required by the sponsoring jurisdiction; and

(5) remove filled garbage bags from an adopted section as soon as practical after litter collection has occurred, and shall otherwise be responsible for removing litter from adopted sections only under unusual circumstances such as to remove large, heavy, or hazardous items.

P.A. 87–1118, § 30, eff. Sept. 16, 1992.

120/35. Signs

§ 35. Signs. Adopt–A–Highway signs shall be uniform Statewide in terms of shape, color, text, and location. The

Illinois Department of Transportation shall develop and announce standards for Adopt–A–Highway signs within 90 days of the effective date of this Act. Nothing in this Act shall prohibit the sponsoring jurisdiction and the Illinois Department of Transportation from working cooperatively to carry out the intent of the Adopt–A–Highway Program.

P.A. 87–1118, § 35, eff. Sept. 16, 1992.

120/40. Safety training

§ 40. Safety training. The sponsoring jurisdiction shall develop the safety training programs that are to be utilized by group coordinators in compliance with Section 25 of this Act. Safety training programs shall be appropriate for the various types of roadway that may be adopted within a jurisdiction.

P.A. 87–1118, § 40, eff. Sept. 16, 1992.

120/45. Other conditions

§ 45. Other conditions.

(a) A sponsoring jurisdiction may establish other procedures and requirements for the administration of its Adopt–A–Highway programs. The procedures and requirements shall not be inconsistent with any provision of this Act.

(b) The sponsoring jurisdiction shall have the right to terminate an agreement if a group does not meet the terms and conditions of its agreement, or if the group's involvement in the Adopt–A–Highway program is inconsistent with any other restrictions or limitations established by the sponsoring jurisdiction.

(c) No part of this Act shall prevent the execution of intergovernmental agreements.

P.A. 87–1118, § 45, eff. Sept. 16, 1992.

120/50. Penalty for Litter Control Act violation

§ 50. Penalty for Litter Control Act violation.

(a) An individual convicted of violating Section 4 or Section 5 of the Litter Control Act by disposing of litter upon a public highway may be required to adopt for 30 days a designated portion of that highway, including the site where the offense occurred.

(b) Item (2) of Section 30 of this Act does not apply when an individual is required to adopt a portion of a highway under this Section.

P.A. 87–1118, § 50, added by P.A. 94–1044, § 10, eff. Jan. 1, 2007.

120/100. Effective date

§ 100. This Act takes effect upon becoming law.

P.A. 87–1118, § 100, eff. Sept. 16, 1992.

ACT 125. ROADSIDE MEMORIAL ACT

125/1. Short title

§ 1. Short title. This Act may be cited as the Roadside Memorial Act.

P.A. 95–398, § 1, eff. Jan. 1, 2008.

An Act concerning roadside markers, which may be referred to as Tina's Law. P.A. 95–398, approved August 24, 2007, effective January 1, 2008.

125/5. Purpose of the Roadside Memorial program

§ 5. Purpose of the Roadside Memorial program. The Roadside Memorial program is intended to raise public awareness of impaired driving by emphasizing the dangers while affording families an opportunity to remember the victims of crashes involving impaired drivers.

P.A. 95–398, § 5, eff. Jan. 1, 2008.

125/10. Definitions

§ 10. Definitions. As used in this Act:

"Department" means the Department of Transportation.

"DUI memorial marker" means a marker on a highway in this State commemorating one or more persons who died as a proximate result of a crash caused by a driver under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof.

"Qualified relative" means: an immediate relative of the deceased, by marriage, blood, or adoption, such as his or her spouse, son, daughter, mother, father, sister, or brother; a stepmother, stepfather, stepbrother, or stepsister of the deceased; or a person with whom the deceased was in a domestic partnership or civil union as recognized by a State or local law or ordinance.

"Supporting jurisdiction" means the Department or any municipality, township, or county that establishes a Roadside Memorial program within its jurisdictional area.

P.A. 95–398, § 10, eff. Jan. 1, 2008.

125/15. Participation in the Roadside Memorial program

§ 15. Participation in the Roadside Memorial program.

(a) A qualified relative of a victim may make a request for the installation of a memorial marker in a supporting jurisdiction using an application developed by the supporting jurisdiction. The supporting jurisdiction shall have sole responsibility for determining whether a request for a DUI memorial marker is rejected or accepted.

(b) An application for a DUI memorial marker may be submitted by a qualified relative with regard to any crash that occurred on or after January 1, 1990.

(c) If there is any opposition to the placement of a DUI memorial marker by any qualified relative of any decedent involved in the crash, the supporting jurisdiction shall deny the request.

(d) The supporting jurisdiction shall deny the request or, if a DUI memorial marker has already been installed, may remove the marker, if the qualified relative has provided false or misleading information in the application.

(e) The qualified relative shall agree not to place or encourage the placement of flowers, pictures, or other items at the crash site.

(f) A DUI memorial marker shall not be erected for a deceased driver involved in a fatal crash who is shown by toxicology reports to have been in violation of State DUI law, unless the next of kin of any other victim or victims killed in the crash consent in writing to the erection of the memorial marker.

P.A. 95–398, § 15, eff. Jan. 1, 2008. Amended by P.A. 95–873, § 5, eff. Aug. 21, 2008.

P.A. 95–873 incorporated the section as enacted by P.A. 95–398.

125/20. DUI memorial markers

§ 20. DUI memorial markers.

(a) A DUI memorial marker shall consist of a white on blue panel bearing the message "Please Don't Drink and Drive". At the request of the qualified relative, a separate

panel bearing the words "In Memory of (victim's name)", followed by the date of the crash that was the proximate cause of the loss of the victim's life, shall be mounted below the primary panel.

(b) A DUI memorial marker may memorialize more than one victim who died as a result of the same DUI-related crash. If one or more additional DUI crash deaths subsequently occur in close proximity to an existing DUI memorial marker, the supporting jurisdiction may use the same marker to memorialize the subsequent death or deaths, by adding the names of the additional persons.

(c) A DUI memorial marker shall be maintained for at least 2 years from the date the last person was memorialized on the marker.

(d) The supporting jurisdiction has the right to install a marker at a location other than the location of the crash or to relocate a marker due to restricted room, property owner complaints, interference with essential traffic control devices, safety concerns, or other restrictions. In such cases, the sponsoring jurisdiction may select an alternate location.

(e) The Department shall secure the consent of any municipality before placing a DUI memorial marker within the corporate limits of the municipality.

(f) A fee in an amount to be determined by the supporting jurisdiction may be paid in whole or in part from the Roadside Memorial Fund if moneys are made available by the Department of Transportation from that Fund or may be charged to the qualified relative to the extent moneys from that Fund are not made available. The fee shall not exceed the costs associated with the fabrication, installation, and maintenance of the DUI memorial marker.

P.A. 95–398, § 20, eff. Jan. 1, 2008. Amended by P.A. 96–667, § 10, eff. Aug. 25, 2009.

125/23. § 23. Repealed by its own provisions, eff. Dec. 31, 2012

125/23.1. Fatal accident memorial marker program

§ 23.1. Fatal accident memorial marker program.

(a) The fatal accident memorial marker program is intended to raise public awareness of reckless driving by emphasizing the dangers while affording families an opportunity to remember the victims of crashes involving reckless drivers.

(b) As used in this Section, "fatal accident memorial marker" means a marker on a highway in this State commemorating one or more persons who died as a proximate result of a crash caused by a driver who committed an act of reckless homicide in violation of Section 9–3 or 9–3.2 of the Criminal Code of 1961 or the Criminal Code of 2012 or who otherwise caused the death of one or more persons through the operation of a motor vehicle.

(c) For purposes of the fatal accident memorial marker program in this Section, the provisions of Section 15 of this Act applicable to DUI memorial markers shall apply the same to fatal accident memorial markers.

(d) A fatal accident memorial marker shall consist of a white on blue panel bearing the message "Reckless Driving Costs Lives". At the request of the qualified relative, a separate panel bearing the words "In Memory of (victim's name)", followed by the date of the crash that was the proximate cause of the loss of the victim's life, shall be mounted below the primary panel.

(e) A fatal accident memorial marker may memorialize more than one victim who died as a result of the same crash. If one or more additional deaths subsequently occur in close proximity to an existing fatal accident memorial marker, the supporting jurisdiction may use the same marker to memorialize the subsequent death or deaths, by adding the names of the additional persons.

(f) A fatal accident memorial marker shall be maintained for at least 2 years from the date the last person was memorialized on the marker.

(g) The supporting jurisdiction has the right to install a marker at a location other than the location of the crash or to relocate a marker due to restricted room, property owner complaints, interference with essential traffic control devices, safety concerns, or other restrictions. In these cases, the sponsoring jurisdiction may select an alternate location.

(h) The Department shall secure the consent of any municipality before placing a fatal accident memorial marker within the corporate limits of the municipality.

(i) A fee in an amount to be determined by the supporting jurisdiction shall be charged to the qualified relative. The fee shall not exceed the costs associated with the fabrication, installation, and maintenance of the fatal accident memorial marker.

(j) The provisions of this Section shall apply to any fatal accident marker constructed on or after January 1, 2013.

P.A. 95–398, § 23.1, added by P.A. 98–334, § 5, eff. Aug. 13, 2013.

125/25. Rules

§ 25. Rules. The Department shall adopt rules regarding implementation of this Act. These rules shall be consistent with this Act and with federal regulations.

P.A. 95–398, § 25, eff. Jan. 1, 2008.

125/99. Effective date

§ 99. Effective date. This Act takes effect January 1, 2008.

P.A. 95–398, § 99, eff. Jan. 1, 2008.

ACT 130. PUBLIC PRIVATE AGREEMENTS FOR THE ILLIANA EXPRESSWAY ACT

130/1. Short title

§ 1. Short title. This Act may be cited as the Public Private Agreements for the Illiana Expressway Act.

P.A. 96–913, § 1, eff. June 9, 2010.

130/5. Legislative findings

§ 5. Legislative findings.

(a) The State of Illinois and the State of Indiana are engaged in collaborative planning efforts to build a new interstate highway connecting Interstate Highway 55 in northeastern Illinois to Interstate Highway 65 in northwestern Indiana to serve the public at large.

(b) The Illiana Expressway will promote development and investment in the State of Illinois and serve as a critical transportation route in the region.

(c) Public private agreements between the State of Illinois and one or more private entities to develop, finance, construct, manage, or operate the Illiana Expressway have the potential of maximizing value and benefit to the People of the State of Illinois and the public at large.

(d) Public private agreements may enable the Illiana Expressway to be developed, financed, constructed, managed, or operated in an entrepreneurial and business-like manner.

(e) In the event the State of Illinois enters into one or more public private agreements to develop, finance, construct, manage, or operate the Illiana Expressway, the private parties to the agreements should be accountable to the People of Illinois through a comprehensive system of oversight, regulation, auditing, and reporting.

(f) It is the intent of this Act to use Illinois design professionals, construction companies, and workers to the greatest extent permitted by law by offering them the right to compete for this work.

P.A. 96–913, § 5, eff. June 9, 2010.

130/10. Definitions

§ 10. Definitions. As used in this Act:

"Agreement" means a public private agreement.

"Contractor" means a person that has been selected to enter or has entered into a public private agreement with the Department on behalf of the State for the development, financing, construction, management, or operation of the Illiana Expressway pursuant to this Act.

"Department" means the Illinois Department of Transportation.

"Illiana Expressway" means the fully access-controlled interstate highway connecting Interstate Highway 55 in northeastern Illinois to Interstate Highway 65 in northwestern Indiana, which may be operated as a toll or non-toll facility.

"Metropolitan planning organization" means a metropolitan planning organization designated under 23 U.S.C. Section 134.

"Offeror" means a person that responds to a request for proposals under this Act.

"Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, or any other legal entity, group, or combination thereof.

"Public private agreement" means an agreement or contract between the Department on behalf of the State and all schedules, exhibits, and attachments thereto, entered into pursuant to a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act, for the development, financing, construction, management, or operation of the Illiana Expressway pursuant to this Act.

"Revenues" means all revenues including but not limited to income; user fees; earnings; interest; lease payments; allocations; moneys from the federal government, the State, and units of local government, including but not limited to federal, State, and local appropriations, grants, loans, lines of credit, and credit guarantees; bond proceeds; equity investments; service payments; or other receipts arising out of or in connection with the financing, development, construction, management, or operation of the Illiana Expressway.

"State" means the State of Illinois.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Unit of local government" has the meaning ascribed to that term in Article VII, Section 1 of the Constitution of the State of Illinois, and, for purposes of this Act, includes school districts.

"User fees" means the tolls, rates, fees, or other charges imposed by the State or the contractor for use of all or part of the Illiana Expressway.

P.A. 96–913, § 10, eff. June 9, 2010.

130/15. Public private agreement authorized

§ 15. Public private agreement authorized.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State may, pursuant to a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act, enter into one or more public private agreements with one or more contractors to develop, finance, construct, manage, or operate the Illiana Expressway on behalf of the State, and further pursuant to which the contractors may receive certain revenues including user fees in consideration of the payment of moneys to the State for that right.

(b) Before taking any action in connection with the development, financing, maintenance, or operation of the Illiana Expressway that is not authorized by an interim agreement under Section 30 of this Act, a contractor shall enter into a public private agreement.

(c) The term of a public private agreement, including all extensions, shall be no more than 99 years.

(d) The term of a public private agreement may be extended but only if the extension is specifically authorized by the General Assembly by law.

P.A. 96–913, § 15, eff. June 9, 2010.

130/17. Procurement; prequalification

§ 17. Procurement; prequalification. The Department may establish a process for prequalification of offerors. If the Department does create such a process, it shall: (i) provide a public notice of the prequalification at least 30 days prior to the date on which applications are due; (ii) set forth requirements and evaluation criteria in order to become prequalified; (iii) determine which offerors that have submitted prequalification applications, if any, meet the requirements and evaluation criteria; and (iv) allow only those offerors that have been prequalified to respond to the request for proposals.

P.A. 96–913, § 17, eff. June 9, 2010.

130/20. Procurement; request for proposals process

§ 20. Procurement; request for proposals process.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State shall select a contractor through a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act.

(b) The competitive request for proposals process shall, at a minimum, solicit statements of qualification and proposals from offerors.

(c) The competitive request for proposals process shall, at a minimum, take into account the following criteria:

(1) The offeror's plans for the Illiana Expressway project;

(2) The offeror's current and past business practices;

(3) The offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating highways or other public assets;

(4) The offeror's ability to meet and past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act;

(5) The offeror's ability to comply with and past performance in complying with Section 2–105 of the Illinois Human Rights Act; and

(6) The offeror's plans to comply with the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and Section 2–105 of the Illinois Human Rights Act.

(d) The Department shall retain the services of an advisor or advisors with significant experience in the development, financing, construction, management, or operation of public assets to assist in the preparation of the request for proposals.

(e) The Department shall not include terms in the request for proposals that provide an advantage, whether directly or indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(f) The Department shall select at least 2 offerors as finalists. The Department shall submit the offerors' statements of qualification and proposals to the Commission on Government Forecasting and Accountability and the Procurement Policy Board, which shall, within 30 days of the submission, complete a review of the statements of qualification and proposals and, jointly or separately, report on, at a minimum, the satisfaction of the criteria contained in the request for proposals, the qualifications of the offerors, and the value of the proposals to the State. The Department shall not select an offeror as the contractor for the Illiana Expressway project until it has received and considered the findings of the Commission on Government Forecasting and Accountability and the Procurement Policy Board as set forth in their respective reports.

(g) Before awarding a public private agreement to an offeror, the Department shall schedule and hold a public hearing or hearings on the proposed public private agreement and publish notice of the hearing or hearings at least 7 days before the hearing and in accordance with Section 4–219 of the Illinois Highway Code. The notice must include the following:

(1) the date, time, and place of the hearing and the address of the Department;

(2) the subject matter of the hearing;

(3) a description of the agreement that may be awarded; and

(4) the recommendation that has been made to select an offeror as the contractor for the Illiana Expressway project.

At the hearing, the Department shall allow the public to be heard on the subject of the hearing.

(h) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the Illiana Expressway project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the Illiana Expressway project.

P.A. 96–913, § 20, eff. June 9, 2010.

130/25. Provisions of the public private agreement

§ 25. Provisions of the public private agreement.

(a) The public private agreement shall include all of the following:

(1) The term of the public private agreement that is consistent with Section 15 of this Act;

(2) The powers, duties, responsibilities, obligations, and functions of the Department and the contractor;

(3) Compensation or payments to the Department, if applicable;

(4) Compensation or payments to the contractor;

(5) A provision specifying that the Department:

(A) has ready access to information regarding the contractor's powers, duties, responsibilities, obligations, and functions under the public private agreement;

(B) has the right to demand and receive information from the contractor concerning any aspect of the contractor's powers, duties, responsibilities, obligations, and functions under the public private agreement; and

(C) has the authority to direct or countermand decisions by the contractor at any time;

(6) A provision imposing an affirmative duty on the contractor to provide the Department with any information the contractor reasonably believes the Department would want to know or would need to know to enable the Department to exercise its powers, carry out its duties, responsibilities, and obligations, and perform its functions under this Act or the public private agreement or as otherwise required by law;

(7) A provision requiring the contractor to provide the Department with advance notice of any decision that bears significantly on the public interest so the Department has a reasonable opportunity to evaluate and countermand that decision pursuant to this Section;

(8) A requirement that the Department monitor and oversee the contractor's practices and take action that the Department considers appropriate to ensure that the contractor is in compliance with the terms of the public private agreement;

(9) The authority of the Department to enter into contracts with third parties pursuant to Section 50 of this Act;

(10) A provision governing the contractor's authority to negotiate and execute subcontracts with third parties;

(10.5) A provision stating that, in the event that the contractor does not have a subcontract with a design-build entity in effect at the time of execution of the public-private agreement by the Department, the contractor must follow a selection process that is, to the greatest extent possible, identical to the selection process contained in the Design–Build Procurement Act;

(11) The authority of the contractor to impose user fees and the amounts of those fees, including the authority of the contractor to use congestion pricing, pursuant to which higher tolls rates are imposed during times or in locations of increased congestion;

(12) A provision governing the deposit and allocation of revenues including user fees;

(13) A provision governing rights to real and personal property of the State, the Department, the contractor, and other third parties;

(14) A provision stating that the contractor must, pursuant to Section 75 of this Act, finance an independent audit

if the construction costs under the contract exceed $50,000,000;

(15) A provision regarding the implementation and delivery of a comprehensive system of internal audits;

(16) A provision regarding the implementation and delivery of reports, which must include a requirement that the contractor file with the Department, at least on an annual basis, financial statements containing information required by generally accepted accounting principles (GAAP);

(17) Procedural requirements for obtaining the prior approval of the Department when rights that are the subject of the agreement, including but not limited to development rights, construction rights, property rights, and rights to certain revenues, are sold, assigned, transferred, or pledged as collateral to secure financing or for any other reason;

(18) Grounds for termination of the agreement by the Department or the contractor and a restatement of the Department's rights under Section 35 of this Act;

(19) A requirement that the contractor enter into a project labor agreement pursuant to Section 100 of this Act;

(19.5) A provision stating that construction contractors shall comply with the requirements of Section 30–22 of the Illinois Procurement Code pursuant to Section 100 of this Act;

(20) Timelines, deadlines, and scheduling;

(21) Review of plans, including development, financing, construction, management, or operations plans, by the Department;

(22) Inspections by the Department, including inspections of construction work and improvements;

(23) Rights and remedies of the Department in the event that the contractor defaults or otherwise fails to comply with the terms of the agreement;

(24) A code of ethics for the contractor's officers and employees; and

(25) Procedures for amendment to the agreement.

(b) The public private agreement may include any or all of the following:

(1) A provision regarding the extension of the agreement that is consistent with Section 15 of this Act;

(2) Cash reserves requirements;

(3) Delivery of performance and payment bonds or other performance security in a form and amount that is satisfactory to the Department;

(4) Maintenance of public liability insurance;

(5) Maintenance of self-insurance;

(6) Provisions governing grants and loans, pursuant to which the Department may agree to make grants or loans for the development, financing, construction, management, or operation of the Illiana Expressway project from time to time from amounts received from the federal government or any agency or instrumentality of the federal government or from any State or local agency;

(7) Reimbursements to the Department for work performed and goods, services, and equipment provided by the Department; and

(8) All other terms, conditions, and provisions acceptable to the Department that the Department deems necessary and proper and in the public interest.

P.A. 96–913, § 25, eff. June 9, 2010. Amended by P.A. 97–808, § 5, eff. July 13, 2012; P.A. 98–595, § 5, eff. June 1, 2014.

130/30. Interim agreements

§ 30. Interim agreements.

(a) Prior to or in connection with the negotiation of the public private agreement, the Department may enter into an interim agreement with the contractor.

(b) The interim agreement may not authorize the contractor to perform construction work prior to the execution of the public private agreement.

(c) The interim agreement may include any or all of the following:

(1) Timelines, deadlines, and scheduling;

(2) Compensation including the payment of costs and fees in the event the Department terminates the interim agreement or declines to proceed with negotiation of the public private agreement;

(3) A provision governing the contractor's authority to commence activities related to the Illiana Expressway project including but not limited to project planning, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, surveying, conducting studies including revenue and transportation studies, and ascertaining the availability of financing;

(4) Procurement procedures;

(5) A provision governing rights to real and personal property of the State, the Department, the contractor, and other third parties;

(6) All other terms, conditions, and provisions acceptable to the Department that the Department deems necessary and proper and in the public interest.

(d) The Department may enter into one or more interim agreements with one or more contractors if the Department determines in writing that it is in the public interest to do so.

P.A. 96–913, § 30, eff. June 9, 2010.

130/35. Termination of the Public Private Agreement

§ 35. Termination of the Public Private Agreement. The Department may terminate a public private agreement or interim agreement under Section 30 of this Act if the contractor or any executive employee of the contractor is found guilty of any criminal offense related to the conduct of its business or the regulation thereof in any jurisdiction. For purposes of this Section, an "executive employee" is the President, Chairman, Chief Executive Officer, or Chief Financial Officer; any employee with executive decision-making authority over the long-term or day-to-day affairs of the contractor; or any employee whose compensation or evaluation is determined in whole or in part by the award of the public private agreement.

P.A. 96–913, § 35, eff. June 9, 2010.

130/40. Public private agreement proceeds

§ 40. Public private agreement proceeds. After the payment of all transaction costs, including payments for legal, accounting, financial, consultation, and other professional services, all moneys received by the State as compensation for the public private agreement shall be deposited into the

Illiana Expressway Proceeds Fund, which is hereby created as a special fund in the State treasury. Expenditures may be made from the Fund only in the manner as appropriated by the General Assembly by law.

P.A. 96–913, § 40, eff. June 9, 2010.

130/45. User fees

§ 45. User fees. No user fees may be imposed by the contractor except as set forth in the public private agreement.

P.A. 96–913, § 45, eff. June 9, 2010.

130/47. Selection of professional design firms

§ 47. Selection of professional design firms. Notwithstanding any provision of law to the contrary, the selection of professional design firms by the Department or the contractor shall comply with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

P.A. 96–913, § 47, eff. June 9, 2010.

130/50. Other contracts

§ 50. Other contracts. The Department may, pursuant to the Illinois Procurement Code and rules adopted under that Code, award contracts for goods, services, or equipment to persons other than the contractor for goods, services, or equipment not provided for in the public private agreement.

P.A. 96–913, § 50, eff. June 9, 2010.

130/55. Planning for the Illiana Expressway project

§ 55. Planning for the Illiana Expressway project. The Illiana Expressway project shall be subject to all applicable planning requirements otherwise required by law, including land use planning, regional planning, transportation planning, and environmental compliance requirements.

P.A. 96–913, § 55, eff. June 9, 2010.

130/60. Illinois Department of Transportation; reporting requirements and information requests

§ 60. Illinois Department of Transportation; reporting requirements and information requests.

(a) The Department shall submit written monthly progress reports to the Procurement Policy Board and the General Assembly on the Illiana Expressway project. The report shall include the status of any public private agreements or other contracting and any ongoing or completed studies. The Procurement Policy Board may determine the format for the written monthly progress reports.

(b) The Department shall also respond promptly in writing to all inquiries and comments of the Procurement Policy Board with respect to any conduct taken by the Department to implement, execute, or administer the provisions of this Act.

(c) Upon request, the Department shall appear and testify before the Procurement Policy Board and produce information requested by the Procurement Policy Board.

(d) At least 30 days prior to the beginning of the Department's fiscal year, the Department shall prepare an annual written progress report on the Illiana Expressway project. The report shall include the status of any public private agreements or other contracting and any ongoing or completed studies. The report shall be delivered to the Procurement Policy Board and each county, municipality, and metropolitan planning organization whose territory includes or lies within 5 miles from a proposed or existing Illiana Expressway project site.

P.A. 96–913, § 60, eff. June 9, 2010.

130/65. Illinois Department of Transportation; publication requirements

§ 65. Illinois Department of Transportation; publication requirements.

(a) The Department shall publish a notice of the execution of the public private agreement on its website and in a newspaper of general circulation within the county or counties whose territory includes or lies within 5 miles from a proposed or existing Illiana Expressway project site.

(b) The Department shall publish the full text of the public private agreement on its website.

P.A. 96–913, § 65, eff. June 9, 2010.

130/70. Electronic toll collection systems

§ 70. Electronic toll collection systems. Any electronic toll collection system used on the Illiana Expressway must be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority.

P.A. 96–913, § 70, eff. June 9, 2010.

130/75. Independent audits

§ 75. Independent audits. If the public private agreement provides for the construction of all or part of the Illiana Expressway project and the estimated construction costs under the agreement exceed $50,000,000, the Department must also require the contractor to finance an independent audit of any and all traffic and cost estimates associated with the agreement as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the agreement, failure by the contractor to reimburse the Department for services provided, and potential risk and liability in the event of default on the agreement or default on other types of financing). The independent audit must be conducted by an independent consultant selected by the Department.

P.A. 96–913, § 75, eff. June 9, 2010.

130/80. Property acquisition

§ 80. Property acquisition. The Department may acquire property for the Illiana Expressway project using the powers granted to it in the Illinois Highway Code and the Eminent Domain Act.

P.A. 96–913, § 80, eff. June 9, 2010. Amended by P.A. 97–808, § 5, eff. July 13, 2012.

130/85. Rights of the Illinois Department of Transportation upon expiration or termination of the agreement

§ 85. Rights of the Illinois Department of Transportation upon expiration or termination of the agreement.

(a) Upon the termination or expiration of the public private agreement, including a termination for default, the Department shall have the right to take over the Illiana Expressway project and to succeed to all of the right, title, and interest in the Illiana Expressway project, subject to any liens on revenues previously granted by the contractor to any person providing financing for the Illiana Expressway project.

(b) If the Department elects to take over the Illiana Expressway project as provided in subsection (a) of this Section, the Department may, without limitation, do the following:

(1) develop, finance, construct, maintain, or operate the project, including through another public private agreement entered into in accordance with this Act; or

(2) impose, collect, retain, and use user fees, if any, for the project.

(c) If the Department elects to take over the Illiana Expressway project as provided in subsection (a) of this Section, the Department may, without limitation, use the revenues, if any, for any lawful purpose, including to:

(1) make payments to individuals or entities in connection with any financing of the Illiana Expressway project;

(2) permit a contractor or third party to receive some or all of the revenues under the public private agreement entered into under this Act;

(3) pay development costs of the Illiana Expressway;

(4) pay current operation costs of the Illiana Expressway; and

(5) pay the contractor for any compensation or payment owing upon termination.

(d) All real property acquired as a part of the Illiana Expressway shall be held in the name of the State of Illinois upon termination of the Illiana Expressway project.

(e) The full faith and credit of the State or any political subdivision of the State or the Department is not pledged to secure any financing of the contractor by the election to take over the Illiana Expressway project. Assumption of development or operation, or both, of the Illiana Expressway project does not obligate the State or any political subdivision of the State or the Department to pay any obligation of the contractor.

P.A. 96–913, § 85, eff. June 9, 2010.

130/90. Standards for the Illiana Expressway project

§ 90. Standards for the Illiana Expressway project.

(a) The plans and specifications for the Illiana Expressway project must comply with:

(1) the Department's standards for other projects of a similar nature or as otherwise provided in the public private agreement;

(2) the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, the Illinois Architecture Practice Act of 1989, and the Illinois Professional Land Surveyor Act of 1989; and

(3) any other applicable State or federal standards.

(b) The Illiana Expressway constructed is considered to be part of the State highway system for purposes of identification, maintenance standards, and enforcement of traffic laws under the jurisdiction of the Department. The Department shall establish performance based standards for financial documents related to the Illiana Expressway.

P.A. 96–913, § 90, eff. June 9, 2010.

130/95. Financial arrangements

§ 95. Financial arrangements.

(a) The Department may apply for, execute, or endorse applications submitted by contractors and other third parties to obtain federal, State, or local credit assistance to develop, finance, maintain, or operate the Illiana Expressway project.

(b) The Department may take any action to obtain federal, State, or local assistance for the Illiana Expressway project that serves the public purpose of this Act and may enter into any contracts required to receive the federal assistance. The Department may determine that it serves the public purpose of this Act for all or any portion of the costs of the Illiana Expressway project to be paid, directly or indirectly, from the proceeds of a grant or loan, line of credit, or loan guarantee made by a local, State, or federal government or any agency or instrumentality of a local, State, or federal government. Such assistance may include, but not be limited to, federal credit assistance pursuant to the Transportation Infrastructure Finance and Innovation Act (TIFIA).

(c) The Department may agree to make grants or loans for the development, financing, construction, management, or operation of the Illiana Expressway project from time to time, from amounts received from the federal, State, or local government or any agency or instrumentality of the federal, State, or local government.

(d) Any financing of the Illiana Expressway project may be in the amounts and subject to the terms and conditions contained in the public private agreement.

(e) For the purpose of financing the Illiana Expressway project, the contractor and the Department may do the following:

(1) propose to use any and all revenues that may be available to them;

(2) enter into grant agreements;

(3) access any other funds available to the Department; and

(4) accept grants from any public or private agency or entity.

(f) For the purpose of financing the Illiana Expressway project, public funds may be used and mixed and aggregated with funds provided by or on behalf of the contractor or other private entities.

(g) For the purpose of financing the Illiana Expressway project, the Department is authorized to apply for, execute, or endorse applications for an allocation of tax-exempt bond financing authorization provided by Section 142(m) of the United States Internal Revenue Code, as well as financing available under any other federal law or program.

(h) Any bonds, debt, or other securities or other financing issued by or on behalf of a contractor for the purposes of a project undertaken pursuant to this Act shall not be deemed to constitute a debt of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State.

P.A. 96–913, § 95, eff. June 9, 2010. Amended by P.A. 97–808, § 5, eff. July 13, 2012.

130/100. Labor

§ 100. Labor.

(a) The public private agreement shall require the contractor to enter into a project labor agreement.

(b) The public private agreement shall require all construction contractors to comply with the requirements of Section 30–22 of the Illinois Procurement Code as they apply to responsible bidders and to present satisfactory evidence of that compliance to the Department, unless the Illiana Expressway project is federally funded and the application of those requirements would jeopardize the receipt or use of federal funds in support of the Illiana Expressway project.

P.A. 96–913, § 100, eff. June 9, 2010.

130/105. Law enforcement

§ 105. Law enforcement.

(a) All law enforcement officers of the State and of each affected local jurisdiction have the same powers and jurisdiction within the boundaries of the Illiana Expressway as they have in their respective areas of jurisdiction.

(b) Law enforcement officers shall have access to the Illiana Expressway at any time for the purpose of exercising the law enforcement officers' powers and jurisdiction.

(c) The traffic and motor vehicle laws of the State of Illinois or, if applicable, any local jurisdiction shall be the same as those applying to conduct on highways in the State of Illinois or the local jurisdiction.

(d) Punishment for infractions and offenses shall be as prescribed by law for conduct occurring on highways in the State of Illinois or the local jurisdiction.

P.A. 96–913, § 105, eff. June 9, 2010.

130/110. Term of agreement; reversion of property to the Department

§ 110. Term of agreement; reversion of property to the Department.

(a) The Department shall terminate the contractor's authority and duties under the public private agreement on the date set forth in the public private agreement.

(b) Upon termination of the public private agreement, the authority and duties of the contractor under this Act cease, except for those duties and obligations that extend beyond the termination, as set forth in the public private agreement, and all interests in the Illiana Expressway shall revert to the Department.

P.A. 96–913, § 110, eff. June 9, 2010.

130/115. Additional powers of the Department with respect to the Illiana Expressway

§ 115. Additional powers of the Department with respect to the Illiana Expressway.

(a) The Department may exercise any powers provided under this Act in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation. The Department shall cooperate with other governmental entities under this Act.

(b) The Department may make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of the Department's powers under this Act. Except as otherwise required by law, these contracts or agreements are not subject to any approvals other than the approval of the Department, Governor, or federal agencies.

(c) The Department may pay the costs incurred under the public private agreement entered into under this Act from any funds available to the Department for the purpose of the Illiana Expressway under this Act or any other statute.

(d) The Department or other State agency may not take any action that would impair the public private agreement entered into under this Act, except as provided by law.

(e) The Department may enter into an agreement between and among the contractor, the Department, and the Department of State Police concerning the provision of law enforcement assistance with respect to the Illiana Expressway under this Act.

(f) The Department is authorized to enter into arrangements with the Illinois State Police related to costs incurred in providing law enforcement assistance under this Act.

P.A. 96–913, § 115, eff. June 9, 2010.

130/120. Prohibited local action; home rule

§ 120. Prohibited local action; home rule. A unit of local government, including a home rule unit, may not take any action that would have the effect of impairing the public private agreement under this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

P.A. 96–913, § 120, eff. June 9, 2010.

130/125. Powers liberally construed

§ 125. Powers liberally construed. The powers conferred by this Act shall be liberally construed in order to accomplish their purposes and shall be in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this Act, this Act is controlling as to any public private agreement entered into under this Act.

P.A. 96–913, § 125, eff. June 9, 2010.

130/130. Full and complete authority

§ 130. Full and complete authority. This Act contains full and complete authority for agreements and leases with private entities to carry out the activities described in this Act. Except as otherwise required by law, no procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the Department or any other State or local agency or official are required to enter into an agreement or lease.

P.A. 96–913, § 130, eff. June 9, 2010.

130/135. Severability

§ 135. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

P.A. 96–913, § 135, eff. June 9, 2010.

CHAPTER 625

VEHICLES

ACT 5. ILLINOIS VEHICLE CODE

CHAPTER 11. RULES OF THE ROAD

ARTICLE II. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

Section

5/11–208.6. Automated traffic law enforcement system.

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CHAPTER 11. RULES OF THE ROAD

Enactment

The Illinois Vehicle Code was enacted by P.A. 76–1586, effective July 1, 1970. The Code constitutes a consolidated recodification of various earlier laws and acts including the Uniform Act Regulating Traffic on Highways, 1935.

ARTICLE II. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

5/11–208.6. Automated traffic law enforcement system

§ 11–208.6. Automated traffic law enforcement system.

(a) As used in this Section, "automated traffic law enforcement system" means a device with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a red signal indication in violation of Section 11–306 of this Code or a similar provision of a local ordinance.

An automated traffic law enforcement system is a system, in a municipality or county operated by a governmental agency, that produces a recorded image of a motor vehicle's violation of a provision of this Code or a local ordinance and is designed to obtain a clear recorded image of the vehicle and the vehicle's license plate. The recorded image must also display the time, date, and location of the violation.

(b) As used in this Section, "recorded images" means images recorded by an automated traffic law enforcement system on:

(1) 2 or more photographs;

(2) 2 or more microphotographs;

(3) 2 or more electronic images; or

(4) a video recording showing the motor vehicle and, on at least one image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

(b–5) A municipality or county that produces a recorded image of a motor vehicle's violation of a provision of this Code or a local ordinance must make the recorded images of a violation accessible to the alleged violator by providing the alleged violator with a website address, accessible through the Internet.

(c) Except as provided under Section 11–208.8 of this Code, a county or municipality, including a home rule county or municipality, may not use an automated traffic law enforcement system to provide recorded images of a motor vehicle for the purpose of recording its speed. Except as provided under Section 11–208.8 of this Code, the regulation of the use of automated traffic law enforcement systems to record vehicle speeds is an exclusive power and function of the State. This subsection (c) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(c–5) A county or municipality, including a home rule county or municipality, may not use an automated traffic law enforcement system to issue violations in instances where the motor vehicle comes to a complete stop and does not enter the intersection, as defined by Section 1–132 of this Code, during the cycle of the red signal indication unless one or more pedestrians or bicyclists are present, even if the motor vehicle stops at a point past a stop line or crosswalk where a driver is required to stop, as specified in subsection (c) of Section 11–306 of this Code or a similar provision of a local ordinance.

(c–6) A county, or a municipality with less than 2,000,000 inhabitants, including a home rule county or municipality, may not use an automated traffic law enforcement system to issue violations in instances where a motorcyclist enters an intersection against a red signal indication when the red signal fails to change to a green signal within a reasonable period of time not less than 120 seconds because of a signal

malfunction or because the signal has failed to detect the arrival of the motorcycle due to the motorcycle's size or weight.

(d) For each violation of a provision of this Code or a local ordinance recorded by an automatic traffic law enforcement system, the county or municipality having jurisdiction shall issue a written notice of the violation to the registered owner of the vehicle as the alleged violator. The notice shall be delivered to the registered owner of the vehicle, by mail, within 30 days after the Secretary of State notifies the municipality or county of the identity of the owner of the vehicle, but in no event later than 90 days after the violation.

The notice shall include:

(1) the name and address of the registered owner of the vehicle;

(2) the registration number of the motor vehicle involved in the violation;

(3) the violation charged;

(4) the location where the violation occurred;

(5) the date and time of the violation;

(6) a copy of the recorded images;

(7) the amount of the civil penalty imposed and the requirements of any traffic education program imposed and the date by which the civil penalty should be paid and the traffic education program should be completed;

(8) a statement that recorded images are evidence of a violation of a red light signal;

(9) a warning that failure to pay the civil penalty, to complete a required traffic education program, or to contest liability in a timely manner is an admission of liability and may result in a suspension of the driving privileges of the registered owner of the vehicle;

(10) a statement that the person may elect to proceed by:

(A) paying the fine, completing a required traffic education program, or both; or

(B) challenging the charge in court, by mail, or by administrative hearing; and

(11) a website address, accessible through the Internet, where the person may view the recorded images of the violation.

(e) If a person charged with a traffic violation, as a result of an automated traffic law enforcement system, does not pay the fine or complete a required traffic education program, or both, or successfully contest the civil penalty resulting from that violation, the Secretary of State shall suspend the driving privileges of the registered owner of the vehicle under Section 6–306.5 of this Code for failing to complete a required traffic education program or to pay any fine or penalty due and owing, or both, as a result of a combination of 5 violations of the automated traffic law enforcement system or the automated speed enforcement system under Section 11–208.8 of this Code.

(f) Based on inspection of recorded images produced by an automated traffic law enforcement system, a notice alleging that the violation occurred shall be evidence of the facts contained in the notice and admissible in any proceeding alleging a violation under this Section.

(g) Recorded images made by an automatic traffic law enforcement system are confidential and shall be made available only to the alleged violator and governmental and law enforcement agencies for purposes of adjudicating a violation of this Section, for statistical purposes, or for other governmental purposes. Any recorded image evidencing a violation of this Section, however, may be admissible in any proceeding resulting from the issuance of the citation.

(h) The court or hearing officer may consider in defense of a violation:

(1) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation;

(2) that the driver of the vehicle passed through the intersection when the light was red either (i) in order to yield the right-of-way to an emergency vehicle or (ii) as part of a funeral procession; and

(3) any other evidence or issues provided by municipal or county ordinance.

(i) To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

(j) Unless the driver of the motor vehicle received a Uniform Traffic Citation from a police officer at the time of the violation, the motor vehicle owner is subject to a civil penalty not exceeding $100 or the completion of a traffic education program, or both, plus an additional penalty of not more than $100 for failure to pay the original penalty or to complete a required traffic education program, or both, in a timely manner, if the motor vehicle is recorded by an automated traffic law enforcement system. A violation for which a civil penalty is imposed under this Section is not a violation of a traffic regulation governing the movement of vehicles and may not be recorded on the driving record of the owner of the vehicle.

(j–3) A registered owner who is a holder of a valid commercial driver's license is not required to complete a traffic education program.

(j–5) For purposes of the required traffic education program only, a registered owner may submit an affidavit to the court or hearing officer swearing that at the time of the alleged violation, the vehicle was in the custody and control of another person. The affidavit must identify the person in custody and control of the vehicle, including the person's name and current address. The person in custody and control of the vehicle at the time of the violation is required to complete the required traffic education program. If the person in custody and control of the vehicle at the time of the violation completes the required traffic education program, the registered owner of the vehicle is not required to complete a traffic education program.

(k) An intersection equipped with an automated traffic law enforcement system must be posted with a sign visible to approaching traffic indicating that the intersection is being monitored by an automated traffic law enforcement system.

(k–3) A municipality or county that has one or more intersections equipped with an automated traffic law enforcement system must provide notice to drivers by posting the locations of automated traffic law systems on the municipality or county website.

(k–5) An intersection equipped with an automated traffic law enforcement system must have a yellow change interval that conforms with the Illinois Manual on Uniform Traffic Control Devices (IMUTCD) published by the Illinois Department of Transportation.

(k–7) A municipality or county operating an automated traffic law enforcement system shall conduct a statistical analysis to assess the safety impact of each automated traffic law enforcement system at an intersection following installation of the system. The statistical analysis shall be based upon the best available crash, traffic, and other data, and shall cover a period of time before and after installation of the system sufficient to provide a statistically valid comparison of safety impact. The statistical analysis shall be consistent with professional judgment and acceptable industry practice. The statistical analysis also shall be consistent with the data required for valid comparisons of before and after conditions and shall be conducted within a reasonable period following the installation of the automated traffic law enforcement system. The statistical analysis required by this subsection (k–7) shall be made available to the public and shall be published on the website of the municipality or county. If the statistical analysis for the 36 month period following installation of the system indicates that there has been an increase in the rate of accidents at the approach to the intersection monitored by the system, the municipality or county shall undertake additional studies to determine the cause and severity of the accidents, and may take any action that it determines is necessary or appropriate to reduce the number or severity of the accidents at that intersection.

(*l*) The compensation paid for an automated traffic law enforcement system must be based on the value of the equipment or the services provided and may not be based on the number of traffic citations issued or the revenue generated by the system.

(m) This Section applies only to the counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and to municipalities located within those counties.

(n) The fee for participating in a traffic education program under this Section shall not exceed $25.

A low-income individual required to complete a traffic education program under this Section who provides proof of eligibility for the federal earned income tax credit under Section 32 of the Internal Revenue Code or the Illinois earned income tax credit under Section 212 of the Illinois Income Tax Act shall not be required to pay any fee for participating in a required traffic education program.

(*o*) A municipality or county shall make a certified report to the Secretary of State pursuant to Section 6–306.5 of this Code whenever a registered owner of a vehicle has failed to pay any fine or penalty due and owing as a result of a combination of 5 offenses for automated traffic law or speed enforcement system violations.

(p) No person who is the lessor of a motor vehicle pursuant to a written lease agreement shall be liable for an automated speed or traffic law enforcement system violation involving such motor vehicle during the period of the lease; provided that upon the request of the appropriate authority received within 120 days after the violation occurred, the lessor provides within 60 days after such receipt the name and address of the lessee. The drivers license number of a lessee may be subsequently individually requested by the appropriate authority if needed for enforcement of this Section.

Upon the provision of information by the lessor pursuant to this subsection, the county or municipality may issue the violation to the lessee of the vehicle in the same manner as it would issue a violation to a registered owner of a vehicle pursuant to this Section, and the lessee may be held liable for the violation.

P.A. 76–1586, § 11–6–208.6, added by P.A. 94–795, § 5, eff. May 22, 2006. Amended by P.A. 96–288, § 10, eff. Aug. 11, 2009; P.A. 96–1016, § 5, eff. Jan. 1, 2011; P.A. 97–29, § 5, eff. Jan. 1, 2012; P.A. 97–627, § 5, eff. Jan. 1, 2012; P.A. 97–672, § 5, eff. July 1, 2012; P.A. 97–762, § 5, eff. July 6, 2012; P.A. 98–463, § 440, eff. Aug. 16, 2013.

5/11–208.8. Automated speed enforcement systems in safety zones

§ 11–208.8. Automated speed enforcement systems in safety zones.

(a) As used in this Section:

"Automated speed enforcement system" means a photographic device, radar device, laser device, or other electrical or mechanical device or devices installed or utilized in a safety zone and designed to record the speed of a vehicle and obtain a clear photograph or other recorded image of the vehicle and the vehicle's registration plate while the driver is violating Article VI of Chapter 11 of this Code or a similar provision of a local ordinance.

An automated speed enforcement system is a system, located in a safety zone which is under the jurisdiction of a municipality, that produces a recorded image of a motor vehicle's violation of a provision of this Code or a local ordinance and is designed to obtain a clear recorded image of the vehicle and the vehicle's license plate. The recorded image must also display the time, date, and location of the violation.

"Owner" means the person or entity to whom the vehicle is registered.

"Recorded image" means images recorded by an automated speed enforcement system on:

(1) 2 or more photographs;

(2) 2 or more microphotographs;

(3) 2 or more electronic images; or

(4) a video recording showing the motor vehicle and, on at least one image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

"Safety zone" means an area that is within one-eighth of a mile from the nearest property line of any public or private elementary or secondary school, or from the nearest property line of any facility, area, or land owned by a school district that is used for educational purposes approved by the Illinois State Board of Education, not including school district headquarters or administrative buildings. A safety zone also includes an area that is within one-eighth of a mile from the nearest property line of any facility, area, or land owned by a park district used for recreational purposes. However, if any portion of a roadway is within either one-eighth mile radius, the safety zone also shall include the roadway extended to the furthest portion of the next furthest intersection. The term "safety zone" does not include any portion of the roadway known as Lake Shore Drive or any controlled access highway with 8 or more lanes of traffic.

(a–5) The automated speed enforcement system shall be operational and violations shall be recorded only at the following times:

(i) if the safety zone is based upon the property line of any facility, area, or land owned by a school district, only on school days and no earlier than 6 a.m. and no later than 8:30 p.m. if the school day is during the period of Monday

through Thursday, or 9 p.m. if the school day is a Friday; and

(ii) if the safety zone is based upon the property line of any facility, area, or land owned by a park district, no earlier than one hour prior to the time that the facility, area, or land is open to the public or other patrons, and no later than one hour after the facility, area, or land is closed to the public or other patrons.

(b) A municipality that produces a recorded image of a motor vehicle's violation of a provision of this Code or a local ordinance must make the recorded images of a violation accessible to the alleged violator by providing the alleged violator with a website address, accessible through the Internet.

(c) Notwithstanding any penalties for any other violations of this Code, the owner of a motor vehicle used in a traffic violation recorded by an automated speed enforcement system shall be subject to the following penalties:

(1) if the recorded speed is no less than 6 miles per hour and no more than 10 miles per hour over the legal speed limit, a civil penalty not exceeding $50, plus an additional penalty of not more than $50 for failure to pay the original penalty in a timely manner; or

(2) if the recorded speed is more than 10 miles per hour over the legal speed limit, a civil penalty not exceeding $100, plus an additional penalty of not more than $100 for failure to pay the original penalty in a timely manner.

A penalty may not be imposed under this Section if the driver of the motor vehicle received a Uniform Traffic Citation from a police officer for a speeding violation occurring within one-eighth of a mile and 15 minutes of the violation that was recorded by the system. A violation for which a civil penalty is imposed under this Section is not a violation of a traffic regulation governing the movement of vehicles and may not be recorded on the driving record of the owner of the vehicle. A law enforcement officer is not required to be present or to witness the violation. No penalty may be imposed under this Section if the recorded speed of a vehicle is 5 miles per hour or less over the legal speed limit. The municipality may send, in the same manner that notices are sent under this Section, a speed violation warning notice where the violation involves a speed of 5 miles per hour or less above the legal speed limit.

(d) The net proceeds that a municipality receives from civil penalties imposed under an automated speed enforcement system, after deducting all non-personnel and personnel costs associated with the operation and maintenance of such system, shall be expended or obligated by the municipality for the following purposes:

(i) public safety initiatives to ensure safe passage around schools, and to provide police protection and surveillance around schools and parks, including but not limited to: (1) personnel costs; and (2) non-personnel costs such as construction and maintenance of public safety infrastructure and equipment;

(ii) initiatives to improve pedestrian and traffic safety;

(iii) construction and maintenance of infrastructure within the municipality, including but not limited to roads and bridges; and

(iv) after school programs.

(e) For each violation of a provision of this Code or a local ordinance recorded by an automated speed enforcement system, the municipality having jurisdiction shall issue a written notice of the violation to the registered owner of the vehicle as the alleged violator. The notice shall be delivered to the registered owner of the vehicle, by mail, within 30 days after the Secretary of State notifies the municipality of the identity of the owner of the vehicle, but in no event later than 90 days after the violation.

(f) The notice required under subsection (e) of this Section shall include:

(1) the name and address of the registered owner of the vehicle;

(2) the registration number of the motor vehicle involved in the violation;

(3) the violation charged;

(4) the date, time, and location where the violation occurred;

(5) a copy of the recorded image or images;

(6) the amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(7) a statement that recorded images are evidence of a violation of a speed restriction;

(8) a warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in a suspension of the driving privileges of the registered owner of the vehicle;

(9) a statement that the person may elect to proceed by:

(A) paying the fine; or

(B) challenging the charge in court, by mail, or by administrative hearing; and

(10) a website address, accessible through the Internet, where the person may view the recorded images of the violation.

(g) If a person charged with a traffic violation, as a result of an automated speed enforcement system, does not pay the fine or successfully contest the civil penalty resulting from that violation, the Secretary of State shall suspend the driving privileges of the registered owner of the vehicle under Section 6–306.5 of this Code for failing to pay any fine or penalty due and owing, or both, as a result of a combination of 5 violations of the automated speed enforcement system or the automated traffic law under Section 11–208.6 of this Code.

(h) Based on inspection of recorded images produced by an automated speed enforcement system, a notice alleging that the violation occurred shall be evidence of the facts contained in the notice and admissible in any proceeding alleging a violation under this Section.

(i) Recorded images made by an automated speed enforcement system are confidential and shall be made available only to the alleged violator and governmental and law enforcement agencies for purposes of adjudicating a violation of this Section, for statistical purposes, or for other governmental purposes. Any recorded image evidencing a violation of this Section, however, may be admissible in any proceeding resulting from the issuance of the citation.

(j) The court or hearing officer may consider in defense of a violation:

(1) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and not under the control or in the possession of the owner at the time of the violation;

(2) that the driver of the motor vehicle received a Uniform Traffic Citation from a police officer for a speeding violation occurring within one-eighth of a mile and 15 minutes of the violation that was recorded by the system; and

(3) any other evidence or issues provided by municipal ordinance.

(k) To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

(*l*) A roadway equipped with an automated speed enforcement system shall be posted with a sign conforming to the national Manual on Uniform Traffic Control Devices that is visible to approaching traffic stating that vehicle speeds are being photo-enforced and indicating the speed limit. The municipality shall install such additional signage as it determines is necessary to give reasonable notice to drivers as to where automated speed enforcement systems are installed.

(m) A roadway where a new automated speed enforcement system is installed shall be posted with signs providing 30 days notice of the use of a new automated speed enforcement system prior to the issuance of any citations through the automated speed enforcement system.

(n) The compensation paid for an automated speed enforcement system must be based on the value of the equipment or the services provided and may not be based on the number of traffic citations issued or the revenue generated by the system.

(*o*) A municipality shall make a certified report to the Secretary of State pursuant to Section 6–306.5 of this Code whenever a registered owner of a vehicle has failed to pay any fine or penalty due and owing as a result of a combination of 5 offenses for automated speed or traffic law enforcement system violations.

(p) No person who is the lessor of a motor vehicle pursuant to a written lease agreement shall be liable for an automated speed or traffic law enforcement system violation involving such motor vehicle during the period of the lease; provided that upon the request of the appropriate authority received within 120 days after the violation occurred, the lessor provides within 60 days after such receipt the name and address of the lessee. The drivers license number of a lessee may be subsequently individually requested by the appropriate authority if needed for enforcement of this Section.

Upon the provision of information by the lessor pursuant to this subsection, the municipality may issue the violation to the lessee of the vehicle in the same manner as it would issue a violation to a registered owner of a vehicle pursuant to this Section, and the lessee may be held liable for the violation.

(q) A municipality using an automated speed enforcement system must provide notice to drivers by publishing the locations of all safety zones where system equipment is installed on the website of the municipality.

(r) A municipality operating an automated speed enforcement system shall conduct a statistical analysis to assess the safety impact of the system. The statistical analysis shall be based upon the best available crash, traffic, and other data, and shall cover a period of time before and after installation of the system sufficient to provide a statistically valid comparison of safety impact. The statistical analysis shall be consistent with professional judgment and acceptable industry practice. The statistical analysis also shall be consistent with the data required for valid comparisons of before and after conditions and shall be conducted within a reasonable period following the installation of the automated traffic law enforcement system. The statistical analysis required by this subsection shall be made available to the public and shall be published on the website of the municipality.

(s) This Section applies only to municipalities with a population of 1,000,000 or more inhabitants.

P.A. 76–1586, § 11–208.8, added by P.A. 97–672, § 5, eff. July 1, 2011. Amended by P.A. 97–674, § 5, eff. July 1, 2011; P.A. 98–463, § 440, eff. Aug. 16, 2013.

5/11–213. Power of a fire department officer; highway or lane closure

§ 11–213. Power of a fire department officer; highway or lane closure. In the absence of a law enforcement officer or a representative of the highway agency having jurisdiction over the highway, an officer of a fire department, in the performance of his or her official duties, has the authority to close to traffic a highway, or a lane or lanes of a highway, as necessary to protect the safety of persons or property. In order to promote the safe implementation of this Section, the fire department officer shall utilize an official fire department vehicle with lighted red or white oscillating, rotating, or flashing lights in accordance with Section 12–215 of this Code and proper temporary traffic control in accordance with the sections of the Illinois Manual on Uniform Traffic Control Devices concerning temporary traffic control and incident management. The officer should also receive training in safe practices for accomplishing these tasks near traffic. This Section does not apply to highways under the jurisdiction of the Illinois State Toll Highway Authority. As used in this Section, "highway" has the meaning set forth in Section 1–126 of this Code.

P.A. 76–1586, § 11–213, added by P.A. 95–803, § 5, eff. Jan. 1, 2009.

5/11–214. Local government reporting

§ 11–214. Local government reporting.

(a) Local units of government shall report to the Illinois Department of Transportation and the Department shall post on its official website (i) all preferred truck routes under the local unit of government's jurisdiction which are not classified as Class II or Class III truck routes; and (ii) the unit of local government's designated truck route network.

(b) If a local unit of government has no designated truck routes or preferred truck routes described by subsection (a) above, the local unit of government shall affirm to the Department that it has no such truck routes.

P.A. 76–1586, § 11–214, added by P.A. 97–291, § 5, eff. Jan. 1, 2012.

ARTICLE III. TRAFFIC SIGNS, SIGNALS AND MARKINGS

5/11–301. Department to adopt sign manual

§ 11–301. Department to adopt sign manual.

(a) The Department shall adopt a State manual and specifications for a uniform system of traffic-control devices consistent with this Chapter for use upon highways within this State. Such manual shall include the adoption of the R 7–8 sign adopted by the United States Department of Transportation to designate the reservation of parking facilities for a person with disabilities. Non-conforming signs in use prior to January 1, 1985 shall not constitute a violation during their useful lives, which shall not be extended by other means than normal maintenance. The manual shall also specify insofar as practicable the minimum warrants justifying the use of the various traffic control devices. Such

uniform system shall correlate with and, where not inconsistent with Illinois highway conditions, conform to the system set forth in the most recent edition of the national manual on Uniform Traffic Control Devices for Streets and Highways.

(b) Signs adopted by the Department to designate the reservation of parking facilities for a person with disabilities shall also exhibit, in a manner determined by the Department, the words "$100 Fine".

(c) If the amount of a fine is changed, the Department shall change the design of the signs to indicate the current amount of the fine.

P.A. 76–1586, § 11–301, eff. July 1, 1970. Amended by P.A. 76–2159, § 1, eff. July 1, 1970; P.A. 83–1316, § 1, eff. Jan. 1, 1985; P.A. 85–484, § 1, eff. Jan. 1, 1988; P.A. 88–685, § 5, eff. Jan. 24, 1995; P.A. 89–533, § 5, eff. Jan. 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–301.

5/11–301.1. Person with disabilities sign

§ 11–301.1. Beginning July 1, 1988, all signs erected and used to designate the reservation of parking facilities for a person with disabilities shall be in a form and manner prescribed under Section 11–301 of this Code, and all parking spaces reserved for a person with disabilities, except those reserving on-street parking areas, shall be at least 16 feet wide. Non-conforming signs in use prior to July 1, 1988 shall not constitute a violation during their useful lives, which shall not be extended by means other than normal maintenance. Beginning October 1, 1992, all parking spaces reserved for a person with disabilities, except those reserving on-street parking areas, shall be at least 16 feet wide.

P.A. 76–1586, § 11–301.1, added by P.A. 85–484, § 1, eff. Jan. 1, 1988. Amended by P.A. 87–562, § 1, eff. Jan. 1, 1992; P.A. 88–685, § 5, eff. Jan. 24, 1995.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–301.1.

5/11–302. Authority to designate through highway and stop and yield intersections

§ 11–302. Authority to designate through highway and stop and yield intersections.

(a) The Department with reference to State highways under its jurisdiction, and local authorities with reference to other highways under their jurisdiction, may designate through highways and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection. Designation of through highways and stop or yield intersections and the erection of stop signs or yield signs on township or road district roads are subject to the written approval of the county engineer or superintendent of highways.

(b) Every stop sign and yield sign shall conform to the State Manual and Specifications and shall be located as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as close as practicable to the nearest line of the intersecting roadway.

(c) The Department may in its discretion and when traffic conditions warrant such action give preference to traffic upon any of the State highways under its jurisdiction over traffic crossing or entering such highway by erecting appropriate traffic control devices.

P.A. 76–1586, § 11–302, eff. July 1, 1970. Amended by P.A. 87–217, § 4, eff. Jan. 1, 1992; P.A. 93–177, § 10, eff. July 11, 2003.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–302.

5/11–303. The Department to place signs on all State highways

§ 11–303. The Department to place signs on all State highways.

(a) The Department shall place and maintain such traffic-control devices, conforming to its manual and specifications on all highways under its jurisdiction as it shall deem necessary to indicate and to carry out the provisions of this Chapter or to regulate, warn or guide traffic.

(b) No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the Department except by the latter's permission.

(c) The Department shall erect and maintain guide, warning and direction signs upon highways in cities, towns and villages of which portions or lanes of such highways are under the control and jurisdiction of the Department or for which the Department has maintenance responsibility.

(d) Nothing in this Chapter shall divest the corporate authorities of park districts of power to prohibit or restrict the use of highways under their jurisdiction by certain types or weights of motor vehicles or the power of cities, villages, incorporated towns and park districts to designate highways for one-way traffic or the power of such municipal corporations to erect and maintain appropriate signs respecting such uses.

(e) Nothing in this Section shall prohibit a municipality, township, or county from erecting signs as required under the Illinois Adopt–A–Highway Act.[1]

P.A. 76–1586, § 11–303, eff. July 1, 1970. Amended by P.A. 80–1495, § 36, eff. Jan. 8, 1979; P.A. 87–1118, § 90, eff. Sept. 16, 1992.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–303.

[1] 605 ILCS 120/1 et seq.

5/11–304. Local traffic-control devices; tourist oriented businesses signs

§ 11–304. Local traffic-control devices; tourist oriented businesses signs.

Local authorities in their respective maintenance jurisdiction shall place and maintain such traffic-control devices upon highways under their maintenance jurisdiction as are required to indicate and carry out the provisions of this Chapter, and local traffic ordinances or to regulate, warn, or guide traffic. All such traffic control devices shall conform to the State Manual and Specifications and shall be justified by traffic warrants stated in the Manual. Placement of traffic-control devices on township or road district roads also shall be subject to the written approval of the county engineer or superintendent of highways.

Local authorities in their respective maintenance jurisdictions shall have the authority to install signs, in conformance with the State Manual and specifications, alerting motorists of the tourist oriented businesses available on roads under local jurisdiction in rural areas as may be required to guide motorists to the businesses. The local authorities and road district highway commissioners shall also have the authority to sell or lease space on these signs to the owners or operators of the businesses.

P.A. 76–1586, § 11–304, eff. July 1, 1970. Amended by P.A. 87–217, § 4, eff. Jan. 1, 1992; P.A. 90–519, § 5, eff. June 1, 1998; P.A. 93–177, § 10, eff. July 11, 2003.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–304.

5/11–305. Obedience to and required traffic-control devices

§ 11–305. Obedience to and required traffic-control devices. (a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed or held in accordance with the provisions of this Act, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Act.

(b) It is unlawful for any person to leave the roadway and travel across private property to avoid an official traffic control device.

(c) No provision of this Act for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.

(d) Whenever any official traffic-control device is placed or held in position approximately conforming to the requirements of this Act and purports to conform to the lawful requirements pertaining to such device, such device shall be presumed to have been so placed or held by the official act or direction of lawful authority, and comply with the requirements of this Act, unless the contrary shall be established by competent evidence.

(e) The driver of a vehicle approaching a traffic control signal on which no signal light facing such vehicle is illuminated shall stop before entering the intersection in accordance with rules applicable in making a stop at a stop sign.

P.A. 76–1586, § 11–305, eff. July 1, 1970. Amended by P.A. 76–2160, § 1, eff. July 1, 1970; P.A. 79–1069, § 1, eff. Jan. 1, 1976; P.A. 80–267, § 1, eff. Oct. 1, 1977; P.A. 84–873, § 1, eff. Jan. 1, 1986.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–305.

5/11–310. Display of Unauthorized Signs, Signals or Markings

§ 11–310. Display of Unauthorized Signs, Signals or Markings.

(a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the movement of traffic or the effectiveness of an official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(c) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

(d) No person shall sell or offer for sale any traffic control device to be used on any street or highway in this State which does not conform to the requirements of this Chapter.

(e) This Section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(f) This Section shall not be deemed to prohibit the erection of Illinois Adopt–A–Highway signs by municipalities, townships, or counties as provided in the Illinois Adopt–A–Highway Act.[1]

(g) Any person failing to comply with this Section shall be guilty of a Class A misdemeanor.

P.A. 76–1586, § 11–310, eff. July 1, 1970. Amended by P.A. 77–49, § 1, eff. Jan. 1, 1972; P.A. 77–732, § 1, eff. Aug. 12, 1971; P.A. 77–2829, § 40, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 79–1069, § 1, eff. Jan. 1, 1976; P.A. 80–911, § 1, eff. Oct. 1, 1977; P.A. 81–1509, Art. II, § 71, eff. Sept. 26, 1980; P.A. 87–1118, § 90, eff. Sept. 16, 1992.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–310.

[1] 605 ILCS 120/1 et seq.

5/11–311. Interference with official traffic-control devices or railroad signs or signals

§ 11–311. Interference with official traffic-control devices or railroad signs or signals. No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device, or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

Every person who is convicted of a violation of this Section shall be guilty of a Class A misdemeanor, punishable by a fine of at least $250 in addition to any other penalties which may be imposed.

P.A. 76–1586, § 11–311, eff. July 1, 1970. Amended by P.A. 80–911, § 1, eff. Oct. 1, 1977; P.A. 83–672, § 1, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–311.

5/11–312. Unlawful Use or Damage to Highways, Appurtenances and Structures

§ 11–312. Unlawful Use or Damage to Highways, Appurtenances and Structures. It shall be unlawful for any person to wilfully injure or damage any public highway or street or any bridge or culvert, or to wilfully damage, injure or remove any sign, signpost, or structure upon or used or constructed in connection with any public highway or street for the protection thereof or for protection or regulation of traffic thereon by any wilfully unusual, improper or unreasonable use thereof, or by wilfully careless driving or use of any vehicle thereon, or by the wilful mutilation, defacing, destruction or removal thereof.

Every person who is convicted of a violation of this Section shall be guilty of a Class A misdemeanor, punishable by a fine of at least $250 in addition to any other penalty which may be imposed.

P.A. 76–1586, § 11–312, eff. July 1, 1970. Amended by P.A. 80–911, § 1, eff. Oct. 1, 1977; P.A. 81–1509, Art. II, § 71, eff. Sept. 26, 1980; P.A. 83–672, § 1, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–312.

5/11–313. Unlawful possession of highway sign or marker

§ 11–313. Unlawful possession of highway sign or marker. The Department and local authorities, with reference to traffic control signs, signals, or markers owned by the Department or local authority, are authorized to indicate the ownership of the signs, signals, or markers in letters not less than ⅜ inch or more than ¾ inch in height, by use of a metal stamp, etching, or other permanent means and, except for

employees of the Department or local authorities, police officers, contractors and their employees engaged in a highway construction contract or work on the highway approved by the Department or local authority, it is unlawful for any person to possess such sign, signal, or marker so identified.

P.A. 76–1586, § 11–313, added by P.A. 77–1230, § 1, eff. Aug. 24, 1971. Amended by P.A. 77–2830, Art. 73, § 1, eff. Jan. 1, 1973; P.A. 80–526, § 1, eff. Oct. 1, 1977; P.A. 80–911, § 1, eff. Oct. 1, 1977; P.A. 80–1364, § 36, eff. Aug. 13, 1978; P.A. 91–512, § 5, eff. Aug. 13, 1999.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–313.

ARTICLE VI. SPEED RESTRICTIONS

5/11–601. General speed restrictions

§ 11–601. General speed restrictions.

(a) No vehicle may be driven upon any highway of this State at a speed which is greater than is reasonable and proper with regard to traffic conditions and the use of the highway, or endangers the safety of any person or property. The fact that the speed of a vehicle does not exceed the applicable maximum speed limit does not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b) No person may drive a vehicle upon any highway of this State at a speed which is greater than the applicable statutory maximum speed limit established by paragraphs (c), (d), (e), (f) or (g) of this Section, by Section 11–605 or by a regulation or ordinance made under this Chapter.

(c) Unless some other speed restriction is established under this Chapter, the maximum speed limit in an urban district for all vehicles is:

1. 30 miles per hour; and
2. 15 miles per hour in an alley.

(d) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for any vehicle is (1) 65 miles per hour (i) for all highways under the jurisdiction of the Illinois State Toll Highway Authority, unless some other speed limit is designated, and (ii) for all or part of highways that are designated by the Department, have at least 4 lanes of traffic, and have a separation between the roadways moving in opposite directions and (2) 55 miles per hour for all other highways, roads, and streets.

(d–1) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for any vehicle is (1) 70 miles per hour on any interstate highway as defined by Section 1–133.1 of this Code; (2) 65 miles per hour for all or part of highways that are designated by the Department, have at least 4 lanes of traffic, and have a separation between the roadways moving in opposite directions; and (3) 55 miles per hour for all other highways, roads, and streets. The counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will may adopt ordinances setting a maximum speed limit on highways, roads, and streets that is lower than the limits established by this Section.

(e) In the counties of Cook, DuPage, Kane, Lake, McHenry, and Will, unless some lesser speed restriction is established under this Chapter, the maximum speed limit outside an urban district for a second division vehicle designed or used for the carrying of a gross weight of 8,001 pounds or more (including the weight of the vehicle and maximum load) is 55 miles per hour.

(e–1) (Blank).

(f) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for a bus is:

1. 65 miles per hour upon any highway which has at least 4 lanes of traffic and of which the roadways for traffic moving in opposite directions are separated by a strip of ground which is not surfaced or suitable for vehicular traffic, except that the maximum speed limit for a bus on all highways, roads, or streets not under the jurisdiction of the Department or the Illinois State Toll Highway Authority is 55 miles per hour;

1.5. 70 miles per hour upon any interstate highway as defined by Section 1–133.1 of this Code outside the counties of Cook, DuPage, Kane, Lake, McHenry, and Will; and

2. 55 miles per hour on any other highway.

(g) (Blank).

P.A. 76–1586, § 11–601, eff. July 1, 1970. Amended by P.A. 77–66, § 1, eff. July 1, 1971; P.A. 78–954, § 1, eff. Feb. 25, 1974; P.A. 79–267, § 1, eff. July 14, 1975; P.A. 84–730, § 1, eff. July 1, 1986; P.A. 89–444, § 5, eff. Jan. 25, 1996; P.A. 89–551, § 5, eff. Jan. 1, 1997; P.A. 96–524, § 5, eff. Jan. 1, 2010; P.A. 97–202, § 5, eff. Jan. 1, 2012; P.A. 98–511, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–601.

5/11–601.5. Driving 26 miles per hour or more in excess of applicable limit

§ 11–601.5. Driving 26 miles per hour or more in excess of applicable limit.

(a) A person who drives a vehicle upon any highway of this State at a speed that is 26 miles per hour or more but less than 35 miles per hour in excess of the applicable maximum speed limit established under this Chapter or a local ordinance commits a Class B misdemeanor.

(b) A person who drives a vehicle upon any highway of this State at a speed that is 35 miles per hour or more in excess of the applicable maximum speed limit established under this Chapter or a local ordinance commits a Class A misdemeanor.

P.A. 76–1586, § 11–601.5, added by P.A. 91–469, § 5, eff. Jan. 1, 2000. Amended by P.A. 96–1002, § 5, eff. Jan. 1, 2011; P.A. 96–1507, § 5, eff. Jan. 27, 2011; P.A. 98–511, § 5, eff. Jan. 1, 2014.

5/11–602. Alteration of limits by Department

§ 11–602. Alteration of limits by Department. Whenever the Department determines, upon the basis of an engineering and traffic investigation concerning any highway for which the Department has maintenance responsibility, that a maximum speed limit prescribed in Section 11–601 of this Chapter is greater or less than is reasonable or safe with respect to the conditions found to exist at any intersection or other place on such highway or along any part or zone thereof, the Department shall determine and declare a reasonable and safe absolute maximum speed limit applicable to such intersection or place, or along such part or zone. However, such

limit shall conform with the maximum speed limit restrictions provided for in Section 11–601 of this Code. Where a highway under the Department's jurisdiction is contiguous to school property, the Department may, at the school district's request, set a reduced maximum speed limit for student safety purposes in the portion of the highway that faces the school property and in the portions of the highway that extend one-quarter mile in each direction from the opposite ends of the school property. A limit determined and declared as provided in this Section becomes effective, and suspends the applicability of the limit prescribed in Section 11–601 of this Chapter, when appropriate signs giving notice of the limit are erected at such intersection or other place, or along such part or zone of the highway. Electronic speed-detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel; if so used in violation hereof, evidence obtained thereby shall be inadmissible in any prosecution for speeding. However, nothing in this Section prohibits the use of such electronic speed-detecting devices within 500 feet of a sign within a special school speed zone indicating such zone, conforming to the requirements of Section 11–605 of this Act, nor shall evidence obtained thereby be inadmissible in any prosecution for speeding provided the use of such device shall apply only to the enforcement of the speed limit in such special school speed zone.

P.A. 76–1586, § 11–602, eff. July 1, 1970. Amended by P.A. 77–101, § 1, eff. Jan. 1, 1972; P.A. 78–954, § 1, eff. Feb. 5, 1974; P.A. 79–267, § 1, eff. July 14, 1975; P.A. 89–444, § 5, eff. Jan. 25, 1996; P.A. 89–551, § 5, eff. Jan. 1, 1997; P.A. 93–624, § 5, eff. Dec. 19, 2003; P.A. 96–524, § 5, eff. Jan. 1, 2010; P.A. 98–511, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–602.

5/11–603. Alteration of limits by Toll Highway Authority

§ 11–603. Alteration of limits by Toll Highway Authority. Whenever the Illinois State Toll Highway Authority determines, upon the basis of an engineering and traffic investigation concerning a toll highway under its jurisdiction, that a maximum speed limit prescribed in Section 11–601 of this Chapter is greater or less than is reasonable or safe with respect to conditions found to exist at any place or along any part or zone of such highway, the Authority shall determine and declare by regulation a reasonable and safe absolute maximum speed limit at such place or along such part or zone, and the speed limit shall conform with the maximum speed limit restrictions provided for in Section 11–601 of this Code. A limit so determined and declared becomes effective, and suspends the application of the limit prescribed in Section 11–601 of this Chapter, when (a) the Department concurs in writing with the Authority's regulation, and (b) appropriate signs giving notice of the limit are erected at such place or along such part or zone of the highway. Electronic speed-detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel; if so used in violation hereof, evidence obtained thereby shall be inadmissible in any prosecution for speeding.

P.A. 76–1586, § 11–603, eff. July 1, 1970. Amended by P.A. 77–643, § 1, eff. Aug. 4, 1971; P.A. 78–954, § 1, eff. Feb. 25, 1974; P.A. 79–267, § 1, eff. July 14, 1975; P.A. 89–444, § 5, eff. Jan. 25, 1996; P.A. 98–511, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–603.

5/11–604. Alteration of limits by local authorities

§ 11–604. Alteration of limits by local authorities.

(a) Subject to the limitations set forth in this Section, the county board of a county may establish absolute maximum speed limits on all county highways, township roads and district roads as defined in the Illinois Highway Code, except those under the jurisdiction of the Department or of the Illinois State Toll Highway Authority, as described in Sections 11–602 and 11–603 of this Chapter; and any park district, city, village, or incorporated town may establish absolute maximum speed limits on all streets which are within its corporate limits and which are not under the jurisdiction of the Department or of such Authority, and for which the county or a highway commissioner of such county does not have maintenance responsibility.

(b) Whenever any such park district, city, village, or incorporated town determines, upon the basis of an engineering or traffic investigation concerning a highway or street on which it is authorized by this Section to establish speed limits, that a maximum speed limit prescribed in Section 11–601 of this Chapter is greater or less than is reasonable or safe with respect to the conditions found to exist at any place or along any part or zone of such highway or street, the local authority or park district shall determine and declare by ordinance a reasonable and safe absolute maximum speed limit at such place or along such part or zone, which:

(1) Decreases the limit within an urban district, but not to less than 20 miles per hour; or

(2) Increases the limit within an urban district, but not to more than 55 miles per hour; or

(3) Decreases the limit outside of an urban district, but not to less than 35 miles per hour, except as otherwise provided in subparagraph 4 of this paragraph; or

(4) Decreases the limit within a residence district, but not to less than 25 miles per hour, except as otherwise provided in subparagraph 1 of this paragraph.

The park district, city, village, or incorporated town may make such limit applicable at all times or only during certain specified times. Not more than 6 such alterations shall be made per mile along a highway or street; and the difference in limit between adjacent altered speed zones shall not be more than 10 miles per hour.

A limit so determined and declared by a park district, city, village, or incorporated town becomes effective, and suspends the application of the limit prescribed in Section 11–601 of this Chapter, when appropriate signs giving notice of the limit are erected at the proper place or along the proper part or zone of the highway or street. Electronic speed-detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel; if so used in violation of this Section evidence obtained thereby shall be inadmissible in any prosecution for speeding. However, nothing in this Section prohibits the use of such electronic speed-detecting devices within 500 feet of a sign within a special school speed zone indicating such zone, conforming to the requirements of Section 11–605 of this Act, nor shall evidence obtained thereby be inadmissible in any prosecution for speeding provided the use of such device shall apply only to the enforcement of the speed limit in such special school speed zone.

(c) A county engineer or superintendent of highways may submit to the Department for approval, a county policy for establishing altered speed zones on township and county highways based upon engineering and traffic investigations.

(d) Whenever the county board of a county determines that a maximum speed limit is greater or less than is reasonable or safe with respect to the conditions found to exist at any place or along any part or zone of the highway or road, the county board shall determine and declare by ordi-

nance a reasonable and safe absolute maximum speed limit at that place or along that part or zone. However, the maximum speed limit shall not exceed 55 miles per hour. Upon receipt of an engineering study for the part or zone of highway in question from the county engineer, and notwithstanding any other provision of law, the county board of a county may determine and declare by ordinance a reduction in the maximum speed limit at any place or along any part or zone of a county highway whenever the county board, in its sole discretion, determines that the reduction in the maximum speed limit is reasonable and safe. The county board may post signs designating the new speed limit. The limit becomes effective, and suspends the application of the limit prescribed in Section 11–601 of this Chapter, when appropriate signs giving notice of the limit are erected at the proper place or along the proper part of the zone of the highway. Electronic speed-detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel; if so used in violation of this Section, evidence obtained thereby shall be inadmissible in any prosecution for speeding. However, nothing in this Section prohibits the use of such electronic speed-detecting devices within 500 feet of a sign within a special school speed zone indicating such zone, conforming to the requirements of Section 11–605 of this Act, nor shall evidence obtained thereby be inadmissible in any prosecution for speeding provided the use of such device shall apply only to the enforcement of the speed limit in such special school speed zone.

P.A. 76–1586, § 11–604, eff. July 1, 1970. Amended by P.A. 77–50, § 1, eff. Jan. 1, 1972; P.A. 77–101, § 1, eff. Jan. 1, 1972; P.A. 77–643, § 1, eff. Aug. 4, 1971; P.A. 77–2829, § 40, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–954, § 1, eff. Feb. 25, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–267, § 1, eff. July 14, 1975; P.A. 80–693, § 1, eff. Oct. 1, 1977; P.A. 81–875, § 1, eff. Jan. 1, 1980; P.A. 85–547, § 1, eff. Jan. 1, 1988; P.A. 87–217, § 4, eff. Jan. 1, 1992; P.A. 89–444, § 5, eff. Jan. 25, 1996; P.A. 95–574, § 5, eff. June 1, 2008; P.A. 95–788, § 5, eff. Aug. 7, 2008.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–604.

P.A. 95–788 incorporated the amendment by P.A. 95–574.

5/11–605. Special speed limit while passing schools

§ 11–605. Special speed limit while passing schools.

(a) For the purpose of this Section, "school" means the following entities:

(1) A public or private primary or secondary school.

(2) A primary or secondary school operated by a religious institution.

(3) A public, private, or religious nursery school.

On a school day when school children are present and so close thereto that a potential hazard exists because of the close proximity of the motorized traffic, no person shall drive a motor vehicle at a speed in excess of 20 miles per hour while passing a school zone or while traveling on a roadway on public school property or upon any public thoroughfare where children pass going to and from school.

For the purpose of this Section a school day shall begin at seven ante meridian and shall conclude at four post meridian.

This Section shall not be applicable unless appropriate signs are posted upon streets and highways under their respective jurisdiction and maintained by the Department, township, county, park district, city, village or incorporated town wherein the school zone is located. With regard to the special speed limit while passing schools, such signs shall give proper due warning that a school zone is being approached and shall indicate the school zone and the maximum speed limit in effect during school days when school children are present.

(b) (Blank).

(c) Nothing in this Chapter shall prohibit the use of electronic speed-detecting devices within 500 feet of signs within a special school speed zone indicating such zone, as defined in this Section, nor shall evidence obtained thereby be inadmissible in any prosecution for speeding provided the use of such device shall apply only to the enforcement of the speed limit in such special school speed zone.

(d) (Blank).

(e) A first violation of this Section is a petty offense with a minimum fine of $150. A second or subsequent violation of this Section is a petty offense with a minimum fine of $300.

(f) When a fine for a violation of subsection (a) is $150 or greater, the person who violates subsection (a) shall be charged an additional $50 to be paid to the unit school district where the violation occurred for school safety purposes. If the violation occurred in a dual school district, $25 of the surcharge shall be paid to the elementary school district for school safety purposes and $25 of the surcharge shall be paid to the high school district for school safety purposes. Notwithstanding any other provision of law, the entire $50 surcharge shall be paid to the appropriate school district or districts.

For purposes of this subsection (f), "school safety purposes" includes the costs associated with school zone safety education, the Safe Routes to School Program under Section 2705–317 of the Department of Transportation Law of the Civil Administrative Code of Illinois, safety programs within the School Safety and Educational Improvement Block Grant Program under Section 2–3.51.5 of the School Code, and the purchase, installation, and maintenance of caution lights which are mounted on school speed zone signs.

(g) (Blank).

(h) (Blank).

P.A. 76–1586, § 11–605, eff. July 1, 1970. Amended by P.A. 77–101, § 1, eff. Jan. 1, 1972; P.A. 82–124, § 1, eff. Jan. 1, 1982; P.A. 89–251, § 5, eff. Jan. 1, 1996; P.A. 89–559, § 5, eff. Jan. 1, 1997; P.A. 91–531, § 5, eff. Jan. 1, 2000; P.A. 92–242, § 5, eff. Jan. 1, 2002; P.A. 92–619, § 10, eff. Jan. 1, 2003; P.A. 92–780, § 5, eff. Aug. 6, 2002; P.A. 93–955, § 5, eff. Aug. 19, 2004; P.A. 96–52, § 5, eff. July 23, 2009.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–605.

5/11–605.1. Special limit while traveling through a highway construction or maintenance speed zone

§ 11–605.1. Special limit while traveling through a highway construction or maintenance speed zone.

(a) A person may not operate a motor vehicle in a construction or maintenance speed zone at a speed in excess of the posted speed limit when workers are present.

(a–5) A person may not operate a motor vehicle in a construction or maintenance speed zone at a speed in excess of the posted speed limit when workers are not present.

(b) Nothing in this Chapter prohibits the use of electronic speed-detecting devices within 500 feet of signs within a construction or maintenance speed zone indicating the zone, as defined in this Section, nor shall evidence obtained by use of those devices be inadmissible in any prosecution for speeding, provided the use of the device shall apply only to

the enforcement of the speed limit in the construction or maintenance speed zone.

(c) As used in this Section, a "construction or maintenance speed zone" is an area in which the Department, Toll Highway Authority, or local agency has posted signage advising drivers that a construction or maintenance speed zone is being approached, or in which the Department, Authority, or local agency has posted a lower speed limit with a highway construction or maintenance speed zone special speed limit sign after determining that the preexisting established speed limit through a highway construction or maintenance project is greater than is reasonable or safe with respect to the conditions expected to exist in the construction or maintenance speed zone.

If it is determined that the preexisting established speed limit is safe with respect to the conditions expected to exist in the construction or maintenance speed zone, additional speed limit signs which conform to the requirements of this subsection (c) shall be posted.

Highway construction or maintenance speed zone special speed limit signs shall be of a design approved by the Department. The signs must give proper due warning that a construction or maintenance speed zone is being approached and must indicate the maximum speed limit in effect. The signs also must state the amount of the minimum fine for a violation.

(d) A first violation of this Section is a petty offense with a minimum fine of $250. A second or subsequent violation of this Section is a petty offense with a minimum fine of $750.

(e) If a fine for a violation of this Section is $250 or greater, the person who violated this Section shall be charged an additional $125, which shall be deposited into the Transportation Safety Highway Hire-back Fund in the State treasury, unless (i) the violation occurred on a highway other than an interstate highway and (ii) a county police officer wrote the ticket for the violation, in which case the $125 shall be deposited into that county's Transportation Safety Highway Hire-back Fund. In the case of a second or subsequent violation of this Section, if the fine is $750 or greater, the person who violated this Section shall be charged an additional $250, which shall be deposited into the Transportation Safety Highway Hire-back Fund in the State treasury, unless (i) the violation occurred on a highway other than an interstate highway and (ii) a county police officer wrote the ticket for the violation, in which case the $250 shall be deposited into that county's Transportation Safety Highway Hire-back Fund.

(e–5) The Department of State Police and the local county police department have concurrent jurisdiction over any violation of this Section that occurs on an interstate highway.

(f) The Transportation Safety Highway Hire-back Fund, which was created by Public Act 92–619, shall continue to be a special fund in the State treasury. Subject to appropriation by the General Assembly and approval by the Secretary, the Secretary of Transportation shall use all moneys in the Transportation Safety Highway Hire-back Fund to hire off-duty Department of State Police officers to monitor construction or maintenance zones.

(f–5) Each county shall create a Transportation Safety Highway Hire-back Fund. The county shall use all moneys in its Transportation Safety Highway Hire-back Fund to hire off-duty county police officers to monitor construction or maintenance zones in that county on highways other than interstate highways.

(g) For a second or subsequent violation of this Section within 2 years of the date of the previous violation, the Secretary of State shall suspend the driver's license of the violator for a period of 90 days. This suspension shall only be imposed if the current violation of this Section and at least one prior violation of this Section occurred during a period when workers were present in the construction or maintenance zone.

P.A. 76–1586, § 11–605.1, added by P.A. 93–955, § 5, eff. Aug. 19, 2004. Amended by P.A. 94–814, § 5, eff. Jan. 1, 2007; P.A. 97–830, § 5, eff. Jan. 1, 2013; P.A. 98–337, § 5, eff. Jan. 1, 2014.

5/11–605.2. Delegation of authority to set a special speed limit while traveling through highway construction or maintenance zones

§ 11–605.2. Delegation of authority to set a special speed limit while traveling through highway construction or maintenance zones.

(a) A local agency may delegate to its superintendent of highways the authority to set and post a reduced speed limit for a construction or maintenance zone, as defined in Section 11–605.1, under subsection (c) of that Section.

(b) If a superintendent of highways sets a reduced speed limit for a construction or maintenance zone in accordance with this Section, the local agency must maintain a record that indicates:

(1) the location of the construction or maintenance zone;

(2) the reduced speed limit set and posted for the construction or maintenance zone; and

(3) the dates during which the reduced speed limit was in effect.

P.A. 76–1586, § 11–605.2, added by P.A. 93–947, § 90, eff. Aug. 19, 2004. Amended by P.A. 96–1000, § 575, eff. July 2, 2010.

5/11–605.3. Special traffic protections while passing parks and recreation facilities and areas

§ 11–605.3. Special traffic protections while passing parks and recreation facilities and areas.

(a) As used in this Section:

(1) "Park district" means the following entities:

(A) any park district organized under the Park District Code;

(B) any park district organized under the Chicago Park District Act; and

(C) any municipality, county, forest district, school district, township, or other unit of local government that operates a public recreation department or public recreation facilities that has recreation facilities that are not on land owned by any park district listed in subparagraphs (A) and (B) of this subdivision (a)(1).

(2) "Park zone" means the recreation facilities and areas on any land owned or operated by a park district that are used for recreational purposes, including but not limited to: parks; playgrounds; swimming pools; hiking trails; bicycle paths; picnic areas; roads and streets; and parking lots.

(3) "Park zone street" means that portion of any street or intersection under the control of a local unit of government, adjacent to a park zone, where the local unit of government has, by ordinance or resolution, designated and approved the street or intersection as a park zone

street. If, before the effective date of this amendatory Act of the 94th General Assembly, a street already had a posted speed limit lower than 20 miles per hour, then the lower limit may be used for that park zone street.

(4) "Safety purposes" means the costs associated with: park zone safety education; the purchase, installation, and maintenance of signs, roadway painting, and caution lights mounted on park zone signs; and any other expense associated with park zones and park zone streets.

(b) On any day when children are present and within 50 feet of motorized traffic, a person may not drive a motor vehicle at a speed in excess of 20 miles per hour or any lower posted speed while traveling on a park zone street that has been designated for the posted reduced speed.

(c) On any day when children are present and within 50 feet of motorized traffic, any driver traveling on a park zone street who fails to come to a complete stop at a stop sign or red light, including a driver who fails to come to a complete stop at a red light before turning right onto a park zone street, is in violation of this Section.

(d) This Section does not apply unless appropriate signs are posted upon park zone streets maintained by the Department or by the unit of local government in which the park zone is located. With regard to the special speed limit on park zone streets, the signs must give proper due warning that a park zone is being approached and must indicate the maximum speed limit on the park zone street.

(e) A first violation of this Section is a petty offense with a minimum fine of $250. A second or subsequent violation of this Section is a petty offense with a minimum fine of $500.

(f) When a fine for a violation of this Section is imposed, the person who violates this Section shall be charged an additional $50, to be paid to the park district for safety purposes.

(g) The Department shall, within 6 months of the effective date of this amendatory Act of the 94th General Assembly, design a set of standardized traffic signs for park zones and park zone streets, including but not limited to: "park zone", "park zone speed limit", and "warning: approaching a park zone". The design of these signs shall be made available to all units of local government or manufacturers at no charge, except for reproduction and postage.

P.A. 76–1586, § 11–605.3, added by P.A. 94–808, § 5, eff. May 26, 2006.

The introductory paragraphs of P.A. 94–808 provided:

"WHEREAS, The Illinois General Assembly finds that laws protecting school-age children with legislation limiting speed limits near schools has successfully protected Illinois children for decades, and a considerable number of recreational facilities in Illinois often border or are in close proximity to educational facilities and do not have the same protections afforded to educational facilities; and

"WHEREAS, The Illinois General Assembly finds that ensuring Safe Streets near educational and recreational facilities is a goal requiring the full attention of this General Assembly and the full cooperation of the federal, State, and local units of government and their respective executive departments and agencies; therefore [P.A. 94–808 is enacted.]"

ARTICLE IX. RIGHT–OF–WAY

5/11–908. Vehicle approaching or entering a highway construction or maintenance area or zone

§ 11–908. Vehicle approaching or entering a highway construction or maintenance area or zone.

(a) The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.

(a–1) Upon entering a construction or maintenance zone when workers are present, a person who drives a vehicle shall:

(1) proceeding with due caution, make a lane change into a lane not adjacent to that of the workers present, if possible with due regard to safety and traffic conditions, if on a highway having at least 4 lanes with not less than 2 lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(a–2) A person who violates subsection (a–1) of this Section commits a business offense punishable by a fine of not less than $100 and not more than $10,000. It is a factor in aggravation if the person committed the offense while in violation of Section 11–501 of this Code.

(a–3) If a violation of subsection (a–1) of this Section results in damage to the property of another person, in addition to any other penalty imposed, the person's driving privileges shall be suspended for a fixed period of not less than 90 days and not more than one year.

(a–4) If a violation of subsection (a–1) of this Section results in injury to another person, in addition to any other penalty imposed, the person's driving privileges shall be suspended for a fixed period of not less than 180 days and not more than 2 years.

(a–5) If a violation of subsection (a–1) of this Section results in the death of another person, in addition to any other penalty imposed, the person's driving privileges shall be suspended for 2 years.

(a–6) The Secretary of State shall, upon receiving a record of a judgment entered against a person under subsection (a–1) of this Section:

(1) suspend the person's driving privileges for the mandatory period; or

(2) extend the period of an existing suspension by the appropriate mandatory period.

(b) The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway whenever the vehicle engaged in construction or maintenance work displays flashing lights as provided in Section 12–215 of this Act.

(c) The driver of a vehicle shall stop if signaled to do so by a flagger or a traffic control signal and remain in such position until signaled to proceed. If a driver of a vehicle fails to stop when signaled to do so by a flagger, the flagger is authorized to report such offense to the State's Attorney or authorized prosecutor. The penalties imposed for a violation of this subsection (c) shall be in addition to any penalties imposed for a violation of subsection (a–1).

P.A. 76–1586, § 11–908, added by P.A. 81–312, § 1, eff. Jan. 1, 1980. Amended by P.A. 84–873, § 1, eff. Jan. 1, 1986; P.A. 86–611, § 1, eff. Sept. 1, 1989; P.A. 92–872, § 5, eff. June 1, 2003; P.A. 93–705, § 5, eff. July 9, 2004.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–908.

ARTICLE X. PEDESTRIANS' RIGHTS AND DUTIES

5/11–1001. Pedestrian obedience to traffic control devices and traffic regulations

§ 11–1001. Pedestrian obedience to traffic control devices and traffic regulations.

(a) A pedestrian shall obey the instructions of any official traffic control device specifically applicable to him, unless otherwise directed by a police officer.

(b) Pedestrians shall be subject to traffic and pedestrian control signals provided in Sections 11–306 and 11–307 of this Chapter, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this Article.

P.A. 76–1586, § 11–1001, eff. July 1, 1970. Amended by P.A. 76–1734, § 1, eff. Oct. 6, 1969.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1001.

5/11–1002. Pedestrians' right-of-way at crosswalks

§ 11–1002. Pedestrians' right-of-way at crosswalks. (a) When traffic control signals are not in place or not in operation the driver of a vehicle shall stop and yield the right-of-way to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a moving vehicle which is so close as to constitute an immediate hazard.

(c) Paragraph (a) shall not apply under the condition stated in Section 11–1003 (b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(e) Whenever stop signs or flashing red signals are in place at an intersection or at a plainly marked crosswalk between intersections, drivers shall yield right-of-way to pedestrians as set forth in Section 11–904 of this Chapter.

P.A. 76–1586, § 11–1002, eff. July 1, 1970. Amended by P.A. 76–2168, § 1, eff. July 1, 1970; P.A. 77–329, § 1, eff. Jan. 1, 1972; P.A. 79–857, § 1, eff. Jan. 1, 1976; P.A. 96–1165, § 5, eff. July 22, 2010.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1002.

5/11–1002.5. Pedestrians' right–of–way at crosswalks; school zones

§ 11–1002.5. Pedestrians' right-of-way at crosswalks; school zones.

(a) For the purpose of this Section, "school" has the meaning ascribed to that term in Section 11–605.

On a school day when school children are present and so close thereto that a potential hazard exists because of the close proximity of the motorized traffic and when traffic control signals are not in place or not in operation, the driver of a vehicle shall stop and yield the right-of-way to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

For the purpose of this Section, a school day shall begin at seven ante meridian and shall conclude at four post meridian.

This Section shall not be applicable unless appropriate signs are posted in accordance with Section 11–605.

(b) A first violation of this Section is a petty offense with a minimum fine of $150. A second or subsequent violation of this Section is a petty offense with a minimum fine of $300.

(c) When a fine for a violation of subsection (a) is $150 or greater, the person who violates subsection (a) shall be charged an additional $50 to be paid to the unit school district where the violation occurred for school safety purposes. If the violation occurred in a dual school district, $25 of the surcharge shall be paid to the elementary school district for school safety purposes and $25 of the surcharge shall be paid to the high school district for school safety purposes. Notwithstanding any other provision of law, the entire $50 surcharge shall be paid to the appropriate school district or districts.

For purposes of this subsection (c), "school safety purposes" has the meaning ascribed to that term in Section 11–605.

P.A. 76–1586, § 11–1002.5, added by P.A. 95–302, § 5, eff. Jan. 1, 2008. Amended by P.A. 96–1165, § 5, eff. July 22, 2010.

5/11–1003. Crossing at other than crosswalks

§ 11–1003. Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(e) Pedestrians with disabilities may cross a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk where the intersection is physically inaccessible to them but they shall yield the right-of-way to all vehicles upon the roadway.

P.A. 76–1586, § 11–1003, eff. July 1, 1970. Amended by P.A. 76–2169, § 1, eff. July 1, 1970; P.A. 79–857, § 1, eff. Jan. 1, 1976; P.A. 80–1495, § 36, eff. Jan. 8, 1979; P.A. 88–685, § 5, eff. Jan. 24, 1995.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1003.

5/11–1003.1. Drivers to exercise due care

§ 11–1003.1. Drivers to exercise due care. Notwithstanding other provisions of this Code or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian, or any person operating a bicycle or other device propelled by human power and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person.

P.A. 76–1586, § 11–1003.1, added by P.A. 79–857, § 2, eff. Jan. 1, 1976. Amended by P.A. 82–132, § 1, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1003.1.

5/11–1004. Pedestrian with disabilities; right-of-way

§ 11–1004. Pedestrian with disabilities; right-of-way. The driver of a vehicle shall yield the right-of-way to any pedestrian with clearly visible disabilities.

P.A. 76–1586, § 11–1004, eff. July 1, 1970. Amended by P.A. 79–857, § 1, eff. Jan. 1, 1976; P.A. 82–222, § 5, eff. Jan. 1, 1982; P.A. 83–93, § 5, eff. Jan. 1, 1984; P.A. 88–685, § 5, eff. Jan. 24, 1995.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1004.

ARTICLE XIII. STOPPING, STANDING, AND PARKING

5/11–1303. Stopping, standing or parking prohibited in specified places

§ 11–1303. Stopping, standing or parking prohibited in specified places.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

1. Stop, stand or park a vehicle:

a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

b. On a sidewalk;

c. Within an intersection;

d. On a crosswalk;

e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

h. On any railroad tracks. A violation of any part of this subparagraph h. shall result in a mandatory fine of $500 or 50 hours of community service.

i. At any place where official signs prohibit stopping;

j. On any controlled-access highway;

k. In the area between roadways of a divided highway, including crossovers;

l. In a public parking area if the vehicle does not display a current annual registration sticker or current temporary permit pending registration.

2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:

a. In front of a public or private driveway;

b. Within 15 feet of a fire hydrant;

c. Within 20 feet of a crosswalk at an intersection;

d. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance (when properly sign-posted);

f. At any place where official signs prohibit standing.

3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

a. Within 50 feet of the nearest rail of a railroad crossing;

b. At any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

P.A. 76–1586, § 11–1303, eff. July 1, 1970. Amended by P.A. 77–1345, § 1, eff. Aug. 27, 1971; P.A. 79–1069, § 1, eff. Jan. 1, 1976; P.A. 89–245, § 5, eff. Jan. 1, 1996; P.A. 89–658, § 5, eff. Jan. 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1303.

5/11–1304. Additional parking regulations

§ 11–1304. Additional parking regulations. (a) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(b) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(c) Local authorities may permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or State highway unless the Department has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(d) The Department with respect to highways under its jurisdiction may place signs prohibiting, limiting, or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand or park any vehicle in violation of the restrictions indicated by such devices.

P.A. 76–1586, § 11–1304, eff. July 1, 1970. Amended by P.A. 79–801, § 1, eff. Oct. 1, 1975; P.A. 79–1069, § 1, eff. Jan. 1, 1976; P.A. 79–1454, § 44, eff. Aug. 31, 1976.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11–1304.

5/11–1304.5. Parking of vehicle with expired registration

§ 11–1304.5. Parking of vehicle with expired registration. No person may stop, park, or leave standing upon a public street, highway, or roadway a vehicle upon which is displayed an Illinois registration plate or plates or registration sticker after the termination of the registration period for which the registration plate or plates or registration sticker was issued or after the expiration date set under Section 3–414 or 3–414.1 of this Code.

P.A. 76–1586, § 11–1304.5, added by P.A. 91–487, § 5, eff. Jan. 1, 2000.

ARTICLE XIV. MISCELLANEOUS LAWS

5/11–1426. § 11–1426. Repealed by P.A. 96–279, § 15, eff. Jan. 1, 2010

5/11–1426.1. Operation of non-highway vehicles on streets, roads, and highways

§ 11–1426.1. Operation of non-highway vehicles on streets, roads, and highways.

(a) As used in this Section, "non-highway vehicle" means a motor vehicle not specifically designed to be used on a public highway, including:

(1) an all-terrain vehicle, as defined by Section 1–101.8 of this Code;

(2) a golf cart, as defined by Section 1–123.9;

(3) an off-highway motorcycle, as defined by Section 1–153.1; and

(4) a recreational off-highway vehicle, as defined by Section 1–168.8.

(b) Except as otherwise provided in this Section, it is unlawful for any person to drive or operate a non-highway vehicle upon any street, highway, or roadway in this State. If the operation of a non-highway vehicle is authorized under subsection (d), the non-highway vehicle may be operated only on streets where the posted speed limit is 35 miles per hour or less. This subsection (b) does not prohibit a non-highway vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(b–5) A person may not operate a non-highway vehicle upon any street, highway, or roadway in this State unless he or she has a valid driver's license issued in his or her name by the Secretary of State or by a foreign jurisdiction.

(c) No person operating a non-highway vehicle shall make a direct crossing upon or across any tollroad, interstate highway, or controlled access highway in this State. No person operating a non-highway vehicle shall make a direct crossing upon or across any other highway under the jurisdiction of the State except at an intersection of the highway with another public street, road, or highway.

(c–5) (Blank).

(d) A municipality, township, county, or other unit of local government may authorize, by ordinance or resolution, the operation of non-highway vehicles on roadways under its jurisdiction if the unit of local government determines that the public safety will not be jeopardized. The Department may authorize the operation of non-highway vehicles on the roadways under its jurisdiction if the Department determines that the public safety will not be jeopardized. The unit of local government or the Department may restrict the types of non-highway vehicles that are authorized to be used on its streets.

Before permitting the operation of non-highway vehicles on its roadways, a municipality, township, county, other unit of local government, or the Department must consider the volume, speed, and character of traffic on the roadway and determine whether non-highway vehicles may safely travel on or cross the roadway. Upon determining that non-highway vehicles may safely operate on a roadway and the adoption of an ordinance or resolution by a municipality, township, county, or other unit of local government, or authorization by the Department, appropriate signs shall be posted.

If a roadway is under the jurisdiction of more than one unit of government, non-highway vehicles may not be operated on the roadway unless each unit of government agrees and takes action as provided in this subsection.

(e) No non-highway vehicle may be operated on a roadway unless, at a minimum, it has the following: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving emblem (as required of other vehicles in Section 12–709 of this Code) on the rear of the non-highway vehicle, a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a roadway, a non-highway vehicle shall have its headlight and tail lamps lighted as required by Section 12–201 of this Code.

(f) A person who drives or is in actual physical control of a non- highway vehicle on a roadway while under the influence is subject to Sections 11–500 through 11–502 of this Code.

(g) Any person who operates a non-highway vehicle on a street, highway, or roadway shall be subject to the mandatory insurance requirements under Article VI of Chapter 7 of this Code.

(h) It shall not be unlawful for any person to drive or operate a non- highway vehicle, as defined in paragraphs (1) and (4) of subsection (a) of this Section, on a county roadway or township roadway for the purpose of conducting farming operations to and from the home, farm, farm buildings, and any adjacent or nearby farm land.

Non-highway vehicles, as used in this subsection (h), shall not be subject to subsections (e) and (g) of this Section. However, if the non- highway vehicle, as used in this Section, is not covered under a motor vehicle insurance policy pursuant to subsection (g) of this Section, the vehicle must be covered under a farm, home, or non-highway vehicle insurance policy issued with coverage amounts no less than the minimum amounts set for bodily injury or death and for destruction of property under Section 7–203 of this Code. Non-highway vehicles operated on a county or township roadway at any time between one-half hour before sunset and one-half hour after sunrise must be equipped with head lamps and tail lamps, and the head lamps and tail lamps must be lighted.

Non-highway vehicles, as used in this subsection (h), shall not make a direct crossing upon or across any tollroad, interstate highway, or controlled access highway in this State.

Non-highway vehicles, as used in this subsection (h), shall be allowed to cross a State highway, municipal street, county highway, or road district highway if the operator of the non-highway vehicle makes a direct crossing provided:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the street, road or highway and at a place where no obstruction prevents a quick and safe crossing;

(2) the non-highway vehicle is brought to a complete stop before attempting a crossing;

(3) the operator of the non-highway vehicle yields the right of way to all pedestrian and vehicular traffic which constitutes a hazard; and

(4) that when crossing a divided highway, the crossing is made only at an intersection of the highway with another public street, road, or highway.

(i) No action taken by a unit of local government under this Section designates the operation of a non-highway vehicle as an intended or permitted use of property with respect to Section 3–102 of the Local Governmental and Governmental Employees Tort Immunity Act.

P.A. 76–1586, § 11–1426.1, added by P.A. 94–298, § 5, eff. Jan. 1, 2006. Amended by P.A. 95–150, § 5, eff. Aug. 14, 2007; P.A. 95–414, § 5, eff. Aug. 24, 2007; P.A. 95–575, § 5, eff. Aug. 31, 2007; P.A. 95–876, § 300, eff. Aug. 21, 2008;

P.A. 96–279, § 10, eff. Jan. 1, 2010; P.A. 96–1434, § 5, eff. Aug. 11, 2010; P.A. 97–144, § 5, eff. July 14, 2011; P.A. 98–567, § 5, eff. Jan. 1, 2014.

5/11–1426.2. Operation of low-speed vehicles on streets

§ 11–1426.2. Operation of low-speed vehicles on streets.

(a) Except as otherwise provided in this Section, it is lawful for any person to drive or operate a low-speed vehicle upon any street in this State where the posted speed limit is 30 miles per hour or less.

(b) Low-speed vehicles may cross a street at an intersection where the street being crossed has a posted speed limit of not more than 45 miles per hour. Low–speed vehicles may not cross a street with a speed limit in excess of 45 miles per hour unless the crossing is at an intersection controlled by a traffic light or 4–way stop sign.

(c) The Department of Transportation or a municipality, township, county, or other unit of local government may prohibit, by regulation, ordinance, or resolution, the operation of low-speed vehicles on streets under its jurisdiction where the posted speed limit is 30 miles per hour or less if the Department of Transportation or unit of local government determines that the public safety would be jeopardized.

(d) Upon determining that low-speed vehicles may not safely operate on a street, and upon the adoption of an ordinance or resolution by a unit of local government, or regulation by the Department of Transportation, the operation of low-speed vehicles may be prohibited. The unit of local government or the Department of Transportation may prohibit the operation of low-speed vehicles on any and all streets under its jurisdiction. Appropriate signs shall be posted in conformance with the State Manual on Uniform Traffic Control Devices adopted pursuant to Section 11–301 of this Code.

(e) If a street is under the jurisdiction of more than one unit of local government, or under the jurisdiction of the Department of Transportation and one or more units of local government, low-speed vehicles may be operated on the street unless each unit of local government and the Department of Transportation agree and take action to prohibit such operation as provided in this Section.

(e–5) A unit of local government may, by ordinance or resolution, authorize the operation of low-speed vehicles on one or more streets under its jurisdiction that have a speed limit of more than 30 miles per hour but not greater than 35 miles per hour.

Before authorizing the operation of low-speed vehicles on any street under this subsection (e–5), the unit of local government must consider the volume, speed, and character of traffic on the street and determine whether low-speed vehicles may travel safely on that street.

If a street is under the jurisdiction of more than one unit of government, low-speed vehicles may not be operated on the street under this subsection (e–5) unless each unit of government agrees and takes action as provided in this subsection.

Upon the adoption of an ordinance authorizing low-speed vehicles under this subsection (e–5), appropriate signs shall be posted.

(f) No low-speed vehicle may be operated on any street unless, at a minimum, it has the following: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a street, a low-speed vehicle shall have its headlight and tail lamps lighted as required by Section 12–201 of this Code.

(g) A person may not operate a low-speed vehicle upon any street in this State unless he or she has a valid driver's license issued in his or her name by the Secretary of State or a foreign jurisdiction.

(h) The operation of a low-speed vehicle upon any street is subject to the provisions of Chapter 11 of this Code concerning the Rules of the Road, and applicable local ordinances.

(i) Every owner of a low-speed vehicle is subject to the mandatory insurance requirements specified in Article VI of Chapter 7 of this Code.

(j) Any person engaged in the retail sale of low-speed vehicles are required to comply with the motor vehicle dealer licensing, registration, and bonding laws of this State, as specified in Sections 5–101 and 5–102 of this Code.

(k) No action taken by a unit of local government under this Section designates the operation of a low-speed vehicle as an intended or permitted use of property with respect to Section 3–102 of the Local Governmental and Governmental Employees Tort Immunity Act.

P.A. 76–1586, § 11–1426.2, added by P.A. 96–653, § 5, eff. Jan. 1, 2010. Amended by P.A. 96–1434, § 5, eff. Aug. 11, 2010; P.A. 97–144, § 5, eff. July 14, 2011.

5/11–1428. § 11–1428. Repealed by P.A. 96–279, § 15, eff. Jan. 1, 2010

CHAPTER 12. EQUIPMENT OF VEHICLES

Enactment

The Illinois Vehicle Code was enacted by P.A. 76–1586, effective July 1, 1970. The Code constitutes a consolidated recodification of various earlier laws and acts including the Uniform Act Regulating Traffic on Highways.

ARTICLE II. LIGHTS AND LAMPS

5/12–205.1. Implements of husbandry or slow-moving vehicles—Display of amber signal lamp

§ 12–205.1. Implements of husbandry or slow-moving vehicles—Display of amber signal lamp. Every animal drawn vehicle, farm tractor, implement of husbandry and special mobile equipment, except when used for road construction or maintenance within the limits of a construction or maintenance project where traffic control devices are used in compliance with the applicable provisions of the manual and specifications adopted under Section 11–301 of the Illinois Vehicle Code, when operated on a highway during a time when lighted lamps are required by Section 12–201 of this Chapter, shall display to the rear at least one flashing amber signal lamp mounted as high as practicable and of sufficient intensity to be visible for a distance of at least 500 feet in normal sunlight; provided, that only the rearmost vehicle of a combination of vehicles coupled together need display such lamp. The flashing amber signal lamp may be operated lighted during daylight hours when other lamps are not required to be lighted when vehicles authorized in this Section are operated on a highway. Implements of husbandry manufactured on or after January 1, 2003 and operated on public roads between sunset and sunrise shall display mark-

ings and lighting that meet or exceed the design, performance, and mounting specifications adopted by the American Society of Agricultural Engineers and published by that body as ASAE S279.11 APR01.

P.A. 76–1586, § 12–205.1, added by P.A. 78–253, § 1, eff. Oct. 1, 1973. Amended by P.A. 84–285, § 1, eff. Jan. 1, 1986; P.A. 91–505, § 5, eff. Jan. 1, 2000; P.A. 92–820, § 5, eff. Aug. 21, 2002.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 12–205.1.

ARTICLE VI. MISCELLANEOUS REQUIREMENTS

5/12–601.1. Traffic control signal preemption devices

§ 12–601.1. Traffic control signal preemption devices.

(a) As used in this Section, "traffic control signal preemption device" means any device, either mechanical or electrical, that emits a pulse of light or other signal that, when received by a detector attached to a traffic control signal, changes that traffic control signal to a green light or, if the traffic control signal is already green, extends the duration of the green light.

(b) Except as provided in subsection (d), a traffic control signal preemption device may not be installed on a motor vehicle, may not be transported in the passenger compartment of a motor vehicle, and may not be operated by the driver or passenger of a motor vehicle.

Violation of this subsection (b) is a Class A misdemeanor, punishable by a fine of $1,000 in addition to any other penalty that may be imposed.

(c) A retailer or manufacturer may not sell a traffic control signal preemption device to any person or entity for any intended use other than operation as permitted under subsection (d).

Violation of this subsection (c) is a Class A misdemeanor, punishable by a fine of $5,000 for each sale of each device, in addition to any other penalty that may be imposed.

(d) Installation of a traffic control signal preemption device is permitted on the following vehicles, and operation of the device is permitted as follows:

(1) Police department vehicles, when responding to a bona fide emergency, when used in combination with red or blue oscillating, rotating, or flashing lights.

(2) Law enforcement vehicles of State or local authorities, when responding to a bona fide emergency, when used in combination with red oscillating, rotating, or flashing lights.

(3) Vehicles of local fire departments and State or federal firefighting vehicles, when responding to a bona fide emergency, when used in combination with red oscillating, rotating, or flashing lights.

(4) Vehicles that are designed and used exclusively as ambulances or rescue vehicles, when responding to a bona fide emergency, when used in combination with red oscillating, rotating, or flashing lights.

(5) Vehicles that are equipped and used exclusively as organ transport vehicles, when the transportation is declared an emergency by a member of the transplant team or a representative of the organ procurement organization, when used in combination with red oscillating, rotating, or flashing lights.

(6) Vehicles of the Illinois Emergency Management Agency and vehicles of the Department of Nuclear Safety, when responding to a bona fide emergency, when used in combination with red oscillating, rotating, or flashing lights.

(7) Commuter buses owned by any political subdivision of this State, operated either by the political subdivision or its lessee or agent, and offering short-haul for-hire regularly scheduled passenger transportation service, over regular routes with fixed schedules, within metropolitan and suburban areas, when used to extend the duration of an already green light to meet schedules.

(8) Vehicles used for snow removal owned by any political subdivision of this State, operated either by the political subdivision or its lessee or agent, when used during a snow emergency in combination with yellow or amber oscillating, rotating, or flashing lights, when used to extend the duration of an already green light.

(e) This Section does not prohibit use by motorcycles of electronic or magnetic safety devices designed to allow traffic control signal systems to recognize or detect motorcycles.

P.A. 76–1586, § 12–601.1, added by P.A. 93–80, § 5, eff. July 2, 2003.

5/12–601.2. Traffic control signal preemption devices; ambulances

§ 12–601.2. Traffic control signal preemption devices; ambulances.

(a) In a county with a population of 2,000,000 or more, subject to appropriation, any ambulance owned or operated by a municipality with a population of less than 500,000 must be equipped with a traffic control signal preemption device as defined in Section 12–601.1 of this Code, if any route used by that ambulance includes any roadway that is equipped with traffic control signal preemption technology.

(b) In counties with a population of less than 2,000,000, subject to appropriation, any ambulance owned or operated by a municipality with a population of more than 50,000 must be equipped with a traffic control signal preemption device as defined in Section 12–601.1 of this Code, if any route used by that ambulance includes any roadway that is equipped with traffic control signal preemption technology.

(c) The Traffic Control Signal Preemption Devices for Ambulances Fund is created as a special fund in the State treasury. The Traffic Control Signal Preemption Devices for Ambulances Fund may receive private gifts and contributions. All moneys in the Traffic Control Signal Preemption Devices for Ambulances Fund shall, subject to appropriation by the General Assembly and approval by the Secretary, be paid as grants to municipalities subject to the requirements of this Section for the purpose of equipping their ambulances with traffic control signal preemption devices. The moneys in the Fund may not be used for any other purpose.

P.A. 76–1586, § 12–601.2, added by P.A. 94–373, § 10, eff. Jan. 1, 2006.

5/12–602.1. Excessive engine braking noise signs

§ 12–602.1. Excessive engine braking noise signs.

(a) A county or municipality may post signs that prohibit the driver of a commercial vehicle, as defined in Section 1–111.8 of this Code, from operating or actuating any engine braking system that emits excessive noise. The Department of Transportation may erect and maintain the signs on interstate highways near weigh stations that are adjacent to residential areas or communities.

(b) The sign shall state, "EXCESSIVE ENGINE BRAKING NOISE PROHIBITED". The Department of Trans-

portation shall adopt rules providing for the erection and placement of these signs.

(c) This Section does not apply to the use of an engine braking system that has an adequate sound muffling system in proper working order that prevents excessive noise.

(d) It is a defense to this Section that the driver used an engine braking system that emits excessive noise in an emergency to avoid a collision with a person or another vehicle on the highway.

(e) A violation of this Section is an equipment violation punishable by a fine of $75.

P.A. 76–1586, § 12–602.1, added by P.A. 94–756, § 5, eff. Jan. 1, 2007. Amended by P.A. 96–523, § 5, eff. Jan. 1, 2010.

ARTICLE VII. SPECIAL REQUIREMENTS FOR VEHICLES OF THE SECOND DIVISION

5/12–705.1. Required use of biodiesel by certain vehicles

§ 12–705.1. Required use of biodiesel by certain vehicles.

(a) Beginning July 1, 2006, any diesel powered vehicle owned or operated by this State, any county or unit of local government, any school district, any community college or public college or university, or any mass transit agency must, when refueling at a bulk central fueling facility, use a biodiesel blend that contains 5% biodiesel, as those terms are defined in the Illinois Renewable Fuels Development Program Act, where available, unless the engine is designed or retrofitted to operate on a higher percentage of biodiesel or on ultra low sulfur fuel.

(b) Nothing in this Section prohibits any unit of government from using a biodiesel blend containing more than 2% biodiesel.

(c) As used in this Section, a "bulk central fueling facility" means a non-commercial fueling facility whose primary purpose is the fueling of vehicles owned or operated by the State, a county or unit of local government, a school district, a community college or public college or university, or a mass transit agency.

(d) The Secretary of Transportation shall adopt rules for implementing this Section.

P.A. 76–1586, § 12–705.1, added by P.A. 94–346, § 5, eff. July 28, 2005. Amended by P.A. 96–281, § 5, eff. Aug. 11, 2009.

5/12–709. Slow-moving vehicle emblem

§ 12–709. Slow–moving vehicle emblem.

(a) Every animal drawn vehicle, farm tractor, implement of husbandry and special mobile equipment, when operated on a highway must display a slow- moving vehicle emblem mounted on the rear except as provided in paragraph (b) of this Section. Special mobile equipment is exempt when operated within the limits of a construction or maintenance project where traffic control devices are used in compliance with the applicable provisions of the manual and specifications adopted under Section 11–301 of the "Illinois Vehicle Code".

(b) Every vehicle or unit described in paragraph (a) of this Section when operated in combination on a highway must display a slow-moving vehicle emblem as follows:

1. Where the towed unit or any load thereon partially or totally obscures the slow-moving vehicle emblem on the towing unit, the towed unit shall be equipped with a slow-moving vehicle emblem. In such cases the towing unit need not display the emblem.

2. Where the slow-moving vehicle emblem on the towing unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem but it shall be sufficient if either displays it.

3. A registered truck towed behind a farm tractor in conformity with the provisions of Section 11–1418 of the "Illinois Vehicle Code" must display a slow-moving vehicle emblem in the manner provided in paragraph (c) while being towed on a highway if the emblem on the towing vehicle is partially or totally obscured.

(c) The slow-moving vehicle emblem required by paragraphs (a) and (b) of this Section must meet or exceed the specifications and mounting requirements established by the Department. Such specifications and mounting requirements shall, on and before August 31, 2004, be based on the specifications adopted by the American Society of Agricultural Engineers and published by that body as ASAE S 276.2 dated March, 1968 or as ASAE S 276.5. On and after September 1, 2004, the specifications and mounting requirements shall be based on the specifications adopted by the American Society of Agricultural Engineers and published by that body as ASAE S 276.5 NOV 97. No advertising or other marking shall appear upon the emblem except that specified by the American Society of Agricultural Engineers to identify the standard to which the material complies. Each original package containing a slow-moving vehicle emblem shall display a notice on the outside of the package stating that such emblem shall only be used for the purposes stated in subsections (a) and (b).

(d) A slow-moving vehicle emblem is intended as a safety identification device and shall not be displayed on any vehicle nor displayed in any manner other than as described in paragraphs (a), (b) and (c) of this Section. A slow-moving vehicle emblem may not be displayed in public view from a highway on an object other than a vehicle or unit described in subsection (a) of this Section or a vehicle required to display a slow-moving vehicle emblem under subsection (e) of Section 11–1426.1 of this Code. A violation of this subsection (d) is a petty offense punishable by a fine of $75.

P.A. 76–1586, § 12–141 added by P.A. 76–2192, § 1, eff. July 1, 1970. Renumbered § 12–709 by P.A. 77–37, § 1, eff. Jan. 1, 1972. Amended by P.A. 78–253, § 1, eff. Oct. 1, 1973; P.A. 78–748, § 1, eff. Jan. 1, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 86–1259, § 1, eff. Jan. 1, 1991; P.A. 91–505, § 5, eff. Jan. 1, 2000; P.A. 92–72, § 5, eff. Jan. 1, 2002; P.A. 97–958, § 5, eff. Aug. 15, 2012.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 12–709.

5/12–712. Construction equipment to display company name

§ 12–712. Construction equipment to display company name.

(a) Construction equipment that is capable of being self propelled or any construction equipment capable of being towed shall display on the side of the equipment the name of the company for which it is employed. The name shall be in letters at least 2 inches tall and one-half inch wide. This Section shall not apply to any motor vehicle upon which is affixed the insignia required under Section 18c–4701 of the Illinois Commercial Transportation Law.[1]

(b) Any person convicted of violating this Section shall be guilty of a petty offense and subject to a fine not to exceed $100.

P.A. 76–1586, § 12–712, added by P.A. 87–1160, § 1, eff. Jan. 1, 1993. Amended by P.A. 88–45, Art. II, § 2–54, eff. July 6, 1993.

Formerly Ill.Rev.Stat., ch. 95½, ¶ 12–712.

[1] 625 ILCS 5/18c–4701.

5/12–713. Commercial trucks used by construction contractors or subcontractors to display company name

§ 12–713. Commercial trucks used by construction contractors or subcontractors to display company name.

(a) Every second division vehicle operating commercially in this State that is used by a construction contractor or subcontractor shall display on the side of the vehicle or its trailer the name of the company for which it is employed. The name shall be in letters at least 2 inches tall and one-half inch wide. This Section shall not apply to any motor vehicle upon which is affixed the insignia required under Section 18c–4701 of the Illinois Commercial Transportation Law.[1]

(b) Any person convicted of violating this Section shall be guilty of a petty offense and subject to a fine of not less than $500.

P.A. 76–1586, § 12–713, added by P.A. 87–1160, § 1, eff. Jan. 1, 1993. Amended by P.A. 88–45, Art. II, § 2–54, eff. July 6, 1993; P.A. 96–1179, § 5, eff. Jan. 1, 2011.

Formerly Ill.Rev.Stat., ch. 95½, ¶ 12–713.

[1] 625 ILCS 5/18c–4701.

CHAPTER 15. SIZE, WEIGHT, AND LOAD PERMITS

Enactment

The Illinois Vehicle Code was enacted by P.A. 76–1586, effective July 1, 1970. The Code constitutes a consolidated recodification of various earlier laws and acts including the Uniform Act Regulating Traffic on Highways.

5/15–100. § 15–100. Repealed by P.A. 90–89, § 20, eff. Jan. 1, 1998

ARTICLE I. SIZE, WEIGHT AND LOAD

5/15–101. Scope and effect of Chapter 15

§ 15–101. Scope and effect of Chapter 15.

(a) It is unlawful for any person to drive or move on, upon or across or for the owner to cause or knowingly permit to be driven or moved on, upon or across any highway any vehicle or vehicles of a size and weight exceeding the limitations stated in this Chapter or otherwise in violation of this Chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout this State, and local authorities shall have no power or authority to alter such limitations except as express authority may be granted in this Chapter.

(b) The provisions of this Chapter governing size, weight and load do not apply to fire apparatus or equipment for snow and ice removal operations owned or operated by any governmental body, or to implements of husbandry, as defined in Chapter 1 of this Code,[1] temporarily operated or towed in a combination upon a highway provided such combination does not consist of more than 3 vehicles or, in the case of hauling fresh, perishable fruits or vegetables from farm to the point of first processing, not more than 3 wagons being towed by an implement of husbandry, or to a vehicle operated under the terms of a special permit issued hereunder.

(c) The provisions of this Chapter governing size, weight, and load do not apply to any snow and ice removal equipment that is no more than 12 feet in width, if the equipment displays flags at least 18 inches square mounted on the driver's side of the snow plow.

These vehicles must be equipped with an illuminated rotating, oscillating, or flashing amber light or lights, or a flashing amber strobe light or lights, mounted on the top of the cab and of sufficient intensity to be visible at 500 feet in normal sunlight. If the load on the transport vehicle blocks the visibility of the amber lighting from the rear of the vehicle, the vehicle must also be equipped with an illuminated rotating, oscillating, or flashing amber light or lights, or a flashing amber strobe light or lights, mounted on the rear of the load and of sufficient intensity to be visible at 500 feet in normal sunlight.

P.A. 76–1586, § 15–101, eff. July 1, 1970. Amended by P.A. 76–1694, § 1; P.A. 76–2194, § 1, eff. July 1, 1970; P.A. 83–831, § 1, eff. Jan. 1, 1984; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 94–270, § 5, eff. Jan. 1, 2006.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–101.

[1] 625 ILCS 5/1–101 et seq.

5/15–102. Width of Vehicles

§ 15–102. Width of Vehicles.

(a) On Class III and non-designated State and local highways, the total outside width of any vehicle or load thereon shall not exceed 8 feet 6 inches.

(b) Except during those times when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1000 feet, the following vehicles may exceed the 8 feet 6 inch limitation during the period from a half hour before sunrise to a half hour after sunset:

(1) Loads of hay, straw or other similar farm products provided that the load is not more than 12 feet wide.

(2) Implements of husbandry being transported on another vehicle and the transporting vehicle while loaded.

The following requirements apply to the transportation on another vehicle of an implement of husbandry wider than 8 feet 6 inches on the National System of Interstate and Defense Highways or other highways in the system of State highways:

(A) The driver of a vehicle transporting an implement of husbandry that exceeds 8 feet 6 inches in width shall obey all traffic laws and shall check the roadways prior to making a movement in order to ensure that adequate clearance is available for the movement. It is prima facie evidence that the driver of a vehicle transporting an implement of husbandry has failed to check the roadway prior to making a movement if the vehicle is involved in a collision with a bridge, overpass, fixed structure, or properly placed traffic control device or if the vehicle blocks traffic due to its inability to proceed because of a bridge, overpass, fixed structure, or properly placed traffic control device.

(B) Flags shall be displayed so as to wave freely at the extremities of overwidth objects and at the extreme ends of all protrusions, projections, and overhangs. All flags shall be clean, bright red flags with no advertising, wording, emblem, or insignia inscribed upon them and at least 18 inches square.

(C) "OVERSIZE LOAD" signs are mandatory on the front and rear of all vehicles with loads over 10 feet wide. These signs must have 12–inch high black letters

with a 2–inch stroke on a yellow sign that is 7 feet wide by 18 inches high.

(D) One civilian escort vehicle is required for a load that exceeds 14 feet 6 inches in width and 2 civilian escort vehicles are required for a load that exceeds 16 feet in width on the National System of Interstate and Defense Highways or other highways in the system of State highways.

(E) The requirements for a civilian escort vehicle and driver are as follows:

(1) The civilian escort vehicle shall be a passenger car or a second division vehicle not exceeding a gross vehicle weight of 8,000 pounds that is designed to afford clear and unobstructed vision to both front and rear.

(2) The escort vehicle driver must be properly licensed to operate the vehicle.

(3) While in use, the escort vehicle must be equipped with illuminated rotating, oscillating, or flashing amber lights or flashing amber strobe lights mounted on top that are of sufficient intensity to be visible at 500 feet in normal sunlight.

(4) "OVERSIZE LOAD" signs are mandatory on all escort vehicles. The sign on an escort vehicle shall have 8–inch high black letters on a yellow sign that is 5 feet wide by 12 inches high.

(5) When only one escort vehicle is required and it is operating on a two-lane highway, the escort vehicle shall travel approximately 300 feet ahead of the load. The rotating, oscillating, or flashing lights or flashing amber strobe lights and an "OVERSIZE LOAD" sign shall be displayed on the escort vehicle and shall be visible from the front. When only one escort vehicle is required and it is operating on a multilane divided highway, the escort vehicle shall travel approximately 300 feet behind the load and the sign and lights shall be visible from the rear.

(6) When 2 escort vehicles are required, one escort shall travel approximately 300 feet ahead of the load and the second escort shall travel approximately 300 feet behind the load. The rotating, oscillating, or flashing lights or flashing amber strobe lights and an "OVERSIZE LOAD" sign shall be displayed on the escort vehicles and shall be visible from the front on the lead escort and from the rear on the trailing escort.

(7) When traveling within the corporate limits of a municipality, the escort vehicle shall maintain a reasonable and proper distance from the oversize load, consistent with existing traffic conditions.

(8) A separate escort shall be provided for each load hauled.

(9) The driver of an escort vehicle shall obey all traffic laws.

(10) The escort vehicle must be in safe operational condition.

(11) The driver of the escort vehicle must be in radio contact with the driver of the vehicle carrying the oversize load.

(F) A transport vehicle while under load of more than 8 feet 6 inches in width must be equipped with an illuminated rotating, oscillating, or flashing amber light or lights or a flashing amber strobe light or lights mounted on the top of the cab that are of sufficient intensity to be visible at 500 feet in normal sunlight. If the load on the transport vehicle blocks the visibility of the amber lighting from the rear of the vehicle, the vehicle must also be equipped with an illuminated rotating, oscillating, or flashing amber light or lights or a flashing amber strobe light or lights mounted on the rear of the load that are of sufficient intensity to be visible at 500 feet in normal sunlight.

(G) When a flashing amber light is required on the transport vehicle under load and it is operating on a two-lane highway, the transport vehicle shall display to the rear at least one rotating, oscillating, or flashing light or a flashing amber strobe light and an "OVERSIZE LOAD" sign. When a flashing amber light is required on the transport vehicle under load and it is operating on a multilane divided highway, the sign and light shall be visible from the rear.

(H) Maximum speed shall be 45 miles per hour on all such moves or 5 miles per hour above the posted minimum speed limit, whichever is greater, but the vehicle shall not at any time exceed the posted maximum speed limit.

(3) Portable buildings designed and used for agricultural and livestock raising operations that are not more than 14 feet wide and with not more than a 1 foot overhang along the left side of the hauling vehicle. However, the buildings shall not be transported more than 10 miles and not on any route that is part of the National System of Interstate and Defense Highways.

All buildings when being transported shall display at least 2 red cloth flags, not less than 12 inches square, mounted as high as practicable on the left and right side of the building.

A State Police escort shall be required if it is necessary for this load to use part of the left lane when crossing any 2 laned State highway bridge.

(c) Vehicles propelled by electric power obtained from overhead trolley wires operated wholly within the corporate limits of a municipality are also exempt from the width limitation.

(d) (Blank).

(d–1) A recreational vehicle, as defined in Section 1–169, may exceed 8 feet 6 inches in width if:

(1) the excess width is attributable to appurtenances that extend 6 inches or less beyond either side of the body of the vehicle; and

(2) the roadway on which the vehicle is traveling has marked lanes for vehicular traffic that are at least 11 feet in width.

As used in this subsection (d–1) and in subsection (d–2), the term appurtenance includes (i) a retracted awning and its support hardware and (ii) any appendage that is intended to be an integral part of a recreation vehicle.

(d–2) A recreational vehicle that exceeds 8 feet 6 inches in width as provided in subsection (d–1) may travel any roadway of the State if the vehicle is being operated between a roadway permitted under subsection (d–1) and:

(1) the location where the recreation vehicle is garaged;

(2) the destination of the recreation vehicle; or

(3) a facility for food, fuel, repair, services, or rest.

(e) A vehicle and load traveling upon the National System of Interstate and Defense Highways or any other highway in the system of State highways that has been designated as a Class I or Class II highway by the Department, or any street or highway designated by local authorities, may have a total outside width of 8 feet 6 inches, provided that certain safety

devices that the Department determines as necessary for the safe and efficient operation of motor vehicles shall not be included in the calculation of width.

Section 5–35 of the Illinois Administrative Procedure Act [1] relating to procedures for rulemaking shall not apply to the designation of highways under this paragraph (e).

(f) Mirrors required by Section 12–502 of this Code and other safety devices identified by the Department may project up to 14 inches beyond each side of a bus and up to 6 inches beyond each side of any other vehicle, and that projection shall not be deemed a violation of the width restrictions of this Section.

(g) Any person who is convicted of violating this Section is subject to the penalty as provided in paragraph (b) of Section 15–113.

P.A. 76–1586, § 15–102, eff. July 1, 1970. Amended by P.A. 76–2195, § 1, eff. July 1, 1970; P.A. 77–123, § 1, eff. Jan. 1, 1972; P.A. 78–510, § 1, eff. Oct. 1, 1973; P.A. 80–574, § 1, eff. Oct. 1, 1977; P.A. 80–1173, § 1, eff. July 1, 1978; P.A. 80–1364, § 36, eff. Aug. 13, 1978; P.A. 83–12, § 1, eff. July 1, 1983; P.A. 83–848, § 1, eff. Jan. 1, 1984; P.A. 83–1362, Art. II, § 99, eff. Sept. 11, 1984; P.A. 84–691, § 1, eff. Jan. 1, 1986; P.A. 86–1236, § 1, eff. Jan. 1, 1991; P.A. 87–217, § 4, eff. Jan. 1, 1992; P.A. 87–1160, § 1, eff. Jan. 1, 1993; P.A. 87–1203, § 1, eff. Sept. 25, 1992; P.A. 88–45, Art. II, § 2–54, eff. July 6, 1993; P.A. 88–476, § 2, eff. July 1, 1994; P.A. 88–517, § 10, eff. Nov. 16, 1993; P.A. 88–589, § 10, eff. Aug. 14, 1994; P.A. 88–670, Art. 2, § 2–59, eff. Dec. 2, 1994; P.A. 88–675, § 5, eff. Dec. 14, 1994; P.A. 88–684, § 5, eff. Jan. 24, 1995; P.A. 89–551, § 5, eff. Jan. 1, 1997; P.A. 89–658, § 5, eff. Jan. 1, 1997; P.A. 90–14, Art. 2, § 2–225, eff. July 1, 1997; P.A. 91–780, § 5, eff. June 9, 2000; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 93–177, § 10, eff. July 11, 2003; P.A. 94–949, § 5, eff. Jan. 1, 2007; P.A. 96–34, § 955, eff. Jan. 1, 2010; P.A. 96–37, § 60–40, eff. Jan. 1, 2010; P.A. 96–220, § 5, eff. Jan. 1, 2010; P.A. 96–1000, § 575, eff. July 2, 2010.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–102.

[1] 5 ILCS 100/5–35.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

5/15–103. Height of vehicles

§ 15–103. Height of vehicles. The height of a vehicle from the under side of the tire to the top of the vehicle, inclusive of load, shall not exceed 13 feet, 6 inches on any highway in the State.

A person convicted of violating this Section is subject to the penalty provided in paragraph (b) of Section 15–113.

P.A. 76–1586, § 15–103, eff. July 1, 1970. Amended by P.A. 83–831, § 1, eff. Jan. 1, 1984; P.A. 92–417, § 5, eff. Jan. 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–103.

5/15–105. Projecting loads on passenger vehicles

§ 15–105. Projecting loads on passenger vehicles. No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than 6 inches beyond the line of the fenders on the right side thereof.

P.A. 76–1586, § 15–105, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–105.

5/15–106. Protruding members of vehicles

§ 15–106. Protruding members of vehicles.

No vehicle with boom, arm, drill rig or other protruding component shall be operated upon any highway in this State unless such protruding component is fastened so as to prevent shifting, bouncing or moving in any manner.

P.A. 76–1586, § 15–106, eff. July 1, 1970. Amended by P.A. 92–417, § 5, eff. Jan. 1, 2002.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–106.

5/15–107. Length of vehicles

§ 15–107. Length of vehicles.

(a) The maximum length of a single vehicle on any highway of this State may not exceed 42 feet except the following:

(1) Semitrailers.

(2) Charter or regulated route buses may be up to 45 feet in length, not including energy absorbing bumpers.

(a–1) A motor home as defined in Section 1–145.01 may be up to 45 feet in length, not including energy absorbing bumpers. The length limitations described in this subsection (a–1) shall be exclusive of energy-absorbing bumpers and rear view mirrors.

(b) On all non-State highways, the maximum length of vehicles in combinations is as follows:

(1) A truck tractor in combination with a semitrailer may not exceed 55 feet overall dimension.

(2) A truck tractor-semitrailer-trailer or truck tractor semitrailer- semitrailer may not exceed 60 feet overall dimension.

(3) Combinations specially designed to transport motor vehicles or boats may not exceed 60 feet overall dimension.

Vehicles operating during daylight hours when transporting poles, pipes, machinery, or other objects of a structural nature that cannot readily be dismembered are exempt from length limitations, provided that no object may exceed 80 feet in length and the overall dimension of the vehicle including the load may not exceed 100 feet. This exemption does not apply to operation on a Saturday, Sunday, or legal holiday. Legal holidays referred to in this Section are the days on which the following traditional holidays are celebrated: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties are exempt from length limitations, provided that during night operations every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps on the extreme ends of any projecting load to clearly mark the dimensions of the load.

A tow truck in combination with a disabled vehicle or combination of disabled vehicles, as provided in paragraph

(6) of subsection (c) of this Section, is exempt from length limitations.

All other combinations not listed in this subsection (b) may not exceed 60 feet overall dimension.

(c) Except as provided in subsections (c–1) and (c–2), combinations of vehicles may not exceed a total of 2 vehicles except the following:

(1) A truck tractor semitrailer may draw one trailer.

(2) A truck tractor semitrailer may draw one converter dolly or one semitrailer.

(3) A truck tractor semitrailer may draw one vehicle that is defined in Chapter 1 [1] as special mobile equipment, provided the overall dimension does not exceed 60 feet.

(4) A truck in transit may draw 3 trucks in transit coupled together by the triple saddlemount method.

(5) Recreational vehicles consisting of 3 vehicles, provided the following:

(A) The total overall dimension does not exceed 60 feet.

(B) The towing vehicle is a properly registered vehicle capable of towing another vehicle using a fifth-wheel type assembly.

(C) The second vehicle in the combination of vehicles is a recreational vehicle that is towed by a fifth-wheel assembly. This vehicle must be properly registered and must be equipped with brakes, regardless of weight.

(D) The third vehicle must be the lightest of the 3 vehicles and be a trailer or semitrailer designed or used for transporting a boat, all-terrain vehicle, personal watercraft, or motorcycle.

(E) The towed vehicles may be only for the use of the operator of the towing vehicle.

(F) All vehicles must be properly equipped with operating brakes and safety equipment required by this Code, except the additional brake requirement in subdivision (C) of this subparagraph (5).

(6) A tow truck in combination with a disabled vehicle or combination of disabled vehicles, provided the towing vehicle:

(A) Is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes. For the purpose of this subsection, gross vehicle weight rating, or GVWR, means the value specified by the manufacturer as the loaded weight of the tow truck.

(B) Is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions.

(C) Is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles.

(D) Does not engage a tow exceeding 50 highway miles from the initial point of wreck or disablement to a place of repair. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15–301 through 15–319 of this Code.

The Department may by rule or regulation prescribe additional requirements regarding length limitations for a tow truck towing another vehicle.

For purposes of this Section, a tow-dolly that merely serves as substitute wheels for another legally licensed vehicle is considered part of the licensed vehicle and not a separate vehicle.

(7) Commercial vehicles consisting of 3 vehicles, provided the following:

(A) The total overall dimension does not exceed 65 feet.

(B) The towing vehicle is a properly registered vehicle capable of towing another vehicle using a fifth-wheel type assembly or a goose-neck hitch ball.

(C) The third vehicle must be the lightest of the 3 vehicles and be a trailer or semitrailer.

(D) All vehicles must be properly equipped with operating brakes and safety equipment required by this Code.

(E) The combination of vehicles must be operated by a person who holds a commercial driver's license (CDL).

(F) The combination of vehicles must be en route to a location where new or used trailers are sold by an Illinois or out-of-state licensed new or used trailer dealer.

(c–1) A combination of 3 vehicles is allowed access to any State designated highway if:

(1) the length of neither towed vehicle exceeds 28.5 feet;

(2) the overall wheel base of the combination of vehicles does not exceed 62 feet; and

(3) the combination of vehicles is en route to a location where new or used trailers are sold by an Illinois or out-of-state licensed new or used trailer dealer.

(c–2) A combination of 3 vehicles is allowed access from any State designated highway onto any county, township, or municipal highway for a distance of 5 highway miles for the purpose of delivery or collection of one or both of the towed vehicles if:

(1) the length of neither towed vehicle exceeds 28.5 feet;

(2) the combination of vehicles does not exceed 40,000 pounds in gross weight and 8 feet 6 inches in width;

(3) there is no sign prohibiting that access;

(4) the route is not being used as a thoroughfare between State designated highways; and

(5) the combination of vehicles is en route to a location where new or used trailers are sold by an Illinois or out-of-state licensed new or used trailer dealer.

(d) On Class I highways there are no overall length limitations on motor vehicles operating in combinations provided:

(1) The length of a semitrailer, unladen or with load, in combination with a truck tractor may not exceed 53 feet.

(2) The distance between the kingpin and the center of the rear axle of a semitrailer longer than 48 feet, in combination with a truck tractor, may not exceed 45 feet 6 inches. The limit contained in this paragraph (2) shall not apply to trailers or semi-trailers used for the transport of livestock as defined by Section 18b–101.

(3) The length of a semitrailer or trailer, unladen or with load, operated in a truck tractor-semitrailer-trailer or truck tractor semitrailer- semitrailer combination, may not exceed 28 feet 6 inches.

(4) Maxi–cube combinations, as defined in Chapter 1, may not exceed 65 feet overall dimension.

(5) Combinations of vehicles specifically designed to transport motor vehicles or boats may not exceed 65 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of

the transported vehicles, as provided in paragraph (i) of this Section.

(6) Stinger steered semitrailer vehicles as defined in Chapter 1, specifically designed to transport motor vehicles or boats, may not exceed 75 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.

(7) A truck in transit transporting 3 trucks coupled together by the triple saddlemount method may not exceed 75 feet overall dimension.

Vehicles operating during daylight hours when transporting poles, pipes, machinery, or other objects of a structural nature that cannot readily be dismembered are exempt from length limitations, provided that no object may exceed 80 feet in length and the overall dimension of the vehicle including the load may not exceed 100 feet. This exemption does not apply to operation on a Saturday, Sunday, or legal holiday. Legal holidays referred to in this Section are the days on which the following traditional holidays are celebrated: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties are exempt from length limitations, provided that during night operations every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps on the extreme ends of any projecting load to clearly mark the dimensions of the load.

A tow truck in combination with a disabled vehicle or combination of disabled vehicles, as provided in paragraph (6) of subsection (c) of this Section, is exempt from length limitations.

The length limitations described in this paragraph (d) shall be exclusive of safety and energy conservation devices, such as bumpers, refrigeration units or air compressors and other devices, that the Department may interpret as necessary for safe and efficient operation; except that no device excluded under this paragraph shall have by its design or use the capability to carry cargo.

Section 5–35 of the Illinois Administrative Procedure Act [2] relating to procedures for rulemaking shall not apply to the designation of highways under this paragraph (d).

(e) On Class II highways there are no overall length limitations on motor vehicles operating in combinations, provided:

(1) The length of a semitrailer, unladen or with load, in combination with a truck tractor, may not exceed 53 feet overall dimension.

(2) The distance between the kingpin and the center of the rear axle of a semitrailer longer than 48 feet, in combination with a truck tractor, may not exceed 45 feet 6 inches. The limit contained in this paragraph (2) shall not apply to trailers or semi-trailers used for the transport of livestock as defined by Section 18b–101.

(3) A truck tractor-semitrailer-trailer or truck tractor semitrailer- semitrailer combination may not exceed 65 feet in dimension from front axle to rear axle.

(4) The length of a semitrailer or trailer, unladen or with load, operated in a truck tractor-semitrailer-trailer or truck tractor semitrailer- semitrailer combination, may not exceed 28 feet 6 inches.

(5) Maxi–cube combinations, as defined in Chapter 1, may not exceed 65 feet overall dimension.

(6) A combination of vehicles, specifically designed to transport motor vehicles or boats, may not exceed 65 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.

(7) Stinger steered semitrailer vehicles, as defined in Chapter 1, specifically designed to transport motor vehicles or boats, may not exceed 75 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.

(8) A truck in transit transporting 3 trucks coupled together by the triple saddlemount method may not exceed 75 feet overall dimension.

Vehicles operating during daylight hours when transporting poles, pipes, machinery, or other objects of a structural nature that cannot readily be dismembered are exempt from length limitations, provided that no object may exceed 80 feet in length and the overall dimension of the vehicle including the load may not exceed 100 feet. This exemption does not apply to operation on a Saturday, Sunday, or legal holiday. Legal holidays referred to in this Section are the days on which the following traditional holidays are celebrated: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties are exempt from length limitations, provided that during night operations every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps on the extreme ends of any projecting load to clearly mark the dimensions of the load.

A tow truck in combination with a disabled vehicle or combination of disabled vehicles, as provided in paragraph (6) of subsection (c) of this Section, is exempt from length limitations.

Local authorities, with respect to streets and highways under their jurisdiction, may also by ordinance or resolution allow length limitations of this subsection (e).

The length limitations described in this paragraph (e) shall be exclusive of safety and energy conservation devices, such as bumpers, refrigeration units or air compressors and other devices, that the Department may interpret as necessary for safe and efficient operation; except that no device excluded under this paragraph shall have by its design or use the capability to carry cargo.

Section 5–35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to the designation of highways under this paragraph (e).

(e–1) Combinations of vehicles not exceeding 65 feet overall length are allowed access as follows:

(1) From any State designated highway onto any county, township, or municipal highway for a distance of 5 highway miles for the purpose of loading and unloading, provided:

(A) The vehicle does not exceed 80,000 pounds in gross weight and 8 feet 6 inches in width.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(2) From any State designated highway onto any county or township highway for a distance of 5 highway miles or onto any municipal highway for a distance of one highway

mile for the purpose of food, fuel, repairs, and rest, provided:

(A) The vehicle does not exceed 80,000 pounds in gross weight and 8 feet 6 inches in width.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(e–2) Except as provided in subsection (e–3), combinations of vehicles over 65 feet in length, with no overall length limitation except as provided in subsections (d) and (e) of this Section, are allowed access as follows:

(1) From a Class I highway onto any street or highway for a distance of one highway mile for the purpose of loading, unloading, food, fuel, repairs, and rest, provided there is no sign prohibiting that access.

(2) From a Class I or Class II highway onto any State highway or any locally designated highway for a distance of 5 highway miles for the purpose of loading, unloading, food, fuel, repairs, and rest.

(e–3) Combinations of vehicles over 65 feet in length operated by household goods carriers, with no overall length limitations except as provided in subsections (d) and (e) of this Section, have unlimited access to points of loading and unloading.

(f) On Class III and other non-designated State highways, the length limitations for vehicles in combination are as follows:

(1) Truck tractor-semitrailer combinations, must comply with either a maximum 55 feet overall wheel base or a maximum 65 feet extreme overall dimension.

(2) Semitrailers, unladen or with load, may not exceed 53 feet overall dimension.

(3) No truck tractor-semitrailer-trailer or truck tractor semitrailer- semitrailer combination may exceed 60 feet extreme overall dimension.

(4) The distance between the kingpin and the center axle of a semitrailer longer than 48 feet, in combination with a truck tractor, may not exceed 42 feet 6 inches. The limit contained in this paragraph (4) shall not apply to trailers or semi-trailers used for the transport of livestock as defined by Section 18b–101.

(g) Length limitations in the preceding subsections of this Section 15–107 do not apply to the following:

(1) Vehicles operated in the daytime, except on Saturdays, Sundays, or legal holidays, when transporting poles, pipe, machinery, or other objects of a structural nature that cannot readily be dismembered, provided the overall length of vehicle and load may not exceed 100 feet and no object exceeding 80 feet in length may be transported unless a permit has been obtained as authorized in Section 15–301.

(2) Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties, but during night operation every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

(3) A tow truck in combination with a disabled vehicle or combination of disabled vehicles, provided the towing vehicle meets the following conditions:

(A) It is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes.

(B) It is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions.

(C) It is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles.

(D) It does not engage in a tow exceeding 50 miles from the initial point of wreck or disablement.

The Department may by rule or regulation prescribe additional requirements regarding length limitations for a tow truck towing another vehicle. The towing vehicle, however, may tow any disabled vehicle from the initial point of wreck or disablement to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, shall mean the value specified by the manufacturer as the loaded weight of the tow truck. Legal holidays referred to in this Section shall be specified as the day on which the following traditional holidays are celebrated:

New Year's Day;

Memorial Day;

Independence Day;

Labor Day;

Thanksgiving Day; and

Christmas Day.

(h) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than 3 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a front bumper. The provisions of this subsection (h) shall not apply to any vehicle or combination of vehicles specifically designed for the collection and transportation of waste, garbage, or recyclable materials during the vehicle's operation in the course of collecting garbage, waste, or recyclable materials if the vehicle is traveling at a speed not in excess of 15 miles per hour during the vehicle's operation and in the course of collecting garbage, waste, or recyclable materials. However, in no instance shall the load extend more than 7 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a front bumper.

(i) The load upon the front vehicle of a combination of vehicles specifically designed to transport motor vehicles shall not extend more than 3 feet beyond the foremost part of the transporting vehicle and the load upon the rear transporting vehicle shall not extend more than 4 feet beyond the rear of the bed or body of the vehicle. This paragraph shall only be applicable upon highways designated in paragraphs (d) and (e) of this Section.

(j) Articulated vehicles comprised of 2 sections, neither of which exceeds a length of 42 feet, designed for the carrying of more than 10 persons, may be up to 60 feet in length, not including energy absorbing bumpers, provided that the vehicles are:

1. operated by or for any public body or motor carrier authorized by law to provide public transportation services; or

2. operated in local public transportation service by any other person and the municipality in which the service is to be provided approved the operation of the vehicle.

(j–1) (Blank).

(k) Any person who is convicted of violating this Section is subject to the penalty as provided in paragraph (b) of Section 15–113.

(*l*) (Blank).

P.A. 76–1586, § 15–107, eff. July 1, 1970. Amended by P.A. 76–2196, § 1, eff. July 1, 1970; P.A. 77–58, § 1, eff. July 1, 1971; P.A. 77–1344, § 1, eff. Aug. 27, 1971; P.A. 77–2637, § 1, eff. Oct. 1, 1972; P.A. 77–2829, §§ 40, 67, eff. Dec. 22, 1972; P.A. 78–255, § 29, eff. Oct. 1, 1973; P.A. 78–486, § 1, eff. Jan. 1, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 81–967, § 1, eff. Jan. 1, 1980; P.A. 82–198, § 1, eff. Jan. 1, 1982; P.A. 82–573, § 1, eff. Sept. 24, 1981; P.A. 82–649, § 1, eff. July 1, 1982; P.A. 82–783, Art. III, § 37, eff. July 13, 1982; P.A. 83–12, § 1, eff. July 1, 1983; P.A. 83–475, § 1, eff. Jan. 1, 1984; P.A. 83–781, § 1, eff. Jan. 1, 1984; P.A. 83–953, § 1, eff. Dec. 2, 1983; P.A. 83–1362, Art. II, § 99, eff. Sept. 11, 1984; P.A. 84–1061, § 1, eff. July 1, 1986; P.A. 85–505, § 1, eff. Sept. 18, 1987; P.A. 85–562, § 1, eff. Sept. 18, 1987; P.A. 85–830, § 1, eff. Sept. 24, 1987; P.A. 85–1209, Art. II, § 2–51, eff. Aug. 30, 1988; P.A. 85–1345, § 1, eff. Aug. 31, 1988; P.A. 85–1440, Art. II, § 2–54, eff. Feb. 1, 1989; P.A. 86–419, § 1, eff. Aug. 30, 1989; P.A. 86–447, § 2, eff. Aug. 30, 1989; P.A. 86–589, § 1, eff. Jan. 1, 1990; P.A. 86–1028, Art. II, § 2–44, eff. Feb. 5, 1990; P.A. 87–1203, § 1, eff. Sept. 25, 1992; P.A. 88–45, Art. III, § 3–128, eff. July 6, 1993; P.A. 88–384, § 5, eff. Jan. 1, 1994; P.A. 88–670, Art. 2, § 2–59, eff. Dec. 2, 1994; P.A. 89–219, § 5, eff. Jan. 1, 1996; P.A. 89–434, § 5, eff. June 1, 1996; P.A. 89–626, Art. 2, § 2–66, eff. Aug. 9, 1996; P.A. 90–89, § 15, eff. Jan. 1, 1998; P.A. 90–147, § 5, eff. July 23, 1997; P.A. 90–407, § 5, eff. Aug. 15, 1997; P.A. 90–655, § 153, eff. July 30, 1998; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 92–766, § 5, eff. Jan. 1, 2003; P.A. 92–883, § 5, eff. Jan. 13, 2003; P.A. 93–177, § 10, eff. July 11, 2003; P.A. 93–1023, § 5, eff. Aug. 25, 2004; P.A. 94–713, § 5, eff. June 1, 2006; P.A. 96–34, § 955, eff. Jan. 1, 2010; P.A. 96–37, § 60–40, eff. Jan. 1, 2010; P.A. 96–1352, § 5, eff. July 28, 2010; P.A. 97–200, § 5, eff. July 27, 2011; P.A. 97–883, § 5, eff. Jan. 1, 2013.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–107.

[1] 625 ILCS 5/1–101 et seq.

[2] 5 ILCS 100/5–35.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 97–883 incorporated the amendment by P.A. 97–200.

5/15–108. Planking edge of a pavement

§ 15–108. Planking edge of a pavement. No tractor, traction engine or other metal tired vehicle, weighing more than 4 tons, including the weight of the vehicle and its load, shall drive up onto, off or over the edge of any paved public highway in this State, without protecting such edge by putting down solid planks or other suitable device to prevent such vehicle from breaking off the edges or corners of such pavement.

P.A. 76–1586, § 15–108, eff. July 1, 1970. Amended by P.A. 90–655, § 153, eff. July 30, 1998.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–108.

5/15–109. Spilling loads on highways prohibited

§ 15–109. Spilling loads on highways prohibited. (a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(c) The Department shall adopt such rules and regulations it deems appropriate which require the securing of steel rolls and other objects on flatbed trucks so as to prevent injury to users of highways and damage to property. Any person who operates a flatbed truck on any highway in violation of the rules and regulations promulgated by the Department under this subsection shall be guilty of a Class A misdemeanor.

P.A. 76–1586, § 15–109, eff. July 1, 1970. Amended by P.A. 82–231, § 1, eff. Jan. 1, 1982.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–109.

5/15–109.1. Covers or tarpaulins required for certain loads

§ 15–109.1. Covers or tarpaulins required for certain loads.

(a) No person shall operate or cause to be operated, on a highway, any second division vehicle loaded with dirt, aggregate, garbage, refuse, or other similar material, when any portion of the load is falling, sifting, blowing, dropping or in any way escaping from the vehicle.

(b) No person shall operate or cause to be operated, on a highway, any second division vehicle having a gross vehicle weight rating of 8,000 pounds or more loaded with dirt, aggregate, garbage, refuse, or other similar material in or on any part of the vehicle other than in the cargo area. In addition, no person shall operate on any highway, such vehicle unless the tailgate on the vehicle is in good repair and operating condition and closes securely so as to prevent any load, residue, or other material from escaping.

(c) This Section shall not apply to the operation of highway maintenance vehicles engaged in removing snow and ice from the roadway, nor to implements of husbandry or other farm vehicles while transporting agricultural products to or from the original place of production.

(d) For the purpose of this Section "aggregate" shall include all ores, minerals, sand, gravel, shale, coal, clay, limestone or any other ore or mineral which may be mined.

(e) Notwithstanding any other penalty, whenever a police officer determines that the operator of a vehicle is in violation of this Section, as evidenced by the issuance of a citation for a violation of Section 15–109.1 of this Code, or where a police officer determines that a dangerous condition exists whereby any portion of the load may fall, sift, blow, drop, or

in any way escape or fall from the vehicle, the police officer shall require the operator to stop the vehicle in a suitable place and keep such vehicle stationary until the load has either been reduced, secured, or covered with a cover or tarpaulin of sufficient size to prevent any further violation of this Section.

(f) Any violation of the provisions of this Section shall be a petty offense punishable by a fine not to exceed $250.

P.A. 76–1586, § 15–109.1, added by P.A. 84–226, § 1, eff. Jan. 1, 1986. Amended by P.A. 91–858, § 5, eff. Jan. 1, 2001.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–109.1.

5/15–110. Towed vehicles

§ 15–110. Towed vehicles. (a) When one vehicle is towing another, the drawbar or other connection shall be of sufficient strength to pull all the weight towed thereby and the drawbar or other connection shall not exceed 15 feet from one vehicle to the other, except for the connection between any 2 vehicles transporting poles, pipes, machinery or other objects of structural nature which cannot readily be dismembered.

(b) Outside a business, residential or suburban district or on any controlled access highway, no vehicle other than a pole trailer or a semitrailer which is being towed by a truck tractor and is connected by the means of a fifth wheel shall be towed on a roadway except by a drawbar and each such vehicle so towed shall, in addition, be coupled with 2 safety chains or cables to the towing vehicle. Such chains or cables shall be of sufficient size and strength to prevent the towed vehicle parting from the drawing vehicle in case the drawbar should break or become disengaged.

(c) The provisions of this section shall not apply to any second division vehicle owned, operated or controlled by any person who is registered with the Bureau of Motor Carrier Safety of the Federal Highway Administration and has complied with the federal safety provisions of the Bureau of Motor Carrier Safety of the Federal Highway Administration and the rules and regulations of the Bureau.

P.A. 76–1586, § 15–110, eff. July 1, 1970. Amended by P.A. 77–22, § 1, eff. July 1, 1971.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–110.

5/15–111. Wheel and axle loads and gross weights

Text of section as amended by P.A. 98–942 and P.A. 98–1029. See, also, section as amended by P.A. 98–942 and P.A. 98–956, eff. Jan. 1, 2015.

§ 15–111. Wheel and axle loads and gross weights.

(a) No vehicle or combination of vehicles with pneumatic tires may be operated, unladen or with load, when the total weight on the road surface exceeds the following: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds; 80,000 pounds gross weight for vehicle combinations of 5 or more axles; or a total weight on a group of 2 or more consecutive axles in excess of that weight produced by the application of the following formula: W = 500 times the sum of (LN divided by N–1) + 12N + 36, where "W" equals overall total weight on any group of 2 or more consecutive axles to the nearest 500 pounds, "L" equals the distance measured to the nearest foot between extremes of any group of 2 or more consecutive axles, and "N" equals the number of axles in the group under consideration.

The above formula when expressed in tabular form results in allowable loads as follows:

Distance measured to the nearest foot between the extremes of any group of 2 or more consecutive axles	Maximum weight in pounds of any group of 2 or more consecutive axles				
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	38,000*	42,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15		47,000	52,000		
16		48,000	52,500	58,000	
17		48,500	53,500	58,500	
18		49,500	54,000	59,000	
19		50,000	54,500	60,000	
20		51,000	55,500	60,500	66,000
21		51,500	56,000	61,000	66,500
22		52,500	56,500	61,500	67,000
23		53,000	57,500	62,500	68,000
24		54,000	58,000	63,000	68,500
25		54,500	58,500	63,500	69,000
26		55,500	59,500	64,000	69,500
27		56,000	60,000	65,000	70,000
28		57,000	60,500	65,500	71,000
29		57,500	61,500	66,000	71,500
30		58,500	62,000	66,500	72,000
31		59,000	62,500	67,500	72,500
32		60,000	63,500	68,000	73,000
33			64,000	68,500	74,000
34			64,500	69,000	4,500
35			65,500	70,000	75,000
36			66,000	70,500	75,500
37			66,500	71,000	76,000
38			67,500	72,000	77,000
39			68,000	72,500	77,500
40			68,500	73,000	78,000
41			69,500	73,500	78,500
42			70,000	74,000	79,000
43			70,500	75,000	80,000
44			71,500	75,500	
45			72,000	76,000	
46			72,500	76,500	
47			73,500	77,500	
48			74,000	78,000	
49			74,500	78,500	
50			75,500	79,000	
51			76,000	80,000	
52			76,500		
53			77,500		
54			78,000		
55			78,500		
56			79,500		
57			80,000		

*If the distance between 2 axles is 96 inches or less, the 2 axles are tandem axles and the maximum total weight may not exceed 34,000 pounds, notwithstanding the higher limit resulting from the application of the formula.

Vehicles not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (a) for 4 axles measured between the extreme axles of the vehicle.

Vehicles in a combination having more than 6 axles may not exceed the weight in the table in this subsection (a) for 6 axles measured between the extreme axles of the combination.

Local authorities, with respect to streets and highways under their jurisdiction, without additional fees, may also by ordinance or resolution allow the weight limitations of this subsection, provided the maximum gross weight on any one axle shall not exceed 20,000 pounds and the maximum total weight on any tandem axle shall not exceed 34,000 pounds, on designated highways when appropriate regulatory signs giving notice are erected upon the street or highway or portion of any street or highway affected by the ordinance or resolution.

The following are exceptions to the above formula:

(1) Vehicles for which a different limit is established and posted in accordance with Section 15–316 of this Code.

(2) Vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15–301 of this Code. These vehicles are not subject to the bridge formula.

(3) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds.

(4) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells.

(4.5) A 3 or 4 axle vehicle (including when laden) operated or hired by a municipality within Cook, Lake, McHenry, Kane, DuPage, or Will county being operated for the purpose of performing emergency sewer repair that would be subject to a weight limitation less than 66,000 pounds under the formula in this subsection (a) shall have a weight limitation of 66,000 pounds or the vehicle's gross vehicle weight rating, whichever is less. This paragraph (4.5) does not apply to vehicles being operated on the National System of Interstate and Defense Highways, or to vehicles being operated on bridges or other elevated structures constituting a part of a highway.

(5) Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more, notwithstanding the lower limit resulting from the application of the above formula.

(6) A truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle.

(7) A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage, refuse, or recycling operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 40,000 pounds gross weight on a 2–axle vehicle; 54,000 pounds gross weight on a 3–axle vehicle. This vehicle is not subject to the bridge formula.

(7.5) A 3–axle rear discharge truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on single axle; 40,000 pounds on a tandem axle; 54,000 pounds gross weight on a 3–axle vehicle. This vehicle is not subject to the bridge formula.

(8) Except as provided in paragraph (7.5) of this subsection (a), tandem axles on a 3–axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2024 and first registered in Illinois prior to January 1, 2025, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 20,000 pounds. Any vehicle of this type manufactured after the model year of 2024 or first registered in Illinois after December 31, 2024 may not exceed a combined weight of 34,000 pounds through the series of 2 axles and neither axle of the series may exceed 20,000 pounds.

A 3–axle combination sewer cleaning jetting vacuum truck registered as a Special Hauling Vehicle, used exclusively for the transportation of non-hazardous solid waste, manufactured before or in the model year of 2014, first registered in Illinois before January 1, 2015, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 54,000 pounds gross weight on a 3–axle vehicle. This vehicle is not subject to the bridge formula.

(9) A 4–axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, and not operated on a highway that is part of the National System of Interstate Highways, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on a series of axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches. The gross weight of this vehicle may not exceed the weights allowed by the bridge formula for 4 axles. The bridge formula does not apply to any series of 3 axles while the vehicle is transporting concrete in the plastic state, but no axle or tandem axle of the series may exceed the maximum weight permitted under this paragraph (9) of subsection (a).

(10) Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2024, and registered in Illinois prior to January 1, 2025, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of P.A. 92–0417, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2024 may not exceed the weights allowed by the bridge formula.

(11) The maximum weight allowed on a vehicle with crawler type tracks is 40,000 pounds.

(12) A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided that

neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:

(i) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes;

(ii) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(iii) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and

(iv) does not engage in a tow exceeding 20 miles from the initial point of wreck or disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15–301 through 15–319 of this Code. The towing vehicle, however, may tow any disabled vehicle to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

(13) A vehicle or combination of vehicles that uses natural gas or propane gas as a motor fuel may exceed the above weight limitations by 2,000 pounds except on interstate highways as defined by Section 1–133.1 of this Code. This paragraph (13) shall not allow a vehicle to exceed any posted weight limit on a highway or structure.

Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed. If a roll-back carrier is registered and being used as a tow truck, however, the license plate or plates for the tow truck must cover the gross vehicle weight, including any load carried on the bed of the roll-back carrier.

The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, means the value specified by the manufacturer as the loaded weight of the tow truck.

(b) As used in this Section, "recycling haul" or "recycling operation" means the hauling of non-hazardous, non-special, non-putrescible materials, such as paper, glass, cans, or plastic, for subsequent use in the secondary materials market.

(c) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load, upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15–301 through 15–319 of this Chapter.

(d) No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.

(e) No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section.

(f) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.

(g) Upon the trial of any person charged with a violation of subsection (e) or (f) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure.

P.A. 76–1586, § 15–111, eff. July 1, 1970. Amended by P.A. 76–2197, § 1, eff. July 1, 1970; P.A. 77–643, § 1, eff. Aug. 4, 1971; P.A. 77–1226, § 1, eff. Aug. 24, 1971; P.A. 77–1418, § 1, eff. Jan. 1, 1972; P.A. 77–2829, § 40, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–324, § 1, eff. Jan. 1, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–628, § 1, eff. Aug. 28, 1975; P.A. 83–12, § 1, eff. July 1, 1983; P.A. 83–953, § 1, eff. Dec. 2, 1983; P.A. 83–1478, § 1, eff. Jan. 1, 1985; P.A. 84–598, § 1, eff. Jan. 1, 1986; P.A. 84–1007, § 1, eff. Oct. 31, 1985; P.A. 84–1061, § 1, eff. July 1, 1986; P.A. 84–1308, Art. II, § 96, eff. Aug. 25, 1986; P.A. 84–1311, § 1, eff. Aug. 27, 1986; P.A. 84–1330, § 1, eff. Sept. 9, 1986; P.A. 84–1438, Art. II, § 30, eff. Dec. 22, 1986; P.A. 85–561, § 1, eff. Sept. 18, 1987; P.A. 85–563, § 1, eff. Sept. 18, 1987; P.A. 85–678, § 1, eff. July 1, 1989; P.A. 85–757, § 1, eff. Sept. 23, 1987; P.A. 85–1209, Art. II, § 2–51, eff. Aug. 30, 1988; P.A. 85–1345, § 1, eff. Aug. 31, 1988; P.A. 85–1440, Art. II, § 2–25, eff. Feb. 1, 1989; P.A. 86–409, § 1, eff. Aug. 30, 1989; P.A. 86–519, § 1, eff. Sept. 1, 1989; P.A. 86–1005, § 3, eff. Dec. 28, 1989; P.A. 86–1028, Art. II, § 2–44, eff. Feb. 5, 1990; P.A. 86–1236, § 1, eff. Jan. 1, 1991; P.A. 87–1203, § 1, eff. Sept. 25, 1992; P.A. 87–1249, § 1, eff. Dec. 24, 1992; P.A. 88–45, Art. III, § 3–128, eff. July 6, 1993; P.A. 88–385, § 5, eff. Jan. 1, 1994; P.A. 88–403, § 5, eff. Jan. 1, 1994; P.A. 88–476, § 2, eff. July 1, 1994; P.A. 88–670, Art. 2, § 2–59, eff. Dec. 2, 1994; P.A. 89–117, § 10, eff. July 7, 1995; P.A. 89–433, § 5, eff. Dec. 15, 1995; P.A. 90–89, § 15, eff. Jan. 1, 1998; P.A. 90–330, § 5, eff. Aug. 8, 1997; P.A. 90–655, § 153, eff. July 30, 1998; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 93–177, § 10, eff. July 11, 2003; P.A. 93–186, § 5, eff. Jan. 1, 2004; P.A. 93–1023, § 5, eff. Aug. 25, 2004; P.A. 94–464, § 5, eff. Jan. 1, 2006; P.A. 94–926, § 5, eff. Jan. 1, 2007; P.A. 95–51, § 5, eff. Jan. 1, 2008; P.A. 96–34, § 955, eff. Jan.

1, 2010; P.A. 96–37, § 60–40, eff. Jan. 1, 2010; P.A. 97–201, § 5, eff. Jan. 1, 2012; P.A. 98–409, § 5, eff. Jan. 1, 2014; P.A. 98–410, § 5, eff. Aug. 16, 2013; P.A. 98–756, § 675, eff. July 16, 2014; P.A. 98–942, § 5, eff. Jan. 1, 2015; P.A. 98–1029, § 5, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–111.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–942, § 5, added subd. (a)(4.5).

P.A. 98–1029, § 5, added subd. (a)(13).

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

5/15–111. Wheel and axle loads and gross weights

Text of section as amended by P.A. 98–942 and P.A. 98–956. See, also, section as amended by P.A. 98–942 and P.A. 98–1029, eff. Jan. 1, 2015.

§ 15–111. Wheel and axle loads and gross weights.

(a) No vehicle or combination of vehicles with pneumatic tires may be operated, unladen or with load, when the total weight on the road surface exceeds the following: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds; 80,000 pounds gross weight for vehicle combinations of 5 or more axles; or a total weight on a group of 2 or more consecutive axles in excess of that weight produced by the application of the following formula: W = 500 times the sum of (LN divided by N–1) + 12N + 36, where "W" equals overall total weight on any group of 2 or more consecutive axles to the nearest 500 pounds, "L" equals the distance measured to the nearest foot between extremes of any group of 2 or more consecutive axles, and "N" equals the number of axles in the group under consideration.

The above formula when expressed in tabular form results in allowable loads as follows:

Distance measured to the nearest foot between the extremes of any group of 2 or more consecutive axles	Maximum weight in pounds of any group of 2 or more consecutive axles				
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	38,000*	42,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15	47,000	52,000			
16	48,000	52,500	58,000		
17	48,500	53,500	58,500		
18	49,500	54,000	59,000		
19	50,000	54,500	60,000		
20	51,000	55,500	60,500	66,000	
21	51,500	56,000	61,000	66,500	
22	52,500	56,500	61,500	67,000	
23	53,000	57,500	62,500	68,000	
24	54,000	58,000	63,000	68,500	
25	54,500	58,500	63,500	69,000	
26	55,500	59,500	64,000	69,500	
27	56,000	60,000	65,000	70,000	
28	57,000	60,500	65,500	71,000	
29	57,500	61,500	66,000	71,500	
30	58,500	62,000	66,500	72,000	
31	59,000	62,500	67,500	72,500	
32	60,000	63,500	68,000	73,000	
33		64,000	68,500	74,000	
34		64,500	69,000	4,500	
35		65,500	70,000	75,000	
36		66,000	70,500	75,500	
37		66,500	71,000	76,000	
38		67,500	72,000	77,000	
39		68,000	72,500	77,500	
40		68,500	73,000	78,000	
41		69,500	73,500	78,500	
42		70,000	74,000	79,000	
43		70,500	75,000	80,000	
44		71,500	75,500		
45		72,000	76,000		
46		72,500	76,500		
47		73,500	77,500		
48		74,000	78,000		
49		74,500	78,500		
50		75,500	79,000		
51		76,000	80,000		
52		76,500			
53		77,500			
54		78,000			
55		78,500			
56		79,500			
57		80,000			

*If the distance between 2 axles is 96 inches or less, the 2 axles are tandem axles and the maximum total weight may not exceed 34,000 pounds, notwithstanding the higher limit resulting from the application of the formula.

Vehicles not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (a) for 4 axles measured between the extreme axles of the vehicle.

Vehicles in a combination having more than 6 axles may not exceed the weight in the table in this subsection (a) for 6 axles measured between the extreme axles of the combination.

Local authorities, with respect to streets and highways under their jurisdiction, without additional fees, may also by ordinance or resolution allow the weight limitations of this subsection, provided the maximum gross weight on any one axle shall not exceed 20,000 pounds and the maximum total weight on any tandem axle shall not exceed 34,000 pounds, on designated highways when appropriate regulatory signs giving notice are erected upon the street or highway or portion of any street or highway affected by the ordinance or resolution.

The following are exceptions to the above formula:

(1) Vehicles for which a different limit is established and posted in accordance with Section 15–316 of this Code.

(2) Vehicles for which the Department of Transportation and local authorities issue overweight permits under au-

thority of Section 15–301 of this Code. These vehicles are not subject to the bridge formula.

(3) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds.

(4) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells.

(4.5) A 3 or 4 axle vehicle (including when laden) operated or hired by a municipality within Cook, Lake, McHenry, Kane, DuPage, or Will county being operated for the purpose of performing emergency sewer repair that would be subject to a weight limitation less than 66,000 pounds under the formula in this subsection (a) shall have a weight limitation of 66,000 pounds or the vehicle's gross vehicle weight rating, whichever is less. This paragraph (4.5) does not apply to vehicles being operated on the National System of Interstate and Defense Highways, or to vehicles being operated on bridges or other elevated structures constituting a part of a highway.

(5) Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more, notwithstanding the lower limit resulting from the application of the above formula.

(6) A truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle.

(7) A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage, refuse, or recycling operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 40,000 pounds gross weight on a 2–axle vehicle; 54,000 pounds gross weight on a 3–axle vehicle. This vehicle is not subject to the bridge formula.

(7.5) A 3–axle rear discharge truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on single axle; 40,000 pounds on a tandem axle; 54,000 pounds gross weight on a 3–axle vehicle. This vehicle is not subject to the bridge formula.

(8) Except as provided in paragraph (7.5) of this subsection (a), tandem axles on a 3–axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2024 and first registered in Illinois prior to January 1, 2025, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 20,000 pounds. Any vehicle of this type manufactured after the model year of 2024 or first registered in Illinois after December 31, 2024 may not exceed a combined weight of 34,000 pounds through the series of 2 axles and neither axle of the series may exceed 20,000 pounds.

A 3–axle combination sewer cleaning jetting vacuum truck registered as a Special Hauling Vehicle, used exclusively for the transportation of non-hazardous solid waste, manufactured before or in the model year of 2014, first registered in Illinois before January 1, 2015, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 54,000 pounds gross weight on a 3–axle vehicle. This vehicle is not subject to the bridge formula.

(9) A 4–axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, and not operated on a highway that is part of the National System of Interstate Highways, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on a series of axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches. The gross weight of this vehicle may not exceed the weights allowed by the bridge formula for 4 axles. The bridge formula does not apply to any series of 3 axles while the vehicle is transporting concrete in the plastic state, but no axle or tandem axle of the series may exceed the maximum weight permitted under this paragraph (9) of subsection (a).

(10) Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2024, and registered in Illinois prior to January 1, 2025, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of P.A. 92–0417, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2024 may not exceed the weights allowed by the bridge formula.

(11) The maximum weight allowed on a vehicle with crawler type tracks is 40,000 pounds.

(12) A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided that neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:

(i) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes;

(ii) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(iii) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and

(iv) does not engage in a tow exceeding 20 miles from the initial point of wreck or disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15–301 through 15–319 of this Code. The towing vehicle, however, may tow any disabled vehicle to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

(13) Upon and during a declaration of an emergency propane supply disaster by the Governor under Section 7 of the Illinois Emergency Management Agency Act:

(i) a truck not in combination, equipped with a cargo tank, used exclusively for the transportation of propane or liquefied petroleum gas may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 40,000 pounds gross weight on a 2–axle vehicle; 54,000 pounds gross weight on a 3–axle vehicle; and

(ii) a truck when in combination with a trailer equipped with a cargo tank used exclusively for the transportation of propane or liquefied petroleum gas may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 90,000 pounds gross weight on a 5 or 6–axle vehicle.

Vehicles operating under this paragraph (13) are not subject to the bridge formula.

Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed. If a roll-back carrier is registered and being used as a tow truck, however, the license plate or plates for the tow truck must cover the gross vehicle weight, including any load carried on the bed of the roll-back carrier.

The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, means the value specified by the manufacturer as the loaded weight of the tow truck.

(b) As used in this Section, "recycling haul" or "recycling operation" means the hauling of non-hazardous, non-special, non-putrescible materials, such as paper, glass, cans, or plastic, for subsequent use in the secondary materials market.

(c) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load, upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15–301 through 15–319 of this Chapter.

(d) No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.

(e) No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section.

(f) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.

(g) Upon the trial of any person charged with a violation of subsection (e) or (f) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure.

P.A. 76–1586, § 15–111, eff. July 1, 1970. Amended by P.A. 76–2197, § 1, eff. July 1, 1970; P.A. 77–643, § 1, eff. Aug. 4, 1971; P.A. 77–1226, § 1, eff. Aug. 24, 1971; P.A. 77–1418, § 1, eff. Jan. 1, 1972; P.A. 77–2829, § 40, eff. Dec. 22, 1972; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–324, § 1, eff. Jan. 1, 1974; P.A. 78–1297, § 58, eff. March 4, 1975; P.A. 79–628, § 1, eff. Aug. 28, 1975; P.A. 83–12, § 1, eff. July 1, 1983; P.A. 83–953, § 1, eff. Dec. 2, 1983; P.A. 83–1478, § 1, eff. Jan. 1, 1985; P.A. 84–598, § 1, eff. Jan. 1, 1986; P.A. 84–1007, § 1, eff. Oct. 31, 1985; P.A. 84–1061, § 1, eff. July 1, 1986; P.A. 84–1308, Art. II, § 96, eff. Aug. 25, 1986; P.A. 84–1311, § 1, eff. Aug. 27, 1986; P.A. 84–1330, § 1, eff. Sept. 9, 1986; P.A. 84–1438, Art. II, § 30, eff. Dec. 22, 1986; P.A. 85–561, § 1, eff. Sept. 18, 1987; P.A. 85–563, § 1, eff. Sept. 18, 1987; P.A. 85–678, § 1, eff. July 1, 1989; P.A. 85–757, § 1, eff. Sept. 23, 1987; P.A. 85–1209, Art. II, § 2–51, eff. Aug. 30, 1988; P.A. 85–1345, § 1, eff. Aug. 31, 1988; P.A. 85–1440, Art. II, § 2–25, eff. Feb. 1, 1989; P.A. 86–409, § 1, eff. Aug. 30, 1989; P.A. 86–519, § 1, eff. Sept. 1, 1989; P.A. 86–1005, § 3, eff. Dec. 28, 1989; P.A. 86–1028, Art. II, § 2–44, eff. Feb. 5, 1990; P.A. 86–1236, § 1, eff. Jan. 1, 1991; P.A. 87–1203, § 1, eff. Sept. 25, 1992; P.A. 87–1249, § 1, eff. Dec. 24, 1992; P.A. 88–45, Art. III, § 3–128, eff. July 6, 1993; P.A. 88–385, § 5, eff. Jan. 1, 1994; P.A. 88–403, § 5, eff. Jan. 1, 1994; P.A. 88–476, § 2, eff. July 1, 1994; P.A. 88–670, Art. 2, § 2–59, eff. Dec. 2, 1994; P.A. 89–117, § 10, eff. July 7, 1995; P.A. 89–433, § 5, eff. Dec. 15, 1995; P.A. 90–89, § 15, eff. Jan. 1, 1998; P.A. 90–330, § 5, eff. Aug. 8, 1997; P.A. 90–655, § 153, eff. July 30, 1998; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 93–177, § 10, eff. July 11, 2003; P.A. 93–186, § 5, eff. Jan. 1, 2004; P.A. 93–1023, § 5, eff. Aug. 25, 2004; P.A. 94–

464, § 5, eff. Jan. 1, 2006; P.A. 94–926, § 5, eff. Jan. 1, 2007; P.A. 95–51, § 5, eff. Jan. 1, 2008; P.A. 96–34, § 955, eff. Jan. 1, 2010; P.A. 96–37, § 60–40, eff. Jan. 1, 2010; P.A. 97–201, § 5, eff. Jan. 1, 2012; P.A. 98–409, § 5, eff. Jan. 1, 2014; P.A. 98–410, § 5, eff. Aug. 16, 2013; P.A. 98–756, § 675, eff. July 16, 2014; P.A. 98–942, § 5, eff. Jan. 1, 2015; P.A. 98–956, § 5, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–111.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

Provisions added by P.A. 96–35, P.A. 96–37, and P.A. 96–38 are invalid. The aforementioned Public Acts were contingent on the passage of P.A. 96–34, which was found to violate the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

P.A. 98–942, § 5, added subd. (a)(4.5).

P.A. 98–956, § 5, added subd. (a)(13).

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

5/15–112. Officers to weigh vehicles and require removal of excess loads

§ 15–112. Officers to weigh vehicles and require removal of excess loads.

(a) Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require the driver to stop and submit to a weighing of the same either by means of a portable or stationary scales that have been tested and approved at a frequency prescribed by the Illinois Department of Agriculture, or for those scales operated by the State, when such tests are requested by the Department of State Police, whichever is more frequent. If such scales are not available at the place where such vehicle is stopped, the police officer shall require that such vehicle be driven to the nearest available scale that has been tested and approved pursuant to this Section by the Illinois Department of Agriculture. Notwithstanding any provisions of the Weights and Measures Act [1] or the United States Department of Commerce NIST handbook 44, multi or single draft weighing is an acceptable method of weighing by law enforcement for determining a violation of Chapter 3 or 15 of this Code. [2] Law enforcement is exempt from the requirements of commercial weighing established in NIST handbook 44.

Within 18 months after the effective date of this amendatory Act of the 91st General Assembly, all municipal and county officers, technicians, and employees who set up and operate portable scales for wheel load or axle load or both and issue citations based on the use of portable scales for wheel load or axle load or both and who have not successfully completed initial classroom and field training regarding the set up and operation of portable scales, shall attend and successfully complete initial classroom and field training administered by the Illinois Law Enforcement Training Standards Board.

(b) Whenever an officer, upon weighing a vehicle and the load, determines that the weight is unlawful, such officer shall require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of the vehicle to the limit permitted under this Chapter, or to the limit permitted under the terms of a permit issued pursuant to Sections 15–301 through 15–318 and shall forthwith arrest the driver or owner. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator; however, whenever a 3 or 4 axle vehicle with a tandem axle dimension greater than 72 inches, but less than 96 inches and registered as a Special Hauling Vehicle is transporting asphalt or concrete in the plastic state that exceeds axle weight or gross weight limits by less than 4,000 pounds, the owner or operator of the vehicle shall accept the arrest ticket or tickets for the alleged violations under this Section and. proceed without shifting or reducing the load being transported or may shift or reduce the load under the provisions of subsection (d) or (e) of this Section, when applicable. Any fine imposed following an overweight violation by a vehicle registered as a Special Hauling Vehicle transporting asphalt or concrete in the plastic state shall be paid as provided in subsection 4 of paragraph (a) of Section 16–105 of this Code.

(c) The Department of Transportation may, at the request of the Department of State Police, erect appropriate regulatory signs on any State highway directing second division vehicles to a scale. The Department of Transportation may also, at the direction of any State Police officer, erect portable regulating signs on any highway directing second division vehicles to a portable scale. Every such vehicle, pursuant to such sign, shall stop and be weighed.

(d) Whenever any axle load of a vehicle exceeds the axle or tandem axle weight limits permitted by paragraph (a) of Section 15–111 by 2000 pounds or less, the owner or operator of the vehicle must shift or remove the excess so as to comply with paragraph (a) of Section 15–111. No overweight arrest ticket shall be issued to the owner or operator of the vehicle by any officer if the excess weight is shifted or removed as required by this paragraph.

(e) Whenever the gross weight of a vehicle with a registered gross weight of 77,000 pounds or less exceeds the weight limits of paragraph (a) of Section 15–111 of this Chapter by 2000 pounds or less, the owner or operator of the vehicle must remove the excess. Whenever the gross weight of a vehicle with a registered gross weight over 77,000 pounds or more exceeds the weight limits of paragraph (a) of Section 15–111 by 1,000 pounds or less or 2,000 pounds or less if weighed on wheel load weighers, the owner or operator of the vehicle must remove the excess. In either case no arrest ticket for any overweight violation of this Code shall be issued to the owner or operator of the vehicle by any officer if the excess weight is removed as required by this paragraph. A person who has been granted a special permit under Section 15–301 of this Code shall not be granted a tolerance on wheel load weighers.

(e–5) Auxiliary power or idle reduction unit (APU) weight.

(1) A vehicle with a fully functional APU shall be allowed an additional 400 pounds or the certified unit weight, whichever is less. The additional pounds may be allowed in gross, axles, or bridge formula weight limits above the legal weight limits except when overweight on an axle or axles of the towed unit or units in combination. This tolerance shall be given in addition to the limits in subsection (d) of this Section.

(2) An operator of a vehicle equipped with an APU shall carry written certification showing the weight of the APU, which shall be displayed upon the request of any law enforcement officer.

(3) The operator may be required to demonstrate or certify that the APU is fully functional at all times.

(4) This allowance may not be granted above the weight limits specified on any loads permitted under Section 15–301 of this Code.

(f) Whenever an axle load of a vehicle exceeds axle weight limits allowed by the provisions of a permit an arrest ticket shall be issued, but the owner or operator of the vehicle may shift the load so as to comply with the provisions of the permit. Where such shifting of a load to comply with the permit is accomplished, the owner or operator of the vehicle may then proceed.

(g) Any driver of a vehicle who refuses to stop and submit his vehicle and load to weighing after being directed to do so by an officer or removes or causes the removal of the load or part of it prior to weighing is guilty of a business offense and shall be fined not less than $500 nor more than $2,000.

P.A. 76–1586, § 15–112, eff. July 1, 1970. Amended by P.A. 76–2198, § 1, eff. July 1, 1970; P.A. 77–77, § 1, eff. July 1, 1971; P.A. 77–170, § 1, eff. Jan. 1, 1972; P.A. 77–1225, § 1, eff. Aug. 24, 1971; P.A. 77–2720, § 1, eff. Jan. 1, 1973; P.A. 77–2830, Art. 73, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 81–942, § 1, eff. Jan. 1, 1980; P.A. 83–12, § 1, eff. July 1, 1983; P.A. 83–953, § 1, eff. Dec. 2, 1983; P.A. 84–25, Art. IV, § 27, eff. July 18, 1985; P.A. 85–830, § 1, eff. Sept. 24, 1987; P.A. 86–849, § 1, eff. Sept. 7, 1989; P.A. 88–403, § 5, eff. Jan. 1, 1994; P.A. 88–476, § 2, eff. July 1, 1994; P.A. 88–535, § 25, eff. Jan. 26, 1994; P.A. 91–129, § 10, eff. July 16, 1999; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 96–34, § 955, eff. Jan. 1, 2010; P.A. 97–201, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–112.

[1] 225 ILCS 470/1 et seq.

[2] 625 ILCS 5/1–100 or 5/15–100 et seq.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

5/15–113. Violations; Penalties

§ 15–113. Violations; Penalties.

(a) Whenever any vehicle is operated in violation of the provisions of Section 15–111 or subsection (d) of Section 3–401, the owner or driver of such vehicle shall be deemed guilty of such violation and either the owner or the driver of such vehicle may be prosecuted for such violation. Any person charged with a violation of any of these provisions who pleads not guilty shall be present in court for the trial on the charge. Any person, firm or corporation convicted of any violation of Section 15–111 including, but not limited to, a maximum axle or gross limit specified on a regulatory sign posted in accordance with paragraph (e) or (f) of Section 15–111, shall be fined according to the following schedule:

Up to and including 2000 pounds overweight, the fine is $100

From 2001 through 2500 pounds overweight, the fine is $270

From 2501 through 3000 pounds overweight, the fine is $330

From 3001 through 3500 pounds overweight, the fine is $520

From 3501 through 4000 pounds overweight, the fine is $600

From 4001 through 4500 pounds overweight, the fine is $850

From 4501 through 5000 pounds overweight, the fine is $950

From 5001 or more pounds overweight, the fine shall be computed by assessing $1500 for the first 5000 pounds overweight and $150 for each additional increment of 500 pounds overweight or fraction thereof.

In addition any person, firm or corporation convicted of 4 or more violations of Section 15–111 within any 12 month period shall be fined an additional amount of $5,000 for the fourth and each subsequent conviction within the 12 month period. Provided, however, that with regard to a firm or corporation, a fourth or subsequent conviction shall mean a fourth or subsequent conviction attributable to any one employee-driver.

(b) Whenever any vehicle is operated in violation of the provisions of Sections 15–102, 15–103 or 15–107, the owner or driver of such vehicle shall be deemed guilty of such violation and either may be prosecuted for such violation. Any person, firm or corporation convicted of any violation of Sections 15–102, 15–103 or 15–107 shall be fined for the first or second conviction an amount equal to not less than $50 nor more than $500, and for the third and subsequent convictions by the same person, firm or corporation within a period of one year after the date of the first offense, not less than $500 nor more than $1,000.

(c) All proceeds of the additional fines imposed by this amendatory Act of the 96th General Assembly shall be deposited into the Capital Projects Fund.

P.A. 76–1586, § 15–113, eff. July 1, 1970. Amended by P.A. 81–199, § 1, eff. Jan. 1, 1980; P.A. 81–942, § 1, eff. Jan. 1, 1980; P.A. 81–1509, Art. I, § 57, eff. Sept. 26, 1980; P.A. 83–12, § 1, eff. July 1, 1983; P.A. 83–838, § 1, eff. Jan. 1, 1984; P.A. 83–953, § 1, eff. Dec. 2, 1983; P.A. 86–664, § 1, eff. Sept. 1, 1989; P.A. 88–476, § 2, eff. July 1, 1994; P.A. 89–117, § 10, eff. July 7, 1995; P.A. 89–245, § 5, eff. Jan. 1, 1996; P.A. 96–34, § 955, eff. Jan. 1, 2010; P.A. 96–1000, § 575, eff. July 2, 2010; P.A. 97–201, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–113.

Validity

Provision added by P.A. 96–34 is unconstitutional because P.A. 96–34 violates the single subject rule of Section 8 of Article IV of the Illinois Constitution. Wirtz v. Quinn, 2011 WL 255644 (1st Dist. 2011).

5/15–113.1. Violations—Sentence of permit moves

§ 15–113.1. Violations—Sentence of permit moves. Whenever any vehicle is operated in violation of the provisions of a permit issued under the provisions of Sections 15–301 through 15–319 of this Chapter by operating under a fraudulent permit or under a permit not specifically covering the move, the owner or driver of such vehicle shall be deemed guilty of a business offense and either the owner or the driver of such vehicle may be prosecuted for such violation. When any person, firm or corporation is convicted of such violation, the permit shall be null and void and such person, firm or corporation shall be fined in an amount not less than 10 cents per pound for each pound the gross weight of the vehicle exceeds the gross weight of such vehicles allowable under Section 15–111 of this Chapter.

Penalties for violations of this section shall be in addition to any penalties imposed for violation of Section 15–301(j) of this Chapter.

P.A. 76–1586, § 15–113.1, added by P.A. 77–1224, § 1, eff. Aug. 24, 1971. Amended by P.A. 77–2830, Art. 73, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–113.1.

5/15–113.2. Violations—Sentence of permit moves exceeding axle weights

§ 15–113.2. Violations—Sentence of permit moves exceeding axle weights. Whenever any vehicle is operated in violation of the provisions of a permit issued under the provisions of Sections 15–301 through 15–319 of this Chapter by operating with axle weights in excess of those authorized in such permit, the owner or driver of such vehicle shall be deemed guilty of a business offense and either the owner or the driver of such vehicle may be prosecuted for such violation. Any person, firm or corporation convicted of such violation shall be fined in an amount not less than 2 cents nor more than 5 cents per pound for each pound of excess weight on such axle or tandem axle in excess of the weight authorized in the permit when the excess is 1,000 pounds or less; not less than 5 cents nor more than 10 cents per pound for each pound of excess weight when the excess exceeds 1,000 pounds and is 2,000 pounds or less; not less than 10 cents nor more than 15 cents per pound for each pound of excess weight when the excess exceeds 2,000 pounds and is 3,000 pounds or less; and not less than 15 cents nor more than 20 cents per pound for each pound of excess weight when the excess exceeds 3,000 pounds.

Penalties for violations of this section shall be in addition to any penalties imposed for violation of Section 15–301(j) of this Chapter.

P.A. 76–1586, § 15–113.2, added by P.A. 77–1224, § 1, eff. Aug. 24, 1971. Amended by P.A. 77–2830, Art. 73, § 1, eff. Jan. 1, 1973; P.A. 81–199, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–113.2.

5/15–113.3. Violations—Sentence of permit moves exceeding gross weight

§ 15–113.3. Violations—Sentence of permit moves exceeding gross weight. Whenever any vehicle is operated in violation of the provisions of a permit issued under the provisions of Sections 15–301 through 15–319 of this Chapter by operating with the gross weight in excess of that authorized in such permit, the owner or driver of such vehicle shall be deemed guilty of a business offense and either the owner or the driver of such vehicle may be prosecuted for such violation. Any person, firm or corporation convicted of such violation shall be fined in an amount not less than 2 cents nor more than 5 cents per pound for each pound of excess weight in excess of the gross weight authorized in the permit when the excess is 1,000 pounds or less; not less than 4 cents nor more than 7 cents per pound for each pound of excess weight when the excess exceeds 1,000 pounds and is 2,000 pounds or less; not less than 7 cents nor more than 10 cents per pound for each pound of excess weight when the excess exceeds 2,000 pounds and is 3,000 pounds or less; not less than 10 cents nor more than 15 cents per pound for each pound of excess weight when the excess exceeds 3,000 pounds and is 4,000 pounds or less; not less than 15 cents nor more than 20 cents per pound for each pound of excess weight when the excess exceeds 4,000 pounds and is 5,000 pounds or less; and not less than 17 cents nor more than 25 cents per pound for each pound of excess weight when the excess exceeds 5,000 pounds.

Penalties for violations of this section shall be in addition to any penalties imposed for violation of Section 15–301(j) of this Chapter.

P.A. 76–1586, § 15–113.3, added by P.A. 77–1224, § 1, eff. Aug. 24, 1971. Amended by P.A. 77–2830, Art. 73, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–113.3.

5/15–114. Pushing of disabled vehicles

§ 15–114. Pushing of disabled vehicles. It is unlawful under any circumstances for any vehicle to push any other vehicle on or along any highway outside an urban area in this State, except in an extreme emergency and then the vehicle shall not be pushed farther than is reasonably necessary to remove it from the roadway or from the immediate hazard that exists.

P.A. 76–1586, § 15–114, added by P.A. 78–486, § 1, eff. Jan. 1, 1974.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–114.

5/15–115. § 15–115. Repealed by P.A. 98–44, § 90, eff. June 28, 2013

5/15–116. Designated truck route system

§ 15–116. Designated truck route system. The Department of Transportation shall maintain and provide a listing of all Class I, Class II, and Class III designated streets and highways as defined in Chapter 1 of this Code. The Department shall also maintain and provide a listing of all local streets or highways that have been designated Class II or Class III by local agencies. Local agencies shall be responsible for reporting to the Department all streets and highways under their jurisdiction designated Class II and Class III. Local agencies shall also provide to the Department reference contact names and telephone numbers. The Department shall also maintain and provide an official map of the Designated State Truck Route System that includes State and local streets and highways that have been designated Class I, Class II, or Class III.

P.A. 76–1586, § 15–116, added by P.A. 94–763, § 5, eff. Jan. 1, 2007.

5/15–117. Global Positioning System Technology and the Designated Truck Route System Task Force

§ 15–117. Global Positioning System Technology and the Designated Truck Route System Task Force.

(a) A Global Positioning System Technology and the Designated Truck Route System Task Force shall be appointed to study and make recommendations for statutory change.

(b) The Task Force shall study advances in and utilization of Global Positioning System (GPS) technology relating to routing information for commercial vehicles. The Task Force shall also study the implementation and compliance with the Designated Truck Route System under Section 15–116 of this Code.

(c) The Task Force shall be composed of the following members, who shall serve without pay:

(1) one member of the Senate appointed by the President of the Senate;

(2) one member of the Senate appointed by the Minority Leader of the Senate;

(3) one member of the House of Representatives appointed by the Speaker of the House of Representatives;

(4) one member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

(5) the Secretary of the Illinois Department of Transportation or his or her designee;

(6) one member representing the global positioning system technology industry appointed by the President of the Senate;

(7) one member representing the commercial trucking industry appointed by the Minority Leader of the Senate;

(8) one member representing a unit of county government appointed by the Speaker of the House of Representatives;

(9) one member representing a unit of municipal government appointed by the Minority Leader of the House of Representatives; and

(10) one member representing the county engineers appointed by the Minority Leader of the House of Representatives.

The members shall select a chairperson from among themselves.

(d) The Task Force shall meet within 60 days of the effective date of this amendatory Act of the 96th General Assembly and meet at least 2 additional times before December 31, 2010. Staff support services may be provided to the Task Force by the Illinois Department of Transportation.

(e) The Task Force shall submit to the Governor and General Assembly a report of its findings and recommendations for legislative action necessary to accomplish one or more of the following goals: (1) improving public traffic safety, (2) preserving roadway infrastructure, (3) addressing advances in GPS technology relating to truck routing, and (4) producing an accurate statewide designated truck route system through effective enforcement of Section 15–116 of this Code. The Task Force report must be submitted no later than January 1, 2011. The activities of the Task Force shall conclude no later than January 31, 2011.

P.A. 76–1586, § 15–117, added by P.A. 96–1370, § 5, eff. July 28, 2010.

ARTICLE III. PERMITS

5/15–301. Permits for excess size and weight

§ 15–301. Permits for excess size and weight.

(a) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application and good cause being shown therefor, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this Act or otherwise not in conformity with this Act upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which the party is responsible. Applications and permits other than those in written or printed form may only be accepted from and issued to the company or individual making the movement. Except for an application to move directly across a highway, it shall be the duty of the applicant to establish in the application that the load to be moved by such vehicle or combination cannot reasonably be dismantled or disassembled, the reasonableness of which shall be determined by the Secretary of the Department. For the purpose of over length movements, more than one object may be carried side by side as long as the height, width, and weight laws are not exceeded and the cause for the over length is not due to multiple objects. For the purpose of over height movements, more than one object may be carried as long as the cause for the over height is not due to multiple objects and the length, width, and weight laws are not exceeded. For the purpose of an over width movement, more than one object may be carried as long as the cause for the over width is not due to multiple objects and length, height, and weight laws are not exceeded. No state or local agency shall authorize the issuance of excess size or weight permits for vehicles and loads that are divisible and that can be carried, when divided, within the existing size or weight maximums specified in this Chapter. Any excess size or weight permit issued in violation of the provisions of this Section shall be void at issue and any movement made thereunder shall not be authorized under the terms of the void permit. In any prosecution for a violation of this Chapter when the authorization of an excess size or weight permit is at issue, it is the burden of the defendant to establish that the permit was valid because the load to be moved could not reasonably be dismantled or disassembled, or was otherwise nondivisible.

(b) The application for any such permit shall: (1) state whether such permit is requested for a single trip or for limited continuous operation; (2) state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law, if so, his certificate, registration or permit number issued by the Illinois Commerce Commission; (3) specifically describe and identify the vehicle or vehicles and load to be operated or moved except that for vehicles or vehicle combinations registered by the Department as provided in Section 15–319 of this Chapter, only the Illinois Department of Transportation's (IDT) registration number or classification need be given; (4) state the routing requested including the points of origin and destination, and may identify and include a request for routing to the nearest certified scale in accordance with the Department's rules and regulations, provided the applicant has approval to travel on local roads; and (5) state if the vehicles or loads are being transported for hire. No permits for the movement of a vehicle or load for hire shall be issued to any applicant who is required under the Illinois Motor Carrier of Property Law to have a certificate, registration or permit and does not have such certificate, registration or permit.

(c) The Department or local authority when not inconsistent with traffic safety is authorized to issue or withhold such permit at its discretion; or, if such permit is issued at its discretion to prescribe the route or routes to be traveled, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operations of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure. The Department shall maintain a daily record of each permit issued along with the fee and the stipulated dimensions, weights, conditions and restrictions authorized and this record shall be presumed correct in any case of questions or dispute. The Department shall install an automatic device for recording applications received and permits issued by telephone. In making application by telephone, the Department and applicant waive all objections to the recording of the conversation.

(d) The Department shall, upon application in writing from any local authority, issue an annual permit authorizing the local authority to move oversize highway construction, transportation, utility and maintenance equipment over roads under the jurisdiction of the Department. The permit shall be applicable only to equipment and vehicles owned by or registered in the name of the local authority, and no fee shall be charged for the issuance of such permits.

(e) As an exception to paragraph (a) of this Section, the Department and local authorities, with respect to highways

under their respective jurisdictions, in their discretion and upon application in writing may issue a special permit for limited continuous operation, authorizing the applicant to move loads of agricultural commodities on a 2 axle single vehicle registered by the Secretary of State with axle loads not to exceed 35%, on a 3 or 4 axle vehicle registered by the Secretary of State with axle loads not to exceed 20%, and on a 5 axle vehicle registered by the Secretary of State not to exceed 10% above those provided in Section 15–111. The total gross weight of the vehicle, however, may not exceed the maximum gross weight of the registration class of the vehicle allowed under Section 3–815 or 3–818 of this Code.

As used in this Section, "agricultural commodities" means:

(1) cultivated plants or agricultural produce grown including, but is not limited to, corn, soybeans, wheat, oats, grain sorghum, canola, and rice;

(2) livestock, including but not limited to hogs, equine, sheep, and poultry;

(3) ensilage; and

(4) fruits and vegetables.

Permits may be issued for a period not to exceed 40 days and moves may be made of a distance not to exceed 50 miles from a field, an on-farm grain storage facility, a warehouse as defined in the Illinois Grain Code, or a livestock management facility as defined in the Livestock Management Facilities Act over any highway except the National System of Interstate and Defense Highways. The operator of the vehicle, however, must abide by posted bridge and posted highway weight limits. All implements of husbandry operating under this Section between sunset and sunrise shall be equipped as prescribed in Section 12–205.1.

(e–1) Upon a declaration by the Governor that an emergency harvest situation exists, a special permit issued by the Department under this Section shall not be required from September 1 through December 31 during harvest season emergencies, provided that the weight does not exceed 20% above the limits provided in Section 15–111. All other restrictions that apply to permits issued under this Section shall apply during the declared time period. With respect to highways under the jurisdiction of local authorities, the local authorities may, at their discretion, waive special permit requirements during harvest season emergencies. This permit exemption shall apply to all vehicles eligible to obtain permits under this Section, including commercial vehicles in use during the declared time period.

(f) The form and content of the permit shall be determined by the Department with respect to highways under its jurisdiction and by local authorities with respect to highways under their jurisdiction. Every permit shall be in written form and carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit and no person shall violate any of the terms or conditions of such special permit. Violation of the terms and conditions of the permit shall not be deemed a revocation of the permit; however, any vehicle and load found to be off the route prescribed in the permit shall be held to be operating without a permit. Any off route vehicle and load shall be required to obtain a new permit or permits, as necessary, to authorize the movement back onto the original permit routing. No rule or regulation, nor anything herein shall be construed to authorize any police officer, court, or authorized agent of any authority granting the permit to remove the permit from the possession of the permittee unless the permittee is charged with a fraudulent permit violation as provided in paragraph (i). However, upon arrest for an offense of violation of permit, operating without a permit when the vehicle is off route, or any size or weight offense under this Chapter when the permittee plans to raise the issuance of the permit as a defense, the permittee, or his agent, must produce the permit at any court hearing concerning the alleged offense.

If the permit designates and includes a routing to a certified scale, the permittee, while enroute to the designated scale, shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than the following amounts:

Single axle	2000 pounds
Tandem axle	3000 pounds
Gross	5000 pounds

(g) The Department is authorized to adopt, amend, and to make available to interested persons a policy concerning reasonable rules, limitations and conditions or provisions of operation upon highways under its jurisdiction in addition to those contained in this Section for the movement by special permit of vehicles, combinations, or loads which cannot reasonably be dismantled or disassembled, including manufactured and modular home sections and portions thereof. All rules, limitations and conditions or provisions adopted in the policy shall have due regard for the safety of the traveling public and the protection of the highway system and shall have been promulgated in conformity with the provisions of the Illinois Administrative Procedure Act. The requirements of the policy for flagmen and escort vehicles shall be the same for all moves of comparable size and weight. When escort vehicles are required, they shall meet the following requirements:

(1) All operators shall be 18 years of age or over and properly licensed to operate the vehicle.

(2) Vehicles escorting oversized loads more than 12–feet wide must be equipped with a rotating or flashing amber light mounted on top as specified under Section 12–215.

The Department shall establish reasonable rules and regulations regarding liability insurance or self insurance for vehicles with oversized loads promulgated under The Illinois Administrative Procedure Act. Police vehicles may be required for escort under circumstances as required by rules and regulations of the Department.

(h) Violation of any rule, limitation or condition or provision of any permit issued in accordance with the provisions of this Section shall not render the entire permit null and void but the violator shall be deemed guilty of violation of permit and guilty of exceeding any size, weight or load limitations in excess of those authorized by the permit. The prescribed route or routes on the permit are not mere rules, limitations, conditions, or provisions of the permit, but are also the sole extent of the authorization granted by the permit. If a vehicle and load are found to be off the route or routes prescribed by any permit authorizing movement, the vehicle and load are operating without a permit. Any off route movement shall be subject to the size and weight maximums, under the applicable provisions of this Chapter, as determined by the type or class highway upon which the vehicle and load are being operated.

(i) Whenever any vehicle is operated or movement made under a fraudulent permit the permit shall be void, and the person, firm, or corporation to whom such permit was granted, the driver of such vehicle in addition to the person who issued such permit and any accessory, shall be guilty of fraud and either one or all persons may be prosecuted for such

violation. Any person, firm, or corporation committing such violation shall be guilty of a Class 4 felony and the Department shall not issue permits to the person, firm or corporation convicted of such violation for a period of one year after the date of conviction. Penalties for violations of this Section shall be in addition to any penalties imposed for violation of other Sections of this Act.

(j) Whenever any vehicle is operated or movement made in violation of a permit issued in accordance with this Section, the person to whom such permit was granted, or the driver of such vehicle, is guilty of such violation and either, but not both, persons may be prosecuted for such violation as stated in this subsection (j). Any person, firm or corporation convicted of such violation shall be guilty of a petty offense and shall be fined for the first offense, not less than $50 nor more than $200 and, for the second offense by the same person, firm or corporation within a period of one year, not less than $200 nor more than $300 and, for the third offense by the same person, firm or corporation within a period of one year after the date of the first offense, not less than $300 nor more than $500 and the Department shall not issue permits to the person, firm or corporation convicted of a third offense during a period of one year after the date of conviction for such third offense.

(k) Whenever any vehicle is operated on local roads under permits for excess width or length issued by local authorities, such vehicle may be moved upon a State highway for a distance not to exceed one-half mile without a permit for the purpose of crossing the State highway.

(*l*) Notwithstanding any other provision of this Section, the Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, may at their discretion authorize the movement of a vehicle in violation of any size or weight requirement, or both, that would not ordinarily be eligible for a permit, when there is a showing of extreme necessity that the vehicle and load should be moved without unnecessary delay.

For the purpose of this subsection, showing of extreme necessity shall be limited to the following: shipments of livestock, hazardous materials, liquid concrete being hauled in a mobile cement mixer, or hot asphalt.

(m) Penalties for violations of this Section shall be in addition to any penalties imposed for violating any other Section of this Code.

(n) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to operate a tow-truck that exceeds the weight limits provided for in subsection (a) of Section 15–111, provided:

(1) no rear single axle of the tow-truck exceeds 26,000 pounds;

(2) no rear tandem axle of the tow-truck exceeds 50,000 pounds;

(2.1) no triple rear axle on a manufactured recovery unit exceeds 60,000 pounds;

(3) neither the disabled vehicle nor the disabled combination of vehicles exceed the weight restrictions imposed by this Chapter 15, or the weight limits imposed under a permit issued by the Department prior to hookup;

(4) the tow-truck prior to hookup does not exceed the weight restrictions imposed by this Chapter 15;

(5) during the tow operation the tow-truck does not violate any weight restriction sign;

(6) the tow-truck is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(7) the tow-truck is specifically designed and licensed as a tow-truck;

(8) the tow-truck has a gross vehicle weight rating of sufficient capacity to safely handle the load;

(9) the tow-truck is equipped with air brakes;

(10) the tow-truck is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles;

(11) the tow commences at the initial point of wreck or disablement and terminates at a point where the repairs are actually to occur;

(12) the permit issued to the tow-truck is carried in the tow-truck and exhibited on demand by a police officer; and

(13) the movement shall be valid only on state routes approved by the Department.

(*o*) The Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to transport raw milk that exceeds the weight limits provided for in subsection (a) of Section 15–111 of this Code, provided:

(1) no single axle exceeds 20,000 pounds;

(2) no gross weight exceeds 80,000 pounds;

(3) permits issued by the State are good only for federal and State highways and are not applicable to interstate highways; and

(4) all road and bridge postings must be obeyed.

(p) In determining whether a load may be reasonably dismantled or disassembled for the purpose of paragraph (a), the Department shall consider whether there is a significant negative impact on the condition of the pavement and structures along the proposed route, whether the load or vehicle as proposed causes a safety hazard to the traveling public, whether dismantling or disassembling the load promotes or stifles economic development and whether the proposed route travels less than 5 miles. A load is not required to be dismantled or disassembled for the purposes of paragraph (a) if the Secretary of the Department determines there will be no significant negative impact to pavement or structures along the proposed route, the proposed load or vehicle causes no safety hazard to the traveling public, dismantling or disassembling the load does not promote economic development and the proposed route travels less than 5 miles. The Department may promulgate rules for the purpose of establishing the divisibility of a load pursuant to paragraph (a). Any load determined by the Secretary to be nondivisible shall otherwise comply with the existing size or weight maximums specified in this Chapter.

P.A. 76–1586, § 15–301, eff. July 1, 1970. Amended by P.A. 76–2202, § 1, eff. July 1, 1970; P.A. 77–1223, § 1, eff. Aug. 24, 1971; P.A. 77–2720, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 78–692, § 1, eff. Oct. 1, 1973; P.A. 78–802, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 30, eff. March 4, 1975; P.A. 81–199, § 1, eff. Jan. 1, 1980; P.A. 82–783, Art. XI, § 140, eff. July 13, 1982; P.A. 84–986, § 1, eff. Sept. 25, 1985; P.A. 86–1232, § 1, eff. Jan. 1, 1991; P.A. 88–291, § 5, eff. Aug. 11, 1993; P.A. 88–476, § 2, eff. July 1, 1994; P.A. 88–670, Art. 2, § 2–59, eff. Dec. 2, 1994; P.A. 90–89, § 15, eff. Jan. 1, 1998; P.A. 90–228, § 5, eff. July 25,

1997; P.A. 90–655, § 153, eff. July 30, 1998; P.A. 90–676, § 5, eff. July 31, 1998; P.A. 91–569, § 5, eff. Jan. 1, 2000; P.A. 93–718, § 5, eff. Jan. 1, 2005; P.A. 93–971, § 5, eff. Aug. 20, 2004; P.A. 93–1023, § 5, eff. Aug. 25, 2004; P.A. 95–331, § 1005, eff. Aug. 21, 2007; P.A. 95–666, § 5, eff. Oct. 11, 2007; P.A. 97–201, § 5, eff. Jan. 1, 2012; P.A. 97–479, § 5, eff. Aug. 22, 2011; P.A. 97–813, § 605, eff. July 13, 2012.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–301.

5/15–316. When the Department or local authority may restrict right to use highways

§ 15–316. When the Department or local authority may restrict right to use highways.

(a) Except as provided in subsection (g), local authorities with respect to highways under their jurisdiction may by ordinance or resolution prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed 90 days in any one calendar year, whenever any said highway by reason of deterioration, rain, snow, or other climate conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) The local authority enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provision of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective unless and until such signs are erected and maintained.

(c) Local authorities with respect to highways under their jurisdiction may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

(c–1) (Blank).

(d) The Department shall likewise have authority as hereinbefore granted to local authorities to determine by resolution and to impose restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of said department, and such restrictions shall be effective when signs giving notice thereof are erected upon the highway or portion of any highway affected by such resolution.

(d–1) (Blank).

(d–2) (Blank).

(e) When any vehicle is operated in violation of this Section, the owner or driver of the vehicle shall be deemed guilty of a violation and either the owner or the driver of the vehicle may be prosecuted for the violation. Any person, firm, or corporation convicted of violating this Section shall be fined $50 for any weight exceeding the posted limit up to the axle or gross weight limit allowed a vehicle as provided for in subsections (a) or (b) of Section 15–111 and $75 per every 500 pounds or fraction thereof for any weight exceeding that which is provided for in subsections (a) or (b) of Section 15–111.

(f) A municipality is authorized to enforce a county weight limit ordinance applying to county highways within its corporate limits and is entitled to the proceeds of any fines collected from the enforcement.

(g) An ordinance or resolution enacted by a county or township pursuant to subsection (a) of this Section shall not apply to cargo tank vehicles with two or three permanent axles when delivering propane for emergency heating purposes if the cargo tank is loaded at no more than 50 percent capacity, the gross vehicle weight of the vehicle does not exceed 32,000 pounds, and the driver of the cargo tank vehicle notifies the appropriate agency or agencies with jurisdiction over the highway before driving the vehicle on the highway pursuant to this subsection. The cargo tank vehicle must have an operating gauge on the cargo tank which indicates the amount of propane as a percent of capacity of the cargo tank. The cargo tank must have the capacity displayed on the cargo tank, or documentation of the capacity of the cargo tank must be available in the vehicle. For the purposes of this subsection, propane weighs 4.2 pounds per gallon. This subsection does not apply to municipalities. Nothing in this subsection shall allow cargo tank vehicles to cross bridges with posted weight restrictions if the vehicle exceeds the posted weight limit.

P.A. 76–1586, § 15–316, eff. July 1, 1970. Amended by P.A. 81–540, § 1, eff. Jan. 1, 1980; P.A. 86–447, § 2, eff. Aug. 30, 1989; P.A. 87–1203, § 1, eff. Sept. 25, 1992; P.A. 88–384, § 5, eff. Jan. 1, 1994; P.A. 89–117, § 10, eff. July 7, 1995; P.A. 89–687, § 5, eff. June 1, 1997; P.A. 90–211, § 5, eff. Jan. 1, 1998; P.A. 92–417, § 5, eff. Jan. 1, 2002; P.A. 93–177, § 10, eff. July 11, 2003; P.A. 96–1337, § 5, eff. Jan. 1, 2011.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–316.

5/15–317. Special weight limitation on elevated structures

§ 15–317. Special weight limitation on elevated structures. (a) No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting a part of a highway with a gross weight which is greater than the maximum weight permitted by the Department, when such structure is sign posted as provided in this Section.

(b) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that such structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Chapter the Department shall determine and declare the maximum weight of vehicles which such structure can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of such structure.

(c) Upon the trial of any person charged with a violation of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight which can be maintained with safety to such bridge or structure.

P.A. 76–1586, § 15–317, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–317.

5/15–318. Liability if highway or structure damaged

§ 15–318. Liability if highway or structure damaged. (a) Any person driving any vehicle, object or contrivance upon any highway or highway structure is liable for all damage which the highway or structure may sustain as a result of any illegal operation, driving or moving of such vehicle, object or contrivance, or as a result of operating, driving, or moving any vehicle, object, or contrivance exceeding the maximum dimensions or weighing in excess of the maximum weight specified in this Chapter but authorized by a special permit issued as provided in this Chapter. The measure of liability is the cost of repairing a facility partially damaged or the depreciated replacement cost of a facility damaged be-

yond repair together with all other expenses incurred by the authorities in control of the highway or highway structure in providing a temporary detour, including a temporary structure, to serve the needs of traffic during the period of repair or replacement of the damaged highway or highway structure.

(b) Whenever such driver is not the owner of such vehicle, object, or contrivance, but is so operating, driving, or moving the same with the express or implied permission of such owner, then the owner and driver are jointly and severally liable to the extent provided in paragraph (a) of this Section.

(c) Recovery may be had in a civil action brought by the authorities in control of such highway or highway structure.

P.A. 76–1586, § 15–318, eff. July 1, 1970. Amended by P.A. 81–199, § 1, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 15–318.

CHAPTER 18c. ILLINOIS COMMERCIAL TRANSPORTATION LAW

Enactment

Chapter 18c was added by P.A. 84–796, § 1, eff. Jan. 1, 1986.

SUBCHAPTER 7. RAIL CARRIERS

ARTICLE IV. SAFETY REQUIREMENTS FOR RAIL CARRIERS

5/18c–7401. Safety Requirements for Track, Facilities, and Equipment

§ 18c–7401. Safety Requirements for Track, Facilities, and Equipment.

(1) General Requirements. Each rail carrier shall, consistent with rules, orders, and regulations of the Federal Railroad Administration, construct, maintain, and operate all of its equipment, track, and other property in this State in such a manner as to pose no undue risk to its employees or the person or property of any member of the public.

(2) Adoption of Federal Standards. The track safety standards and accident/incident standards promulgated by the Federal Railroad Administration shall be safety standards of the Commission. The Commission may, in addition, adopt by reference in its regulations other federal railroad safety standards, whether contained in federal statutes or in regulations adopted pursuant to such statutes.

(3) Railroad Crossings. No public road, highway, or street shall hereafter be constructed across the track of any rail carrier at grade, nor shall the track of any rail carrier be constructed across a public road, highway or street at grade, without having first secured the permission of the Commission; provided, that this Section shall not apply to the replacement of lawfully existing roads, highways and tracks. No public pedestrian bridge or subway shall be constructed across the track of any rail carrier without having first secured the permission of the Commission. The Commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe. The Commission shall have power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each such crossing.

The Commission shall also have power, after a hearing, to require major alteration of or to abolish any crossing, heretofore or hereafter established, when in its opinion, the public safety requires such alteration or abolition, and, except in cities, villages and incorporated towns of 1,000,000 or more inhabitants, to vacate and close that part of the highway on such crossing altered or abolished and cause barricades to be erected across such highway in such manner as to prevent the use of such crossing as a highway, when, in the opinion of the Commission, the public convenience served by the crossing in question is not such as to justify the further retention thereof; or to require a separation of grades, at railroad-highway grade crossings; or to require a separation of grades at any proposed crossing where a proposed public highway may cross the tracks of any rail carrier or carriers; and to prescribe, after a hearing of the parties, the terms upon which such separations shall be made and the proportion in which the expense of the alteration or abolition of such crossings or the separation of such grades, having regard to the benefits, if any, accruing to the rail carrier or any party in interest, shall be divided between the rail carrier or carriers affected, or between such carrier or carriers and the State, county, municipality or other public authority in interest. However, a public hearing by the Commission to abolish a crossing shall not be required when the public highway authority in interest vacates the highway. In such instance the rail carrier, following notification to the Commission and the highway authority, shall remove any grade crossing warning devices and the grade crossing surface.

The Commission shall also have power by its order to require the reconstruction, minor alteration, minor relocation or improvement of any crossing (including the necessary highway approaches thereto) of any railroad across any highway or public road, pedestrian bridge, or pedestrian subway, whether such crossing be at grade or by overhead structure or by subway, whenever the Commission finds after a hearing or without a hearing as otherwise provided in this paragraph that such reconstruction, alteration, relocation or improvement is necessary to preserve or promote the safety or convenience of the public or of the employees or passengers of such rail carrier or carriers. By its original order or supplemental orders in such case, the Commission may direct such reconstruction, alteration, relocation, or improvement to be made in such manner and upon such terms and conditions as may be reasonable and necessary and may apportion the cost of such reconstruction, alteration, relocation or improvement and the subsequent maintenance thereof, having regard to the benefits, if any, accruing to the railroad or any party in interest, between the rail carrier or carriers and public utilities affected, or between such carrier or carriers and public utilities and the State, county, municipality or other public authority in interest. The cost to be so apportioned shall include the cost of changes or alterations in the equipment of public utilities affected as well as the cost of the relocation, diversion or establishment of any public highway, made necessary by such reconstruction, alteration, relocation or improvement of said crossing. A hearing shall not be required in those instances when the Commission enters an order confirming a written stipulation in which the Commission, the public highway authority or other public authority in interest, the rail carrier or carriers affected, and in instances involving the use of the Grade Crossing Protection Fund, the Illinois Department of Transportation, agree on the reconstruction, alteration, relocation, or improvement and the subsequent maintenance thereof and the division of costs of such changes of any grade crossing (including the necessary highway approaches thereto) of any railroad across any highway, pedestrian bridge, or pedestrian subway.

Every rail carrier operating in the State of Illinois shall construct and maintain every highway crossing over its tracks within the State so that the roadway at the intersec-

tion shall be as flush with the rails as superelevated curves will allow, and, unless otherwise ordered by the Commission, shall construct and maintain the approaches thereto at a grade of not more than 5% within the right of way for a distance of not less the 6 feet on each side of the centerline of such tracks; provided, that the grades at the approaches may be maintained in excess of 5% only when authorized by the Commission.

Every rail carrier operating within this State shall remove from its right of way at all railroad-highway grade crossings within the State, such brush, shrubbery, and trees as is reasonably practical for a distance of not less than 500 feet in either direction from each grade crossing. The Commission shall have power, upon its own motion, or upon complaint, and after having made proper investigation, to require the installation of adequate and appropriate luminous reflective warning signs, luminous flashing signals, crossing gates illuminated at night, or other protective devices in order to promote and safeguard the health and safety of the public. Luminous flashing signal or crossing gate devices installed at grade crossings, which have been approved by the Commission, shall be deemed adequate and appropriate. The Commission shall have authority to determine the number, type, and location of such signs, signals, gates, or other protective devices which, however, shall conform as near as may be with generally recognized national standards, and the Commission shall have authority to prescribe the division of the cost of the installation and subsequent maintenance of such signs, signals, gates, or other protective devices between the rail carrier or carriers, the public highway authority or other public authority in interest, and in instances involving the use of the Grade Crossing Protection Fund, the Illinois Department of Transportation. Except where train crews provide flagging of the crossing to road users, yield signs shall be installed at all highway intersections with every grade crossing in this State that is not equipped with automatic warning devices, such as luminous flashing signals or crossing gate devices. A stop sign may be used in lieu of the yield sign when an engineering study conducted in cooperation with the highway authority and the Illinois Department of Transportation has determined that a stop sign is warranted. If the Commission has ordered the installation of luminous flashing signal or crossing gate devices at a grade crossing not equipped with active warning devices, the Commission shall order the installation of temporary stop signs at the highway intersection with the grade crossing unless an engineering study has determined that a stop sign is not appropriate. If a stop sign is not appropriate, the Commission may order the installation of other appropriate supplemental signing as determined by an engineering study. The temporary signs shall remain in place until the luminous flashing signal or crossing gate devices have been installed. The rail carrier is responsible for the installation and subsequent maintenance of any required signs. The permanent signs shall be in place by July 1, 2011.

No railroad may change or modify the warning device system at a railroad-highway grade crossing, including warning systems interconnected with highway traffic control signals, without having first received the approval of the Commission. The Commission shall have the further power, upon application, upon its own motion, or upon complaint and after having made proper investigation, to require the interconnection of grade crossing warning devices with traffic control signals at highway intersections located at or near railroad crossings within the distances described by the State Manual on Uniform Traffic Control Devices adopted pursuant to Section 11–301 of this Code. In addition, State and local authorities may not install, remove, modernize, or otherwise modify traffic control signals at a highway intersection that is interconnected or proposed to be interconnected with grade crossing warning devices when the change affects the number, type, or location of traffic control devices on the track approach leg or legs of the intersection or the timing of the railroad preemption sequence of operation until the Commission has approved the installation, removal, modernization, or modification. Commission approval shall be limited to consideration of issues directly affecting the public safety at the railroad-highway grade crossing. The electrical circuit devices, alternate warning devices, and preemption sequences shall conform as nearly as possible, considering the particular characteristics of the crossing and intersection area, to the State manual adopted by the Illinois Department of Transportation pursuant to Section 11–301 of this Code and such federal standards as are made applicable by subsection (2) of this Section. In order to carry out this authority, the Commission shall have the authority to determine the number, type, and location of traffic control devices on the track approach leg or legs of the intersection and the timing of the railroad preemption sequence of operation. The Commission shall prescribe the division of costs for installation and maintenance of all devices required by this paragraph between the railroad or railroads and the highway authority in interest and in instances involving the use of the Grade Crossing Protection Fund or a State highway, the Illinois Department of Transportation.

Any person who unlawfully or maliciously removes, throws down, damages or defaces any sign, signal, gate or other protective device, located at or near any public grade crossing, shall be guilty of a petty offense and fined not less than $50 nor more than $200 for each offense. In addition to fines levied under the provisions of this Section a person adjudged guilty hereunder may also be directed to make restitution for the costs of repair or replacement, or both, necessitated by his misconduct.

It is the public policy of the State of Illinois to enhance public safety by establishing safe grade crossings. In order to implement this policy, the Illinois Commerce Commission is directed to conduct public hearings and to adopt specific criteria by July 1, 1994, that shall be adhered to by the Illinois Commerce Commission in determining if a grade crossing should be opened or abolished. The following factors shall be considered by the Illinois Commerce Commission in developing the specific criteria for opening and abolishing grade crossings:

(a) timetable speed of passenger trains;

(b) distance to an alternate crossing;

(c) accident history for the last 5 years;

(d) number of vehicular traffic and posted speed limits;

(e) number of freight trains and their timetable speeds;

(f) the type of warning device present at the grade crossing;

(g) alignments of the roadway and railroad, and the angle of intersection of those alignments;

(h) use of the grade crossing by trucks carrying hazardous materials, vehicles carrying passengers for hire, and school buses; and

(i) use of the grade crossing by emergency vehicles.

The Illinois Commerce Commission, upon petition to open or abolish a grade crossing, shall enter an order opening or abolishing the crossing if it meets the specific criteria adopted by the Commission.

Except as otherwise provided in this subsection (3), in no instance shall a grade crossing be permanently closed with-

out public hearing first being held and notice of such hearing being published in an area newspaper of local general circulation.

(4) Freight Trains—Radio Communications. The Commission shall after hearing and order require that every main line railroad freight train operating on main tracks outside of yard limits within this State shall be equipped with a radio communication system. The Commission after notice and hearing may grant exemptions from the requirements of this Section as to secondary and branch lines.

(5) Railroad Bridges and Trestles—Walkway and Handrail. In cases in which the Commission finds the same to be practical and necessary for safety of railroad employees, bridges and trestles, over and upon which railroad trains are operated, shall include as a part thereof, a safe and suitable walkway and handrail on one side only of such bridge or trestle, and such handrail shall be located at the outer edge of the walkway and shall provide a clearance of not less than 8 feet, 6 inches, from the center line of the nearest track, measured at right angles thereto.

(6) Packages Containing Articles for First Aid to Injured on Trains.

(a) All rail carriers shall provide a first aid kit that contains, at a minimum, those articles prescribed by the Commission, on each train or engine, for first aid to persons who may be injured in the course of the operation of such trains.

(b) A vehicle, excluding a taxi cab used in an emergency situation, operated by a contract carrier transporting railroad employees in the course of their employment shall be equipped with a readily available first aid kit that contains, as a minimum, the same articles that are required on each train or engine.

(7) Abandoned Bridges, Crossings, and Other Rail Plant. The Commission shall have authority, after notice and hearing, to order:

(a) The removal of any abandoned railroad tracks from roads, streets or other thoroughfares in this State; and

(b) The removal of abandoned overhead railroad structures crossing highways, waterways, or railroads. The Commission may equitably apportion the cost of such actions between the rail carrier or carriers, public utilities, and the State, county, municipality, township, road district, or other public authority in interest.

(8) Railroad–Highway Bridge Clearance. A vertical clearance of not less than 23 feet above the top of rail shall be provided for all new or reconstructed highway bridges constructed over a railroad track. The Commission may permit a lesser clearance if it determines that the 23 foot clearance standard cannot be justified based on engineering, operational, and economic conditions.

P.A. 76–1586, § 18c–7401, added by P.A. 84–796, § 1, eff. Jan. 1, 1986. Amended by P.A. 88–296, § 5, eff. Jan. 1, 1994; P.A. 89–699, § 15, eff. Jan. 16, 1997; P.A. 90–691, § 10, eff. Jan. 1, 1999; P.A. 91–725, § 10, eff. June 2, 2000; P.A. 93–604, § 5, eff. Nov. 21, 2003; P.A. 96–470, § 5, eff. Aug. 14, 2009; P.A. 97–374, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 18c–7401.

5/18c–7402. Safety Requirements for Railroad Operations

§ 18c–7402. Safety Requirements for Railroad Operations.

(1) Obstruction of Crossings.

(a) Obstruction of Emergency Vehicles. Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at crossings. Where such obstruction occurs and the train crew is aware of the obstruction, the train crew shall immediately take any action, consistent with safe operating procedure, necessary to remove the obstruction. In the Chicago and St. Louis switching districts, every railroad dispatcher or other person responsible for the movement of railroad equipment in a specific area who receives notification that railroad equipment is obstructing the movement of an emergency vehicle at any crossing within such area shall immediately notify the train crew through use of existing communication facilities. Upon notification, the train crew shall take immediate action in accordance with this paragraph.

(b) Obstruction of Highway at Grade Crossing Prohibited. It is unlawful for a rail carrier to permit any train, railroad car or engine to obstruct public travel at a railroad-highway grade crossing for a period in excess of 10 minutes, except where such train or railroad car is continuously moving or cannot be moved by reason of circumstances over which the rail carrier has no reasonable control.

In a county with a population of greater than 1,000,000, as determined by the most recent federal census, during the hours of 7:00 a.m. through 9:00 a. m. and 4:00 p.m. through 6:00 p.m. it is unlawful for a rail carrier to permit any single train or railroad car to obstruct public travel at a railroad-highway grade crossing in excess of a total of 10 minutes during a 30 minute period, except where the train or railroad car cannot be moved by reason or circumstances over which the rail carrier has no reasonable control. Under no circumstances will a moving train be stopped for the purposes of issuing a citation related to this Section.

However, no employee acting under the rules or orders of the rail carrier or its supervisory personnel may be prosecuted for a violation of this subsection (b).

(c) Punishment for Obstruction of Grade Crossing. Any rail carrier violating paragraph (b) of this subsection shall be guilty of a petty offense and fined not less than $200 nor more than $500 if the duration of the obstruction is in excess of 10 minutes but no longer than 15 minutes. If the duration of the obstruction exceeds 15 minutes the violation shall be a business offense and the following fines shall be imposed: if the duration of the obstruction is in excess of 15 minutes but no longer than 20 minutes, the fine shall be $500; if the duration of the obstruction is in excess of 20 minutes but no longer than 25 minutes, the fine shall be $700; if the duration of the obstruction is in excess of 25 minutes, but no longer than 30 minutes, the fine shall be $900; if the duration of the obstruction is in excess of 30 minutes but no longer than 35 minutes, the fine shall be $1,000; if the duration of the obstruction is in excess of 35 minutes, the fine shall be $1,000 plus an additional $500 for each 5 minutes of obstruction in excess of 25 minutes of obstruction.

(2) Other Operational Requirements.

(a) Bell and Whistle-Crossings. Every rail carrier shall cause a bell, and a whistle or horn to be placed and kept on each locomotive, and shall cause the same to be rung or sounded by the engineer or fireman, at the distance of a least 1,320 feet, from the place where the railroad crosses or intersects any public highway, and shall be kept ringing or sounding until the highway is reached; provided that at crossings where the Commission shall by order direct, only after a hearing has been held to determine the public is

reasonably and sufficiently protected, the rail carrier may be excused from giving warning provided by this paragraph.

(a–5) The requirements of paragraph (a) of this subsection (2) regarding ringing a bell and sounding a whistle or horn do not apply at a railroad crossing that has a permanently installed automated audible warning device authorized by the Commission under Section 18c–7402.1 that sounds automatically when an approaching train is at least 1,320 feet from the crossing and that keeps sounding until the lead locomotive has crossed the highway. The engineer or fireman may ring the bell or sound the whistle or horn at a railroad crossing that has a permanently installed audible warning device.

(b) Speed Limits. Each rail carrier shall operate its trains in compliance with speed limits set by the Commission. The Commission may set train speed limits only where such limits are necessitated by extraordinary circumstances effecting the public safety, and shall maintain such train speed limits in effect only for such time as the extraordinary circumstances prevail.

The Commission and the Department of Transportation shall conduct a study of the relation between train speeds and railroad-highway grade crossing safety. The Commission shall report the findings of the study to the General Assembly no later than January 5, 1997.

(c) Special Speed Limit; Pilot Project. The Commission and the Board of the Commuter Rail Division of the Regional Transportation Authority shall conduct a pilot project in the Village of Fox River Grove, the site of the fatal school bus accident at a railroad crossing on October 25, 1995, in order to improve railroad crossing safety. For this project, the Commission is directed to set the maximum train speed limit for Regional Transportation Authority trains at 50 miles per hour at intersections on that portion of the intrastate rail line located in the Village of Fox River Grove. If the Regional Transportation Authority deliberately fails to comply with this maximum speed limit, then any entity, governmental or otherwise, that provides capital or operational funds to the Regional Transportation Authority shall appropriately reduce or eliminate that funding. The Commission shall report to the Governor and the General Assembly on the results of this pilot project in January 1999, January 2000, and January 2001. The Commission shall also submit a final report on the pilot project to the Governor and the General Assembly in January 2001. The provisions of this subsection (c), other than this sentence, are inoperative after February 1, 2001.

(3) Report and Investigation of Rail Accidents.

(a) Reports. Every rail carrier shall report to the Commission, by the speediest means possible, whether telephone, telegraph, or otherwise, every accident involving its equipment, track, or other property which resulted in loss of life to any person. In addition, such carriers shall file a written report with the Commission. Reports submitted under this paragraph shall be strictly confidential, shall be specifically prohibited from disclosure, and shall not be admissible in any administrative or judicial proceeding relating to the accidents reported.

(b) Investigations. The Commission may investigate all railroad accidents reported to it or of which it acquires knowledge independent of reports made by rail carriers, and shall have the power, consistent with standards and procedures established under the Federal Railroad Safety Act, as amended,[1] to enter such temporary orders as will minimize the risk of future accidents pending notice, hearing, and final action by the Commission.

P.A. 76–1586, § 18c–7402, added by P.A. 84–796, § 1, eff. Jan. 1, 1986. Amended by P.A. 85–1144, § 1, eff. July 29, 1988; P.A. 89–699, § 15, eff. Jan. 16, 1997; P.A. 90–187, § 5, eff. Jan. 1, 1998; P.A. 91–675, § 5, eff. June 1, 2000; P.A. 92–284, § 5, eff. Aug. 9, 2001.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 18c–7402.

[1] 45 U.S.C.A. § 421 et seq.

Validity

Subsection (1)(b), which prohibits a rail carrier from permitting a train, railroad car, or engine to block a road-highway grade crossing for more than 10 minutes unless the train, car or engine is moving or the circumstances causing the obstruction are beyond the carrier's control, is preempted by federal railroad law and violated the commerce clause of the United States Constitution (U.S. Const., Art. I, Sec. 8). Eagle Marine v. Union Pacific R.R., 227 Ill.2d 377 (2008).

ACT 40. SNOWMOBILE REGISTRATION AND SAFETY ACT

ARTICLE V. CONTROL PROVISIONS

40/5–2. Operation on Highways

§ 5–2. Operation on Highways. It is unlawful for any person to drive or operate any snowmobile on a highway in this State except as follows:

A. On highways other than tollways, interstate highways and fully or limited access-controlled highways snowmobiles may make a direct crossing provided:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and

(2) the snowmobile is brought to a complete stop before crossing a roadway; and

(3) the operator yields the right of way to all oncoming traffic which constitutes a hazard.

B. On highways other than tollways, interstate highways and fully or limited access-controlled highways snowmobiles may be operated not less than 10 feet from the roadway and in the same direction as traffic. On such highways, other than State highways, the corporate authorities of a city, village or incorporated town may adopt ordinances providing for variance from the 10-foot separation requirement of this subsection, including ordinances permitting the operation of snowmobiles upon the roadways of such highways, other than State highways, within city, village or town limits. In addition, the corporate authorities of any unit of local government with jurisdiction over such highways may adopt ordinances authorizing the operation of snowmobiles within 10 feet of the roadway to avoid obstructions or hazardous terrain. Other than for State highways, corporate authorities of a city, village or incorporated town may adopt ordinances providing for trails, including the designation of the roadways of highways referred to in this paragraph as snowmobile trails, and regulating snowmobile operation within city, village or town limits.

C. On highways other than tollways, interstate highways and fully or limited access-controlled highways snowmobiles may be operated on roadways when it is necessary to cross a

bridge or culvert or when it is impracticable to gain immediate access to an area adjacent to a highway where a snowmobile is to be operated.

D. Corporate authorities of a city, village or incorporated town may by ordinance designate 1 or more specific public highways or streets within their jurisdiction as egress and ingress routes for the use of snowmobiles. In the event that such public highways or streets are under the jurisdiction of the State of Illinois, express written consent of the Illinois Department of Transportation shall be required. Corporate authorities acting under the authority of this paragraph D shall erect and maintain signs giving proper notice thereof.

E. Snowmobiles may be lawfully driven or operated upon those highways where posted with signs giving proper notice and erected and maintained by the township road commissioner. A township or township road commissioner shall not be liable for any personal injuries caused as a result of the operation of a snowmobile on such highways. For purposes of this paragraph E, "highways" are defined as township roads pursuant to Section 2–205 of the Illinois Highway Code.[1]

P.A. 77–1312, § 5–2, eff. Aug. 27, 1971. Amended by P.A. 79–885, § 1, eff. Oct. 1, 1975; P.A. 81–828, § 1, eff. Jan. 1, 1980; P.A. 82–195, § 1, eff. April 1, 1982; P.A. 82–347, § 1, eff. Jan. 1, 1982; P.A. 82–377, § 1, eff. Sept. 2, 1981; P.A. 82–464, § 1, eff. Sept. 15, 1981; P.A. 82–783, Art. III, § 38, eff. July 13, 1982; P.A. 83–789, § 1, eff. Jan. 1, 1983; P.A. 84–151, § 2, eff. Jan. 1, 1986; P.A. 84–973, § 2, eff. Jan. 1, 1986; P.A. 91–357, § 233, eff. July 29, 1999.

Formerly Ill.Rev.Stat.1991, ch. 95 ½, ¶ 605–2.

[1] 605 ILCS 5/2–205.

CHAPTER 720

CRIMINAL OFFENSES

CRIMINAL CODE

ACT 5. CRIMINAL CODE OF 2012

TITLE III. SPECIFIC OFFENSES

PART C. OFFENSES DIRECTED AGAINST PROPERTY

ARTICLE 21. DAMAGE AND TRESPASS TO PROPERTY

Section

5/21–3. Criminal trespass to real property.

5/21–5. Criminal Trespass to State Supported Land.

PART F. CERTAIN AGGRAVATED OFFENSES

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5/33E–12. Disclosure of information; bid reduction.

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5/33E–16. Misapplication of funds.

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TITLE V. ADDED ARTICLES

ARTICLE 47. NUISANCE

5/47–5. Public nuisance.

5/47–25. Penalties.

OFFENSES AGAINST THE PUBLIC

ACT 605. EXCAVATION FENCE ACT [REASSIGNED]

605/0.01 to 605/1. Renumbered.

CRIMINAL CODE

ACT 5. CRIMINAL CODE OF 2012

TITLE III. SPECIFIC OFFENSES

PART C. OFFENSES DIRECTED AGAINST PROPERTY

ARTICLE 21. DAMAGE AND TRESPASS TO PROPERTY

SUBDIVISION 5. TRESPASS

5/21–3. Criminal trespass to real property

§ 21–3. Criminal trespass to real property.

(a) A person commits criminal trespass to real property when he or she:

(1) knowingly and without lawful authority enters or remains within or on a building;

(2) enters upon the land of another, after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden;

(3) remains upon the land of another, after receiving notice from the owner or occupant to depart;

(3.5) presents false documents or falsely represents his or her identity orally to the owner or occupant of a building or land in order to obtain permission from the owner or occupant to enter or remain in the building or on the land;

(3.7) intentionally removes a notice posted on residential real estate as required by subsection (*l*) of Section 15–1505.8 of Article XV of the Code of Civil Procedure before the date and time set forth in the notice; or

(4) enters a field used or capable of being used for growing crops, an enclosed area containing livestock, an agricultural building containing livestock, or an orchard in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle) after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart.

For purposes of item (1) of this subsection, this Section shall not apply to being in a building which is open to the public while the building is open to the public during its normal hours of operation; nor shall this Section apply to a person who enters a public building under the reasonable belief that the building is still open to the public.

(b) A person has received notice from the owner or occupant within the meaning of Subsection (a) if he or she has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A–3 of the Code of Criminal Procedure of 1963 granting remedy (2) of subsection (b) of Section 112A–14 of that Code, or if a printed or written notice forbidding such entry has

been conspicuously posted or exhibited at the main entrance to the land or the forbidden part thereof.

(b–5) Subject to the provisions of subsection (b–10), as an alternative to the posting of real property as set forth in subsection (b), the owner or lessee of any real property may post the property by placing identifying purple marks on trees or posts around the area to be posted. Each purple mark shall be:

(1) A vertical line of at least 8 inches in length and the bottom of the mark shall be no less than 3 feet nor more than 5 feet high. Such marks shall be placed no more than 100 feet apart and shall be readily visible to any person approaching the property; or

(2) A post capped or otherwise marked on at least its top 2 inches. The bottom of the cap or mark shall be not less than 3 feet but not more than 5 feet 6 inches high. Posts so marked shall be placed not more than 36 feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners or lessees, all such owners or lessees shall concur in the decision to post their own property.

Nothing in this subsection (b–5) shall be construed to authorize the owner or lessee of any real property to place any purple marks on any tree or post or to install any post or fence if doing so would violate any applicable law, rule, ordinance, order, covenant, bylaw, declaration, regulation, restriction, contract, or instrument.

(b–10) Any owner or lessee who marks his or her real property using the method described in subsection (b–5) must also provide notice as described in subsection (b) of this Section. The public of this State shall be informed of the provisions of subsection (b–5) of this Section by the Illinois Department of Agriculture and the Illinois Department of Natural Resources. These Departments shall conduct an information campaign for the general public concerning the interpretation and implementation of subsection (b–5). The information shall inform the public about the marking requirements and the applicability of subsection (b–5) including information regarding the size requirements of the markings as well as the manner in which the markings shall be displayed. The Departments shall also include information regarding the requirement that, until the date this subsection becomes inoperative, any owner or lessee who chooses to mark his or her property using paint, must also comply with one of the notice requirements listed in subsection (b). The Departments may prepare a brochure or may disseminate the information through agency websites. Non-governmental organizations including, but not limited to, the Illinois Forestry Association, Illinois Tree Farm and the Walnut Council may help to disseminate the information regarding the requirements and applicability of subsection (b–5) based on materials provided by the Departments. This subsection (b–10) is inoperative on and after January 1, 2013.

(b–15) Subsections (b–5) and (b–10) do not apply to real property located in a municipality of over 2,000,000 inhabitants.

(c) This Section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his or her agent having apparent authority to hire workers on this land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on the land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his or her agent, nor to anyone invited by the migrant worker or other person so living on the land to visit him or her at the place he is so living upon the land.

(d) A person shall be exempt from prosecution under this Section if he or she beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any real estate (1) in which the taxes have not been paid for a period of at least 2 years; and (2) which has been left unoccupied and abandoned for a period of at least one year; and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.

(e) No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential and industrial property which that person beautifies pursuant to subsection (d) of this Section.

(e–5) Mortgagee or agent of the mortgagee exceptions.

(1) A mortgagee or agent of the mortgagee shall be exempt from prosecution for criminal trespass for entering, securing, or maintaining an abandoned residential property.

(2) No mortgagee or agent of the mortgagee shall be liable to the mortgagor or other owner of an abandoned residential property in any civil action for negligence or civil trespass in connection with entering, securing, or maintaining the abandoned residential property.

(3) For the purpose of this subsection (e–5) only, "abandoned residential property" means mortgaged real estate that the mortgagee or agent of the mortgagee determines in good faith meets the definition of abandoned residential property set forth in Section 15–1200.5 of Article XV of the Code of Civil Procedure.

(f) This Section does not prohibit a person from entering a building or upon the land of another for emergency purposes. For purposes of this subsection (f), "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person to be in imminent danger of serious bodily harm or in which property is or is reasonably believed to be in imminent danger of damage or destruction.

(g) Paragraph (3.5) of subsection (a) does not apply to a peace officer or other official of a unit of government who enters a building or land in the performance of his or her official duties.

(h) Sentence. A violation of subdivision (a)(1), (a)(2), (a)(3), or (a) (3.5) is a Class B misdemeanor. A violation of subdivision (a)(4) is a Class A misdemeanor.

(i) Civil liability. A person may be liable in any civil action for money damages to the owner of the land he or she entered upon with a motor vehicle as prohibited under paragraph (4) of subsection (a) of this Section. A person may also be liable to the owner for court costs and reasonable attorney's fees. The measure of damages shall be: (i) the actual damages, but not less than $250, if the vehicle is operated in a nature preserve or registered area as defined in Sections 3.11 and 3.14 of the Illinois Natural Areas Preservation Act; (ii) twice the actual damages if the owner has previously notified the person to cease trespassing; or (iii) in any other case, the actual damages, but not less than $50. If the person operating the vehicle is under the age of 16, the owner of the vehicle and the parent or legal guardian of the minor are jointly and severally liable. For the purposes of this subsection (i):

"Land" includes, but is not limited to, land used for crop land, fallow land, orchard, pasture, feed lot, timber land, prairie land, mine spoil nature preserves and registered areas. "Land" does not include driveways or private roadways upon which the owner allows the public to drive.

"Owner" means the person who has the right to possession of the land, including the owner, operator or tenant.

"Vehicle" has the same meaning as provided under Section 1–217 of the Illinois Vehicle Code.

(j) This Section does not apply to the following persons while serving process:

(1) a person authorized to serve process under Section 2–202 of the Code of Civil Procedure; or

(2) a special process server appointed by the circuit court.

Laws 1961, p. 1983, § 21–3, eff. Jan. 1, 1962. Amended by P.A. 77–1525, § 1, eff. Sept. 10, 1971; P.A. 77–2638, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 61, eff. Oct. 1, 1973; P.A. 82–564, § 1, eff. Sept. 17, 1981; P.A. 84–1041, § 5, eff. Nov. 26, 1985; P.A. 84–1391, § 1, eff. Sept. 18, 1986; P.A. 86–1300, § 1, eff. Jan. 1, 1991; P.A. 89–346, § 5, eff. Jan. 1, 1996; P.A. 89–373, § 5, eff. Jan. 1, 1996; P.A. 89–626, Art. 2, § 2–71, eff. Aug. 9, 1996; P.A. 90–419, § 5, eff. Aug. 15, 1997; P.A. 94–263, § 5, eff. Jan. 1, 2006; P.A. 94–509, § 5, eff. Aug. 9, 2005; P.A. 94–512, § 5, eff. Jan. 1, 2006; P.A. 95–331, § 1030, eff. Aug. 21, 2007; P.A. 97–184, § 5, eff. July 22, 2011; P.A. 97–477, § 5, eff. Aug. 22, 2011; P.A. 97–813, § 620, eff. July 13, 2012; P.A. 97–1108, § 10–5, eff. Jan. 1, 2013; P.A. 97–1164, § 10, eff. June 1, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 21–3.

P.A. 97–1164 incorporated the amendments by P.A. 97–184, P.A. 97–477, P.A. 97–813, and P.A. 97–1108.

5/21–5. Criminal Trespass to State Supported Land

§ 21–5. Criminal Trespass to State Supported Land.

(a) A person commits criminal trespass to State supported land when he or she enters upon land supported in whole or in part with State funds, or federal funds administered or granted through State agencies or any building on the land, after receiving, prior to the entry, notice from the State or its representative that the entry is forbidden, or remains upon the land or in the building after receiving notice from the State or its representative to depart, and who thereby interferes with another person's lawful use or enjoyment of the building or land.

A person has received notice from the State within the meaning of this subsection if he or she has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry to him or her or a group of which he or she is a part, has been conspicuously posted or exhibited at the main entrance to the land or the forbidden part thereof.

(a–5) A person commits criminal trespass to State supported land when he or she enters upon a right of way, including facilities and improvements thereon, owned, leased, or otherwise used by a public body or district organized under the Metropolitan Transit Authority Act, the Local Mass Transit District Act, or the Regional Transportation Authority Act, after receiving, prior to the entry, notice from the public body or district, or its representative, that the entry is forbidden, or the person remains upon the right of way after receiving notice from the public body or district, or its representative, to depart, and in either of these instances intends to compromise public safety by causing a delay in transit service lasting more than 15 minutes or destroying property.

A person has received notice from the public body or district within the meaning of this subsection if he or she has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry to him or her has been conspicuously posted or exhibited at any point of entrance to the right of way or the forbidden part of the right of way.

As used in this subsection (a–5), "right of way" has the meaning ascribed to it in Section 18c–7502 of the Illinois Vehicle Code.

(b) A person commits criminal trespass to State supported land when he or she enters upon land supported in whole or in part with State funds, or federal funds administered or granted through State agencies or any building on the land by presenting false documents or falsely representing his or her identity orally to the State or its representative in order to obtain permission from the State or its representative to enter the building or land; or remains upon the land or in the building by presenting false documents or falsely representing his or her identity orally to the State or its representative in order to remain upon the land or in the building, and who thereby interferes with another person's lawful use or enjoyment of the building or land.

This subsection does not apply to a peace officer or other official of a unit of government who enters upon land supported in whole or in part with State funds, or federal funds administered or granted through State agencies or any building on the land in the performance of his or her official duties.

(c) Sentence. Criminal trespass to State supported land is a Class A misdemeanor, except a violation of subsection (a–5) of this Section is a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation.

Laws 1961, p. 1983, § 21–5, added by P.A. 76–1581, § 2, eff. Sept. 26, 1969. Amended by P.A. 77–2638, § 1, eff. Jan. 1, 1973; P.A. 84–1041, § 5, eff. Nov. 26, 1985; P.A. 94–263, § 5, eff. Jan. 1, 2006; P.A. 97–1108, § 10–5, eff. Jan. 1, 2013; P.A. 98–748, § 5, eff. Jan. 1, 2015.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 21–5.

PART F. CERTAIN AGGRAVATED OFFENSES

ARTICLE 33E. PUBLIC CONTRACTS

Date Effective

Article 33E was added by P.A. 85–1295, § 1, eff. Jan. 1, 1989.

5/33E–1. Interference with public contracting

§ 33E–1. Interference with public contracting. It is the finding of the General Assembly that the cost to the public is increased and the quality of goods, services and construction paid for by public monies is decreased when contracts for such goods, services or construction are obtained by any means other than through independent noncollusive submission of bids or offers by individual contractors or suppliers, and the evaluation of those bids or offers by the governmental unit pursuant only to criteria publicly announced in advance.

Laws 1961, p. 1983, § 33E–1, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–1.

5/33E–2. Definitions

§ 33E–2. Definitions. In this Act:

(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.

(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.

(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.

(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.

(e) "Person employed by any unit of State or local government" means any employee of a unit of State or local government and any person defined in subsection (d) who is authorized by such unit of State or local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act;[1] except that, with respect to State contracts set aside for award to service-disabled veteran-owned small businesses and veteran-owned small businesses pursuant to Section 45–57 of the Illinois Procurement Code, "sheltered market" means procurements pursuant to that Section.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i–5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.

(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(*l*) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.

Laws 1961, p. 1983, § 33E–2, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989; P.A. 90–800, § 5, eff. Jan. 1, 1999; P.A. 92–16, § 88, eff. June 28, 2001; P.A. 97–260, § 10, eff. Aug. 5, 2011.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–2.

[1] 30 ILCS 575/8b.

5/33E–3. Bid-rigging

§ 33E–3. Bid-rigging. A person commits the offense of bid-rigging when he knowingly agrees with any person who is, or but for such agreement would be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of State or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent noncollusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted.

Bid-rigging is a Class 3 felony. Any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be barred for 5 years from the date of conviction from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5–4 of this Code.

Laws 1961, p. 1983, § 33E–3, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–3.

5/33E–4. Bid rotating

§ 33E–4. Bid rotating. A person commits the offense of bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes of this Section, shall include at least 3 contract bids within a period of 10 years, the most recent of which occurs after the effective date of this amendatory Act of 1988) of submitting sealed bids to units of State or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. Bid rotating is a Class 2 felony. Any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be permanently barred from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5–4 of this Code.

Laws 1961, p. 1983, § 33E–4, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–4.

5/33E–5. Acquisition or disclosure of bidding information by public official

§ 33E–5. Acquisition or disclosure of bidding information by public official. (a) Any person who is an official of or employed by any unit of State or local government who knowingly opens a sealed bid at a time or place other than as specified in the invitation to bid or as otherwise designated by the State or unit of local government, or outside the presence of witnesses required by the applicable statute or ordinance, commits a Class 4 felony.

(b) Any person who is an official of or employed by any unit of State or local government who knowingly discloses to any interested person any information related to the terms of a sealed bid whether that information is acquired through a violation of subsection (a) or by any other means except as provided by law or necessary to the performance of such official's or employee's responsibilities relating to the bid, commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (b) of this Section for any person who is an official of or employed by any unit of State or local government to make any disclosure to any interested person where such disclosure is also made generally available to the public.

(d) This Section only applies to contracts let by sealed bid.

Laws 1961, p. 1983, § 33E–5, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–5.

5/33E–6. Interference with contract submission and award by public official

§ 33E–6. Interference with contract submission and award by public official. (a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors, when inclusion of such information concerning the specifications or contractors in the bid or offer would influence the likelihood of acceptance of such bid or offer, commits a Class 4 felony. It shall not constitute a violation of this subsection to convey information intended to clarify plans or specifications regarding a public contract where such disclosure of information is also made generally available to the public.

(b) Any person who is an official of or employed by any unit of State or local government who, either directly or indirectly, knowingly informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (a) of this Section where any person who is an official of or employed by any unit of State or local government follows procedures established (i) by federal, State or local minority or female owned business enterprise programs or (ii) pursuant to Section 45–57 of the Illinois Procurement Code.

(d) Any bidder or offeror who is the recipient of communications from the unit of government which he reasonably believes to be proscribed by subsections (a) or (b), and fails to inform either the Attorney General or the State's Attorney for the county in which the unit of government is located, commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.

Laws 1961, p. 1983, § 33E–6, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989; P.A. 97–260, § 10, eff. Aug. 5, 2011.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–6.

5/33E–7. Kickbacks

§ 33E–7. Kickbacks. (a) A person violates this Section when he knowingly either:

(1) provides, attempts to provide or offers to provide any kickback;

(2) solicits, accepts or attempts to accept any kickback; or

(3) includes, directly or indirectly, the amount of any kickback prohibited by paragraphs (1) or (2) of this subsection (a) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to any unit of State or local government for a public contract.

(b) Any person violates this Section when he has received an offer of a kickback, or has been solicited to make a kickback, and fails to report it to law enforcement officials, including but not limited to the Attorney General or the State's Attorney for the county in which the contract is to be performed.

(c) A violation of subsection (a) is a Class 3 felony. A violation of subsection (b) is a Class 4 felony.

(d) Any unit of State or local government may, in a civil action, recover a civil penalty from any person who knowingly engages in conduct which violates paragraph (3) of subsection (a) of this Section in twice the amount of each kickback involved in the violation. This subsection (d) shall in no way limit the ability of any unit of State or local government to recover monies or damages regarding public contracts under any other law or ordinance. A civil action shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the conduct establishing the cause of action occurred or (2) the date on which the unit of State or local government knew or should have known that the conduct establishing the cause of action occurred.

Laws 1961, p. 1983, § 33E–7, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–7.

5/33E–8. Bribery of inspector employed by contractor

§ 33E–8. Bribery of inspector employed by contractor. (a) A person commits bribery of an inspector when he offers to any person employed by a contractor or subcontractor on any public project contracted for by any unit of State or local government any property or other thing of value with the

intent that such offer is for the purpose of obtaining wrongful certification or approval of the quality or completion of any goods or services supplied or performed in the course of work on such project. Violation of this subsection is a Class 4 felony.

(b) Any person employed by a contractor or subcontractor on any public project contracted for by any unit of State or local government who accepts any property or other thing of value knowing that such was intentionally offered for the purpose of influencing the certification or approval of the quality or completion of any goods or services supplied or performed under subcontract to that contractor, and either before or afterwards issues such wrongful certification, commits a Class 3 felony. Failure to report such offer to law enforcement officials, including but not limited to the Attorney General or the State's Attorney for the county in which the contract is performed, constitutes a Class 4 felony.

Laws 1961, p. 1983, § 33E–8, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–8.

5/33E–9. Change orders

§ 33E–9. Change orders. Any change order authorized under this Section shall be made in writing. Any person employed by and authorized by any unit of State or local government to approve a change order to any public contract who knowingly grants that approval without first obtaining from the unit of State or local government on whose behalf the contract was signed, or from a designee authorized by that unit of State or local government, a determination in writing that (1) the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, or (2) the change is germane to the original contract as signed, or (3) the change order is in the best interest of the unit of State or local government and authorized by law, commits a Class 4 felony. The written determination and the written change order resulting from that determination shall be preserved in the contract's file which shall be open to the public for inspection. This Section shall only apply to a change order or series of change orders which authorize or necessitate an increase or decrease in either the cost of a public contract by a total of $10,000 or more or the time of completion by a total of 30 days or more.

Laws 1961, p. 1983, § 33E–9, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989; P.A. 87–618, § 1, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–9.

5/33E–10. Rules of evidence

§ 33E–10. Rules of evidence. (a) The certified bid is prima facie evidence of the bid.

(b) It shall be presumed that in the absence of practices proscribed by this Article 33E, all persons who submit bids in response to an invitation to bid by any unit of State or local government submit their bids independent of all other bidders, without information obtained from the governmental entity outside the invitation to bid, and in a good faith effort to obtain the contract.

Laws 1961, p. 1983, § 33E–10, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–10.

5/33E–11. Certification

§ 33E–11. (a) Every bid submitted to and public contract executed pursuant to such bid by the State or a unit of local government shall contain a certification by the prime contractor that the prime contractor is not barred from contracting with any unit of State or local government as a result of a violation of either Section 33E–3 or 33E–4 of this Article. The State and units of local government shall provide the appropriate forms for such certification.

(b) A contractor who knowingly makes a false statement, material to the certification, commits a Class 3 felony.

Laws 1961, p. 1983, § 33E–11, added by P.A. 85–1295, § 1, eff. Jan. 1, 1989. Amended by P.A. 86–150, § 1, eff. Aug. 11, 1989; P.A. 97–1108, § 10–5, eff. Jan. 1, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–11.

5/33E–12. Disclosure of information; bid reduction

§ 33E–12. It shall not constitute a violation of any provisions of this Article for any person who is an official of or employed by a unit of State or local government to (1) disclose the name of any person who has submitted a bid in response to or requested plans or specifications regarding an invitation to bid or who has been awarded a public contract to any person or, (2) to convey information concerning acceptable alternatives or substitute to plans or specifications if such information is also made generally available to the public and mailed to any person who has submitted a bid in response to or requested plans or specifications regarding an invitation to bid on a public contract or, (3) to negotiate with the lowest responsible bidder a reduction in only the price term of the bid.

Laws 1961, p. 1983, § 33E–12, added by P.A. 86–150, § 1, eff. Aug. 11, 1989.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 33E–12.

5/33E–13. Contract negotiations under Local Government Professional Services Selection Act

§ 33E–13. Contract negotiations under the Local Government Professional Services Selection Act [1] shall not be subject to the provisions of this Article.

Laws 1961, p. 1983, § 33E–13, added by P.A. 87–855, § 2, eff. July 1, 1992.

Formerly Ill.Rev.Stat., ch. 38, ¶ 33E–13.

[1] 50 ILCS 510/0.01 et seq.

5/33E–14. False statements on vendor applications

§ 33E–14. False statements on vendor applications.

(a) A person commits false statements on vendor applications when he or she knowingly makes any false statement or report, with the intent to influence in any way the action of any unit of local government or school district in considering a vendor application.

(b) Sentence. False statements on vendor applications is a Class 3 felony.

Laws 1961, p. 1983, § 33E–14, added by P.A. 90–800, § 5, eff. Jan. 1, 1999. Amended by P.A. 97–1108, § 10–5, eff. Jan. 1, 2013.

5/33E–15. False entries

§ 33E–15. False entries.

(a) An officer, agent, or employee of, or anyone who is affiliated in any capacity with any unit of local government or school district commits false entries when he or she makes a false entry in any book, report, or statement of any unit of local government or school district with the intent to defraud the unit of local government or school district.

(b) Sentence. False entries is a Class 3 felony.

Laws 1961, p. 1983, § 33E–15, added by P.A. 90–800, § 5, eff. Jan. 1, 1999. Amended by P.A. 97–1108, § 10–5, eff. Jan. 1, 2013.

5/33E–16. Misapplication of funds

§ 33E–16. Misapplication of funds.

(a) An officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district commits misapplication of funds when he or she knowingly misapplies any of the moneys, funds, or credits of the unit of local government or school district.

(b) Sentence. Misapplication of funds is a Class 3 felony.

Laws 1961, p. 1983, § 33E–16, added by P.A. 90–800, § 5, eff. Jan. 1, 1999. Amended by P.A. 97–1108, § 10–5, eff. Jan. 1, 2013.

5/33E–17. Unlawful participation

§ 33E–17. Unlawful participation. Whoever, being an officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district participates, shares in, or receiving directly or indirectly any money, profit, property, or benefit through any contract with the unit of local government or school district, with the intent to defraud the unit of local government or school district is guilty of a Class 3 felony.

Laws 1961, p. 1983, § 33E–17, added by P.A. 90–800, § 5, eff. Jan. 1, 1999.

5/33E–18. Unlawful stringing of bids

§ 33E–18. Unlawful stringing of bids.

(a) A person commits unlawful stringing of bids when he or she, with the intent to evade the bidding requirements of any unit of local government or school district, knowingly strings or assists in stringing or attempts to string any contract or job order with the unit of local government or school district.

(b) Sentence. Unlawful stringing of bids is a Class 4 felony.

Laws 1961, p. 1983, § 33E–18, added by P.A. 90–800, § 5, eff. Jan. 1, 1999. Amended by P.A. 97–1108, § 10–5, eff. Jan. 1, 2013; P.A. 98–756, § 695, eff. July 16, 2014.

TITLE V. ADDED ARTICLES

ARTICLE 47. NUISANCE

Date Effective

Article 47 was added by P.A. 89–234, Art. 5, § 5–15, eff. Jan. 1, 1996.

5/47–5. Public nuisance

§ 47–5. Public nuisance. It is a public nuisance:

(1) To cause or allow the carcass of an animal or offal, filth, or a noisome substance to be collected, deposited, or to remain in any place to the prejudice of others.

(2) To throw or deposit offal or other offensive matter or the carcass of a dead animal in a water course, lake, pond, spring, well, or common sewer, street, or public highway.

(3) To corrupt or render unwholesome or impure the water of a spring, river, stream, pond, or lake to the injury or prejudice of others.

(4) To obstruct or impede, without legal authority, the passage of a navigable river or waters.

(5) To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(6) To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials for those substances, in a building within 20 rods of a valuable building erected at the time the business is commenced.

(7) To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within 50 rods of an occupied dwelling house.

(8) To erect, continue, or use a building or other place for the exercise of a trade, employment, or manufacture that, by occasioning noxious exhalations, offensive smells, or otherwise, is offensive or dangerous to the health of individuals or of the public.

(9) To advertise wares or occupation by painting notices of the wares or occupation on or affixing them to fences or other private property, or on rocks or other natural objects, without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(10) To permit a well drilled for oil, gas, salt water disposal, or any other purpose in connection with the production of oil and gas to remain unplugged after the well is no longer used for the purpose for which it was drilled.

(11) To construct or operate a salt water pit or oil field refuse pit, commonly called a "burn out pit", so that salt water, brine, or oil field refuse or other waste liquids may escape from the pit in a manner except by the evaporation of the salt water or brine or by the burning of the oil field waste or refuse.

(12) To permit concrete bases, discarded machinery, and materials to remain around an oil or gas well, or to fail to fill holes, cellars, slush pits, and other excavations made in connection with the well or to restore the surface of the lands surrounding the well to its condition before the drilling of the well, upon abandonment of the oil or gas well.

(13) To permit salt water, oil, gas, or other wastes from a well drilled for oil, gas, or exploratory purposes to escape to the surface, or into a mine or coal seam, or into an underground fresh water supply, or from one underground stratum to another.

(14) To harass, intimidate, or threaten a person who is about to sell or lease or has sold or leased a residence or other real property or is about to buy or lease or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates to a person's attempt to sell, buy, or lease a residence, or other real property, or refers to a person's sale, purchase, or lease of a residence or other real property.

(15) To store, dump, or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans, or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance

birds, or other animal pests that are offensive, injurious, or dangerous to the health of individuals or the public.

(16) To create a condition, through the improper maintenance of a swimming pool or wading pool, or by causing an action that alters the condition of a natural body of water, so that it harbors mosquitoes, flies, or other animal pests that are offensive, injurious, or dangerous to the health of individuals or the public.

(17) To operate a tanning facility without a valid permit under the Tanning Facility Permit Act.[1]

Nothing in this Section shall be construed to prevent the corporate authorities of a city, village, or incorporated town, or the county board of a county, from declaring what are nuisances and abating them within their limits. Counties have that authority only outside the corporate limits of a city, village, or incorporated town.

Laws 1961, p. 1983, § 47–5, added by P.A. 89–234, Art. 5, § 5–15, eff. Jan. 1, 1996.

[1] 210 ILCS 145/1 et seq.

5/47–25. Penalties

§ 47–25. Penalties. Whoever causes, erects, or continues a nuisance described in this Article, for the first offense, is guilty of a petty offense and shall be fined not exceeding $100, and for a subsequent offense is guilty of a Class B misdemeanor. Every nuisance described in this Article, when a conviction for that nuisance is had, may, by order of the court before which the conviction is had, be abated by the sheriff or other proper officer, at the expense of the defendant. It is not a defense to a proceeding under this Section that the nuisance is erected or continued by virtue or permission of a law of this State.

Laws 1961, p. 1983, § 47–25, added by P.A. 89–234, Art. 5, § 5–15, eff. Jan. 1, 1996.

OFFENSES AGAINST THE PUBLIC

ACT 605. EXCAVATION FENCE ACT [REASSIGNED]

605/0.01 to 605/1. §§ 0.01 to 1. Renumbered as 430 ILCS 165/0.01 to 165/1 by P.A. 97–1108, § 99–5, eff. Jan. 1, 2013

CHAPTER 730

CORRECTIONS

ACT 5. UNIFIED CODE OF CORRECTIONS

CHAPTER III. DEPARTMENT OF CORRECTIONS

ARTICLE 2. ORGANIZATION OF DEPARTMENT

Section

5/3–2–2. Powers and Duties of the Department.

ACT 5. UNIFIED CODE OF CORRECTIONS

Enactment

The Unified Code of Corrections was enacted by P.A. 77–2097, § 1–1–1 et seq., eff. January 1, 1973.

CHAPTER III. DEPARTMENT OF CORRECTIONS

ARTICLE 2. ORGANIZATION OF DEPARTMENT

5/3–2–2. Powers and Duties of the Department

§ 3–2–2. Powers and Duties of the Department.

(1) In addition to the powers, duties and responsibilities which are otherwise provided by law, the Department shall have the following powers:

(a) To accept persons committed to it by the courts of this State for care, custody, treatment and rehabilitation, and to accept federal prisoners and aliens over whom the Office of the Federal Detention Trustee is authorized to exercise the federal detention function for limited purposes and periods of time.

(b) To develop and maintain reception and evaluation units for purposes of analyzing the custody and rehabilitation needs of persons committed to it and to assign such persons to institutions and programs under its control or transfer them to other appropriate agencies. In consultation with the Department of Alcoholism and Substance Abuse (now the Department of Human Services), the Department of Corrections shall develop a master plan for the screening and evaluation of persons committed to its custody who have alcohol or drug abuse problems, and for making appropriate treatment available to such persons; the Department shall report to the General Assembly on such plan not later than April 1, 1987. The maintenance and implementation of such plan shall be contingent upon the availability of funds.

(b–1) To create and implement, on January 1, 2002, a pilot program to establish the effectiveness of pupillometer technology (the measurement of the pupil's reaction to light) as an alternative to a urine test for purposes of screening and evaluating persons committed to its custody who have alcohol or drug problems. The pilot program shall require the pupillometer technology to be used in at least one Department of Corrections facility. The Director may expand the pilot program to include an additional facility or facilities as he or she deems appropriate. A minimum of 4,000 tests shall be included in the pilot program. The Department must report to the General Assembly on the effectiveness of the program by January 1, 2003.

(b–5) To develop, in consultation with the Department of State Police, a program for tracking and evaluating each inmate from commitment through release for recording his or her gang affiliations, activities, or ranks.

(c) To maintain and administer all State correctional institutions and facilities under its control and to establish new ones as needed. Pursuant to its power to establish new institutions and facilities, the Department may, with the written approval of the Governor, authorize the Department of Central Management Services to enter into an agreement of the type described in subsection (d) of Section 405–300 of the Department of Central Management Services Law (20 ILCS 405/405–300). The Department shall designate those institutions which shall constitute the State Penitentiary System.

Pursuant to its power to establish new institutions and facilities, the Department may authorize the Department of Central Management Services to accept bids from counties and municipalities for the construction, remodeling or conversion of a structure to be leased to the Department of Corrections for the purposes of its serving as a correctional institution or facility. Such construction, remodeling or conversion may be financed with revenue bonds issued pursuant to the Industrial Building Revenue Bond Act [1] by the municipality or county. The lease specified in a bid shall be for a term of not less than the time needed to retire any revenue bonds used to finance the project, but not to exceed 40 years. The lease may grant to the State the option to purchase the structure outright.

Upon receipt of the bids, the Department may certify one or more of the bids and shall submit any such bids to the General Assembly for approval. Upon approval of a bid by a constitutional majority of both houses of the General Assembly, pursuant to joint resolution, the Department of Central Management Services may enter into an agreement with the county or municipality pursuant to such bid.

(c–5) To build and maintain regional juvenile detention centers and to charge a per diem to the counties as established by the Department to defray the costs of housing each minor in a center. In this subsection (c–5), "juvenile detention center" means a facility to house minors during pendency of trial who have been transferred from proceedings under the Juvenile Court Act of 1987 [2] to prosecutions under the criminal laws of this State in accordance with Section 5–805 of the Juvenile Court Act of 1987, [3] whether the transfer was by operation of law or permissive under that Section. The Department shall designate the counties to be served by each regional juvenile detention center.

(d) To develop and maintain programs of control, rehabilitation and employment of committed persons within its institutions.

(d–5) To provide a pre-release job preparation program for inmates at Illinois adult correctional centers.

(e) To establish a system of supervision and guidance of committed persons in the community.

(f) To establish in cooperation with the Department of Transportation to supply a sufficient number of prisoners for use by the Department of Transportation to clean up the trash and garbage along State, county, township, or municipal highways as designated by the Department of Transportation. The Department of Corrections, at the request of the Department of Transportation, shall furnish such prisoners at least annually for a period to be agreed upon between the Director of Corrections and the Director of Transportation. The prisoners used on this program shall be selected by the Director of Corrections on whatever basis he deems proper in consideration of their term, behavior and earned eligibility to participate in such program—where they will be outside of the prison facility but still in the custody of the Department of Corrections. Prisoners convicted of first degree murder, or a Class X felony, or armed violence, or aggravated kidnapping, or criminal sexual assault, aggravated criminal sexual abuse or a subsequent conviction for criminal sexual abuse, or forcible detention, or arson, or a prisoner adjudged a Habitual Criminal shall not be eligible for selection to participate in such program. The prisoners shall remain as prisoners in the custody of the Department of Corrections and such Department shall furnish whatever security is necessary. The Department of Transportation shall furnish trucks and equipment for the highway cleanup program and personnel to supervise and direct the program. Neither the Department of Corrections nor the Department of Transportation shall replace any regular employee with a prisoner.

(g) To maintain records of persons committed to it and to establish programs of research, statistics and planning.

(h) To investigate the grievances of any person committed to the Department, to inquire into any alleged misconduct by employees or committed persons, and to investigate the assets of committed persons to implement Section 3–7–6 of this Code; and for these purposes it may issue subpoenas and compel the attendance of witnesses and the production of writings and papers, and may examine under oath any witnesses who may appear before it; to also investigate alleged violations of a parolee's or releasee's conditions of parole or release; and for this purpose it may issue subpoenas and compel the attendance of witnesses and the production of documents only if there is reason to believe that such procedures would provide evidence that such violations have occurred.

If any person fails to obey a subpoena issued under this subsection, the Director may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punishable as contempt of court.

(i) To appoint and remove the chief administrative officers, and administer programs of training and development of personnel of the Department. Personnel assigned by the Department to be responsible for the custody and control of committed persons or to investigate the alleged misconduct of committed persons or employees or alleged violations of a parolee's or releasee's conditions of parole shall be conservators of the peace for those purposes, and shall have the full power of peace officers outside of the facilities of the Department in the protection, arrest, retaking and reconfining of committed persons or where the exercise of such power is necessary to the investigation of such misconduct or violations. This subsection shall not apply to persons committed to the Department of Juvenile Justice under the Juvenile Court Act of 1987 on aftercare release.

(j) To cooperate with other departments and agencies and with local communities for the development of standards and programs for better correctional services in this State.

(k) To administer all moneys and properties of the Department.

(*l*) To report annually to the Governor on the committed persons, institutions and programs of the Department.

(l–5) (Blank).

(m) To make all rules and regulations and exercise all powers and duties vested by law in the Department.

(n) To establish rules and regulations for administering a system of sentence credits, established in accordance with Section 3–6–3, subject to review by the Prisoner Review Board.

(*o*) To administer the distribution of funds from the State Treasury to reimburse counties where State penal institutions are located for the payment of assistant state's attorneys' salaries under Section 4–2001 of the Counties Code. [4]

(p) To exchange information with the Department of Human Services and the Department of Healthcare and Family Services for the purpose of verifying living arrangements and for other purposes directly connected with the administration of this Code and the Illinois Public Aid Code. [5]

(q) To establish a diversion program.

The program shall provide a structured environment for selected technical parole or mandatory supervised release violators and committed persons who have violated the rules governing their conduct while in work release. This program shall not apply to those persons who have committed a new offense while serving on parole or mandatory supervised release or while committed to work release.

Elements of the program shall include, but shall not be limited to, the following:

(1) The staff of a diversion facility shall provide supervision in accordance with required objectives set by the facility.

(2) Participants shall be required to maintain employment.

(3) Each participant shall pay for room and board at the facility on a sliding-scale basis according to the participant's income.

(4) Each participant shall:

(A) provide restitution to victims in accordance with any court order;

(B) provide financial support to his dependents; and

(C) make appropriate payments toward any other court-ordered obligations.

(5) Each participant shall complete community service in addition to employment.

(6) Participants shall take part in such counseling, educational and other programs as the Department may deem appropriate.

(7) Participants shall submit to drug and alcohol screening.

(8) The Department shall promulgate rules governing the administration of the program.

(r) To enter into intergovernmental cooperation agreements under which persons in the custody of the Department may participate in a county impact incarceration program established under Section 3–6038 or 3–15003.5 of the Counties Code. [6]

(r–5) (Blank).

(r–10) To systematically and routinely identify with respect to each streetgang active within the correctional system: (1) each active gang; (2) every existing inter-gang affiliation or alliance; and (3) the current leaders in each gang. The Department shall promptly segregate leaders from inmates who belong to their gangs and allied gangs. "Segregate" means no physical contact and, to the extent possible under the conditions and space available at the correctional facility, prohibition of visual and sound communication. For the purposes of this paragraph (r–10), "leaders" means persons who:

(i) are members of a criminal streetgang;

(ii) with respect to other individuals within the streetgang, occupy a position of organizer, supervisor, or other position of management or leadership; and

(iii) are actively and personally engaged in directing, ordering, authorizing, or requesting commission of criminal acts by others, which are punishable as a felony, in furtherance of streetgang related activity both within and outside of the Department of Corrections.

"Streetgang", "gang", and "streetgang related" have the meanings ascribed to them in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act. [7]

(s) To operate a super-maximum security institution, in order to manage and supervise inmates who are disruptive or dangerous and provide for the safety and security of the staff and the other inmates.

(t) To monitor any unprivileged conversation or any unprivileged communication, whether in person or by mail, telephone, or other means, between an inmate who, before commitment to the Department, was a member of an organized gang and any other person without the need to show cause or satisfy any other requirement of law before beginning the monitoring, except as constitutionally required. The monitoring may be by video, voice, or other method of recording or by any other means. As used in this subdivision (1)(t), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

As used in this subdivision (1)(t), "unprivileged conversation" or "unprivileged communication" means a conversation or communication that is not protected by any privilege recognized by law or by decision, rule, or order of the Illinois Supreme Court.

(u) To establish a Women's and Children's Pre-release Community Supervision Program for the purpose of providing housing and services to eligible female inmates, as determined by the Department, and their newborn and young children.

(u–5) To issue an order, whenever a person committed to the Department absconds or absents himself or herself, without authority to do so, from any facility or program to which he or she is assigned. The order shall be certified by the Director, the Supervisor of the Apprehension Unit, or any person duly designated by the Director, with the seal of the Department affixed. The order shall be directed to all sheriffs, coroners, and police officers, or to any particular person named in the order. Any order issued pursuant to this subdivision (1) (u–5) shall be sufficient warrant for the officer or person named in the order to arrest and deliver the committed person to the proper correctional officials and shall be executed the same as criminal process.

(v) To do all other acts necessary to carry out the provisions of this Chapter.

(2) The Department of Corrections shall by January 1, 1998, consider building and operating a correctional facility within 100 miles of a county of over 2,000,000 inhabitants, especially a facility designed to house juvenile participants in the impact incarceration program.

(3) When the Department lets bids for contracts for medical services to be provided to persons committed to Department facilities by a health maintenance organization, medical service corporation, or other health care provider, the bid may only be let to a health care provider that has obtained an irrevocable letter of credit or performance bond issued by a company whose bonds have an investment grade or higher rating by a bond rating organization.

(4) When the Department lets bids for contracts for food or commissary services to be provided to Department facilities, the bid may only be let to a food or commissary services provider that has obtained an irrevocable letter of credit or performance bond issued by a company whose bonds have an investment grade or higher rating by a bond rating organization.

(5) On and after the date 6 months after August 16, 2013 (the effective date of Public Act 98–488) , as provided in the Executive Order 1 (2012) Implementation Act, all of the powers, duties, rights, and responsibilities related to State healthcare purchasing under this Code that were transferred from the Department of Corrections to the Department of Healthcare and Family Services by Executive Order 3 (2005) are transferred back to the Department of Corrections; however, powers, duties, rights, and responsibilities related to State healthcare purchasing under this Code that were exercised by the Department of Corrections before the effective date of Executive Order 3 (2005) but that pertain to individuals resident in facilities operated by the Department of Juvenile Justice are transferred to the Department of Juvenile Justice.

P.A. 77–2097, § 3–2–2, eff. Jan. 1, 1973. Amended by P.A. 78–939, § 1, eff. July 1, 1974; P.A. 80–1099, § 3, eff. Feb. 1, 1978; P.A. 81–214, § 1, eff. Jan. 1, 1980; P.A. 83–942, § 2, eff. Nov. 23, 1983; P.A. 83–964, § 1, eff. Jan. 1, 1984; P.A. 83–1067, § 4, eff. July 1, 1984; P.A. 83–1302, § 2, eff. Aug. 31, 1984; P.A. 83–1362, Art. II, § 48, eff. Sept. 11, 1984; P.A. 83–1528, Art. II, § 7, eff. Jan. 17, 1985; P.A. 84–1450, § 4, eff. July 1, 1987; P.A. 84–1475, § 3, eff. Feb. 5, 1987; P.A. 85–293, Art. II, § 8, eff. Sept. 8, 1987; P.A. 85–428, § 1, eff. Jan. 1, 1988; P.A. 85–736, § 2, eff. Sept. 22, 1987; P.A. 85–1209, Art. II, § 2–25, eff. Aug. 30, 1988; P.A. 85–1433, § 5, eff. Jan. 11, 1989; P.A. 86–820, Art. II, § 2–16, eff. Sept. 7, 1989; P.A. 86–1182, § 1, eff. Aug. 20, 1990; P.A. 86–1183, § 1, eff. Aug. 20, 1990; P.A. 86–1475, Art. 2, § 2–13, eff. Jan. 10, 1991; P.A. 88–311, § 15, eff. Aug. 11, 1993; P.A. 88–469, § 10, eff. Aug. 31, 1993; P.A. 88–670, Art. 2, § 2–66, eff. Dec. 2, 1994; P.A. 89–110, § 10, eff. Jan. 1, 1996; P.A. 89–302, § 15, eff. Aug. 11, 1995; P.A. 89–312, § 5, eff. Aug. 11, 1995; P.A. 89–390, § 5, eff. Aug. 20, 1995; P.A. 89–507, Art. 90, § 90C–36, eff. July 1, 1997; P.A. 89–626, Art. 2, § 2–74, eff. Aug. 9, 1996; P.A. 89–688, § 5, eff. June 1, 1997; P.A. 89–689, § 125, eff. Dec. 31, 1996; P.A. 90–14, Art. 2, § 2–50, eff.

July 1, 1997; P.A. 90–590, Art. 2001, § 2001–40, eff. Jan. 1, 1999; P.A. 90–658, § 5, eff. Jan. 1, 1999; P.A. 91–239, Art. 5, § 5–545, eff. Jan. 1, 2000; P.A. 91–357, § 247, eff. July 29, 1999; P.A. 92–444, § 5, eff. Jan. 1, 2002; P.A. 92–712, § 5, eff. Jan. 1, 2003; P.A. 93–839, Art. 10, § 10–170, eff. July 30, 2004; P.A. 94–696, § 25, eff. June 1, 2006; P.A. 94–1067, § 15, eff. Aug. 1, 2006; P.A. 96–1265, § 5, eff. July 26, 2010; P.A. 97–697, § 5, eff. June 22, 2012; P.A. 97–800, § 5, eff. July 13, 2012; P.A. 97–802, § 5, eff. July 13, 2012; P.A. 98–463, § 460, eff. Aug. 16, 2013; P.A. 98–488, § 935, eff. Aug. 16, 2013; P.A. 98–558, § 105, eff. Jan. 1, 2014; P.A. 98–756, § 720, eff. July 16, 2014.

[1] 50 ILCS 445/1 et seq.

[2] 705 ILCS 405/1–1 et seq.

[3] 705 ILCS 405/5–805.

[4] 55 ILCS 5/4–2001.

[5] 305 ILCS 5/1–1 et seq.

[6] 55 ILCS 5/3–6038 or 5/3–15003.5.

[7] 740 ILCS 147/10.

Validity

The Illinois Appellate Court, Fourth District, held that P.A. 89–688 violated the single-subject rule of the Illinois Constitution in the case of People v. Foster, App. 4 Dist. 2000, 316 Ill.App.3d 855, 737 N.E.2d 1125, 250 Ill.Dec. 148. P.A. 89–689 made changes identical to those made by P.A. 89–688, however, and has not been held unconstitutional.

CHAPTER 735

CIVIL PROCEDURE

ACT 5. CODE OF CIVIL PROCEDURE

ARTICLE VII. EMINENT DOMAIN

Section

5/7–101 to 5/7–103.45. Repealed.

5/7–103.46 to 5/7–103.95. Repealed.

5/7–103.96 to 5/7–104. Repealed.

5/7–105 to 5/7–129. Repealed.

ACT 30. EMINENT DOMAIN ACT

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30/1–1–5. Definitions.

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30/15–5–15. Eminent domain powers in ILCS Chapter 70 through 75.

30/15–5–20. Eminent domain powers in ILCS Chapters 105 through 115.

30/15–5–25. Eminent domain powers in ILCS Chapters 205 through 430.

30/15–5–30. Eminent domain powers in ILCS Chapters 505 through 525.

30/15–5–35. Eminent domain powers in ILCS Chapters 605 through 625.

30/15–5–40. Eminent domain powers in ILCS Chapters 705 through 820.

30/15–5–45. Repealed.

30/15–5–46. Eminent domain powers in new Acts.

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30/25–5–40. Quick-take; Will County.

30/25–5–45. Quick-take; South Suburban Airport.

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30/25–5–55. Quick-take; Village of Mundelein.

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30/25–7–103.1. Quick-take; highway purposes.

ACT 5. CODE OF CIVIL PROCEDURE

ARTICLE VII. EMINENT DOMAIN

5/7–101 to 5/7–103.45. §§ 101 to 103.45. Repealed by P.A. 94–1055, Art. 95, § 95–1–5, effective January 1, 2007

5/7–103.46 to 5/7–103.95. §§ 103.46 to 103.95. Repealed by P.A. 94–1055, Art. 95, § 95–1–5, effective January 1, 2007

5/7–103.96 to 5/7–104. §§ 103.96 to 104. Repealed by P.A. 94–1055, Art. 95, § 95–1–5, effective January 1, 2007

5/7–105 to 5/7–129. §§ 105 to 129. Repealed by P.A. 94–1055, Art. 95, § 95–1–5, effective January 1, 2007

ACT 30. EMINENT DOMAIN ACT

ARTICLE 1. GENERAL PROVISIONS

30/1–1–1. Short title

§ 1–1–1. Short title. This Act may be cited as the Eminent Domain Act.

P.A. 94–1055, Art. 1, § 1–1–1, eff. Jan. 1, 2007.

An Act concerning government, which may be referred to as the Equity in Eminent Domain Act. P.A. 94–1055, approved July 28, 2006, effective January 1, 2007.

30/1–1–5. Definitions

§ 1–1–5. Definitions. As used in this Act, except with respect to the acquisition or damaging of property authorized under the O'Hare Modernization Act:

"Acquisition of property", unless the context otherwise requires, includes the acquisition, damaging, or use of property or any right to or interest in property.

"Blighted area", "blight", and "blighted" have the same meanings as under the applicable statute authorizing the condemning authority to exercise the power of eminent domain or, if those terms have no defined meaning under the applicable statute, then the same meanings as under Section 11–74.4–3 of the Illinois Municipal Code.

"Condemning authority" means the State or any unit of local government, school district, or other entity authorized to exercise the power of eminent domain.

P.A. 94–1055, Art. 1, § 1–1–5, eff. Jan. 1, 2007.

ARTICLE 5. GENERAL EXERCISE

30/5–5–5. Exercise of the power of eminent domain; public use; blight

§ 5–5–5. Exercise of the power of eminent domain; public use; blight.

(a) In addition to all other limitations and requirements, a condemning authority may not take or damage property by the exercise of the power of eminent domain unless it is for a public use, as set forth in this Section.

(a–5) Subsections (b), (c), (d), (e), and (f) of this Section do not apply to the acquisition of property under the O'Hare Modernization Act. A condemning authority may exercise the power of eminent domain for the acquisition or damaging of property under the O'Hare Modernization Act as provided for by law in effect prior to the effective date of this Act.

(a–10) Subsections (b), (c), (d), (e), and (f) of this Section do not apply to the acquisition or damaging of property in furtherance of the goals and objectives of an existing tax increment allocation redevelopment plan. A condemning authority may exercise the power of eminent domain for the acquisition of property in furtherance of an existing tax increment allocation redevelopment plan as provided for by law in effect prior to the effective date of this Act.

As used in this subsection, "existing tax increment allocation redevelopment plan" means a redevelopment plan that was adopted under the Tax Increment Allocation Redevelopment Act (Article 11, Division 74.4 of the Illinois Municipal Code) prior to April 15, 2006 and for which property assembly costs were, before that date, included as a budget line item in the plan or described in the narrative portion of the plan as part of the redevelopment project, but does not include (i) any additional area added to the redevelopment project area on or after April 15, 2006, (ii) any subsequent extension of the completion date of a redevelopment plan beyond the estimated completion date established in that plan prior to April 15, 2006, (iii) any acquisition of property in a conservation area for which the condemnation complaint is filed more than 12 years after the effective date of this Act, or (iv) any acquisition of property in an industrial park conservation area.

As used in this subsection, "conservation area" and "industrial park conservation area" have the same meanings as under Section 11–74.4–3 of the Illinois Municipal Code.

(b) If the exercise of eminent domain authority is to acquire property for public ownership and control, then the condemning authority must prove that (i) the acquisition of the property is necessary for a public purpose and (ii) the acquired property will be owned and controlled by the condemning authority or another governmental entity.

(c) Except when the acquisition is governed by subsection (b) or is primarily for one of the purposes specified in subsection (d), (e), or (f) and the condemning authority elects to proceed under one of those subsections, if the exercise of eminent domain authority is to acquire property for private ownership or control, or both, then the condemning authority must prove by clear and convincing evidence that the acquisition of the property for private ownership or control is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose.

An acquisition of property primarily for the purpose of the elimination of blight is rebuttably presumed to be for a public purpose and primarily for the benefit, use, or enjoyment of the public under this subsection.

Any challenge to the existence of blighting factors alleged in a complaint to condemn under this subsection shall be raised within 6 months of the filing date of the complaint to condemn, and if not raised within that time the right to challenge the existence of those blighting factors shall be deemed waived.

Evidence that the Illinois Commerce Commission has granted a certificate or otherwise made a finding of public convenience and necessity for an acquisition of property (or any right or interest in property) for private ownership or

control (including, without limitation, an acquisition for which the use of eminent domain is authorized under the Public Utilities Act, the Telephone Company Act, or the Electric Supplier Act) to be used for utility purposes creates a rebuttable presumption that such acquisition of that property (or right or interest in property) is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose.

In the case of an acquisition of property (or any right or interest in property) for private ownership or control to be used for utility, pipeline, or railroad purposes for which no certificate or finding of public convenience and necessity by the Illinois Commerce Commission is required, evidence that the acquisition is one for which the use of eminent domain is authorized under one of the following laws creates a rebuttable presumption that the acquisition of that property (or right or interest in property) is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose:

(1) the Public Utilities Act,

(2) the Telephone Company Act,

(3) the Electric Supplier Act,

(4) the Railroad Terminal Authority Act,

(5) the Grand Avenue Railroad Relocation Authority Act,

(6) the West Cook Railroad Relocation and Development Authority Act,

(7) Section 4–505 of the Illinois Highway Code,

(8) Section 17 or 18 of the Railroad Incorporation Act,

(9) Section 18c–7501 of the Illinois Vehicle Code.

(d) If the exercise of eminent domain authority is to acquire property for private ownership or control and if the primary basis for the acquisition is the elimination of blight and the condemning authority elects to proceed under this subsection, then the condemning authority must: (i) prove by a preponderance of the evidence that acquisition of the property for private ownership or control is necessary for a public purpose; (ii) prove by a preponderance of the evidence that the property to be acquired is located in an area that is currently designated as a blighted area or conservation area under an applicable statute; (iii) if the existence of blight or blighting factors is challenged in an appropriate motion filed within 6 months after the date of filing of the complaint to condemn, prove by a preponderance of the evidence that the required blighting factors existed in the area so designated (but not necessarily in the particular property to be acquired) at the time of the designation under item (ii) or at any time thereafter; and (iv) prove by a preponderance of the evidence at least one of the following:

(A) that it has entered into an express written agreement in which a private person or entity agrees to undertake a development project within the blighted area that specifically details the reasons for which the property or rights in that property are necessary for the development project;

(B) that the exercise of eminent domain power and the proposed use of the property by the condemning authority are consistent with a regional plan that has been adopted within the past 5 years in accordance with Section 5–14001 of the Counties Code or Section 11–12–6 of the Illinois Municipal Code or with a local land resource management plan adopted under Section 4 of the Local Land Resource Management Planning Act; or

(C) that (1) the acquired property will be used in the development of a project that is consistent with the land uses set forth in a comprehensive redevelopment plan prepared in accordance with the applicable statute authorizing the condemning authority to exercise the power of eminent domain and is consistent with the goals and purposes of that comprehensive redevelopment plan, and (2) an enforceable written agreement, deed restriction, or similar encumbrance has been or will be executed and recorded against the acquired property to assure that the project and the use of the property remain consistent with those land uses, goals, and purposes for a period of at least 40 years, which execution and recording shall be included as a requirement in any final order entered in the condemnation proceeding.

The existence of an ordinance, resolution, or other official act designating an area as blighted is not prima facie evidence of the existence of blight. A finding by the court in a condemnation proceeding that a property or area has not been proven to be blighted does not apply to any other case or undermine the designation of a blighted area or conservation area or the determination of the existence of blight for any other purpose or under any other statute, including without limitation under the Tax Increment Allocation Redevelopment Act (Article 11, Division 74.4 of the Illinois Municipal Code).

Any challenge to the existence of blighting factors alleged in a complaint to condemn under this subsection shall be raised within 6 months of the filing date of the complaint to condemn, and if not raised within that time the right to challenge the existence of those blighting factors shall be deemed waived.

(e) If the exercise of eminent domain authority is to acquire property for private ownership or control and if the primary purpose of the acquisition is one of the purposes specified in item (iii) of this subsection and the condemning authority elects to proceed under this subsection, then the condemning authority must prove by a preponderance of the evidence that: (i) the acquisition of the property is necessary for a public purpose; (ii) an enforceable written agreement, deed restriction, or similar encumbrance has been or will be executed and recorded against the acquired property to assure that the project and the use of the property remain consistent with the applicable purpose specified in item (iii) of this subsection for a period of at least 40 years, which execution and recording shall be included as a requirement in any final order entered in the condemnation proceeding; and (iii) the acquired property will be one of the following:

(1) included in the project site for a residential project, or a mixed-use project including residential units, where not less than 20% of the residential units in the project are made available, for at least 15 years, by deed restriction, long-term lease, regulatory agreement, extended use agreement, or a comparable recorded encumbrance, to low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act;

(2) used primarily for public airport, road, parking, or mass transportation purposes and sold or leased to a private party in a sale-leaseback, lease-leaseback, or similar structured financing;

(3) owned or used by a public utility or electric cooperative for utility purposes;

(4) owned or used by a railroad for passenger or freight transportation purposes;

(5) sold or leased to a private party that operates a water supply, waste water, recycling, waste disposal, waste-to-energy, or similar facility;

(6) sold or leased to a not-for-profit corporation whose purposes include the preservation of open space, the operation of park space, and similar public purposes;

(7) used as a library, museum, or related facility, or as infrastructure related to such a facility;

(8) used by a private party for the operation of a charter school open to the general public; or

(9) a historic resource, as defined in Section 3 of the Illinois State Agency Historic Resources Preservation Act, a landmark designated as such under a local ordinance, or a contributing structure within a local landmark district listed on the National Register of Historic Places, that is being acquired for purposes of preservation or rehabilitation.

(f) If the exercise of eminent domain authority is to acquire property for public ownership and private control and if the primary purpose of the acquisition is one of the purposes specified in item (iii) of this subsection and the condemning authority elects to proceed under this subsection, then the condemning authority must prove by a preponderance of the evidence that: (i) the acquisition of the property is necessary for a public purpose; (ii) the acquired property will be owned by the condemning authority or another governmental entity; and (iii) the acquired property will be controlled by a private party that operates a business or facility related to the condemning authority's operation of a university, medical district, hospital, exposition or convention center, mass transportation facility, or airport, including, but not limited to, a medical clinic, research and development center, food or commercial concession facility, social service facility, maintenance or storage facility, cargo facility, rental car facility, bus facility, taxi facility, flight kitchen, fixed based operation, parking facility, refueling facility, water supply facility, and railroad tracks and stations.

(g) This Article is a limitation on the exercise of the power of eminent domain, but is not an independent grant of authority to exercise the power of eminent domain.

P.A. 94–1055, Art. 5, § 5–5–5, eff. Jan. 1, 2007.

ARTICLE 10. GENERAL PROCEDURE

30/10–5–5. Compensation; jury

§ 10–5–5. Compensation; jury.

(a) Private property shall not be taken or damaged for public use without just compensation and, in all cases in which compensation is not made by the condemning authority, compensation shall be ascertained by a jury, as provided in this Act. When compensation is so made by the condemning authority, any party, upon application, may have a trial by jury to ascertain the just compensation to be paid. A demand on the part of the condemning authority for a trial by jury shall be filed with the complaint for condemnation of the condemning authority. When the condemning authority is plaintiff, a defendant desirous of a trial by jury must file a demand for a trial by jury on or before the return date of the summons served on him or her or on or before the date fixed in the publication in case of defendants served by publication. If no party in the condemnation action demands a trial by jury, as provided for by this Section, then the trial shall be before the court without a jury.

(b) The right to just compensation, as provided in this Act, applies to the owner or owners of any lawfully erected off-premises outdoor advertising sign that is compelled to be altered or removed under this Act or any other statute, or under any ordinance or regulation of any municipality or other unit of local government, and also applies to the owner or owners of the property on which that sign is erected. The right to just compensation, as provided in this Act, applies to property subject to a conservation right under the Real Property Conservation Rights Act. The amount of compensation for the taking of the property shall not be diminished or reduced by virtue of the existence of the conservation right. The holder of the conservation right shall be entitled to just compensation for the value of the conservation right.

P.A. 94–1055, Art. 10, § 10–5–5, eff. Jan. 1, 2007.

30/10–5–10. Parties

§ 10–5–10. Parties.

(a) When the right (i) to take private property for public use, without the owner's consent, (ii) to construct or maintain any public road, railroad, plankroad, turnpike road, canal, or other public work or improvement, or (iii) to damage property not actually taken has been or is conferred by general law or special charter upon any corporate or municipal authority, public body, officer or agent, person, commissioner, or corporation and when (i) the compensation to be paid for or in respect of the property sought to be appropriated or damaged for the purposes mentioned cannot be agreed upon by the parties interested, (ii) the owner of the property is incapable of consenting, (iii) the owner's name or residence is unknown, or (iv) the owner is a nonresident of the State, then the party authorized to take or damage the property so required, or to construct, operate, and maintain any public road, railroad, plankroad, turnpike road, canal, or other public work or improvement, may apply to the circuit court of the county where the property or any part of the property is situated, by filing with the clerk a complaint. The complaint shall set forth, by reference, (i) the complainant's authority in the premises, (ii) the purpose for which the property is sought to be taken or damaged, (iii) a description of the property, and (iv) the names of all persons interested in the property as owners or otherwise, as appearing of record, if known, or if not known stating that fact; and shall pray the court to cause the compensation to be paid to the owner to be assessed.

(b) If it appears that any person not in being, upon coming into being, is, or may become or may claim to be, entitled to any interest in the property sought to be appropriated or damaged, the court shall appoint some competent and disinterested person as guardian ad litem to appear for and represent that interest in the proceeding and to defend the proceeding on behalf of the person not in being. Any judgment entered in the proceeding shall be as effectual for all purposes as though the person was in being and was a party to the proceeding.

(c) If the proceeding seeks to affect the property of persons under guardianship, the guardians shall be made parties defendant.

(d) Any interested persons whose names are unknown may be made parties defendant by the same descriptions and in the same manner as provided in other civil cases.

(e) When the property to be taken or damaged is a common element of property subject to a declaration of condominium ownership, pursuant to the Condominium Property Act, or of a common interest community, the complaint shall name the unit owners' association in lieu of naming the individual unit owners and lienholders on individual units. Unit owners, mortgagees, and other lienholders may intervene as parties defendant. For the purposes of this Section, "common interest community" has the same meaning as set forth in subsection (c) of Section 9–102 of the Code of Civil Procedure. "Unit owners' association" or "association" shall

refer to both the definition contained in Section 2 of the Condominium Property Act and subsection (c) of Section 9–102 of the Code of Civil Procedure.

(f) When the property is sought to be taken or damaged by the State for the purposes of establishing, operating, or maintaining any State house or State charitable or other institutions or improvements, the complaint shall be signed by the Governor, or the Governor's designee, or as otherwise provided by law.

(g) No property, except property described in Section 3 of the Sports Stadium Act, property to be acquired in furtherance of actions under Article 11, Divisions 124, 126, 128, 130, 135, 136, and 139, of the Illinois Municipal Code, property to be acquired in furtherance of actions under Section 3.1 of the Intergovernmental Cooperation Act, property to be acquired that is a water system or waterworks pursuant to the home rule powers of a unit of local government, and property described as Site B in Section 2 of the Metropolitan Pier and Exposition Authority Act, and property that may be taken as provided in the Public–Private Agreements for the South Suburban Airport Act belonging to a railroad or other public utility subject to the jurisdiction of the Illinois Commerce Commission may be taken or damaged, pursuant to the provisions of this Act, without the prior approval of the Illinois Commerce Commission.

P.A. 94–1055, Art. 10, § 10–5–10, eff. Jan. 1, 2007. Amended by P.A. 95–331, § 1090, eff. Aug. 21, 2007; P.A. 98–109, § 4–70, eff. July 25, 2013.

30/10–5–15. State agency proceedings; information

§ 10–5–15. State agency proceedings; information.

(a) This Section applies only to the State and its agencies, and only to matters arising after December 31, 1991.

(b) Before any State agency initiates any proceeding under this Act, the agency must designate and provide for an appropriate person to respond to requests arising from the notifications required under this Section. The designated person may be an employee of the agency itself or an employee of any other appropriate State agency. The designated person shall respond to property owners' questions about the authority and procedures of the State agency in acquiring property by condemnation and about the property owner's general rights under those procedures. However, the designated person shall not provide property owners with specific legal advice or specific legal referrals.

(c) At the time of first contact with a property owner, whether in person or by letter, the State agency shall advise the property owner, in writing, of the following:

(1) A description of the property that the agency seeks to acquire.

(2) The name, address, and telephone number of the State official designated under subsection (b) to answer the property owner's questions.

(3) The identity of the State agency attempting to acquire the property.

(4) The general purpose of the proposed acquisition.

(5) The type of facility to be constructed on the property, if any.

(d) At least 60 days before filing a petition with any court to initiate a proceeding under this Act, a State agency shall send a letter by certified mail, return receipt requested, to the owner of the property to be taken, giving the property owner the following information:

(1) The amount of compensation for the taking of the property proposed by the agency and the basis for computing it.

(2) A statement that the agency continues to seek a negotiated agreement with the property owner.

(3) A statement that, in the absence of a negotiated agreement, it is the intention of the agency to initiate a court proceeding under this Act.

The State agency shall maintain a record of the letters sent in compliance with this Section for at least one year.

(e) Any duty imposed on a State agency by this Section may be assumed by the Office of the Attorney General, the Capital Development Board, or any other agency of State government that is assisting or acting on behalf of the State agency in the matter.

P.A. 94–1055, Art. 10, § 10–5–15, eff. Jan. 1, 2007.

30/10–5–20. Construction easement

§ 10–5–20. Construction easement. If a taking is for a construction easement only, any structure that has been removed or taken shall be repaired, reestablished or relocated, at the option of the landowner, when the cost of the action does not exceed the just compensation otherwise payable to the landowner.

P.A. 94–1055, Art. 10, § 10–5–20, eff. Jan. 1, 2007.

30/10–5–25. Service; notice

§ 10–5–25. Service; notice. Service of summons and publication of notice shall be made as in other civil cases.

P.A. 94–1055, Art. 10, § 10–5–25, eff. Jan. 1, 2007.

30/10–5–30. Hearing

§ 10–5–30. Hearing. Except as provided in Sections 20–5–10, 20–5–15, 20–5–20, and 20–5–45 of this Act, no cause shall be heard earlier than 20 days after service upon defendant or upon due publication against non-residents.

Any number of separate parcels of property, situated in the same county, may be included in one complaint, and the compensation for each shall be assessed separately by the same or different juries, as the court may direct.

Amendments to the complaint, or to any paper or record in the cause, may be permitted whenever necessary to a fair trial and final determination of the questions involved.

Should it become necessary at any stage of the proceedings to bring in a new party in the litigation, the court has the power to: (i) make any rule or order in relation thereto as may be deemed reasonable and proper; (ii) make all necessary rules and orders for notice to parties of the pendency of the proceedings; and (iii) issue all process necessary to the enforcement of orders and judgments.

P.A. 94–1055, Art. 10, § 10–5–30, eff. Jan. 1, 2007.

30/10–5–35. Challenge of jurors

§ 10–5–35. Challenge of jurors. The plaintiff, and every party interested in the ascertaining of compensation, shall have the same right of challenge of jurors as in other civil cases in the circuit courts.

P.A. 94–1055, Art. 10, § 10–5–35, eff. Jan. 1, 2007.

30/10–5–40. Oath of jury

§ 10–5–40. Oath of jury. When the jury is selected, the court shall cause the following oath to be administered to the jury:

You and each of you do solemnly swear that you will well and truly ascertain and report just compensation to the owner (and each owner) of the property which it is sought to take or damage in this case, and to each person therein interested, according to the facts in the case, as the same may appear by the evidence, and that you will truly report such compensation so ascertained: so help you God.

P.A. 94–1055, Art. 10, § 10–5–40, eff. Jan. 1, 2007.

30/10–5–45. View of premises; jury's report

§ 10–5–45. View of premises; jury's report. The jury shall, at the request of either party, go upon the land sought to be taken or damaged, in person, and examine the same. After hearing the proof offered, the jury shall make its report in writing. The report shall be subject to amendment by the jury, under the direction of the court, so as to clearly set forth and show the compensation ascertained to each person thereto entitled, and the verdict shall thereupon be recorded. However, no benefits or advantages which may accrue to lands or property affected shall be set off against or deducted from such compensation, in any case.

P.A. 94–1055, Art. 10, § 10–5–45, eff. Jan. 1, 2007.

30/10–5–50. Admissibility of evidence

§ 10–5–50. Admissibility of evidence. Evidence is admissible as to: (1) any benefit to the landowner that will result from the public improvement for which the eminent domain proceedings were instituted; (2) any unsafe, unsanitary, substandard, or other illegal condition, use, or occupancy of the property, including any violation of any environmental law or regulation; (3) the effect of such condition on income from or the fair market value of the property; and (4) the reasonable cost of causing the property to be placed in a legal condition, use, or occupancy, including compliance with environmental laws and regulations. Such evidence is admissible notwithstanding the absence of any official action taken to require the correction or abatement of the illegal condition, use, or occupancy.

P.A. 94–1055, Art. 10, § 10–5–50, eff. Jan. 1, 2007.

30/10–5–55. Special benefits

§ 10–5–55. Special benefits. In assessing damages or compensation for any taking or property acquisition under this Act, due consideration shall be given to any special benefit that will result to the property owner from any public improvement to be erected on the property. This Section is applicable to all private property taken or acquired for public use and applies whether damages or compensation are fixed by negotiation, by a court, or by a jury.

P.A. 94–1055, Art. 10, § 10–5–55, eff. Jan. 1, 2007.

30/10–5–60. Value

§ 10–5–60. Value. Except as to property designated as possessing a special use, the fair cash market value of property in a proceeding in eminent domain shall be the amount of money that a purchaser, willing, but not obligated, to buy the property, would pay to an owner willing, but not obliged, to sell in a voluntary sale.

For the acquisition or damaging of property under the O'Hare Modernization Act, the amount shall be determined as of the date of filing the complaint to condemn. For the acquisition of other property, the amount shall be determined and ascertained as of the date of filing the complaint to condemn, except that:

(i) in the case of property not being acquired under Article 20 (quick-take), if the trial commences more than 2 years after the date of filing the complaint to condemn, the court may, in the interest of justice and equity, declare a valuation date no sooner than the date of filing the complaint to condemn and no later than the date of commencement of the trial; and

(ii) in the case of property that is being acquired under Article 20 (quick-take), if the trial commences more than 2 years after the date of filing the complaint to condemn, the court may, in the interest of justice and equity, declare a valuation date no sooner than the date of filing the complaint to condemn and no later than the date on which the condemning authority took title to the property.

In the condemnation of property for a public improvement, there shall be excluded from the fair cash market value of the property any appreciation in value proximately caused by the improvement and any depreciation in value proximately caused by the improvement. However, such appreciation or depreciation shall not be excluded when property is condemned for a separate project conceived independently of and subsequent to the original project.

P.A. 94–1055, Art. 10, § 10–5–60, eff. Jan. 1, 2007.

30/10–5–62. Relocation costs

§ 10–5–62. Relocation costs. Except when federal funds are available for the payment of direct financial assistance to persons displaced by the acquisition of their real property, in all condemnation proceedings for the taking or damaging of real property under the exercise of the power of eminent domain, the condemning authority shall pay to displaced persons reimbursement for their reasonable relocation costs, determined in the same manner as under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended from time to time, and as implemented by regulations promulgated under that Act. This Section does not apply to the acquisition or damaging of property under the O'Hare Modernization Act.

P.A. 94–1055, Art. 10, § 10–5–62, eff. Jan. 1, 2007.

30/10–5–65. Reimbursement; inverse condemnation

§ 10–5–65. Reimbursement; inverse condemnation. When the condemning authority is required by a court to initiate condemnation proceedings for the actual physical taking of real property, the court rendering judgment for the property owner and awarding just compensation for the taking shall determine and award or allow to the property owner, as part of that judgment or award, further sums as will, in the opinion of the court, reimburse the property owner for the owner's reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred by the property owner in those proceedings.

P.A. 94–1055, Art. 10, § 10–5–65, eff. Jan. 1, 2007.

30/10–5–70. Judgments

§ 10–5–70. Judgments.

(a) If the plaintiff is not in possession pursuant to an order entered under the provisions of Section 20–5–15 of this Act, the court, upon the report of the jury under Section 10–5–45 or upon the court's ascertainment and finding of the just compensation when there was no jury, shall proceed to adjudge and make such order as to right and justice shall pertain, ordering that the plaintiff shall enter upon the

property and the use of the property upon payment of full compensation as ascertained, within a reasonable time to be fixed by the court. That order, together with evidence of payment, shall constitute complete justification of the taking of the property. Thereupon, the court in the same eminent domain proceeding in which the orders have been made shall have exclusive authority to hear and determine all rights in and to just compensation and shall make findings as to the rights of the parties, which shall be paid by the county treasurer out of the respective awards deposited with him or her, as provided in Section 10–5–85 of this Act, except when the parties claimant are engaged in litigation in a court having acquired jurisdiction of the parties with respect to their rights in the property condemned prior to the time of the filing of the complaint to condemn. Appeals may be taken from any findings by the court as to the rights of the parties in and to the compensation paid to the county treasurer as in other civil cases.

If the plaintiff dismisses the complaint before the entry of the order by the court first mentioned in this subsection (a) or fails to make payment of full compensation within the time named in that order or if the final judgment is that the plaintiff cannot acquire the property by condemnation, the court shall, upon the application of the defendants or any of them, enter an order in the action for the payment by the plaintiff of all costs, expenses, and reasonable attorney fees paid or incurred by the defendant or defendants in defense of the complaint, as upon the hearing of the application shall be right and just, and also for the payment of the taxable costs.

(b) If the plaintiff is in possession pursuant to an order entered under the provisions of Section 20–5–15 of this Act and if Section 20–5–45 of this Act is inapplicable, then the court, upon the jury's report under Section 10–5–45 of this Act or upon the court's determination of just compensation if there was no jury, shall enter an order setting forth the amount of just compensation so finally ascertained and ordering and directing the payment of any amount of just compensation that may remain due to any of the interested parties, directing the return of any excess in the deposit remaining with the clerk of the court, and directing the refund of any excess amount withdrawn from the deposit by any of the interested parties.

P.A. 94–1055, Art. 10, § 10–5–70, eff. Jan. 1, 2007.

30/10–5–75. Intervening petition

§ 10–5–75. Intervening petition. Any person not made a party may become a party by filing an intervening petition setting forth that the petitioner is the owner or has an interest in property that will be taken or damaged by the proposed work. The rights of the petitioner shall thereupon be fully considered and determined.

P.A. 94–1055, Art. 10, § 10–5–75, eff. Jan. 1, 2007.

30/10–5–80. Bond; use of premises

§ 10–5–80. Bond; use of premises. When compensation is ascertained, as provided in this Act, if the party in whose favor the compensation is ascertained appeals the order or judgment ascertaining just compensation, the plaintiff shall, notwithstanding, have the right to enter upon the use of the property upon entering into bond, with sufficient surety, payable to the party interested in the compensation, conditioned for the payment of compensation in the amount finally adjudged in the case and, in case of appeal by the plaintiff, the plaintiff shall enter into like bond with approved surety. The bonds shall be approved by the court in which the proceeding is had and executed and filed within the time fixed by the court. However, if the plaintiff is the State of Illinois, no bond shall be required.

P.A. 94–1055, Art. 10, § 10–5–80, eff. Jan. 1, 2007.

30/10–5–85. Payment to county treasurer

§ 10–5–85. Payment to county treasurer. Payment of the final compensation adjudged, including any balance remaining due because of the insufficiency of any deposit made under Section 20–5–15 of this Act to satisfy in full the amount finally adjudged to be just compensation, may be made in all cases to the county treasurer, who shall receive and disburse the final compensation, subject to an order of the court, as provided in subsection (a) of Section 10–5–70 of this Act or payment may be made to the party entitled or his, her, or their guardian.

P.A. 94–1055, Art. 10, § 10–5–85, eff. Jan. 1, 2007.

30/10–5–90. Distribution of compensation

§ 10–5–90. Distribution of compensation. The amount of just compensation shall be distributed among all persons having an interest in the property according to the fair value of their legal or equitable interests. If there is a contract for deed to the property, the contract shall be abrogated and the amount of just compensation distributed by allowing to the purchaser on the contract for deed: (1) an amount equal to the down payment on the contract; (2) an amount equal to the monthly payments made on the contract, less interest and an amount equal to the fair rental value of the property for the period the purchaser has enjoyed the use of the property under the contract; and (3) an amount equal to amounts expended on improvements to the extent the expenditures increased the fair market value of the property; and by allowing to the seller on the contract for deed the amount of just compensation after allowing for amounts distributed under (1), (2), and (3) of this Section. However, the contract purchaser may pay to the contract seller the amount to be paid on the contract and shall then be entitled to the amount of just compensation paid by the condemnor either through negotiation or awarded in judicial proceedings.

P.A. 94–1055, Art. 10, § 10–5–90, eff. Jan. 1, 2007.

30/10–5–95. Verdict and judgment to be filed of record

§ 10–5–95. Verdict and judgment to be filed of record. The court shall cause the verdict of the jury and the judgment of the court to be filed of record.

P.A. 94–1055, Art. 10, § 10–5–95, eff. Jan. 1, 2007.

30/10–5–100. Lands of State institutions not taken

§ 10–5–100. Lands of State institutions not taken. No part of any land conveyed before, on, or after the effective date of this Act to the State of Illinois, for the use of any benevolent institutions of the State (or to any such institutions), shall be entered upon, appropriated, or used by any railroad or other company for railroad or other purposes, without the previous consent of the General Assembly. No court or other tribunal shall have or entertain jurisdiction of any proceeding instituted or to be instituted for the purpose of appropriating any such land for any of the purposes stated in this Section, without that previous consent.

P.A. 94–1055, Art. 10, § 10–5–100, eff. Jan. 1, 2007.

30/10–5–105. Sale of certain property acquired by condemnation

§ 10–5–105. Sale of certain property acquired by condemnation.

(a) This Section applies only to property that (i) has been acquired after the effective date of this Act by condemnation or threat of condemnation, (ii) was acquired for public ownership and control by the condemning authority or another public entity, and (iii) has been under the ownership and control of the condemning authority or that other public entity for a total of less than 5 years.

As used in this Section, "threat of condemnation" means that the condemning authority has made an offer to purchase property and has the authority to exercise the power of eminent domain with respect to that property.

(b) Any governmental entity seeking to dispose of property to which this Section applies must dispose of that property in accordance with this Section, unless disposition of that property is otherwise specifically authorized or prohibited by law enacted by the General Assembly before, on, or after the effective date of this Act.

(c) The sale or public auction by the State of property to which this Section applies must be conducted in the manner provided in the State Property Control Act for the disposition of surplus property.

(d) The sale or public auction by a municipality of property to which this Section applies must be conducted in accordance with Section 11–76–4.1 or 11–76–4.2 of the Illinois Municipal Code.

(e) The sale or public auction by any other unit of local government or school district of property to which this Section applies must be conducted in accordance with this subsection (e). The corporate authorities of the [1] unit of local government or school district, by resolution, may authorize the sale or public auction of the property as surplus public real estate. The value of the real estate shall be determined by a written MAI-certified appraisal or by a written certified appraisal of a State-certified or State-licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the staff of the unit of local government or school district; by listing with local licensed real estate agencies, in which case the terms of the agent's compensation shall be included in the resolution; or by public auction. The resolution shall be published at the first opportunity following its passage in a newspaper or newspapers published in the county or counties in which the unit of local government or school district is located. The resolution shall also contain pertinent information concerning the size, use, and zoning of the real estate and the terms of sale. The corporate authorities of the unit of local government or school district may accept any contract proposal determined by them to be in the best interest of the unit of local government or school district by a vote of two-thirds of the members of the corporate authority of the unit of local government or school district then holding office, but in no event at a price less than 80% of the appraised value.

(f) This Section does not apply to the acquisition or damaging of property under the O'Hare Modernization Act.

P.A. 94–1055, Art. 10, § 10–5–105, eff. Jan. 1, 2007. Amended by P.A. 95–331, § 1090, eff. Aug. 21, 2007.

[1] So in enrolled law.

30/10–5–110. Offers of settlement by defendant; attorney's fees and litigation expenses

§ 10–5–110. Offers of settlement by defendant; attorney's fees and litigation expenses.

(a) This Section applies only to proceedings for the acquisition of property for private ownership or control that are subject to subsection (c), (d), (e), or (f) of Section 5–5–5.

(b) At any time between (i) the close of discovery in accordance with Supreme Court Rule 218(c), as now or hereafter amended, or another date set by the court or agreed to by the parties, and (ii) 14 days before the commencement of trial to determine final just compensation, any defendant may serve upon the plaintiff a written offer setting forth the amount of compensation that the defendant will accept for the taking of that defendant's interest in the property. If the defendant does not make such an offer, the defendant shall not be entitled to the attorney's fees and other reimbursement provided under subsection (e) of this Section.

(c) If, within 10 days after service of the offer, the plaintiff serves written notice upon that defendant that the offer is accepted, then either of those parties may file a copy of the offer and a copy of the notice of acceptance together with proof of service of the notice. The court shall then enter judgment.

(d) An offer that is not accepted within the 10-day period is deemed to be withdrawn and evidence of the offer is not admissible at trial.

(e) If a plaintiff does not accept an offer as provided in subsection (c) and if the final just compensation for the defendant's interest is determined by the trier of fact to be equal to or in excess of the amount of the defendant's last written offer under subsection (b), then the court must order the plaintiff to pay to the defendant that defendant's attorney's fees as calculated under subsection (f) of this Section. The plaintiff shall also pay to the defendant that defendant's reasonable costs and litigation expenses, including, without limitation, expert witness and appraisal fees, incurred after the making of the defendant's last written offer under subsection (b).

(f) Any award of attorney's fees under this Section shall be based solely on the net benefit achieved for the property owner, except that the court may also consider any nonmonetary benefits obtained for the property owner through the efforts of the attorney to the extent that the nonmonetary benefits are specifically identified by the court and can be quantified by the court with a reasonable degree of certainty. "Net benefit" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the condemning authority before the filing date of the condemnation complaint. The award shall be calculated as follows, subject to the Illinois Rules of Professional Conduct:

(1) 33% of the net benefit if the net benefit is $250,000 or less;

(2) 25% of the net benefit if the net benefit is more than $250,000 but less than $1 million; or

(3) 20% of the net benefit if the net benefit is $1 million or more.

(g) This Section does not apply to the acquisition of property under the O'Hare Modernization Act.

P.A. 94–1055, Art. 10, § 10–5–110, eff. Jan. 1, 2007.

30/10–5–115. Eligible costs

§ 10–5–115. Eligible costs. Any cost required to be paid by a condemning authority under this Act, including, but not limited to, relocation costs and attorney's fees, shall be deemed a redevelopment project cost or eligible cost under the statute pursuant to which the condemning authority exercised its power of eminent domain, even if those costs are not identified as such as of the effective date of this Act.

P.A. 94–1055, Art. 10, § 10–5–115, eff. Jan. 1, 2007.

ARTICLE 15. EXPRESS EMINENT DOMAIN POWER

PART 1. GENERAL PROVISIONS

30/15–1–5. Grants of power in other statutes; this Act controls

§ 15–1–5. Grants of power in other statutes; this Act controls. The State of Illinois and its various subdivisions and agencies, and all units of local government, school districts, and other entities, have the powers of condemnation and eminent domain that are (i) expressly provided in this Act or (ii) expressly provided in any other provision of law. Those powers may be exercised, however, only in accordance with this Act. If any power of condemnation or eminent domain that arises under any other provision of law is in conflict with this Act, this Act controls. This Section does not apply to the acquisition or damaging of property under the O'Hare Modernization Act.

P.A. 94–1055, Art. 15, § 15–1–5, eff. Jan. 1, 2007.

PART 5. LIST OF EMINENT DOMAIN POWERS

30/15–5–1. Form and content of list

§ 15–5–1. Form and content of list. The Sections of this Part 5 are intended to constitute a list of the Sections of the Illinois Compiled Statutes that include express grants of the power to acquire property by condemnation or eminent domain.

The list is intended to be comprehensive, but there may be accidental omissions and inclusions. Inclusion in the list does not create a grant of power, and it does not continue or revive a grant of power that has been amended or repealed or is no longer applicable. Omission from the list of a statute that includes an express grant of the power to acquire property by condemnation or eminent domain does not invalidate that grant of power.

The list does not include the grants of quick-take power that are set forth in Article 25 of this Act, nor any other grants of power that are expressly granted under the other provisions of this Act.

Items in the list are presented in the following form: ILCS citation; short title of the Act; condemning authority; brief statement of purpose for which the power is granted.

P.A. 94–1055, Art. 15, § 15–5–1, eff. Jan. 1, 2007.

30/15–5–5. Eminent domain powers in ILCS Chapters 5 through 40

§ 15–5–5. Eminent domain powers in ILCS Chapters 5 through 40. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(5 ILCS 220/3.1); Intergovernmental Cooperation Act; cooperating entities; for Municipal Joint Action Water Agency purposes.

(5 ILCS 220/3.2); Intergovernmental Cooperation Act; cooperating entities; for Municipal Joint Action Agency purposes.

(5 ILCS 585/1); National Forest Land Act; United States of America; for national forests.

(15 ILCS 330/2); Secretary of State Buildings in Cook County Act; Secretary of State; for office facilities in Cook County.

(20 ILCS 5/5–675); Civil Administrative Code of Illinois; the Secretary of Transportation, the Director of Natural Resources, and the Director of Central Management Services; for lands, buildings, and grounds for which an appropriation is made by the General Assembly.

(20 ILCS 620/9); Economic Development Area Tax Increment Allocation Act; municipalities; to achieve the objectives of the economic development project.

(20 ILCS 685/1); Particle Accelerator Land Acquisition Act; Department of Commerce and Economic Opportunity; for a federal high energy BEV Particle Accelerator.

(20 ILCS 835/2); State Parks Act; Department of Natural Resources; for State parks.

(20 ILCS 1110/3); Illinois Coal and Energy Development Bond Act; Department of Commerce and Economic Opportunity; for coal projects.

(20 ILCS 1920/2.06); Abandoned Mined Lands and Water Reclamation Act; Department of Natural Resources; for reclamation purposes.

(20 ILCS 1920/2.08); Abandoned Mined Lands and Water Reclamation Act; Department of Natural Resources; for reclamation purposes and for the construction or rehabilitation of housing.

(20 ILCS 1920/2.11); Abandoned Mined Lands and Water Reclamation Act; Department of Natural Resources; for eliminating hazards.

(20 ILCS 3105/9.08a); Capital Development Board Act; Capital Development Board; for lands, buildings and grounds for which an appropriation is made by the General Assembly.

(20 ILCS 3110/5); Building Authority Act; Capital Development Board; for purposes declared by the General Assembly to be in the public interest.

(40 ILCS 5/15–167); Illinois Pension Code; State Universities Retirement System; for real estate acquired for the use of the System.

P.A. 94–1055, Art. 15, § 15–5–5, eff. Jan. 1, 2007.

30/15–5–10. Eminent domain powers in ILCS Chapter 45 through 65

§ 15–5–10. Eminent domain powers in ILCS Chapters 45 through 65. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(45 ILCS 30/3); Quad Cities Interstate Metropolitan Authority Compact Act; Quad Cities Interstate Metropolitan Authority; for the purposes of the Authority.

(45 ILCS 35/40); Quad Cities Interstate Metropolitan Authority Act; Quad Cities Interstate Metropolitan Authority; for metropolitan facilities.

(45 ILCS 110/1); Bi-State Development Powers Act; Bi-State Development Agency; for the purposes of the Bi-State Development Agency.

(50 ILCS 20/14); Public Building Commission Act; public building commissions; for general purposes.

(50 ILCS 30/6.4); Exhibition Council Act; exhibition councils; for council purposes.

(50 ILCS 605/4); Local Government Property Transfer Act; State of Illinois; for the removal of any restriction on land transferred to the State by a municipality.

(55 ILCS 5/5–1095); Counties Code; counties; for easements for community antenna television systems.

(55 ILCS 5/5–1119); Counties Code; any county that is bordered by the Mississippi River and that has a population in excess of 62,000 but less than 80,000; for the operation of ferries.

(55 ILCS 5/5–11001); Counties Code; counties; for motor vehicle parking lots or garages.

(55 ILCS 5/5–15007); Counties Code; counties; for water supply, drainage, and flood control, including bridges, roads, and waste management.

(55 ILCS 5/5–15009); Counties Code; counties; for water supply, drainage, and flood control.

(55 ILCS 5/5–30021); Counties Code; county preservation commissions; for historic preservation purposes.

(55 ILCS 85/9); County Economic Development Project Area Property Tax Allocation Act; counties; for the objectives of the economic development plan.

(55 ILCS 90/60); County Economic Development Project Area Tax Increment Allocation Act of 1991; counties; for the objectives of the economic development project.

(60 ILCS 1/115–20, 1/115–30, 1/115–35, 1/115–40, 1/115–55, and 1/115–120); Township Code; townships with a population over 250,000; for an open space program.

(60 ILCS 1/120–10); Township Code; townships; for park purposes.

(60 ILCS 1/130–5); Township Code; townships; for cemeteries.

(60 ILCS 1/130–30); Township Code; any 2 or more cities, villages, or townships; for joint cemetery purposes.

(60 ILCS 1/135–5); Township Code; any 2 or more townships or road districts; for joint cemetery purposes.

(60 ILCS 1/205–40); Township Code; townships; for waterworks and sewerage systems.

(65 ILCS 5/Art. 9, Div. 2); Illinois Municipal Code; municipalities; for local improvements.

(65 ILCS 5/11–11–1); Illinois Municipal Code; municipalities; for the rehabilitation or redevelopment of blighted areas and urban community conservation areas.

(65 ILCS 5/11–12–8); Illinois Municipal Code; municipalities; for acquiring land for public purposes as designated on proposed subdivision plats.

(65 ILCS 5/11–13–17); Illinois Municipal Code; municipalities; for nonconforming structures under a zoning ordinance and for areas blighted by substandard buildings.

(65 ILCS 5/11–19–10); Illinois Municipal Code; municipalities; for waste disposal purposes.

(65 ILCS 5/11–28–1); Illinois Municipal Code; municipalities; for municipal hospital purposes.

(65 ILCS 5/11–29.3–1); Illinois Municipal Code; municipalities; for senior citizen housing.

(65 ILCS 5/11–42–11); Illinois Municipal Code; municipalities; for easements for community antenna television systems.

(65 ILCS 5/11–45.1–2); Illinois Municipal Code; municipalities; for establishing cultural centers.

(65 ILCS 5/11–48.2–2); Illinois Municipal Code; municipalities; for historical preservation purposes.

(65 ILCS 5/11–52.1–1); Illinois Municipal Code; municipalities; for cemeteries.

(65 ILCS 5/11–52.1–3); Illinois Municipal Code; any 2 or more cities, villages, or townships; for joint cemetery purposes.

(65 ILCS 5/11–61–1); Illinois Municipal Code; municipalities; for municipal purposes or public welfare.

(65 ILCS 5/11–61–1a); Illinois Municipal Code; municipality with a population over 500,000; quick-take power for rapid transit lines (obsolete).

(65 ILCS 5/11–63–5); Illinois Municipal Code; municipalities; for community buildings.

(65 ILCS 5/11–65–3); Illinois Municipal Code; municipalities; for municipal convention hall purposes.

(65 ILCS 5/11–66–10); Illinois Municipal Code; municipalities; for a municipal coliseum.

(65 ILCS 5/11–68–4); Illinois Municipal Code; board of stadium and athletic field commissioners; for a stadium and athletic field.

(65 ILCS 5/11–69–1); Illinois Municipal Code; any 2 or more municipalities with the same or partly the same territory; for their joint municipal purposes.

(65 ILCS 5/11–71–1); Illinois Municipal Code; municipalities; for parking facilities.

(65 ILCS 5/11–71–10); Illinois Municipal Code; municipalities; for the removal of a lessee's interest in the leased space over a municipally-owned parking lot.

(65 ILCS 5/11–74.2–8); Illinois Municipal Code; municipalities; for carrying out a final commercial redevelopment plan.

(65 ILCS 5/11–74.2–9); Illinois Municipal Code; municipalities; for commercial renewal and redevelopment areas.

(65 ILCS 5/11–74.3–3); Illinois Municipal Code; municipalities; for business district development or redevelopment.

(65 ILCS 5/11–74.4–4); Illinois Municipal Code; municipalities; for redevelopment project areas.

(65 ILCS 5/11–74.6–15); Illinois Municipal Code; municipalities; for projects under the Industrial Jobs Recovery Law.

(65 ILCS 5/11–75–5); Illinois Municipal Code; municipalities; for the removal of a lessee's interest in a building erected on space leased by the municipality.

(65 ILCS 5/11–80–21); Illinois Municipal Code; municipalities; for construction of roads or sewers on or under the track, right-of-way, or land of a railroad company.

(65 ILCS 5/11–87–3); Illinois Municipal Code; municipalities; for non-navigable streams.

(65 ILCS 5/11–87–5); Illinois Municipal Code; municipalities; for improvements along re-channeled streams.

(65 ILCS 5/11–92–3); Illinois Municipal Code; municipalities; for harbors for recreational use.

(65 ILCS 5/11–93–1); Illinois Municipal Code; municipalities; for bathing beaches and recreation piers.

(65 ILCS 5/11–94–1); Illinois Municipal Code; municipalities with a population of less than 500,000; for recreational facilities.

(65 ILCS 5/11–97–2); Illinois Municipal Code; municipalities; for driveways to parks owned by the municipality outside its corporate limits.

(65 ILCS 5/11–101–1); Illinois Municipal Code; municipalities; for public airport purposes.

(65 ILCS 5/11–102–4); Illinois Municipal Code; municipalities with a population over 500,000; for public airport purposes.

(65 ILCS 5/11–103–2); Illinois Municipal Code; municipalities with a population under 500,000; for public airport purposes.

(65 ILCS 5/11–110–3); Illinois Municipal Code; municipalities; for drainage purposes.

(65 ILCS 5/11–112–6); Illinois Municipal Code; municipalities; for levees, protective embankments, and structures.

(65 ILCS 5/11–117–1, 5/11–117–4, 5/11–117–7, and 5/11–117–11); Illinois Municipal Code; municipalities; for public utility purposes.

(65 ILCS 5/11–119.1–5, 5/11–119.1–7, and 5/11–119.1–10); Illinois Municipal Code; municipal power agencies; for joint municipal electric power agency purposes.

(65 ILCS 5/11–119.2–5 and 5/11–119.2–7); Illinois Municipal Code; municipal natural gas agencies; for joint municipal natural gas agency purposes.

(65 ILCS 5/11–121–2); Illinois Municipal Code; municipalities; for constructing and operating subways.

(65 ILCS 5/11–122–3); Illinois Municipal Code; municipalities; for street railway purposes.

(65 ILCS 5/1–123–4 and 5/11–123–24); Illinois Municipal Code; municipalities; for harbor facilities.

(65 ILCS 5/11–125–2); Illinois Municipal Code; municipalities; for waterworks purposes.

(65 ILCS 5/11–126–3); Illinois Municipal Code; municipalities; for water supply purposes, including joint construction of waterworks.

(65 ILCS 5/11–130–9); Illinois Municipal Code; municipalities; for waterworks purposes.

(65 ILCS 5/11–135–6); Illinois Municipal Code; municipal water commission; for waterworks purposes, including quick-take power.

(65 ILCS 5/11–136–6); Illinois Municipal Code; municipal sewer or water commission; for waterworks and sewer purposes.

(65 ILCS 5/11–138–2); Illinois Municipal Code; water companies; for pipes and waterworks.

(65 ILCS 5/11–139–12); Illinois Municipal Code; municipalities; for waterworks and sewerage systems.

(65 ILCS 5/11–140–3 and 5/11–140–5); Illinois Municipal Code; municipalities; for outlet sewers and works.

(65 ILCS 5/11–141–10); Illinois Municipal Code; municipalities; for sewerage systems.

(65 ILCS 5/11–148–6); Illinois Municipal Code; municipalities; for sewage disposal plants.

(65 ILCS 20/21–19 and 20/21–21); Revised Cities and Villages Act of 1941; City of Chicago; for municipal purposes or public welfare.

(65 ILCS 100/3); Sports Stadium Act; municipality with a population over 2,000,000; for sports stadium purposes, including quick-take power (obsolete).

(65 ILCS 110/60); Economic Development Project Area Tax Increment Allocation Act of 1995; municipalities; for economic development projects.

P.A. 94–1055, Art. 15, § 15–5–10, eff. Jan. 1, 2007.

30/15–5–15. Eminent domain powers in ILCS Chapter 70 through 75

§ 15–5–15. Eminent domain powers in ILCS Chapters 70 through 75. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(70 ILCS 5/8.02 and 5/9); Airport Authorities Act; airport authorities; for public airport facilities.

(70 ILCS 5/8.05 and 5/9); Airport Authorities Act; airport authorities; for removal of airport hazards.

(70 ILCS 5/8.06 and 5/9); Airport Authorities Act; airport authorities; for reduction of the height of objects or structures.

(70 ILCS 10/4); Interstate Airport Authorities Act; interstate airport authorities; for general purposes.

(70 ILCS 15/3); Kankakee River Valley Area Airport Authority Act; Kankakee River Valley Area Airport Authority; for acquisition of land for airports.

(70 ILCS 200/2–20); Civic Center Code; civic center authorities; for grounds, centers, buildings, and parking.

(70 ILCS 200/5–35); Civic Center Code; Aledo Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/10–15); Civic Center Code; Aurora Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/15–40); Civic Center Code; Benton Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/20–15); Civic Center Code; Bloomington Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/35–35); Civic Center Code; Brownstown Park District Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/40–35); Civic Center Code; Carbondale Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/55–60); Civic Center Code; Chicago South Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/60–30); Civic Center Code; Collinsville Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/70–35); Civic Center Code; Crystal Lake Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/75–20); Civic Center Code; Decatur Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/80–15); Civic Center Code; DuPage County Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/85–35); Civic Center Code; Elgin Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/95–25); Civic Center Code; Herrin Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/110–35); Civic Center Code; Illinois Valley Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/115–35); Civic Center Code; Jasper County Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/120–25); Civic Center Code; Jefferson County Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/125–15); Civic Center Code; Jo Daviess County Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/130–30); Civic Center Code; Katherine Dunham Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/145–35); Civic Center Code; Marengo Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/150–35); Civic Center Code; Mason County Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/155–15); Civic Center Code; Matteson Metropolitan Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/160–35); Civic Center Code; Maywood Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/165–35); Civic Center Code; Melrose Park Metropolitan Exposition Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/170–20); Civic Center Code; certain Metropolitan Exposition, Auditorium and Office Building Authorities; for general purposes.

(70 ILCS 200/180–35); Civic Center Code; Normal Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/185–15); Civic Center Code; Oak Park Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/195–35); Civic Center Code; Ottawa Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/200–15); Civic Center Code; Pekin Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/205–15); Civic Center Code; Peoria Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/210–35); Civic Center Code; Pontiac Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/215–15); Civic Center Code; Illinois Quad City Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/220–30); Civic Center Code; Quincy Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/225–35); Civic Center Code; Randolph County Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/230–35); Civic Center Code; River Forest Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/235–40); Civic Center Code; Riverside Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/245–35); Civic Center Code; Salem Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/255–20); Civic Center Code; Springfield Metropolitan Exposition and Auditorium Authority; for grounds, centers, and parking.

(70 ILCS 200/260–35); Civic Center Code; Sterling Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/265–20); Civic Center Code; Vermilion County Metropolitan Exposition, Auditorium and Office Building Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/270–35); Civic Center Code; Waukegan Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/275–35); Civic Center Code; West Frankfort Civic Center Authority; for grounds, centers, buildings, and parking.

(70 ILCS 200/280–20); Civic Center Code; Will County Metropolitan Exposition and Auditorium Authority; for grounds, centers, and parking.

(70 ILCS 210/5); Metropolitan Pier and Exposition Authority Act; Metropolitan Pier and Exposition Authority; for general purposes, including quick-take power.

(70 ILCS 405/22.04); Soil and Water Conservation Districts Act; soil and water conservation districts; for general purposes.

(70 ILCS 410/10 and 410/12); Conservation District Act; conservation districts; for open space, wildland, scenic roadway, pathway, outdoor recreation, or other conservation benefits.

(70 ILCS 503/25); Chanute–Rantoul National Aviation Center Redevelopment Commission Act; Chanute–Rantoul National Aviation Center Redevelopment Commission; for general purposes.

(70 ILCS 507/15); Fort Sheridan Redevelopment Commission Act; Fort Sheridan Redevelopment Commission; for general purposes or to carry out comprehensive or redevelopment plans.

(70 ILCS 520/8); Southwestern Illinois Development Authority Act; Southwestern Illinois Development Authority; for general purposes, including quick-take power.

(70 ILCS 605/4–17 and 605/5–7); Illinois Drainage Code; drainage districts; for general purposes.

(70 ILCS 615/5 and 615/6); Chicago Drainage District Act; corporate authorities; for construction and maintenance of works.

(70 ILCS 705/10); Fire Protection District Act; fire protection districts; for general purposes.

(70 ILCS 750/20); Flood Prevention District Act; flood prevention districts; for general purposes.

(70 ILCS 805/6); Downstate Forest Preserve District Act; certain forest preserve districts; for general purposes.

(70 ILCS 805/18.8); Downstate Forest Preserve District Act; certain forest preserve districts; for recreational and cultural facilities.

(70 ILCS 810/8); Cook County Forest Preserve District Act; Forest Preserve District of Cook County; for general purposes.

(70 ILCS 810/38); Cook County Forest Preserve District Act; Forest Preserve District of Cook County; for recreational facilities.

(70 ILCS 910/15 and 910/16); Hospital District Law; hospital districts; for hospitals or hospital facilities.

(70 ILCS 915/3); Illinois Medical District Act; Illinois Medical District Commission; for general purposes.

(70 ILCS 915/4.5); Illinois Medical District Act; Illinois Medical District Commission; quick-take power for the Illinois State Police Forensic Science Laboratory (obsolete).

(70 ILCS 920/5); Tuberculosis Sanitarium District Act; tuberculosis sanitarium districts; for tuberculosis sanitariums.

(70 ILCS 925/20); Mid-Illinois Medical District Act; Mid-Illinois Medical District; for general purposes.

(70 ILCS 930/20); Mid-America Medical District Act; Mid-America Medical District Commission; for general purposes.

(70 ILCS 935/20); Roseland Community Medical District Act; medical district; for general purposes.

(70 ILCS 1005/7); Mosquito Abatement District Act; mosquito abatement districts; for general purposes.

(70 ILCS 1105/8); Museum District Act; museum districts; for general purposes.

(70 ILCS 1205/7–1); Park District Code; park districts; for streets and other purposes.

(70 ILCS 1205/8–1); Park District Code; park districts; for parks.

(70 ILCS 1205/9–2 and 1205/9–4); Park District Code; park districts; for airports and landing fields.

(70 ILCS 1205/11–2 and 1205/11–3); Park District Code; park districts; for State land abutting public water and certain access rights.

(70 ILCS 1205/11.1–3); Park District Code; park districts; for harbors.

(70 ILCS 1225/2); Park Commissioners Land Condemnation Act; park districts; for street widening.

(70 ILCS 1230/1 and 1230/1–a); Park Commissioners Water Control Act; park districts; for parks, boulevards, driveways, parkways, viaducts, bridges, or tunnels.

(70 ILCS 1250/2); Park Commissioners Street Control (1889) Act; park districts; for boulevards or driveways.

(70 ILCS 1290/1); Park District Aquarium and Museum Act; municipalities or park districts; for aquariums or museums.

(70 ILCS 1305/2); Park District Airport Zoning Act; park districts; for restriction of the height of structures.

(70 ILCS 1310/5); Park District Elevated Highway Act; park districts; for elevated highways.

(70 ILCS 1505/15); Chicago Park District Act; Chicago Park District; for parks and other purposes.

(70 ILCS 1505/25.1); Chicago Park District Act; Chicago Park District; for parking lots or garages.

(70 ILCS 1505/26.3); Chicago Park District Act; Chicago Park District; for harbors.

(70 ILCS 1570/5); Lincoln Park Commissioners Land Condemnation Act; Lincoln Park Commissioners; for land and interests in land, including riparian rights.

(70 ILCS 1801/30); Alexander–Cairo Port District Act; Alexander–Cairo Port District; for general purposes.

(70 ILCS 1805/8); Havana Regional Port District Act; Havana Regional Port District; for general purposes.

(70 ILCS 1810/7); Illinois International Port District Act; Illinois International Port District; for general purposes.

(70 ILCS 1815/13); Illinois Valley Regional Port District Act; Illinois Valley Regional Port District; for general purposes.

(70 ILCS 1820/4); Jackson–Union Counties Regional Port District Act; Jackson–Union Counties Regional Port District; for removal of airport hazards or reduction of the height of objects or structures.

(70 ILCS 1820/5); Jackson–Union Counties Regional Port District Act; Jackson–Union Counties Regional Port District; for general purposes.

(70 ILCS 1825/4.9); Joliet Regional Port District Act; Joliet Regional Port District; for removal of airport hazards.

(70 ILCS 1825/4.10); Joliet Regional Port District Act; Joliet Regional Port District; for reduction of the height of objects or structures.

(70 ILCS 1825/4.18); Joliet Regional Port District Act; Joliet Regional Port District; for removal of hazards from ports and terminals.

(70 ILCS 1825/5); Joliet Regional Port District Act; Joliet Regional Port District; for general purposes.

(70 ILCS 1830/7.1); Kaskaskia Regional Port District Act; Kaskaskia Regional Port District; for removal of hazards from ports and terminals.

(70 ILCS 1830/14); Kaskaskia Regional Port District Act; Kaskaskia Regional Port District; for general purposes.

(70 ILCS 1831/30); Massac–Metropolis Port District Act; Massac–Metropolis Port District; for general purposes.

(70 ILCS 1835/5.10); Mt. Carmel Regional Port District Act; Mt. Carmel Regional Port District; for removal of airport hazards.

(70 ILCS 1835/5.11); Mt. Carmel Regional Port District Act; Mt. Carmel Regional Port District; for reduction of the height of objects or structures.

(70 ILCS 1835/6); Mt. Carmel Regional Port District Act; Mt. Carmel Regional Port District; for general purposes.

(70 ILCS 1837/30); Ottawa Port District Act; Ottawa Port District; for general purposes.

(70 ILCS 1845/4.9); Seneca Regional Port District Act; Seneca Regional Port District; for removal of airport hazards.

(70 ILCS 1845/4.10); Seneca Regional Port District Act; Seneca Regional Port District; for reduction of the height of objects or structures.

(70 ILCS 1845/5); Seneca Regional Port District Act; Seneca Regional Port District; for general purposes.

(70 ILCS 1850/4); Shawneetown Regional Port District Act; Shawneetown Regional Port District; for removal

of airport hazards or reduction of the height of objects or structures.

(70 ILCS 1850/5); Shawneetown Regional Port District Act; Shawneetown Regional Port District; for general purposes.

(70 ILCS 1855/4); Southwest Regional Port District Act; Southwest Regional Port District; for removal of airport hazards or reduction of the height of objects or structures.

(70 ILCS 1855/5); Southwest Regional Port District Act; Southwest Regional Port District; for general purposes.

(70 ILCS 1860/4); Tri–City Regional Port District Act; Tri–City Regional Port District; for removal of airport hazards.

(70 ILCS 1860/5); Tri–City Regional Port District Act; Tri–City Regional Port District; for the development of facilities.

(70 ILCS 1863/11); Upper Mississippi River International Port District Act; Upper Mississippi River International Port District; for general purposes.

(70 ILCS 1865/4.9); Waukegan Port District Act; Waukegan Port District; for removal of airport hazards.

(70 ILCS 1865/4.10); Waukegan Port District Act; Waukegan Port District; for restricting the height of objects or structures.

(70 ILCS 1865/5); Waukegan Port District Act; Waukegan Port District; for the development of facilities.

(70 ILCS 1870/8); White County Port District Act; White County Port District; for the development of facilities.

(70 ILCS 1905/16); Railroad Terminal Authority Act; Railroad Terminal Authority (Chicago); for general purposes.

(70 ILCS 1915/25); Grand Avenue Railroad Relocation Authority Act; Grand Avenue Railroad Relocation Authority; for general purposes, including quick-take power (now obsolete).

(70 ILCS 1935/25); Elmwood Park Grade Separation Authority Act; Elmwood Park Grade Separation Authority; for general purposes.

(70 ILCS 2105/9b); River Conservancy Districts Act; river conservancy districts; for general purposes.

(70 ILCS 2105/10a); River Conservancy Districts Act; river conservancy districts; for corporate purposes.

(70 ILCS 2205/15); Sanitary District Act of 1907; sanitary districts; for corporate purposes.

(70 ILCS 2205/18); Sanitary District Act of 1907; sanitary districts; for improvements and works.

(70 ILCS 2205/19); Sanitary District Act of 1907; sanitary districts; for access to property.

(70 ILCS 2305/8); North Shore Sanitary District Act; North Shore Sanitary District; for corporate purposes.

(70 ILCS 2305/15); North Shore Sanitary District Act; North Shore Sanitary District; for improvements.

(70 ILCS 2405/7.9); Sanitary District Act of 1917; Sanitary District of Decatur; for carrying out agreements to sell, convey, or disburse treated wastewater to a private entity.

(70 ILCS 2405/8); Sanitary District Act of 1917; sanitary districts; for corporate purposes.

(70 ILCS 2405/15); Sanitary District Act of 1917; sanitary districts; for improvements.

(70 ILCS 2405/16.9 and 2405/16.10); Sanitary District Act of 1917; sanitary districts; for waterworks.

(70 ILCS 2405/17.2); Sanitary District Act of 1917; sanitary districts; for public sewer and water utility treatment works.

(70 ILCS 2405/18); Sanitary District Act of 1917; sanitary districts; for dams or other structures to regulate water flow.

(70 ILCS 2605/8); Metropolitan Water Reclamation District Act; Metropolitan Water Reclamation District; for corporate purposes.

(70 ILCS 2605/16); Metropolitan Water Reclamation District Act; Metropolitan Water Reclamation District; quick-take power for improvements.

(70 ILCS 2605/17); Metropolitan Water Reclamation District Act; Metropolitan Water Reclamation District; for bridges.

(70 ILCS 2605/35); Metropolitan Water Reclamation District Act; Metropolitan Water Reclamation District; for widening and deepening a navigable stream.

(70 ILCS 2805/10); Sanitary District Act of 1936; sanitary districts; for corporate purposes.

(70 ILCS 2805/24); Sanitary District Act of 1936; sanitary districts; for improvements.

(70 ILCS 2805/26i and 2805/26j); Sanitary District Act of 1936; sanitary districts; for drainage systems.

(70 ILCS 2805/27); Sanitary District Act of 1936; sanitary districts; for dams or other structures to regulate water flow.

(70 ILCS 2805/32k); Sanitary District Act of 1936; sanitary districts; for water supply.

(70 ILCS 2805/32l); Sanitary District Act of 1936; sanitary districts; for waterworks.

(70 ILCS 2905/2–7); Metro–East Sanitary District Act of 1974; Metro–East Sanitary District; for corporate purposes.

(70 ILCS 2905/2–8); Metro–East Sanitary District Act of 1974; Metro–East Sanitary District; for access to property.

(70 ILCS 3010/10); Sanitary District Revenue Bond Act; sanitary districts; for sewerage systems.

(70 ILCS 3205/12); Illinois Sports Facilities Authority Act; Illinois Sports Facilities Authority; quick-take power for its corporate purposes (obsolete).

(70 ILCS 3405/16); Surface Water Protection District Act; surface water protection districts; for corporate purposes.

(70 ILCS 3605/7); Metropolitan Transit Authority Act; Chicago Transit Authority; for transportation systems.

(70 ILCS 3605/8); Metropolitan Transit Authority Act; Chicago Transit Authority; for general purposes.

(70 ILCS 3605/10); Metropolitan Transit Authority Act; Chicago Transit Authority; for general purposes, including railroad property.

(70 ILCS 3610/3 and 3610/5); Local Mass Transit District Act; local mass transit districts; for general purposes.

(70 ILCS 3615/2.13); Regional Transportation Authority Act; Regional Transportation Authority; for general purposes.

(70 ILCS 3705/8 and 3705/12); Public Water District Act; public water districts; for waterworks.

(70 ILCS 3705/23a); Public Water District Act; public water districts; for sewerage properties.

(70 ILCS 3705/23e); Public Water District Act; public water districts; for combined waterworks and sewerage systems.

(70 ILCS 3715/6); Water Authorities Act; water authorities; for facilities to ensure adequate water supply.

(70 ILCS 3715/27); Water Authorities Act; water authorities; for access to property.

(75 ILCS 5/4–7); Illinois Local Library Act; boards of library trustees; for library buildings.

(75 ILCS 16/30–55.80); Public Library District Act of 1991; public library districts; for general purposes.

(75 ILCS 65/1 and 65/3); Libraries in Parks Act; corporate authorities of city or park district, or board of park commissioners; for free public library buildings.

P.A. 94–1055, Art. 15, § 15–5–15, eff. Jan. 1, 2007. Amended by P.A. 94–1109, § 10, eff. Feb. 23, 2007; P.A. 95–693, § 15, eff. Nov. 5, 2007; P.A. 96–1000, § 630, eff. July 2, 2010; P.A. 97–333, § 580, eff. Aug. 12, 2011; P.A. 97–813, § 675, eff. July 13, 2012; P.A. 98–756, § 730, eff. July 16, 2014.

30/15–5–20. Eminent domain powers in ILCS Chapters 105 through 115

§ 15–5–20. Eminent domain powers in ILCS Chapters 105 through 115. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(105 ILCS 5/10–22.35A); School Code; school boards; for school buildings.

(105 ILCS 5/16–6); School Code; school boards; for adjacent property to enlarge a school site.

(105 ILCS 5/22–16); School Code; school boards; for school purposes.

(105 ILCS 5/32–4.13); School Code; special charter school districts; for school purposes.

(105 ILCS 5/34–20); School Code; Chicago Board of Education; for school purposes.

(110 ILCS 305/7); University of Illinois Act; Board of Trustees of the University of Illinois; for general purposes, including quick-take power.

(110 ILCS 325/2); University of Illinois at Chicago Land Transfer Act; Board of Trustees of the University of Illinois; for removal of limitations or restrictions on property conveyed by the Chicago Park District.

(110 ILCS 335/3); Institution for Tuberculosis Research Act; Board of Trustees of the University of Illinois; for the Institution for Tuberculosis Research.

(110 ILCS 525/3); Southern Illinois University Revenue Bond Act; Board of Trustees of Southern Illinois University; for general purposes.

(110 ILCS 615/3); State Colleges and Universities Revenue Bond Act of 1967; Board of Governors of State Colleges and Universities; for general purposes.

(110 ILCS 660/5–40); Chicago State University Law; Board of Trustees of Chicago State University; for general purposes.

(110 ILCS 661/6–10); Chicago State University Revenue Bond Law; Board of Trustees of Chicago State University; for general purposes.

(110 ILCS 665/10–40); Eastern Illinois University Law; Board of Trustees of Eastern Illinois University; for general purposes.

(110 ILCS 666/11–10); Eastern Illinois University Revenue Bond Law; Board of Trustees of Eastern Illinois University; for general purposes.

(110 ILCS 670/15–40); Governors State University Law; Board of Trustees of Governors State University; for general purposes.

(110 ILCS 671/16–10); Governors State University Revenue Bond Law; Board of Trustees of Governors State University; for general purposes.

(110 ILCS 675/20–40); Illinois State University Law; Board of Trustees of Illinois State University; for general purposes.

(110 ILCS 676/21–10); Illinois State University Revenue Bond Law; Board of Trustees of Illinois State University; for general purposes.

(110 ILCS 680/25–40); Northeastern Illinois University Law; Board of Trustees of Northeastern Illinois University; for general purposes.

(110 ILCS 681/26–10); Northeastern Illinois University Revenue Bond Law; Board of Trustees of Northeastern Illinois University; for general purposes.

(110 ILCS 685/30–40); Northern Illinois University Law; Board of Trustees of Northern Illinois University; for general purposes.

(110 ILCS 685/30–45); Northern Illinois University Law; Board of Trustees of Northern Illinois University; for buildings and facilities.

(110 ILCS 686/31–10); Northern Illinois University Revenue Bond Law; Board of Trustees of Northern Illinois University; for general purposes.

(110 ILCS 690/35–40); Western Illinois University Law; Board of Trustees of Western Illinois University; for general purposes.

(110 ILCS 691/36–10); Western Illinois University Revenue Bond Law; Board of Trustees of Western Illinois University; for general purposes.

(110 ILCS 710/3); Board of Regents Revenue Bond Act of 1967; Board of Regents; for general purposes.

(110 ILCS 805/3–36); Public Community College Act; community college district boards; for sites for college purposes.

P.A. 94–1055, Art. 15, § 15–5–20, eff. Jan. 1, 2007. Amended by P.A. 96–328, § 370, eff. Aug. 11, 2009.

30/15–5–25. Eminent domain powers in ILCS Chapters 205 through 430

§ 15–5–25. Eminent domain powers in ILCS Chapters 205 through 430. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(220 ILCS 5/8–509); Public Utilities Act; public utilities; for construction of certain improvements.

(220 ILCS 15/1); Gas Storage Act; corporations engaged in the distribution, transportation, or storage of natural gas or manufactured gas; for their operations.

(220 ILCS 15/2 and 15/6); Gas Storage Act; corporations engaged in the distribution, transportation, or storage of natural gas or manufactured gas; for use of an underground geological formation for gas storage.

(220 ILCS 30/13); Electric Supplier Act; electric cooperatives; for general purposes.

(220 ILCS 55/3); Telegraph Act; telegraph companies; for telegraph lines.

(220 ILCS 65/4); Telephone Company Act; telecommunications carriers; for telephone company purposes.

(225 ILCS 435/23); Ferries Act; ferry operators; for a landing, ferryhouse, or approach.

(225 ILCS 440/9); Highway Advertising Control Act of 1971; Department of Transportation; for removal of signs adjacent to highways.

(310 ILCS 5/6 and 5/38); State Housing Act; housing corporations; for general purposes.

(310 ILCS 10/8.3); Housing Authorities Act; housing authorities; for general purposes.

(310 ILCS 10/8.15); Housing Authorities Act; housing authorities; for implementation of conservation plans and demolition.

(310 ILCS 10/9); Housing Authorities Act; housing authorities; for general purposes.

(310 ILCS 20/5); Housing Development and Construction Act; housing authorities; for development or redevelopment.

(310 ILCS 35/2); House Relocation Act; political subdivisions and municipal corporations; for relocation of dwellings for highway construction.

(315 ILCS 5/14); Blighted Areas Redevelopment Act of 1947; land clearance commissions; for redevelopment projects.

(315 ILCS 10/5); Blighted Vacant Areas Development Act of 1949; State of Illinois; for housing development.

(315 ILCS 20/9 and 20/42); Neighborhood Redevelopment Corporation Law; neighborhood redevelopment corporations; for general purposes.

(315 ILCS 25/4 and 25/6); Urban Community Conservation Act; municipal conservation boards; for conservation areas.

(315 ILCS 30/12); Urban Renewal Consolidation Act of 1961; municipal departments of urban renewal; for blighted area redevelopment projects.

(315 ILCS 30/20 and 30/22); Urban Renewal Consolidation Act of 1961; municipal departments of urban renewal; for implementing conservation areas.

(315 ILCS 30/24); Urban Renewal Consolidation Act of 1961; municipal departments of urban renewal; for general purposes.

(415 ILCS 95/6); Junkyard Act; Department of Transportation; for junkyards or scrap processing facilities.

(420 ILCS 35/1); Radioactive Waste Storage Act; Illinois Emergency Management Agency; for radioactive byproduct and waste storage.

P.A. 94–1055, Art. 15, § 15–5–25, eff. Jan. 1, 2007.

30/15–5–30. Eminent domain powers in ILCS Chapters 505 through 525

§ 15–5–30. Eminent domain powers in ILCS Chapters 505 through 525. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(515 ILCS 5/1–145); Fish and Aquatic Life Code; Department of Natural Resources; for fish or aquatic life purposes.

(520 ILCS 5/1.9); Wildlife Code; Department of Natural Resources; for conservation, hunting, and fishing purposes.

(520 ILCS 25/35); Habitat Endowment Act; Department of Natural Resources; for habitat preservation with the consent of the landowner.

(525 ILCS 30/7.05); Illinois Natural Areas Preservation Act; Department of Natural Resources; for the purposes of the Act.

(525 ILCS 40/3); State Forest Act; Department of Natural Resources; for State forests.

P.A. 94–1055, Art. 15, § 15–5–30, eff. Jan. 1, 2007.

30/15–5–35. Eminent domain powers in ILCS Chapters 605 through 625

§ 15–5–35. Eminent domain powers in ILCS Chapters 605 through 625. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(605 ILCS 5/4–501); Illinois Highway Code; Department of Transportation and counties; for highway purposes.

(605 ILCS 5/4–502); Illinois Highway Code; Department of Transportation; for ditches and drains.

(605 ILCS 5/4–505); Illinois Highway Code; Department of Transportation; for replacement of railroad and public utility property taken for highway purposes.

(605 ILCS 5/4–509); Illinois Highway Code; Department of Transportation; for replacement of property taken for highway purposes.

(605 ILCS 5/4–510); Illinois Highway Code; Department of Transportation; for rights-of-way for future highway purposes.

(605 ILCS 5/4–511); Illinois Highway Code; Department of Transportation; for relocation of structures taken for highway purposes.

(605 ILCS 5/5–107); Illinois Highway Code; counties; for county highway relocation.

(605 ILCS 5/5–801); Illinois Highway Code; counties; for highway purposes.

(605 ILCS 5/5–802); Illinois Highway Code; counties; for ditches and drains.

(605 ILCS 5/6–309); Illinois Highway Code; highway commissioners or county superintendents; for township or road district roads.

(605 ILCS 5/6–801); Illinois Highway Code; highway commissioners; for road district or township roads.

(605 ILCS 5/6–802); Illinois Highway Code; highway commissioners; for ditches and drains.

(605 ILCS 5/8–102); Illinois Highway Code; Department of Transportation, counties, and municipalities; for limiting freeway access.

(605 ILCS 5/8–103); Illinois Highway Code; Department of Transportation, counties, and municipalities; for freeway purposes.

(605 ILCS 5/8–106); Illinois Highway Code; Department of Transportation and counties; for relocation of existing crossings for freeway purposes.

(605 ILCS 5/9–113); Illinois Highway Code; highway authorities; for utility and other uses in rights-of-ways.

(605 ILCS 5/10–302); Illinois Highway Code; counties; for bridge purposes.

(605 ILCS 5/10–602); Illinois Highway Code; municipalities; for ferry and bridge purposes.

(605 ILCS 5/10–702); Illinois Highway Code; municipalities; for bridge purposes.

(605 ILCS 5/10–901); Illinois Highway Code; Department of Transportation; for ferry property.

(605 ILCS 10/9); Toll Highway Act; Illinois State Toll Highway Authority; for toll highway purposes.

(605 ILCS 10/9.5); Toll Highway Act; Illinois State Toll Highway Authority; for its authorized purposes.

(605 ILCS 10/10); Toll Highway Act; Illinois State Toll Highway Authority; for property of a municipality or political subdivision for toll highway purposes.

(605 ILCS 115/14); Toll Bridge Act; counties; for toll bridge purposes.

(605 ILCS 115/15); Toll Bridge Act; counties; for the purpose of taking a toll bridge to make it a free bridge.

(605 ILCS 130/80); Public Private Agreements for the Illiana Expressway Act; Department of Transportation; for the Illiana Expressway project.

(610 ILCS 5/17); Railroad Incorporation Act; railroad corporation; for real estate for railroad purposes.

(610 ILCS 5/18); Railroad Incorporation Act; railroad corporations; for materials for railways.

(610 ILCS 5/19); Railroad Incorporation Act; railways; for land along highways.

(610 ILCS 70/1); Railroad Powers Act; purchasers and lessees of railroad companies; for railroad purposes.

(610 ILCS 115/2 and 115/3); Street Railroad Right of Way Act; street railroad companies; for street railroad purposes.

(615 ILCS 5/19); Rivers, Lakes, and Streams Act; Department of Natural Resources; for land along public waters for pleasure, recreation, or sport purposes.

(615 ILCS 10/7.8); Illinois Waterway Act; Department of Natural Resources; for waterways and appurtenances.

(615 ILCS 15/7); Flood Control Act of 1945; Department of Natural Resources; for the purposes of the Act.

(615 ILCS 30/9); Illinois and Michigan Canal Management Act; Department of Natural Resources; for dams, locks, and improvements.

(615 ILCS 45/10); Illinois and Michigan Canal Development Act; Department of Natural Resources; for development and management of the canal.

(620 ILCS 5/72); Illinois Aeronautics Act; Division of Aeronautics of the Department of Transportation; for airport purposes.

(620 ILCS 5/73); Illinois Aeronautics Act; Division of Aeronautics of the Department of Transportation; for removal of airport hazards.

(620 ILCS 5/74); Illinois Aeronautics Act; Division of Aeronautics of the Department of Transportation; for airport purposes.

(620 ILCS 25/33); Airport Zoning Act; Division of Aeronautics of the Department of Transportation; for air rights.

(620 ILCS 40/2 and 40/3); General County Airport and Landing Field Act; counties; for airport purposes.

(620 ILCS 40/5); General County Airport and Landing Field Act; counties; for removing hazards.

(620 ILCS 45/6 and 45/7); County Airport Law of 1943; boards of directors of airports and landing fields; for airport and landing field purposes.

(620 ILCS 50/22 and 50/31); County Airports Act; counties; for airport purposes.

(620 ILCS 50/24); County Airports Act; counties; for removal of airport hazards.

(620 ILCS 50/26); County Airports Act; counties; for acquisition of airport protection privileges.

(620 ILCS 52/15); County Air Corridor Protection Act; counties; for airport zones.

(620 ILCS 55/1); East St. Louis Airport Act; Department of Transportation; for airport in East St. Louis metropolitan area.

(620 ILCS 65/15); O'Hare Modernization Act; Chicago; for the O'Hare modernization program, including quick-take power.

(620 ILCS 75/2–15 and 75/2–90); Public–Private Agreements for the South Suburban Airport Act; Department of Transportation; for South Suburban Airport purposes.

(625 ILCS 5/2–105); Illinois Vehicle Code; Secretary of State; for general purposes.

(625 ILCS 5/18c–7501); Illinois Vehicle Code; rail carriers; for railroad purposes, including quick-take power.

P.A. 94–1055, Art. 15, § 15–5–35, eff. Jan. 1, 2007. Amended by P.A. 97–808, § 10, eff. July 13, 2012; P.A. 98–756, § 730, eff. July 16, 2014.

30/15–5–40. Eminent domain powers in ILCS Chapters 705 through 820

§ 15–5–40. Eminent domain powers in ILCS Chapters 705 through 820. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(765 ILCS 230/2); Coast and Geodetic Survey Act; United States of America; for carrying out coast and geodetic surveys.

(765 ILCS 505/1); Mining Act of 1874; mine owners and operators; for roads, railroads, and ditches.

(805 ILCS 25/2); Corporation Canal Construction Act; general corporations; for levees, canals, or tunnels for agricultural, mining, or sanitary purposes.

(805 ILCS 30/7); Gas Company Property Act; consolidating gas companies; for acquisition of stock of dissenting stockholder.

(805 ILCS 120/9); Merger of Not For Profit Corporations Act; merging or consolidating corporations; for acquisition of interest of objecting member or owner.

P.A. 94–1055, Art. 15, § 15–5–40, eff. Jan. 1, 2007. Amended by P.A. 96–863, § 90–33, eff. Jan. 19, 2010.

30/15–5–45. § 15–5–45. Repealed by P.A. 96–1000, § 632, eff. July 2, 2010

30/15–5–46. Eminent domain powers in new Acts

§ 15–5–46. Eminent domain powers in new Acts. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(Reserved).

P.A. 94–1055, Art. 15, § 15–5–46, added by P.A. 96–1522, § 185, eff. Feb. 14, 2011; P.A. 97–259, § 90, eff. Aug. 5, 2011. Amended by P.A. 97–813, § 675, eff. July 13, 2012.

30/15–5–47. Eminent domain powers in new Acts

§ 15–5–47. Eminent domain powers in new Acts. The following provisions of law may include express grants of the

power to acquire property by condemnation or eminent domain:

(Reserved).

P.A. 94–1055, Art. 15, § 15–5–47, added by P.A. 98–109, § 4–70, eff. July 25, 2013; P.A. 98–564, § 120, eff. Aug. 27, 2013. Amended by P.A. 98–756, § 730, eff. July 16, 2014.

ARTICLE 20. QUICK—TAKE PROCEDURE

30/20–5–5. Quick-take

§ 20–5–5. Quick-take.

(a) This Section applies only to proceedings under this Article that are authorized in this Article and in Article 25 of this Act.

(b) In a proceeding subject to this Section, the plaintiff, at any time after the complaint has been filed and before judgment is entered in the proceeding, may file a written motion requesting that, immediately or at some specified later date, the plaintiff either: (i) be vested with the fee simple title (or such lesser estate, interest, or easement, as may be required) to the real property, or a specified portion of that property, which is the subject of the proceeding, and be authorized to take possession of and use the property; or (ii) only be authorized to take possession of and to use the property, if possession and use, without the vesting of title, are sufficient to permit the plaintiff to proceed with the project until the final ascertainment of compensation. No land or interests in land now or hereafter owned, leased, controlled, or operated and used by, or necessary for the actual operation of, any common carrier engaged in interstate commerce, or any other public utility subject to the jurisdiction of the Illinois Commerce Commission, shall be taken or appropriated under this Section by the State of Illinois, the Illinois Toll Highway Authority, the sanitary district, the St. Louis Metropolitan Area Airport Authority, or the Board of Trustees of the University of Illinois without first securing the approval of the Illinois Commerce Commission.

Except as otherwise provided in this Article, the motion for taking shall state: (1) an accurate description of the property to which the motion relates and the estate or interest sought to be acquired in that property; (2) the formally adopted schedule or plan of operation for the execution of the plaintiff's project; (3) the situation of the property to which the motion relates, with respect to the schedule or plan; (4) the necessity for taking the property in the manner requested in the motion; and (5) if the property (except property described in Section 3 of the Sports Stadium Act or property described as Site B in Section 2 of the Metropolitan Pier and Exposition Authority Act) to be taken is owned, leased, controlled, or operated and used by, or necessary for the actual operation of, any interstate common carrier or other public utility subject to the jurisdiction of the Illinois Commerce Commission, a statement to the effect that the approval of the proposed taking has been secured from the Commission, and attaching to the motion a certified copy of the order of the Illinois Commerce Commission granting approval. If the schedule or plan of operation is not set forth fully in the motion, a copy of the schedule or plan shall be attached to the motion.

P.A. 94–1055, Art. 20, § 20–5–5, eff. Jan. 1, 2007.

30/20–5–10. Preliminary finding of compensation

§ 20–5–10. Preliminary finding of compensation.

(a) The court shall fix a date, not less than 5 days after the filing of a motion under Section 20–5–5, for the hearing on that motion and shall require due notice to be given to each party to the proceeding whose interests would be affected by the taking requested, except that any party who has been or is being served by publication and who has not entered his or her appearance in the proceeding need not be given notice unless the court so requires, in its discretion and in the interests of justice.

(b) At the hearing, if the court has not previously, in the same proceeding, determined that the plaintiff has authority to exercise the right of eminent domain, that the property sought to be taken is subject to the exercise of that right, and that the right of eminent domain is not being improperly exercised in the particular proceeding, then the court shall first hear and determine those matters. The court's order on those matters is appealable and an appeal may be taken from that order by either party within 30 days after the entry of the order, but not thereafter, unless the court, on good cause shown, extends the time for taking the appeal. However, no appeal shall stay the further proceedings prescribed in this Act unless the appeal is taken by the plaintiff or unless an order staying further proceedings is entered either by the trial court or by the court to which the appeal is taken.

(c) If the foregoing matters are determined in favor of the plaintiff and further proceedings are not stayed, or if further proceedings are stayed and the appeal results in a determination in favor of the plaintiff, the court then shall hear the issues raised by the plaintiff's motion for taking. If the court finds that reasonable necessity exists for taking the property in the manner requested in the motion, then the court shall hear such evidence as it may consider necessary and proper for a preliminary finding of just compensation. In its discretion, the court may appoint 3 competent and disinterested appraisers as agents of the court to evaluate the property to which the motion relates and to report their conclusions to the court; and their fees shall be paid by the plaintiff. The court shall then make a preliminary finding of the amount constituting just compensation.

(d) The court's preliminary finding of just compensation and any deposit made or security provided pursuant to that finding shall not be evidence in the further proceedings to ascertain finally the just compensation to be paid and shall not be disclosed in any manner to a jury impaneled in the proceedings. If appraisers have been appointed, as authorized under this Article, their report shall not be evidence in those further proceedings, but the appraisers may be called as witnesses by the parties to the proceedings.

P.A. 94–1055, Art. 20, § 20–5–10, eff. Jan. 1, 2007.

30/20–5–15. Deposit in court; possession

§ 20–5–15. Deposit in court; possession.

(a) If the plaintiff deposits with the county treasurer money in the amount preliminarily found by the court to be just compensation, the court shall enter an order of taking, vesting in the plaintiff the fee simple title (or such lesser estate, interest, or easement, as may be required) to the property, if such vesting has been requested and has been found necessary by the court, at a date the court considers proper, and fixing a date on which the plaintiff is authorized to take possession of and to use the property.

(b) If, at the request of any interested party and upon his or her showing of undue hardship or other good cause, the plaintiff's authority to take possession of the property is postponed for more than 10 days after the date of vesting of title or more than 15 days after the entry of the order of taking when the order does not vest title in the plaintiff, then

that party shall pay to the plaintiff a reasonable rental for the property in an amount determined by the court. Injunctive relief or any other appropriate judicial process or procedure shall be available to place the plaintiff in possession of the property on and after the date fixed by the court for the taking of possession and to prevent any unauthorized interference with possession and the plaintiff's proper use of the property. The county treasurer shall refund to the plaintiff the amount deposited prior to October 1, 1973 that is in excess of the amount preliminarily found by the court to be just compensation.

(c) When property is taken by a unit of local government for the purpose of constructing a body of water to be used by a local government-owned "public utility", as defined in Section 11–117–2 of the Illinois Municipal Code, and the unit of local government intends to sell or lease the property to a non-governmental entity, the defendants holding title before the order that transferred title shall be allowed first opportunity to repurchase the property for a fair market value or first opportunity to lease the property for a fair market value.

P.A. 94–1055, Art. 20, § 20–5–15, eff. Jan. 1, 2007.

30/20–5–20. Withdrawal by persons having an interest

§ 20–5–20. Withdrawal by persons having an interest. At any time after the plaintiff has taken possession of the property pursuant to the order of taking, if an appeal has not been and will not be taken from the court's order described in subsection (b) of Section 20–5–10 of this Act, or if such an appeal has been taken and has been determined in favor of the plaintiff, any party interested in the property may apply to the court for authority to withdraw, for his or her own use, his or her share (or any part thereof) of the amount preliminarily found by the court to be just compensation and deposited by the plaintiff, in accordance with the provisions of subsection (a) of Section 20–5–15 of this Act, as that share is determined by the court. The court shall then fix a date for a hearing on the application for authority to withdraw and shall require due notice of the application to be given to each party whose interests would be affected by the withdrawal. After the hearing, the court may authorize the withdrawal requested, or any part thereof as is proper, but upon the condition that the party making the withdrawal shall refund to the clerk of the court, upon the entry of a proper court order, any portion of the amount withdrawn that exceeds the amount finally ascertained in the proceeding to be just compensation (or damages, costs, expenses, or attorney fees) owing to that party.

P.A. 94–1055, Art. 20, § 20–5–20, eff. Jan. 1, 2007.

30/20–5–25. Persons contesting not to be prejudiced

§ 20–5–25. Persons contesting not to be prejudiced. Neither the plaintiff nor any party interested in the property, by taking any action authorized by Sections 20–5–5 through 20–5–20, inclusive, of this Act, or authorized under Article 25 of this Act, shall be prejudiced in any way in contesting, in later stages of the proceeding, the amount to be finally ascertained to be just compensation.

P.A. 94–1055, Art. 20, § 20–5–25, eff. Jan. 1, 2007.

30/20–5–30. Interest payments

§ 20–5–30. Interest payments. The plaintiff shall pay, in addition to the just compensation finally adjudged in the proceeding, interest at the rate of 6% per annum upon:

(1) Any excess of the just compensation finally adjudged, over the amount preliminarily found by the court to be just compensation in accordance with Section 20–5–10 of this Act, from the date on which the parties interested in the property surrendered possession of the property in accordance with the order of taking, to the date of payment of the excess by the plaintiff.

(2) Any portion of the amount preliminarily found by the court to be just compensation and deposited by the plaintiff, to which any interested party is entitled, if the interested party applied for authority to withdraw that portion in accordance with Section 20–5–20 of this Act, and upon objection by the plaintiff (other than on grounds that an appeal under subsection (b) of Section 20–5–10 of this Act is pending or contemplated), authority to withdraw was denied; interest shall be paid to that party from the date of the plaintiff's deposit to the date of payment to that party.

When interest is allowable as provided under item (1) of this Section, no further interest shall be allowed under the provisions of Section 2–1303 of the Code of Civil Procedure or any other law.

P.A. 94–1055, Art. 20, § 20–5–30, eff. Jan. 1, 2007.

30/20–5–35. Refund of excess deposit

§ 20–5–35. Refund of excess deposit. If the amount withdrawn from deposit by any interested party under the provision of Section 20–5–20 of this Act exceeds the amount finally adjudged to be just compensation (or damages, costs, expenses, and attorney fees) due to that party, the court shall order that party to refund the excess to the clerk of the court and, if refund is not made within a reasonable time fixed by the court, shall enter judgment for the excess in favor of the plaintiff and against that party.

P.A. 94–1055, Art. 20, § 20–5–35, eff. Jan. 1, 2007.

30/20–5–40. Dismissal; abandonment

§ 20–5–40. Dismissal; abandonment. After the plaintiff has taken possession of the property pursuant to the order of taking, the plaintiff shall have no right to dismiss the complaint or to abandon the proceeding, as to all or any part of the property so taken, except upon the consent of all parties to the proceeding whose interests would be affected by the dismissal or abandonment.

P.A. 94–1055, Art. 20, § 20–5–40, eff. Jan. 1, 2007.

30/20–5–45. Payment of costs

§ 20–5–45. Payment of costs. If, on an appeal taken under the provisions of Section 20–5–10 of this Act, the plaintiff is determined not to have the authority to maintain the proceeding as to any property that is the subject of that appeal or if, with the consent of all parties to the proceeding whose interests are affected, the plaintiff dismisses the complaint or abandons the proceedings as to any property that is the subject of the appeal, the trial court then shall enter an order: (i) revesting the title to the property in the parties entitled thereto, if the order of taking vested title in the plaintiff; (ii) requiring the plaintiff to deliver possession of the property to the parties entitled to possession; and (iii) making such provision as is just for the payment of damages arising out of the plaintiff's taking and use of the property and also for costs, expenses, and attorney fees, as provided in Section 10–5–70 of this Act. The court may order the clerk of the court to pay those sums to the parties entitled thereto out of the money deposited by the plaintiff in accordance

with the provisions of subsection (a) of Section 20–5–15 of this Act.

P.A. 94–1055, Art. 20, § 20–5–45, eff. Jan. 1, 2007.

30/20–5–50. Construction of Article

§ 20–5–50. Construction of Article. The right to take possession and title prior to the final judgment, as prescribed in this Article and Article 25 of this Act shall be in addition to any other right, power, or authority otherwise conferred by law and shall not be construed as abrogating, limiting, or modifying any other right, power, or authority.

P.A. 94–1055, Art. 20, § 20–5–50, eff. Jan. 1, 2007.

ARTICLE 25. EXPRESS QUICK—TAKE POWERS

PART 5. NEW QUICK—TAKE POWERS

30/25–5–5. Quick–take; Village of Skokie

§ 25–5–5. Quick-take; Village of Skokie. Quick-take proceedings under Article 20 may be used for a period of 12 months after the effective date of this amendatory Act of the 95th General Assembly by the Village of Skokie for the acquisition of property to be used for pedestrian egress and ingress, drop-off and pick-up areas, taxi waiting areas, and a bus connection stop to support a rail transit station, and for improvements to Skokie Boulevard and Searle Parkway to accommodate traffic signals, improved turning radii, and lane widening, as follows:

8116 Skokie Boulevard

Index Number (PIN) 10–21–501–011–0000

ALL THAT PART OF BLOCK 4 IN THE SUBDIVISION OF LOT 2 OF THE SUBDIVISION OF THE SOUTH 105 ACRES OF THE SOUTHEAST ¼ OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EASTERLY OF A LINE DRAWN 135.0 FEET EASTERLY OF PARALLEL TO THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY, MEASURED AT RIGHT ANGLES THERETO (EXCEPT THAT PART TAKEN FOR STREETS) IN COOK COUNTY, ILLINOIS.

8156–8200 Skokie Boulevard

Index Number (PIN) 10–21–402–077–0000

THAT PART OF LOT 1 LYING EASTERLY OF THE LINE DRAWN PARALLEL IN DISTANCE 135 FEET AT RIGHT ANGLES IN AN EASTERLY DIRECTION FROM THE EAST LINE OF THE RIGHT–OF–WAY OF THE CHICAGO AND NORTHWESTERN RAILROAD COMPANY AND SOUTHERLY OF A LINE PARALLEL TO AND 353 FEET SOUTHERLY OF THE NORTH LINE OF BLOCK 1 IN BLAMEUSER'S SUBDIVISION OF THE SOUTH 105 ACRES OF THE SOUTHEAST ¼ OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.A. 94–1055, Art. 25, § 25–5–5, added by P.A. 95–706, § 5, eff. Jan. 8, 2008.

30/25–5–10. Quick-take; City of Champaign, Village of Savoy and County of Champaign

§ 25–5–10. Quick-take; City of Champaign, Village of Savoy and County of Champaign. Quick-take proceedings under Article 20 may be used for a period of no more than one year after the effective date of this amendatory Act of the 95th General Assembly by the City of Champaign, the Village of Savoy, and the County of Champaign, for the acquisition of the following described properties for the purpose of road construction right-of- way, permanent easements, and temporary easements:

Alexander C. Lo, as Trustee—Parcel 040

Right-of-Way:

A part of the South Half of Section 26, and the North Half of Section 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southwest corner of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the west line of said Section 26, North 00 degrees 50 minutes 27 seconds West 887.52 feet; thence North 89 degrees 09 minutes 33 seconds East 45.00 feet; thence South 00 degrees 50 minutes 27 seconds East 50.00 feet; thence South 03 degrees 42 minutes 12 seconds East 300.37 feet; thence along a line parallel to and 60.00 feet offset easterly from said west line of Section 26, South 00 degrees 50 minutes 27 seconds East 200.00 feet; thence South 06 degrees 25 minutes 24 seconds East 185.04 feet; thence along a line parallel to and 155.00 feet offset northerly from the south line of said Section 26, South 89 degrees 36 minutes 45 seconds East 349.35 feet; thence South 86 degrees 45 minutes 01 seconds East 100.12 feet; thence along a line parallel to and 150.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 45 seconds East 850.00 feet; thence South 85 degrees 56 minutes 46 seconds East 703.70 feet; thence along a line parallel to and 105.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 45 seconds East 322.03 feet; thence South 00 degrees 23 minutes 15 seconds West 22.00 feet; thence along a line parallel to and 83.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 45 seconds East 237.29 feet; thence North 00 degrees 38 minutes 43 seconds West 30.00 feet; thence along a line parallel to and 113.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 88.24 feet; thence South 87 degrees 19 minutes 30 seconds East 300.24 feet; thence along a line parallel to and 101.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 700.00 feet; thence South 87 degrees 54 minutes 06 seconds East 228.20 feet, to the east line of the west half of the southeast Quarter of aforesaid Section 26; thence along said east line, South 00 degrees 39 minutes 19 seconds East 94.19 feet, to the south line of said Section 26; thence along said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 1316.02 feet, to a point being the southeast corner of said Section 26, said point also being the northeast corner of Section 35, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the east line of said Section 35, South 00 degrees 27 minutes 33 seconds East 920.45 feet; thence South 89 degrees 32 minutes 27 seconds West 275.00 feet; thence North 00 degrees 27 minutes 33 seconds West 600.00 feet; thence North 89 degrees 32 minutes 27 seconds East 235.00 feet; thence along a line parallel to and 40.00 feet offset westerly from aforesaid east line of Section 35, North 00 degrees 27 minutes 33 seconds West 218.02 feet; thence along a line parallel to and 103.00 feet offset southerly from the north line of said Section 35, North 89 degrees 36 minutes 56 seconds West 158.05 feet; thence North 87 degrees 19 minutes 30 seconds West 150.12

feet; thence along a line parallel to and 97. 00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 56 seconds West 401.25 feet; thence North 85 degrees 58 minutes 01 seconds West 502.84 feet; thence North 88 degrees 27 minutes 19 seconds West 296.29 feet; thence along a line parallel to and 59.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 56 seconds West 700.00 feet; thence South 88 degrees 28 minutes 31 seconds West 300.17 feet; thence along a line parallel to and 69.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 56 seconds West 85.23 feet, to the west line of the northeast Quarter of said Section 35; thence along a line parallel to and 69.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 45 seconds West 114.77 feet; thence North 87 degrees 54 minutes 07 seconds West 804.04 feet; thence along a line parallel to and 45.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 45 seconds West 397.76 feet; thence North 00 degrees 20 minutes 35 seconds West 45.00 feet, to the northerly line of said Section 35; thence along said northerly line of Section 35, North 89 degrees 36 minutes 45 seconds West 1315.81 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 22.351 acres, more or less (Part of PIN #03–20–26–300–020; Part of PIN #03–20–26–300–021; Part of PIN #03–20–26–400–001; Part of PIN #03–20–35–100–002 and Part of PIN #03–20–35–200–001)

Permanent Easement #1:

A part of the southeast quarter of the southwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southeast corner or the southwest quarter of Section 16, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the easterly line of said southwest quarter of Section 26, North 00 degrees 38 minutes 43 seconds West 83.01 feet, to the Point of Beginning; thence North 89 degrees 36 minutes 45 seconds West 237.29 feet; thence North 00 degrees 23 minutes 15 seconds East 15.00 feet; thence South 89 degrees 36 minutes 45 seconds East 237.02 feet; thence South 00 degrees 38 minutes 43 seconds East 15.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.082 of an acre, more or less (Part of PIN #03–20–26–300–021)

Permanent Easement #2:

A part of the west half of the southwest quarter of Section 26, and a part of the west half of the northwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southwest corner of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the southerly line of said Section 26, South 89 degrees 36 minutes 45 seconds East 1166.28 feet; thence North 00 degrees 23 minutes 15 seconds East 150.00 feet, to the Point of Beginning; thence along a curve to the left having a radius of 300.00 feet, an arc length of 49.50 feet, a chord bearing of North 11 degrees 23 minutes 05 seconds West and a chord length of 49.45 feet; thence North 16 degrees 06 minutes 44 seconds West 1098.24 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 285.88 feet, a chord bearing of North 06 degrees 21 minutes 44 seconds West and a chord length of 284.51 feet; thence North 03 degrees 23 minutes 16 seconds East 1031.54 feet; thence along a curve to the left having a radius of 760.00 feet, an arc length of 134.77 feet, a chord bearing of North 01 degrees 41 minutes 32 seconds West and a chord length of 134.59 feet; thence South 89 degrees 42 minutes 45 seconds East 80.55 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 139.06 feet, a chord bearing of South 01 degrees 21 minutes 17 seconds East and a chord length of 138.90 feet; thence South 03 degrees 23 minutes 16 seconds West 1031.54 feet; thence along a curve to the left having a radius of 760.00 feet, an arc length of 258.66 feet, a chord bearing of South 06 degrees 21 minutes 44 seconds East and a chord length of 257.41 feet; thence South 16 degrees 06 minutes 44 seconds East 1098.24 feet; thence along a curve to the right having a radius of 380.00 feet, an arc length of 72.58 feet, a chord bearing of South 10 degrees 38 minutes 26 seconds East and a chord length of 72.47 feet; thence North 89 degrees 36 minutes 45 seconds West 80.48 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 4.775 acres or 208,000 square feet, more or less. (Part of PIN #03–20–26–300–019 and #03–20–26–300–020)

Temporary Easement #1:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 91.50 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 112+31.76; thence North 89 degrees 36 minutes 56 seconds West 20.00 feet; thence South 00 degrees 38 minutes 43 seconds East 15.00 feet; thence North 89 degrees 36 minutes 45 seconds West 137.02 feet; thence North 00 degrees 31 minutes 33 seconds West 113.51 feet; thence North 89 degrees 36 minutes 45 seconds West 80.00 feet; thence South 00 degrees 23 minutes 15 seconds West 10.00 feet; thence North 89 degrees 36 minutes 45 seconds West 50.00 feet; thence North 00 degrees 23 minutes 15 seconds East 60.00 feet; thence South 89 degrees 36 minutes 45 seconds East 50.00 feet; thence South 00 degrees 23 minutes 15 seconds West 10.00 feet; thence South 89 degrees 36 minutes 45 seconds East 236.07 feet; thence South 00 degrees 38 minutes 43 seconds East 138.52 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.688 of an acre or 29,966 square feet, more or less. (Part of PIN #03–20–26–300–021)

Temporary Easement #2:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 102.49 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 87+50.00; thence North 00 degrees 23 minutes 16 seconds East 46.18 feet; thence South 89 degrees 09 minutes 33 seconds West 99.13 feet; thence North 06 degrees 25 minutes 24 seconds West 90.43 feet; thence North 89 degrees 09 minutes 33 seconds East 210.11 feet; thence South 00 degrees 34 minutes 28 seconds West 70.84 feet; thence South 89 degrees 36 minutes 44 seconds East 100.00 feet; thence South 00 degrees 23 minutes 16 seconds West 67.51 feet; thence North 89 degrees 36 minutes 45 seconds West 200.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.686 of an acre or 29,891 square feet more or less. (Part of PIN #03–20–26–300–020)

Temporary Easement #3:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 97.50 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 97+00.00; thence North 35 degrees 20 minutes 49 seconds East 57.33 feet; thence North 16 degrees 06 minutes 44 seconds West 1098.24 feet; thence along a curve to the right having a radius of 845.00 feet, an arc length of 287.59 feet, a chord bearing of North 06 degrees 21 minutes 44 seconds West and a chord length of 286.20 feet; thence North 03 degrees 23 minutes 16 seconds East 1031.54 feet; thence along a curve to the left having a radius of 755.00 feet, an arc length of 134.50 feet, a chord bearing of North 01 degrees 42 minutes 57 seconds West and a chord length of 134.33 feet; thence South 89 degrees 42 minutes 45 seconds East 5.04 feet; thence along a curve to the right having a radius of 760.00 feet, an arc length of 134.77 feet, a chord bearing of South 01 degrees 41 minutes 32 seconds East and a chord length of 134.59 feet; thence South 03 degrees 23 minutes 16 seconds West 1031.54 feet; thence along a curve to the left having a radius of 840.00 feet, an arc length of 285.88 feet, a chord bearing of South 06 degrees 21 minutes 44 seconds East and a chord length of 284.51 feet; thence South 16 degrees 06 minutes 44 seconds East 1098.24 feet; thence along a curve to the right having a radius of 300.00 feet, an arc length of 49.50 feet, a chord bearing of South 11 degrees 23 minutes 05 seconds East and a chord length of 49.45 feet; thence North 89 degrees 36 minutes 45 seconds West 47.73 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.322 acres or 14,034 square feet, more or less. (Part of PIN 03–20–26–300–019 & 03–20–26–300–020)

Temporary Easement #4:

A part of Sections 26 and 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone

Beginning at a point being 97.50 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 98+75.00; thence North 89 degrees 36 minutes 45 seconds West 46.79 feet; thence along a curve to the left having a radius of 380.00 feet, an arc length of 72.58 feet, a chord bearing of North 10 degrees 38 minutes 26 seconds West and a chord length of 72.47 feet; thence North 16 degrees 06 minutes 44 seconds West 1098.24 feet; thence along a curve to the right having a radius of 760.00 feet, an arc length of 258.66 feet, a chord bearing of North 06 degrees 21 minutes 44 seconds West and a chord length of 257.41 feet; thence North 03 degrees 23 minutes 16 seconds East 1031.54 feet; thence along a curve to the left having a radius of 840.00 feet, an arc length of 139.06 feet, a chord bearing of North 01 degrees 21 minutes 17 seconds West and a chord length of 138.90 feet; thence South 89 degrees 42 minutes 45 seconds East 5.03 feet; thence along a curve to the right having a radius of 845.00 feet, an arc length of 139.33 feet, a chord bearing of South 01 degrees 20 minutes 08 seconds East and a chord length of 139.17 feet; thence South 03 degrees 23 minutes 16 seconds West 1031.54 feet; thence along a curve to the left having a radius of 755.00 feet, an arc length of 256.96 feet, a chord bearing of South 06 degrees 21 minutes 44 seconds East and a chord length of 255.72 feet; thence South 16 degrees 06 minutes 44 seconds East 1098.24 feet; thence South 37 degrees 12 minutes 15 seconds East 91.56 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.331 acres or 14,428 square feet, more or less. (Part of PIN 03–20–26–300–019 & 03–20–26–300–020)

Temporary Easement #5:

A part of Sections 26 and 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 94.00 feet normally offset southerly from FAP Route 807 (Curtis Road) centerline station 137+93.04: thence South 00 degrees 27 minutes 33 seconds East 218.80 feet; thence North 89 degrees 32 minutes 27 seconds East 15.00 feet; thence North 00 degrees 27 minutes 33 seconds West 208.58 feet; thence North 45 degrees 02 minutes 15 seconds West 14.25 feet; thence North 89 degrees 36 minutes 56 seconds West 5.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.074 of an acre or 3230 square feet, more or less. (Part of PIN #03–20–35–200–001)

Adolf M. Lo—Parcel 041

Permanent Easement:

A part of Sections 26 and 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 94.00 feet normally offset southerly from FAP Route 807 (Curtis Road) centerline station 137+93.04: thence South 00 degrees 27 minutes 33 seconds East 218.80 feet; thence North 89 degrees 32 minutes 27 seconds East 15.00 feet; thence North 00 degrees 27 minutes 33 seconds West 208.58 feet; thence North 45 degrees 02 minutes 15 seconds West 14.25 feet; thence North 89 degrees 36 minutes 56 seconds West 5.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.074 of an acre or 3230 square feet, more or less. (Part of PIN #03–20–35–200–001)

Temporary Easement #1:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southwest corner of the northwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the west line of said northwest quarter, North 00 degrees 32 minutes 29 seconds West 60.01 feet; thence along the north line of the south 60 feet of the south half of the southwest quarter of the northwest quarter of said Section 26, South 89 degrees 42 minutes 45 seconds East 917.47 feet, to the Point of Beginning; thence along a curve to the left having a radius of 760.00 feet, an arc length of 57.56 feet, a chord bearing of North 08 degrees 56 minutes 32 seconds West and a chord length of 57.55 feet; thence North 11 degrees 06 minutes 44 seconds West 466.55 feet; thence along a curve to the left having a radius of 760.00 feet, an arc length of 93.84 feet, a chord bearing of North 14 degrees 38 minutes 58 seconds West and a chord length of 93.78 feet, to the north line of the south half of the southwest quarter of the northwest quarter of aforesaid Section 26; thence along said north line, North 89 degrees 49 minutes 23 seconds West 5.27 feet; thence along a curve to the right having a radius of 755.00 feet, an arc length of 94.89 feet, a chord bearing of South 14 degrees 42 minutes 45 seconds East and a chord length of 94.83 feet; thence South 11 degrees 06 minutes 44 seconds East 466.55 feet; thence along a curve to the right having a radius of 755.00 feet, an arc length of 56.57 feet, a chord bearing of

South 08 degrees 57 minutes 57 seconds East and a chord length of 56.55 feet; thence South 89 degrees 42 minutes 45 seconds East 5.04 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.071 of an acre or 3090 square feet, more or less. (Part of PIN 03–20–26–100–005)

Temporary Easement #2:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southwest corner of the northwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the west line of said northwest quarter, North 00 degrees 32 minutes 29 seconds West 60.01 feet; thence along the north line of the south 60 feet of the south half of the southwest quarter of the northwest quarter of said Section 26, South 89 degrees 42 minutes 45 seconds East 917.47 feet; thence South 89 degrees 42 minutes 45 seconds East 80.55 feet, to the Point of Beginning; thence South 89 degrees 42 minutes 45 seconds East 5.03 feet; thence along a curve to the left having a radius of 845.00 feet, an arc length of 74.52 feet, a chord bearing of North 08 degrees 35 minutes 08 seconds West and a chord length of 74.50 feet; thence North 11 degrees 06 minutes 44 seconds West 466.55 feet; thence along a curve to the left having a radius of 845.00 feet, an arc length of 76.27 feet, a chord bearing of North 13 degrees 41 minutes 53 seconds West and a chord length of 76.25 feet, to the north line of the south half of the southwest quarter of the northwest quarter of aforesaid Section 26; thence along said north line, North 89 degrees 49 minutes 23 seconds West 5.22 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 77.30 feet, a chord bearing of South 13 degrees 44 minutes 54 seconds East and a chord length of 77.27 feet; thence South 11 degrees 06 minutes 44 seconds East 466.55 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 73.52 feet, a chord bearing of South 08 degrees 36 minutes 17 seconds East and a chord length of 73.50 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.071 acres or 3087 square feet more or less. (Part of PIN 03–20–26–100–005)

Adolf M. & Renee C. Lo—Parcel 044

Right-of-Way:

A part of the southeast quarter of the southeast quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southwest corner of W. W. Young's Fourth Subdivision as per plat recorded in Book "O" at Page 55, Champaign County, Illinois; thence along the south line of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, North 89 degrees 36 minutes 56 seconds West 1127.29 feet; thence North 00 degrees 39 minutes 19 seconds West 94.19 feet; thence South 87 degrees 54 minutes 06 seconds East 473.99 feet; thence along a line parallel to and offset 80.00 feet northerly from aforesaid southerly line of Section 26, South 89 degrees 36 minutes 56 seconds East 187.22 feet; thence South 00 degrees 33 minutes 07 seconds East 40.51 feet; thence along a line parallel to and 39.50 feet northerly offset from said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 466.69 feet, to the westerly line of aforesaid W.W. Young's Fourth Subdivision; thence along said westerly line, South 00 degrees 33 minutes 07 seconds East 39.51 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 1.714 acres, more or less. (Part of PIN #03–20–26–476–002 and Part of PIN #03–20–26–476–003)

Temporary Easement:

A part of the southeast quarter of the southeast quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southwest corner of Lot 16 of W. W. Young's Fourth Subdivision as per plat recorded in Book "O" at Page 55, Champaign County, Illinois; thence along the westerly line of said Lot 16, North 00 degrees 33 minutes 07 seconds West 6.50 feet, to the Point of Beginning; thence North 89 degrees 36 minutes 56 seconds West 466.69 feet; thence North 00 degrees 33 minutes 07 seconds West 2.00 feet; thence South 89 degrees 55 minutes 43 seconds East 274.58 feet; thence North 00 degrees 23 minutes 04 seconds East 18.00 feet; thence South 89 degrees 36 minutes 56 seconds East 50.00 feet; thence South 00 degrees 23 minutes 04 seconds West 17.50 feet; thence South 89 degrees 49 minutes 02 seconds East 142.08 feet, to aforesaid westerly line of Lot 16; thence along said westerly line of Lot 16, South 00 degrees 33 minutes 07 seconds East 4.50 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.056 of an acre, more or less. (Part of PIN #03–20–26–476–002 and Part of PIN #03–20–26–476–003)

John R. Thompson—Parcel 034

Right of Way:

A part of the Northeast Quarter of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the northeast corner of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the east line of said Section 34, South 00 degrees 18 minutes 04 seconds East 1812.48 feet; thence South 89 degrees 41 minutes 56 seconds West 45.00 feet; thence North 03 degrees 32 minutes 40 seconds West 300.48 feet; thence along a line being parallel to and 62.00 feet offset westerly from the aforesaid east line of Section 34, North 00 degrees 18 minutes 04 seconds West 200.00 feet, thence South 89 degrees 41 minutes 56 seconds West 8.00 feet; thence along a line parallel to and 70.00 feet offset westerly from said east line of Section 34, North 00 degrees 18 minutes 04 seconds West 300.00 feet; thence North 89 degrees 41 minutes 56 seconds East 8.00 feet; thence along a line being parallel to and offset 62.00 feet westerly from said east line of Section 34, North 00 degrees 18 minutes 04 seconds West 600.00 feet; thence North 01 degrees 49 minutes 43 seconds West 300.11 feet; thence North 14 degrees 05 minutes 31 seconds West 62.93 feet; thence North 89 degrees 11 minutes 38 seconds West 47.85 feet; thence North 86 degrees 08 minutes 27 seconds West 150.21 feet; thence along a line being parallel to and offset 45.00 feet southerly from the north line of aforesaid Section 34, North 89 degrees 11 minutes 38 seconds West 750.00 feet; thence North 82 degrees 21 minutes 04 seconds West 100.72 feet, to a point on the existing southerly Curtis Road right-of-way line; thence along said southerly right-of-way line, North 89 degrees 11 minutes 38 seconds West 647.89 feet; thence South 88 degrees 01 minutes 07 seconds West 246.74 feet; thence along a line parallel to and offset 45.00 feet southerly from aforesaid north line of Section 34, North 89 degrees 11 minutes 38 seconds West 412.04 feet; thence

North 00 degrees 48 minutes 22 seconds East 45.00 feet, to said north line of Section 34; thence along said north line of Section 34, South 89 degrees 11 minutes 38 seconds East 2438.21 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 4.882 acres or 212,664 square feet, more or less. (Part of PIN #03–20–34–200–001 and part of PIN #03–20–34–200–002).

Temporary Easement:

A part of the Northeast Quarter of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 47.00 feet normally distant southerly from centerline Station 61+40.88 of FAP Route 807 (Curtis Road); thence South 00 degrees 48 minutes 22 seconds West 12.00 feet; thence North 89 degrees 33 minutes 09 seconds West 91.29 feet; thence North 00 degrees 24 minutes 07 seconds West 10.00 feet, to a point on the southerly existing Curtis Road right-of-way line; thence along said southerly right-of-way line, being a curve to the left having a radius of 6507.00 feet, an arc length of 91.54 feet, a chord bearing of North 89 degrees 11 minutes 42 seconds East and a chord length of 91.54 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.023 acres or 996 square feet, more or less. (Part of PIN 03–20–34–200–001)

JOHN E. CROSS—PARCEL 52

Right of Way

Part of Lot 8 in Arbours Subdivision No. 10, as per plat recorded in book "Y" at page 253 in Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southeast corner of the above described Lot 8; thence along the southerly line of said Lot 8, North 89 degrees 27 minutes 54 seconds West 10.59 feet; thence North 24 degrees 20 minutes 36 seconds East 25.14 feet, to the easterly line of said Lot 8; thence along said easterly line, South 00 degrees 34 minutes 33 seconds East 23.00 feet, to the Point of Beginning, containing 0.003 acres or 122 square feet, more or less.

PROSPECT POINT PARTNERS—PARCEL 53

Right of Way

A part of Lot 401 of the Arbour Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the northwest corner of the above described Lot 401 of Arbour Subdivision No. 4, thence along the northerly line of said Lot 401, South 89 degrees 27 minutes 54 seconds East 310.00 feet; thence North 00 degrees 32 minutes 06 seconds East 10.00 feet; thence continuing along the northerly line of aforesaid Lot 401, South 89 degrees 27 minutes 54 seconds East 60.00 feet, to the northeast corner of said Lot 401; thence along the easterly line of said Lot 401, South 00 degrees 35 minutes 41 seconds West 11.00 feet; thence North 89 degrees 27 minutes 54 seconds West 282.46 feet; thence South 89 degrees 53 minutes 41 seconds West 89.50 feet, to the northwesterly line of aforesaid Lot 401; thence along said northwesterly line, North 45 degrees 02 minutes 16 seconds East 2.80 feet, to the Point of Beginning, containing 0.023 of an acre, more or less.

Temporary Easement

A part of Lot 401 of the Arbour Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the northeast corner of the above described Lot 401 of Arbour Subdivision No. 4, thence along the easterly line of said Lot 401, South 00 degrees 35 minutes 41 seconds West 11.00 feet, to the Point of Beginning; thence North 89 degrees 27 minutes 54 seconds West 282.46 feet; thence South 89 degrees 53 minutes 41 seconds West 89.50 feet, to the westerly line of said Lot 401; thence along said westerly line, South 45 degrees 02 minutes 16 seconds West 11.22 feet; thence South 89 degrees 27 minutes 54 seconds East 277.36 feet; thence South 00 degrees 32 minutes 06 seconds West 10.00 feet; thence South 89 degrees 27 minutes 54 seconds East 102.44 feet, to aforesaid easterly line of Lot 401; thence along said easterly line, North 00 degrees 35 minutes 41 seconds East 19.00 feet, to the Point of Beginning, containing 0.100 acres or 4359 square feet, more or less.

PROSPECT POINT LLC—PARCEL 54

Right of Way

A part of Lot 402 of the Arbour Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the northeast corner of the above described Lot 402 of Arbour Subdivision No. 4, thence along the easterly line of said Lot 402, South 00 degrees 31 minutes 44 seconds West 40.00 feet; thence North 23 degrees 44 minutes 15 seconds West 28.52 feet; thence North 83 degrees 07 minutes 30 seconds West 27.17 feet; thence along a line being parallel to and 11.00 feet offset southerly from the northerly line of said Lot 402, North 89 degrees 27 minutes 54 seconds West 242.54 feet, to the westerly line of said Lot 402; thence along said westerly line, North 00 degrees 35 minutes 41 seconds East 11.00 feet, to the northwest corner of said Lot 402; thence along the northerly line of said Lot 402, South 89 degrees 27 minutes 54 seconds East 281.25 feet, to the Point of Beginning, containing 0. 076 of an acre or 3322 square feet, more or less.

Temporary Easement

A part of Lot 402 of the Arbour Meadows Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone:

TE–1

Beginning at the northeast corner of the above described Lot 402; thence along the easterly line of said Lot 402, South 00 degrees 35 minutes 44 seconds West 40.00 feet, to the Point of Beginning; thence North 23 degrees 44 minutes 15 seconds West 28.52 feet; thence North 83 degrees 07 minutes 30 seconds West 27.17 feet; thence North 89 degrees 27 minutes 54 seconds West 242.54 feet, to the westerly line of aforesaid Lot 402; thence along said westerly line, South 00 degrees 35 minutes 41 seconds West 19.00 feet; thence South 89 degrees 27 minutes 54 seconds East 17.56 feet; thence North 00 degrees 32 minutes 06 seconds East 10.00 feet; thence South 89 degrees 27 minutes 54 seconds East 250.00 feet; thence South 00 degrees 32 minutes 06 seconds West 24.00 feet; thence South 89 degrees 27 minutes 54 seconds East 13.72 feet, to the aforesaid easterly line of Lot 402; thence along said easterly line, North 00 degrees 31 minutes 44 seconds East 4.00 feet, to the Point of Beginning, containing 0.064 of an acre or 2808 square feet, more or less.

TE–2

Beginning at a point on the easterly line of the above described Lot 402, said point being offset 196.00 feet normal-

ly distant southerly from FAP Route 807 (Curtis Road) centerline; thence along said easterly line of Lot 402, South 00 degrees 31 minutes 44 seconds West 40.00 feet; thence North 89 degrees 28 minutes 16 seconds West 60.00 feet; thence North 00 degrees 31 minutes 44 seconds East 40.00 feet; thence South 89 degrees 28 minutes 16 seconds East 60.00 feet, to the Point of Beginning, containing 0.055 of an acre or 2400 square feet, more or less.

Tracts TE–1 and TE–2 totaling 0.119 of an acre or 5208 square feet, more or less.

MAIN STREET BANK, TRUSTEE—PARCEL 55

Right of Way

All of the Commons area of the Arbour Meadows Subdivision No. 4, as per plat recorded December 24, 1992 in Book "BB" at Page 213 as Document 92R 37248, in the Village of Savoy, Champaign County, Illinois, containing 0.529 of an acre, more or less.

PROSPECT POINT EAST, LLC—PARCEL 56

Temporary Easement

A part of Lot 201 of the Arbour Meadows Subdivision No. 2, as per plat recorded in Plat Book "AA" at Page 251, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone:

Beginning at the northwest corner of the above described Lot 201 of the Arbour Meadows Subdivision No. 2; thence along the northerly line of said Lot 201, South 89 degrees 27 minutes 54 seconds East 15.11 feet; thence South 45 degrees 44 minutes 50 seconds West 21.29 feet, to the westerly line of said Lot 201; thence along said westerly line, North 00 degrees 31 minutes 44 seconds East 15.00 feet, to the Point of Beginning, containing 0.003 of an acre or 113 square feet, more or less.

P.A. 94–1055, Art. 25, § 25–7–103.150, added by P.A. 95–611, § 5, eff. Sept. 11, 2007. Renumbered § 25–5–10 by P.A. 95–876, § 370, eff. Aug. 21, 2008.

This section was renumbered as § 25–5–10 by P.A. 95–876, § 370, eff. Aug. 21, 2008 from § 25–7–103.150 as added by P.A. 95–611, § 5, eff. Sept. 11, 2007.

30/25–5–15. Quick-take; Village of Lake in the Hills

§ 25–5–15. Quick-take; Village of Lake in the Hills. Quick-take proceedings under Article 20 may be used for a period of no more than one year after the effective date of this amendatory Act of the 95th General Assembly by the Village of Lake in the Hills for the acquisition of the following described property for runway purposes at the Lake in the Hills Airport:

PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 43 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER, THENCE SOUTH 00 DEGREES 37 MINUTES 09 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 1144.93 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 37 MINUTES 09 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 105.12 FEET TO THE SOUTH LINE OF THE PARCEL DESCRIBED IN DOCUMENT NUMBER 95RO11851 AS RECORDED IN THE MCHENRY COUNTY RECORDER'S OFFICE; THENCE SOUTH 89 DEGREES 22 MINUTES 51 SECONDS WEST ALONG THE SOUTH LINE OF THE PARCEL DESCRIBED IN DOCUMENT NUMBER 95R011851, 593.00 FEET TO THE WEST LINE OF THE PARCEL DESCRIBED IN DOCUMENT NUMBER 95R011851; THENCE NORTH 00 DEGREES 37 MINUTES 09 SECONDS WEST, ALONG THE WEST LINE OF THE PARCEL DESCRIBED IN DOCUMENT NUMBER 95R011851, 3.99 FEET; THENCE 79 DEGREES 42 MINUTES 11 SECONDS EAST ALONG A LINE 306.00 FEET NORTHWESTERLY OF AND PARALLEL WITH THE CENTERLINE OF RUNWAY NUMBER 8/26, 601.56 FEET TO THE POINT OF BEGINNING AND CONTAINING 32,-351 SQUARE FEET OR 0.743 ACRES MORE OR LESS, ALL IN MCHENRY COUNTY, ILLINOIS, AND EXCEPTING THAT PART USED FOR ROADWAY PURPOSES.

P.A. 94–1055, Art. 25, § 25–5–15, added by P.A. 95–929, § 5, eff. Aug. 26, 2008. Amended by P.A. 96–328, § 370, eff. Aug. 11, 2009.

P.A. 96–328, § 370, effective August 11, 2009 renumbered another § 25–5–15 relating to Quick-take; City of Champaign as § 25–5–20.

30/25–5–20. Quick-take; City of Champaign

§ 25–5–20. Quick-take; City of Champaign. Quick-take proceedings under Article 20 may be used for a period of no more than one year after the effective date of this amendatory Act of the 95th General Assembly by the City of Champaign for the acquisition of the following properties for the purpose of drainage and other improvements related to the Boneyard Creek Project, including right of way, permanent easements, and temporary easements:

Parcel A—(PIN 46–21–07–351–014) 112 East Clark Street

Lot 12 in Block 1 of Campbell and Kirkpatrick's Addition to Urbana, now a part of the City of Champaign, as per Plat recorded in Deed Record "E" at Page 352, situated in Champaign County, Illinois.

Parcel B—(PIN 46–21–07–353–005) 111 East White Street

The East 34 feet of Lot 2 of a Subdivision of Block 1 of J. C. Kirkpatrick's Second Addition to the Town of West Urbana, now City of Champaign, as per plat recorded in Deed Record 8 at page 232, in Champaign County, Illinois.

Parcel D—(PIN 46–21–07–353–010) 108 East Stoughton Street

Lot 10 of a Subdivision of Block 1 of J. C. Kirkpatrick's Second Addition to the Town of West Urbana, now City of Champaign, as per plat recorded in Deed Record 8 at Page 232, in Champaign County, Illinois.

Parcel G (PIN 46–21–07–355–002) 201–½ East University Avenue

Tract I—Beginning at the Northeast corner of Lot 6 in Block 2 in Campbell & Kirkpatrick's Addition to Urbana (now a part of the City of Champaign) running thence West 20 feet; thence South 80 feet; thence East 20 feet; thence North 80 feet to the point of beginning, situated in Champaign County, Illinois. Tract II—The West 8 feet of the East 28 feet of the North 80 feet of Lot 6 in Block 2 in Campbell & Kirkpatrick's Addition to Urbana (now a part of the City of Champaign), in Champaign County, Illinois.

Parcel H (PIN 46–21–07–355–001) 201 East University Avenue

The West 38 feet of the North 80 feet of Lot 6 in Block 2 of Campbell and Kirkpatrick's Addition to Urbana, now a part of the City of Champaign, as per Plat recorded in

Deed Record "E" at page 352, situated in Champaign County, Illinois.

P.A. 94–1055, Art. 25, § 25–5–15, added by P.A. 95–974, § 5, eff. Sept. 22, 2008. Renumbered § 25–5–20 by P.A. 96–328, § 370, eff. Aug. 11, 2009

This section was renumbered as § 25–5–20 by P.A. 96–328, § 370, eff. Aug. 11, 2009 from § 25–5–15 as added by P.A. 95–974, § 5, eff. Sept. 22, 2008.

30/25–5–25. Quick-take; Village of Johnsburg

§ 25–5–25. Quick-take; Village of Johnsburg. Quick-take proceedings under Article 20 may be used for a period of no more than one year after the effective date of this amendatory Act of the 96th General Assembly by the Village of Johnsburg, McHenry County for the acquisition of the following described property for the purpose of constructing a METRA rail station and rail storage yard:

PARCEL 1:

That part of the of the Southwest Quarter, part of the Southeast Quarter of Section 15 and part of the Northeast Quarter of Section 22, Township 45 North, Range 8 East of the Third Principal Meridian, McHenry County, Illinois more particularly described as follows: Beginning at the intersection of the North line of the said Southwest Quarter and the westerly line of the Chicago and Northwestern Railroad; thence southerly along said westerly line to the intersection of the East line of said Southwest Quarter and said westerly line; thence continuing southerly along said westerly line to the intersection of the South line of said Southeast Quarter and said westerly line; thence continuing southerly along said westerly line to the northerly line of F.A.P. Route 420; thence northwesterly along said northerly line to a line lying 530.00 feet westerly of and parallel with the said westerly line of the Chicago and Northwestern Railroad; thence northerly along said parallel line to a line lying 392.00 feet southerly of and parallel with the said North line of the Southwest Quarter; thence northerly along a line which intersects with the said North line of said Southwest Quarter and a line lying 412.05 feet westerly of and parallel with the said westerly line of the Chicago and Northwestern Railroad; thence easterly along said North line to the point of beginning.

PARCEL 2:

That part of the Northwest Quarter of Section 15, Township 45 North, Range 8 East of the Third Principal Meridian, McHenry County, Illinois more particularly described as follows: Beginning at the intersection of the North line of the South Half of said Northwest Quarter and the westerly line of the Chicago and Northwestern Railroad; thence southerly along said westerly line to the South line of the said Northwest Quarter; thence westerly along said South line to a line lying 412.05 feet westerly of and parallel with the said westerly line of the Chicago and Northwestern Railroad; thence northerly along said parallel line to said North line of the said South Half; thence easterly along said North line of said South Half to the point of beginning.

P.A. 94–1055, Art. 25, § 25–5–25, added by P.A. 96–709, § 5, eff. Aug. 25, 2009.

30/25–5–30. Quick-take; Village of Johnsburg

§ 25–5–30. Quick-take; Village of Johnsburg. Quick-take proceedings under Article 20 may be used for a period of no longer than one year after the effective date of this amendatory Act of the 96th General Assembly, by the Village of Johnsburg, McHenry County for the acquisition of the following described property for the purpose of constructing a METRA rail station and rail storage yard:

LEGAL DESCRIPTION

THAT PART OF SECTION 15 AND 22, IN TOWNSHIP 45 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WESTERLY RIGHT–OF–WAY LINE OF THE UNION PACIFIC RAILROAD (FORMERLY THE CHICAGO AND NORTHWESTERN RAILWAY) AND THE NORTHEASTERLY RIGHT–OF–WAY LINE OF FEDERAL AID ROUTE 420 (ALSO KNOWN AS FEDERAL AID ROUTE 201); THENCE NORTH 61 DEGREES 54 MINUTES 08 SECONDS WEST (BEARINGS BASED ON ILLINOIS STATE PLANE COORDINATES EAST ZONE 1983 DATUM) ALONG SAID NORTHEASTERLY RIGHT–OF–WAY LINE, A DISTANCE OF 503.21 FEET TO A BEND POINT IN SAID NORTHEASTERLY RIGHT–OF–WAY LINE; THENCE NORTH 63 DEGREES 49 MINUTES 56 SECONDS WEST ALONG SAID NORTHEASTERLY RIGHT–OF–WAY LINE, A DISTANCE OF 837.29 FEET TO A BEND POINT IN SAID NORTHEASTERLY RIGHT–OF–WAY LINE; THENCE NORTH 64 DEGREES 23 MINUTES 38 SECONDS WEST ALONG SAID NORTHEASTERLY RIGHT–OF–WAY LINE, A DISTANCE OF 81.77 FEET; THENCE NORTH 11 DEGREES 48 MINUTES 49 SECONDS WEST, A DISTANCE OF 737.72 FEET; THENCE NORTH 35 DEGREES 16 MINUTES 32 SECONDS WEST, A DISTANCE OF 1001.50 FEET; THENCE NORTH 33 DEGREES 34 MINUTES 33 SECONDS WEST, A DISTANCE OF 1019.96 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 346.77 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE HAVING A LENGTH OF 341.97 FEET AND A BEARING OF NORTH 17 DEGREES 01 MINUTES 07 SECONDS WEST; THENCE NORTH 00 DEGREES 27 MINUTES 41 SECONDS WEST, A DISTANCE OF 518.80 FEET TO THE POINT OF INTERSECTION WITH A LINE 80.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 15; THENCE SOUTH 89 DEGREES 04 MINUTES 23 SECONDS EAST ALONG SAID LINE 80.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 323.79 FEET; THENCE SOUTH 00 DEGREES 27 MINUTES 41 SECONDS EAST, A DISTANCE OF 545.39 FEET; THENCE SOUTH 33 DEGREES 34 MINUTES 33 SECONDS EAST, A DISTANCE OF 563.07 FEET; THENCE SOUTH 86 DEGREES 02 MINUTES 35 SECONDS EAST, A DISTANCE OF 289.88 FEET; THENCE SOUTH 3 DEGREES 57 MINUTES 25 SECONDS WEST, A DISTANCE OF 242.15 FEET; THENCE SOUTH 51 DEGREES 02 MINUTES 02 SECONDS EAST, A DISTANCE OF 159. 41 FEET; THENCE NORTH 88 DEGREES 00 MINUTES 32 SECONDS EAST, A DISTANCE OF 750.85 FEET TO THE POINT OF INTERSECTION WITH SAID WESTERLY RIGHT–OF–WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 19 DEGREES 11 MIN-

UTES 49 SECONDS EAST ALONG SAID WESTERLY RIGHT–OF–WAY LINE, A DISTANCE OF 2677.76 FEET TO THE POINT OF BEGINNING, IN McHENRY COUNTY, ILLINOIS.

P.A. 94–1055, Art. 25, § 25–5–30, added by P.A. 96–1525, § 5, eff. Feb. 14, 2011. Amended by P.A. 97–813, § 675, eff. July 13, 2012.

30/25–5–35. Quick-take; City of Country Club Hills

§ 25–5–35. Quick-take; City of Country Club Hills. Quick-take proceedings under Article 20 may be used for a period of no longer than one year from the effective date of this amendatory Act of the 96th General Assembly by the City of Country Club Hills for the acquisition of the following described property for the purpose of building streets, roadways, or other public improvements to serve the City's I–57/I–80 Tax Increment Financing District:

That part of Lots 2, 4 through 10 (both inclusive) and 16 in Gatling Country Club Hills Resubdivision being a Resubdivision of part of Gatling Country Club Hills Subdivision in the Northeast Quarter of Section 27, Township 36 North, Range 13 East of the Third Principal Meridian, South of the Indian Boundary Line, according to the plat thereof recorded June 9, 2004 as Document No. 0416145163, taken as a tract and described as follows:

Beginning at the Northwesterly corner of said Lot 10; thence North 89 Degrees 58 Minutes 52 Seconds West along the North line of said Lot 16, 100.47 feet to the Northeast corner of said Lot 16; thence South 00 Degrees 01 Minute 08 Seconds West along the West line of Lot 16, 24.00 feet; thence North 89 Degrees 58 Minutes 52 Seconds West, 12.20 Feet; thence South 11 Degrees 27 Minutes 13 Seconds East, 46.94 feet; thence South 00 Degrees 00 Minutes 31 Seconds East, 132.33 feet to a point of curve; thence Southerly along a curve concave Westerly having a radius of 37.73 feet and a central angle of 50 Degrees 50 Minutes 17 Seconds a distance of 30.81 feet to a point of tangency, thence South 50 Degrees 05 Minutes 28 Seconds West, 30.65 feet; thence South 90 Degrees 00 Minutes 00 Seconds West, 1177.04 feet to the West line of said Resubdivision; thence South 00 Degrees 00 Minutes 00 Seconds West along said last described line, 45.00 feet; thence South 90 Degrees 00 Minutes 00 Seconds East, 1192.95 feet; thence South 45 Degrees 00 Minutes 00 Seconds East, 54.13 feet; thence South 00 Degrees 03 Minutes 38 Seconds East, 18.73 feet; thence North 89 Degrees 56 Minutes 22 Seconds East, 45.00 feet; thence North 00 Degrees 03 Minutes 38 Seconds West, 20.23 feet; thence North 45 Degrees 00 Minutes 00 Seconds, 43.46 feet; thence North 90 Degrees 00 Minutes 00 Seconds East, 163.27 feet; thence North 00 Degrees 00 Minutes 00 Seconds West, 50.00 feet; thence North 89 Degrees 59 Minutes 59 Seconds West, 69.27 feet; thence North 85 Degrees 04 Minutes 24 Seconds West, 51.65 feet; thence North 74 Degrees 17 Minutes 00 Seconds West, 26.77 feet; thence North 00 Degrees 00 Minutes 00 Seconds East, 8.29 feet; thence North 45 Degrees 00 Minutes 00 Seconds West, 43.54 feet; thence North 00 Degrees 00 Minutes 00 Seconds East, 133.54 feet; thence North 19 Degrees 33 Minutes 58 Seconds East, 69.77 feet to the point of beginning, all in Cook County, Illinois.

P.A. 94–1055, Art. 25, § 25–5–30, added by P.A. 96–1537, § 5, eff. March 4, 2011. Renumbered as § 25–5–35 by P.A. 97–813, § 675, eff. July 13, 2012.

30/25–5–40. Quick-take; Will County

§ 25–5–40. Quick-take; Will County. Quick-take proceedings under Article 20 may be used for a period of one year after the effective date of this amendatory Act of the 97th General Assembly by Will County for the acquisition of property to be used for the reconstruction of the Weber Road (County Highway 88) and Renwick Road (County Highway 36) intersection, as follows:

PARCEL 0001

The east 30.00 feet of that part of Lot 6 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631, lying southerly of a line described as follows: Beginning at a point on the west line of Lot 6, said point being 110.00 feet south of the north line of said lot; thence southeasterly to a point on the east line of said lot, said point being 114.00 feet south of the north line of said Lot 6

Together with

That part of the east half of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian lying south of the south line (and easterly projection thereof) of aforementioned Lot 6 in McGilvray Acres, lying northerly of the north line of McGilvray Drive, and lying east of the east line of McGilvray Acres Unit No. 3, according to the plat thereof recorded May 25, 1973, as Document No. R73–14934 bounded by a line described as follows, to wit: Beginning at the intersection of the west line of Weber Road as dedicated by Document No. R78–19275, recorded May 25, 1978 with the north line of McGilvray Drive as dedicated by Document No. R69–20184, recorded October 30, 1969; thence South 89 Degrees 25 Minutes 29 Seconds West, (on an assumed bearing) along the north line of said McGilvray Drive, 70.00 feet; thence North 44 Degrees 42 Minutes 59 Seconds East, 71.07 feet to a point in the west line of the east 70.00 feet of the Northeast Quarter of aforesaid Section 19; thence North 00 Degrees 00 Minutes 29 Seconds East, along said west line, 46.02 to a point in the south line of aforementioned Lot 6 in McGilvray Acres; thence North 89 Degrees 39 Minutes 49 Seconds East, along said south line, 20.00 feet to a point in the aforementioned west line of Weber Road; thence South 00 Degrees 00 Minutes 29 Seconds West, along said west line, 95.94 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 6,686 square feet, (0.154 acres) of land, more or less.

PARCEL 0002

The east 30.00 feet of the north 114.00 feet of Lot 6 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631, in Will County, Illinois, excepting therefrom that part of the north 114.00 feet of said Lot 6 described as beginning at a point on the west line of said Lot 6, said point being 110 feet south of the north line of said lot; thence southeasterly to a point on the east line of said lot, said point being 114 feet south of the north line of said lot; thence west parallel to the north line of said lot, 290 feet to the west line of said lot; thence north 4 feet to the point of beginning. Situated in the County of Will and State of Illinois.

Said parcel containing 3,414 square feet, (0.078 acres) of land, more or less.

PARCEL 0004

The east 30.00 feet of Lot 4 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631. Situated in Will County, Illinois.

Said parcel containing 3,960 square feet, (0.091 acres) of land, more or less.

PARCEL 0005

The east 30.00 feet of Lot 3 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631. Situated in Will County, Illinois.

Said parcel containing 3,960 square feet, (0.091 acres) of land, more or less.

PARCEL 0006

The east 30.00 feet of Lot 2 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631. Situated in Will County, Illinois.

Said parcel containing 3,960 square feet, (0.091 acres) of land, more or less.

PARCEL 0007

The east 30.00 feet of Lot 1 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631. Situated in Will County, Illinois.

Said parcel containing 3,960 square feet, (0.091 acres) of land, more or less.

PARCEL 0007 T.E.

The south 50.00 feet of the north 64.00 feet of the west 10.00 feet of the east 40.00 feet of Lot 1 in McGilvray Acres, being a subdivision of part of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded December 15, 1965, as Document No. R65–11631. Situated in Will County, Illinois.

Said parcel containing 500 square feet, (.011 Acres) of land, more or less.

PARCEL 0008

The west 20.00 feet of the east 70.00 feet of the south 132.00 feet of the north 1,056.00 feet of the east 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois. Said parcel containing 2,640 square feet, (0.061 acres) of land, more or less.

PARCEL 0008 T.E.

That part of the south 132.00 feet of the north 1,056.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows, to wit: Commencing at the intersection of the south line of the north 1,056.00 feet of the aforesaid Northeast Quarter with the west line of Weber Road according to Document Numbers R83–13447 and R85–05784, said line also being the west line of the east 50.00 feet of said Northeast Quarter; thence South 89 Degrees 39 Minutes 49 Seconds West, along the south line of the north 1,056.00 feet of said Northeast Quarter, 20.00 feet; thence North 00 Degrees 00 Minutes 29 Seconds East, parallel with the east line of said Northeast Quarter, 5.00 feet to the Point of Beginning; thence South 89 Degrees 39 Minutes 49 Seconds West, parallel with the north line of said Northeast Quarter, 10.00 feet; thence North 00 Degrees 00 Minutes 29 Seconds East, parallel with the east line of said Northeast Quarter, 50.00 feet; thence North 89 Degrees 39 Minutes 49 Seconds East, parallel with the north line of said Northeast Quarter, 10.00 feet; thence South 00 Degrees 00 Minutes 29 Seconds West, parallel with the east line of said Northeast Quarter, 50.00 feet to the Point of Beginning, in Will County, Illinois. Said parcel containing 500 square feet, (0.011 Acres) of land, more or less.

PARCEL 0009

The west 20.00 feet of the east 70.00 feet of the south 132.00 feet of the north 924.00 feet of the east 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois. Said parcel containing 2,640 square feet, (0.061 acres) of land, more or less.

PARCEL 0010

The west 20.00 feet of the east 70.00 feet of the south 120.00 feet of the north 792.00 feet of the east 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois. Said parcel containing 2,400 square feet, (0.055 acres) of land, more or less.

PARCEL 0011

The west 20.00 feet of the east 70.00 feet of the south 132.00 feet of the north 672.00 feet of the east 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois. Said parcel containing 2,640 square feet, (0.061 acres) of land, more or less.

PARCEL 0012

The west 20.00 feet of the east 70.00 feet of the south 144.00 feet of the north 540.00 feet of the east 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois. Said parcel containing 2,880 square feet, (0.066 acres) of land, more or less.

PARCEL 0013

The west 20.00 feet of the east 70.00 feet of the south 132.00 feet of the north 396.00 feet of the east 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois. Said parcel containing 2,640 square feet, (0.061 acres) of land, more or less.

PARCEL 0014

That part of the North 264.00 feet of the East 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows: Beginning at the point of intersection of the south line of the north 264.00 feet of the East 330.00 feet of said Northeast Quarter with the west line of the East 50.00 feet of said Northeast Quarter, said line being the west line of Weber Road according to Document R78–31739; thence South 89 Degrees 39 Minutes 49 Seconds West, on an assumed bearing, along the south line of the North 264.00 feet of said Northeast Quarter, 20.00 feet to a point in the west line of the East 70.00 feet of said Northeast Quarter; thence North 0 Degrees 00 Minutes 29 Seconds East, along the west line of the East 70.00 feet of said Northeast Quarter, 188.23 feet; thence North 45 Degrees 12 Minutes 33 Seconds West, 37.07 feet to a point in the south line of Renwick Road, according to Document No. 538055;

thence South 89 Degrees 34 Minutes 24 Seconds West, along said south line, 233.70 feet to the west line of the East 330.00 feet of said Northeast Quarter; thence North 0 Degrees 00 Minutes 29 Seconds East, along said line, 49.87 feet to the north line of the Northeast Quarter of said Section 19; thence North 89 Degrees 39 Minutes 49 Seconds East, along said north line, 280.01 feet to the aforementioned west line of Weber Road; thence South 0 Degrees 00 Minutes 29 Seconds West, along said west line, 264.00 feet to the point of beginning, all in Will County, Illinois.

Said parcel containing 0.426 Acres of land, more or less, of which 0.319 Acres of land, more or less has been previously dedicated for roadway purposes by Document No. 538055.

PARCEL 0014 T.E.

That part of the North 264.00 feet of the East 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows: Commencing at the intersection of the west line of the East 330.00 feet of said Northeast Quarter with the north line of said Northeast Quarter; thence, on an assumed bearing, South 00 Degrees 00 Minutes 29 Seconds West, along the west line of the East 330.00 of said Northeast Quarter, 49.87 feet to a point in the south line of Renwick Road according to Document No. 538055; thence North 89 Degrees 34 Minutes 24 Seconds East, along the south line of Renwick Road aforesaid, 50.00 feet to the point of beginning; thence continuing North 89 Degrees 34 Minutes 24 Seconds East, along the south line of Renwick Road aforesaid, 65.00 feet; thence South 00 Degrees 25 Minutes 36 Seconds East, perpendicular to the last described course, 10.00 feet; thence South 89 Degrees 34 Minutes 24 Seconds West, parallel with the south line of Renwick Road aforesaid, 65.00 feet; thence North 00 Degrees 25 Minutes 36 Seconds West, perpendicular to the last described course, 10.00 feet to the Point of Beginning, in Will County, Illinois.

Said parcel containing 650 square feet, (0.015 Acres) of land, more or less.

PARCEL 0014 T.E.–A

That part of the North 264.00 feet of the East 330.00 feet of the Northeast Quarter of Section 19, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows: Beginning at the intersection of the south line of the North 264.00 feet of the East 330.00 feet of said Northeast Quarter with the west line of the East 70.00 feet of said Northeast Quarter; thence South 89 Degrees 39 Minutes 49 Seconds West, along the south line of said North 264.00 feet of said Northeast Quarter, 10.00 feet; thence North 00 Degrees 00 Minutes 29 Seconds East, along the west line of the East 80.00 feet of said Northeast Quarter, 65.00 feet; thence North 89 Degrees 39 Minutes 49 Seconds East, perpendicular to the last described course, 5.00 feet; thence North 00 Degrees 00 Minutes 29 Seconds East, along the west line of the East 75.00 feet of said Northeast Quarter, 121.18 feet; thence North 45 Degrees 12 Minutes 33 Seconds West, 39.95 feet to a point in the south line of Renwick Road according to Document No. 538055; thence North 89 Degrees 34 Minutes 24 Seconds East, along said south line of Renwick Road, 7.04 feet; thence South 45 Degrees 12 Minutes 33 Seconds East, 37.07 feet to a point in the west line of the East 70.00 feet of the aforesaid Northeast Quarter of said Section 19; thence South 00 Degrees 00 Minutes 29 Seconds West, along said west line, 188.23 feet to the point of beginning, in Will County, Illinois.

Said parcel containing 1,454 square feet (0.033 Acres) of land, more or less.

PARCEL 0022

The south 65.00 feet of the west 60.00 feet of the East Half of the Southwest Quarter of Section 17, Township 36 North, Range 10 East of the Third Principal Meridian. All situated in Will County, Illinois.

Said parcel containing 0.089 acres, more or less of which 0.069 acres, more or less, has been previously dedicated for roadway purposes by Document No.'s 538058 and 538059.

PARCEL 0023

The south 65.00 feet of the east 440.00 feet of the west 500.00 feet of the East Half of the Southwest Quarter of Section 17, Township 36 North, Range 10 East of the Third Principal Meridian. All situated in Will County, Illinois.

Said parcel containing 0.657 acres, more or less of which 0.509 acres, more or less, has been previously dedicated for roadway purposes by Document No.'s 538058 and 538059.

PARCEL 0024

That part of Lot C in Lakewood Falls Unit 7C being a subdivision of part of the Southeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded August 26, 2002 as Document Number R2002–138021 bounded by a line described as follows, to wit: Beginning at the southwest corner of said Lot C; thence North 0 Degrees 25 Minutes 36 Seconds West (assumed)(North 02 Degrees 04 Minutes 21 Seconds West, record) along the west line of said Lot C, also being the east line of Zachary Drive, 31.21 feet; thence northerly along the arc of a curve right, tangent to the last described course and having a radius of 470.00 feet, the chord of which bears North 01 Degrees 19 Minutes 45 seconds East, an arc distance of 28.81 feet; thence South 44 Degrees 54 Minutes 59 Seconds East, 70.09 feet to a point in the north line of the south 10.00 feet of said Lot C; thence North 89 Degrees 34 Minutes 24 Seconds East (North 87 Degrees 55 Minutes 39 Seconds East, record), parallel with the north line of Renwick Road, as dedicated by aforementioned Document Number R2002–138021, a distance of 225.90 feet to a point in the east line of said Lot C; thence South 0 Degrees 00 Minutes 11 Seconds East (South 1 Degree 38 Minutes 56 Seconds East, record) along said east line, 10. 00 feet to the southeast corner of said Lot C, also being the north line of Renwick Road, aforesaid; thence South 89 Degrees 34 Minutes 24 Seconds West (South 87 Degrees 55 Minutes 39 Seconds West, record), along said north line of Renwick Road, 275.82 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 4,022 Sq. Ft., (0.092 acres) of land, more or less.

PARCEL 0025

That part of Lot B in Lakewood Falls Unit 7C being a subdivision of part of the Southeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded August 26, 2002 as Document Number R2002–138021 bounded by a line described as follows, to wit: Beginning at the southeast corner of said Lot B; thence South 89 Degrees 34 Minutes 24 Seconds West (assumed bearing)(South 87 Degrees 55 Minutes 39 Seconds West, record), along the south line of said Lot B, also being the north line of Renwick Road, 206.11 feet; thence North 0 Degrees 25 Minutes 36 Seconds West, perpendicular to the last described course, 10.00 feet to the north line of the south 10.00 feet of said Lot B; thence North 89 Degrees 34 Minutes 24 Seconds East, parallel with the north line of Renwick Road, aforesaid, 156.11 feet; thence North 45 Degrees 01 Minutes 05 Seconds East, 71.27 feet to a point in the east line of said Lot B, also being the west line of Zachary Drive; thence southerly along the arc of a curve

left, along the West line of said Zachary Drive, not tangent to the last described course, having a radius of 530.00 feet, the chord of which bears South 01 Degrees 07 Minutes 49 Seconds West, an arc distance of 28.80 feet; thence South 0 Degrees 25 Minutes 36 Seconds East, tangent to the last described curve, continuing along said west line of Zachary Drive, 31.21 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 3,299 Sq. Ft., (0.076 acres) of land, more or less

PARCEL 0026

That part of the north 258.71 feet of the west 259.71 feet of the Northwest Quarter of Section 20, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows: Beginning at the point intersection of the south line of Renwick Road as dedicated by Document Number 538061, recorded January 15, 1941 with the east line of the west 259.71 feet of said Northwest Quarter, said point being 49.40 feet south from the north line of said Northwest Quarter when measured along the east line of the west 259.71 feet of said Northwest Quarter; thence South 00 Degrees 00 Minutes 29 Seconds West, on an assumed bearing, parallel with the west line of said Northwest Quarter, along the east line of the west 259. 71 feet of said Northwest Quarter, 10.60 feet to a point in the south line of the north 60.00 feet of said Northwest Quarter; thence South 89 Degrees 31 Minutes 14 Seconds West, parallel with the north line of said Northwest Quarter, along the south line of the north 60.00 feet of said Northwest Quarter, 167.59 feet; thence South 44 Degrees 45 Minutes 52 Seconds West, 31.43 feet to a point in the east line of the west 70.00 feet of said Northwest Quarter; thence South 00 Degrees 00 Minutes 29 Seconds West, parallel with the west line of said Northwest Quarter, along the east line of the west 70.00 feet of said Northwest Quarter, 176.59 feet to a point in the south line of the north 258.71 feet of said Northwest Quarter; thence South 89 Degrees 31 Minutes 14 Seconds West, parallel with the north line of said Northwest Quarter, along the south line of the north 258.71 feet of said Northwest Quarter, 10.00 feet to a point in the east line of the west 60.00 feet of said Northwest Quarter said line being the east line of Weber Road according to the Plat of Dedication to the Will County Highway Department recorded October 28, 1996 as Document R96–096956; thence North 00 Degrees 00 Minutes 29 Seconds East, along said east line, 174.35 feet (173.72 feet record); thence North 44 Degrees 46 Minutes 10 Seconds East, along the southeasterly line of Weber Road according to aforementioned Document R96–0969056, a distance of 49.71 feet to a point in the south line of Renwick Road according to aforementioned Document Number 538061; thence South 89 Degrees 31 Minutes 52 Seconds West, along said line, 45.00 feet to the east line of the west 50.00 feet of said Section 20, also being the east line of Weber Road according to Condemnation Proceedings No. 81ED22 in the Circuit Court of the 12th Judicial District, Will County as adjudicated on February 18, 1983; thence North 00 Degrees 00 Minutes 29 Seconds East, along said line, 49.36 feet to the North line of the Northwest Quarter of said Section 20; thence North 89 Degrees 31 Minutes 14 Seconds West, along said north line, 209.72 feet to the east line of the west 259.71 feet of the Northwest Quarter of said Section 20; thence South 00 Degrees 00 Minutes 29 Seconds West, along said line, 49.40 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 0.324 acres of land more or less, of which 0.238 acres, more or less, has been previously dedicated for roadway purposes by Document No. 538061.

PARCEL 0026 T.E.

That part of the north 258.71 feet of the west 259.71 feet of the Northwest Quarter of Section 20, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows: Commencing at the point intersection of the south line of the north 258.71 feet of said Northwest Quarter with the east line of the west 70.00 feet of said Northwest Quarter, when measured perpendicular to the north and west lines thereof; thence North 00 Degrees 00 Minutes 29 Seconds East, along the east line of the west 70.00 feet of said Northwest Quarter, 25.48 feet to the point of beginning; thence South 89 Degrees 59 Minutes 31 Seconds East, perpendicular to the last described course, 10.00 feet, thence North 00 Degrees 00 Minutes 29 Seconds East, along the east line of the west 80.00 feet of said Northwest Quarter, 65.00 feet; thence North 89 Degrees 59 Minutes 31 Seconds West, perpendicular to the last described course, 5.00 feet to a point in the east line of the west 75.00 feet of said Northwest Quarter; thence North 00 Degrees 00 Minutes 29 Seconds East, along the east line of the west 75.00 feet of said Northwest Quarter, 84.04 feet; thence North 44 Degrees 45 Minutes 52 Seconds East, 27.31 feet to a point in the south line of the north 65.00 feet of said Northwest Quarter of said Section 20; thence North 89 Degrees 31 Minutes 14 Seconds East, along said line, 45. 10 feet; thence South 00 Degrees 28 Minutes 46 Seconds East, perpendicular to the last described course, 5.00 feet; thence North 89 Degrees 31 Minutes 14 Seconds East, perpendicular to the last described course, 65.00 feet; thence North 00 Degrees 28 Minutes 46 Seconds West, perpendicular to the last described course, 5.00 feet to a point in the south line of the north 65.00 feet of said Northwest Quarter of said Section 20; thence North 89 Degrees 31 Minutes 14 Seconds East, along said line, 55.38 feet to a point in the east line of the west 259.71 feet of said Northwest Quarter of said Section 20; thence North 00 Degrees 00 Minutes 29 Seconds East, along said east line, 5.00 feet to a point in the south line of the north 60.00 feet of said Northwest Quarter of said Section 20; thence South 89 Degrees 31 Minutes 14 Seconds West, along said south line of the north 60.00 feet of said Northwest Quarter of said Section 20, a distance of 167.59 feet; thence South 44 Degrees 45 Minutes 52 Seconds West, 31.43 feet to a point in the east line of the west 70.00 feet of said Northwest Quarter of said Section 20; thence South 00 Degrees 00 Minutes 29 Seconds West, along said east line of the west 70.00 feet of said Northwest Quarter of said Section 20, a distance of 151.11 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 2,380 square feet, (0.055 acres) of land more or less

PARCEL 0028

The north 60.00 feet of the west 80.00 feet of the East Half of the Northwest Quarter and the north 60.00 feet of the east 20.00 feet of the West Half of the Northwest Quarter of Section 20, Township 36 North, Range 10 East of the Third Principal Meridian. All situated in Will County, Illinois. Said parcel containing 0.138 acres, more or less of which 0.114 acres, more or less, has been previously dedicated for roadway purposes by Document No. 538061.

PARCEL 0029

That part of the north 60.00 feet of the East Half of the Northwest Quarter of Section 20, except the west 80.00 feet thereof, Township 36 North, Range 10 East of the Third Principal Meridian, bounded by a line described as follows: Beginning at the point intersection of the south line of north 60.00 feet of said Northwest Quarter with the east line of the west 80.00 feet of the East Half of said Northwest Quarter;

thence North 00 Degrees 00 Minutes 42 Seconds West, on an assumed bearing along the east line of the west 80.00 feet of the East Half of said Northwest Quarter, a distance of 60.00 feet to the north line of the Northwest Quarter of said Section 20; thence North 89 Degrees 31 Minutes 14 Seconds East, along said north line, 106.52 feet; thence South 0 Degrees 28 Minutes 46 Seconds East, perpendicular to the north line of said Northwest Quarter, 60.00 feet to a point of intersection with a line 60.00 feet south from and parallel with the north line of said Northwest Quarter when measured perpendicular thereto; thence South 89 Degrees 31 Minutes 14 Seconds West, along said parallel line, perpendicular to the last described course, 107.01 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 0.148 acres, more or less of which 0.122 Acres, more or less, has been previously dedicated for roadway purposes by Document No. 538061.

PARCEL 0030 T.E.

That part of Lot 6 in Crest Hill Business Center being a subdivision of part of the Northwest Quarter of Section 20, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded July 25, 2005 as Document No. R2005124097, bounded by a line described as follows: Beginning at the Northeast corner of Lot 6, thence South 00 Degrees 28 Minutes 09 Seconds East (South 02 Degrees 06 Minutes 31 Seconds East record), along the east line of said Lot 6 a distance of 65.00 feet; thence South 89 Degrees 31 Minutes 14 Seconds West, parallel with the north line of said Lot 6, a distance of 44.46 feet; thence North 00 Degrees 28 Minutes 09 Seconds West, parallel with the east line of said Lot 6, a distance of 65.00 feet to the north line of said Lot 6, also being the south line of Renwick Road as dedicated by aforementioned Document No. R2005124097; thence North 89 Degrees 31 Minutes 14 Seconds East (North 87 Degrees 53 Minutes 29 Seconds East record), along the north line of said Lot 6, also being the south line of Renwick Road, 44.46 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 2,890 square feet, (0.066 acres) of land more or less

PARCEL 0031 T.E.

That part of Lot 7 in Crest Hill Business Center being a subdivision of part of the Northwest Quarter of Section 20, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded July 25, 2005 as Document No. R2005124097, bounded by a line described as follows: Beginning at the Northwest corner of Lot 7, thence South 00 Degrees 28 Minutes 09 Seconds East (South 02 Degrees 06 Minutes 31 Seconds East record), along the west line of said Lot 7 a distance of 65.00 feet; thence North 89 Degrees 31 Minutes 14 Seconds East, parallel with the north line of said Lot 7, a distance of 30.54 feet; thence North 00 Degrees 28 Minutes 09 Seconds West, parallel with the west line of said Lot 7, a distance of 65.00 feet to the north line of said Lot 7, also being the south line of Renwick Road as dedicated by aforementioned Document No. R2005124097; thence South 89 Degrees 31 Minutes 14 Seconds West (South 87 Degrees 53 Minutes 29 Seconds West, record), along the north line of said Lot 7, also being the south line of Renwick Road, 30.54 feet to the point of beginning. All situated in Will County, Illinois.

Said parcel containing 1,985 square feet, (0.046 acres) of land more or less

PARCEL 0032 T.E.

That part of Outlot A of Rose Subdivision, being a subdivision of part of the Southeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded on March 9, 2005 as Document No. R2005040528 as corrected by Certificate of Correction recorded December 28, 2005 as Document R2005228067 as further corrected by Certificate of Correction recorded December 18, 2006 as Document R2006208515 bounded by a line described as follows: Beginning at the easterly most southeast corner of said Outlot A located on the west line of Weber Road (County Highway 88) as dedicated by Document No. R2003016054, recorded January 23, 2003; thence North 53 Degrees 23 Minutes 42 Seconds West (North 55 Degrees 02 Minutes 09 Seconds, record), along a southerly line of said Outlot A, 23.96 feet; thence South 89 Degrees 35 Minutes 27 Seconds West (South 87 Degrees 57 Minutes 00 Seconds West, record) along a south line of said Outlot A, 50.77 feet; thence North 00 Degrees 00 Minutes 29 Seconds West, parallel with the east line of said Outlot A, 33.86 feet to a point on a north line of said Outlot A, thence North 89 Degrees 35 Minutes 27 Seconds East, along said north line, 50.00 feet; thence North 56 Degrees 37 Minutes 56 Seconds East (North 45 Degrees 37 Minutes 22 Seconds East, record), along a northerly line of said Outlot A, 23.95 feet to a point on an east line of said Outlot A, also being the west line of Weber Road aforesaid; thence South 00 Degrees 00 Minutes 29 Seconds East (South 01 Degrees 38 Minutes 56 Seconds East, record), along the west line of said Weber Road, 61.32 feet to the point of beginning, in Will County, Illinois.

Said parcel containing 2,640 square feet, (0.060 acres) of land, more or less.

PARCEL 0033 T.E.

That part of Lot 2 of Rose Resubdivision, being a resubdivision of Lots 1 through 4 (both inclusive) along with part of Outlot A all in Rose Subdivision, being a resubdivision of the Southeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian, according to the plat of said Rose Resubdivision recorded on November 1, 2005 as Document No. R2005–191530 bounded by a line described as follows: Beginning at the southerly most southeast corner of said Lot 2; thence South 89 Degrees 35 Minutes 27 Seconds West (South 87 Degrees 57 Minutes 00 Seconds West, record) along the south line of said Lot 2 a distance of 50.00 feet; thence North 00 Degrees 00 Minutes 29 Seconds West, parallel with the east line of said Lot 2 a distance of 10.00 feet; thence North 89 Degrees 35 Minutes 27 Seconds East (North 87 Degrees 57 Minutes 00 Seconds East, record), parallel with the south line of said Lot 2, a distance of 65.35 feet to a point in the southeasterly line of said Lot 2; thence South 56 Degrees 37 Minutes 56 Seconds West (South 55 Degrees 00 Minutes 31 Seconds West, record) along said southeasterly line, 18.38 feet to the point of beginning, in Will County, Illinois.

Said parcel containing 577 square feet, (0.013 acres) of land, more or less.

PARCEL 0034DED

The west 25.00 feet of Lot 2 in E.M.S. Subdivision (being a subdivision of part of the Southwest Quarter of Section 17, Township 36 North, Range 10 East of the Third Principal Meridian) as per plat thereof recorded December 7, 1989 as document number R89–64001, in Will County, Illinois.

Said parcel containing 0.034 acres more or less.

PARCEL 0035DED

The west 25.00 feet of Lot 1 in E.M.S. Subdivision (being a subdivision of part of the Southwest Quarter of Section 17, Township 36 North, Range 10 East of the Third Principal

Meridian) as per plat thereof recorded December 7, 1989 as document number R89–64001, in Will County, Illinois.

Said parcel containing 0.060 acres more or less.

PARCEL 0037DED

A part of the West Half of the Northwest Quarter of Section 17, Township 36 North, Range 10 East of the Third Principal Meridian, described as follows: the east 25.00 feet of the west 75.00 feet of the south 50.00 feet of the West Half of the Northwest Quarter of said Section 17, in Will County, Illinois.

Said parcel containing 0.029 acres more or less.

PARCEL 0038DED

That part of Lot 1 in Grand Haven Retail Development (being a subdivision in the Southeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian) as per plat thereof recorded December 15, 2003 as document number R2003302173 described as follows: Beginning at a southeast corner of said Lot 1, said southeast corner bears South 01 degrees 38 minutes 41 seconds East (South 01 degrees 38 minutes 56 seconds East, record), 184.08 feet (184.18 feet Record) from the northeast corner of said Lot 1; thence South 43 degrees 15 minutes 40 seconds West, along the southeast line of said Lot 1, 56.66 feet, to a south line of said Lot 1; thence South 88 degrees 10 minutes 49 seconds West, along said south line, 28.32 feet, to a line 20.00 feet northwest of and parallel to the southeast line of said Lot 1; thence North 43 degrees 15 minutes 40 seconds East, along said parallel line, 96.78 feet, to the east line of said Lot 1; thence South 01 degrees 38 minutes 41 seconds East, along said east line, 28.33 feet, to the Point of Beginning, in Will County, Illinois.

Said parcel containing 0.035 acres more or less.

PARCEL 0039DED

That part of the Northeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian described as follows: Commencing at the southeast corner of said Northeast Quarter; thence North 01 degrees 40 minutes 43 seconds West, along the east line of said Section 18, a distance of 456.50 feet; thence South 68 degrees 19 minutes 17 seconds West, in a southwesterly direction at an angle of 70 degrees, 63.85 feet to the west line of the east 60.00 feet of said Northeast Quarter and the Point of Beginning; thence continuing South 68 degrees 19 minutes 17 seconds West, along the last described line, 15.96 feet to the west line of the east 75.00 feet of said Northeast Quarter; thence South 01 degrees 40 minutes 43 seconds East, along said west line, 74.54 feet; thence North 88 degrees 19 minutes 17 seconds East, at right angles to the last described line, 15.00 feet, to the west line of the east 60.00 feet of said Northeast Quarter; thence North 01 degrees 40 minutes 43 seconds West, along said west line, 80.00 feet to the Point of Beginning, all in Will County, Illinois.

Said parcel containing 0.027 acres more or less.

PARCEL 0039TEA

That part of the Northeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian described as follows: Commencing at the southeast corner of said Northeast Quarter; thence North 01 degrees 40 minutes 43 seconds West, along the east line of said Section 18, a distance of 456.50 feet; thence South 68 degrees 19 minutes 17 seconds West, in a southwesterly direction at an angle of 70 degrees, 79.81 feet, to the west line of the east 75.00 feet of said Northeast Quarter; thence South 01 degrees 40 minutes 43 seconds East, along said west line, 74.54 feet; thence North 88 degrees 19 minutes 17 seconds East, at right angles to the last described line, 5.00 feet, to the west line of the east 70.00 feet of said Northeast Quarter, and the Point of Beginning; thence continuing North 88 degrees 19 minutes 17 seconds East, 10.00 feet, to the west line of the east 60.00 feet of said Northeast Quarter; thence South 01 degrees 40 minutes 43 seconds East, along said west line, 304.88 feet, to the north line of the south 50.00 feet of said Northeast Quarter; thence South 88 degrees 07 minutes 04 seconds West, along said north line, 10.00 feet, to the west line of the east 70.00 feet of said Northeast Quarter; thence North 01 degrees 40 minutes 43 seconds West, along said west line, 304.91 feet to the Point of Beginning, all in Will County, Illinois.

Said parcel containing 0.070 acres more or less.

PARCEL 0039TEB

That part of the Northeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian described as follows: Commencing at the southeast corner of said Northeast Quarter; thence North 01 degrees 40 minutes 43 seconds West, along the east line of said Section 18, a distance of 456.50 feet; thence South 68 degrees 19 minutes 17 seconds West, in a southwesterly direction at an angle of 70 degrees, 79.81 feet, to the west line of the east 75.00 feet of said Northeast Quarter, and the Point of Beginning; thence continuing South 68 degrees 19 minutes 17 seconds West, along the last described line, 42.57 feet, to the west line of the east 115.00 feet of said Northeast Quarter; thence South 01 degrees 40 minutes 43 seconds East, along said west line, 48.60 feet; thence North 88 degrees 19 minutes 17 seconds East, at right angles to the last described line, 40.00 feet, to the west line of the east 75.00 feet of said Northeast Quarter; thence North 01 degrees 40 minutes 43 seconds West, along said west line, 63.16 feet, to the Point of Beginning, all in Will County, Illinois.

Said parcel containing 0.051 acres more or less.

PARCEL 0040TE

The south 59.00 feet of the north 328.45 feet of the east 25.00 feet of the west 100.00 feet of the West Half of the Southwest Quarter of Section 17, Township 36 North, Range 10 East of the Third Principal Meridian, Will County, Illinois.

Said parcel containing 0.033 acres more or less.

PARCEL 0042TE

That part of Lot 3 in Grand Haven Retail Development (being a subdivision in the Southeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian) as per plat thereof recorded December 15, 2003 as document number R2003302173 described as follows: Beginning at the northeast corner of said Lot 3; thence South 01 degrees 38 minutes 41 seconds East, along the east line of said Lot 3, 40.15 feet; thence South 88 degrees 21 minutes 19 seconds West, at right angles to the last described line, 40.00 feet; thence North 01 degrees 38 minutes 41 seconds West, at right angles to the last described line, 20.00 feet; thence South 88 degrees 21 minutes 19 seconds West, at right angles to the last described line, 25.00 feet; thence North 01 degrees 38 minutes 41 seconds West, at right angles to the last described line, 20.15 feet, to the north line of said Lot 3; thence North 88 degrees 21 minutes 19 seconds East, along said north line, 65.00 feet, to the Point of Beginning.

Said parcel containing 0.048 acres more or less.

PARCEL 0044DED

The West 10.00 feet of the East 70.00 feet of the South 50.00 feet of the Northeast Quarter of Section 18, Township 36 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois.

Said parcel containing 0.011 acres more or less.

P.A. 94–1055, Art. 25, § 25–5–30, added by P.A. 97–458, § 5, eff. Aug. 19, 2011. Renumbered as § 25–5–40 by P.A. 97–813, § 675, eff. July 13, 2012.

30/25–5–45. Quick-take; South Suburban Airport

§ 25–5–45. Quick-take; South Suburban Airport. Quick-take proceedings under Article 20 may be used by the Department of Transportation for the purpose of development of the South Suburban Airport within the boundaries designated on the map filed with the Secretary of State on May 28, 2013 and known as file number 98–GA–D01.

P.A. 94–1055, Art. 25, § 25–5–45, added by P.A. 98–109, § 4–70, eff. July 25, 2013. Amended by P.A. 98–756, § 730, eff. July 16, 2014.

30/25–5–50. Quick-take; McHenry County

§ 25–5–50. Quick-take; McHenry County. Quick-take proceedings under Article 20 may be used for a period of no longer than one year from the effective date of this amendatory Act of the 98th General Assembly by McHenry County for the acquisition of the following described property for the purpose of public improvements to serve McHenry County:

Route: F.A.U. 168 (Johnsburg Road)

Section: 05–00314–00–WR

County: McHenry Job No.: R–91–005–06

Parcel: 1HK0045

Sta. 58 + 07.09 To Sta. 58 + 31.89

Sta. 176 + 10.72 To Sta. 177 + 36.15

Owner: JNL–Johnsburg Properties, Inc.

Index No. 09–13–277–001

09–13–277–002

That part of Sub Lot 2 of Lot 28 in Plat Number 3 McHenry, County Clerk's Plat of Section 13, Township 45 North, Range 8 East of the Third Principal Meridian, according to the plat thereof recorded May 6, 1902 as document number 14079, in McHenry County, Illinois, described as follows:

Commencing at the southeast corner of the Northeast Quarter of said Section 13; thence on an assumed bearing of South 89 degrees 15 minutes 13 seconds West along the south line of the Northeast Quarter of said Section 13, as monumented and occupied, a distance of 824.94 feet (825.2 feet, recorded) (826.0 feet, recorded) to a point of intersection with the Southerly extension of the east line of the grantor; thence North 1 degree 20 minutes 53 seconds East along the said Southerly extension of the east line of the grantor, a distance of 132.49 feet to the northeasterly right of way line of Chapel Hill Road recorded January 26, 1932 as document number 100422, being also the southeast corner of the grantor; thence North 46 degrees 56 minutes 58 seconds West along the said northeasterly right of way line of Chapel Hill Road and along the northeasterly right of way line of Chapel Hill Road recorded January 26, 1932 as document number 100421, a distance of 261.08 feet to the point of beginning; thence continuing North 46 degrees 56 minutes 58 seconds West along the northeasterly right of way line of Chapel Hill Road recorded as document number 100421, a distance of 14.94 feet to the east right of way line of Chapel Hill Road recorded January 26, 1932 as document number 100420; thence North 2 degrees 09 minutes 50 seconds East along the said east right of way line of Chapel Hill Road and the Northerly extension thereof, a distance of 64.92 feet (64.91 feet, more or less, recorded) to the center line of Johnsburg Road; thence North 87 degrees 42 minutes 53 seconds East along the said center line of Johnsburg Road, a distance of 123.08 feet; thence South 2 degrees 17 minutes 07 seconds East, a distance of 30.00 feet to the south right of way line of Johnsburg Road according to a Plat of Survey by the County Surveyor dated October 21, 1952 in Surveyor Book Number 5, page 204; thence South 2 degrees 48 minutes 02 seconds East, a distance of 1.05 feet; thence westerly 59.83 feet along a curve to the left having a radius of 987.47 feet, the chord of said curve bears South 85 degrees 27 minutes 49 seconds West, 59.82 feet; thence South 70 degrees 14 minutes 11 seconds West, a distance of 47.08 feet; thence South 22 degrees 40 minutes 19 seconds West, a distance of 30.69 feet to the point of beginning.

Said parcel containing 0.117 acre, more or less, of which 0.086 acre, more or less, was previously dedicated or used for highway purposes.

P.A. 94–1055, Art. 25, § 25–5–45, added by P.A. 98–229, § 5, eff. Aug. 9, 2013. Renumbered as § 25–5–50 by P.A. 98–756, § 730, eff. July 16, 2014.

30/25–5–55. Quick-take; McHenry County

Text of section as added by P.A. 98–852. See, also, section as added by P.A. 98–1070.

§ 25–5–55. Quick-take; McHenry County. Quick-take proceedings under Article 20 may be used for a period of no longer than one year from the effective date of this amendatory Act of the 98th General Assembly by McHenry County for the acquisition of the following described property for the purpose of reconstruction of the intersection of Miller Road and Illinois Route 31:

Route: Illinois State Route 31

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0003

Sta. 119 + 70.41 To Sta. 136 + 74.99

Owner: Parkway Bank and Trust

Company as Trustee under Trust

Agreement dated October 25, 1988

known as trust No. 9052

Index No. 14–02–100–002, 14–02– 100–051

A part of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois, described as follows:

Commencing at the southwest corner of said Northwest Quarter; thence North 0 degrees 40 minutes 30 seconds East, (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) along the west line of said Northwest Quarter, 33.01 feet; thence North 89 degrees 27 minutes 02 seconds East along a line parallel with and 33.00 feet north of the south line of said Northwest Quarter, 633.53 feet to the Point of Beginning; thence North 47 degrees 43 minutes 11 seconds East, 76.04 feet; thence Northeasterly 892.04 feet along a curve to the left having a radius of 5900.00 feet, the chord of said curve bears North 03 degrees 13 minutes 38 seconds East, a chord distance of 891.20 feet; thence North 01 degrees 06 minutes 15 seconds West, 737.81 feet; thence North 88 degrees 52 minutes 57 seconds East, 60.00 feet to a point on the westerly line of Illinois State Route 31 as dedicated per Book 12 of Miscellaneous Records, pages 200, 201 and 203; thence South 01 degrees 06 minutes 15 seconds East along said westerly line, 405.84 feet; thence South 01 degrees 00 minutes 45 seconds West along said westerly line, 135.20 feet; thence South 02 degrees 50 min-

utes 15 seconds East along said westerly line, 165.10 feet; thence South 01 degrees 06 minutes 15 seconds East along said westerly line, 407.00 feet; thence Southwesterly 567.07 feet along said westerly line, said line being a curve to the right having a radius of 3779.83 feet, the chord of said curve bears South 03 degrees 11 minutes 37 seconds West, a chord distance of 566.54 feet to point on a line parallel with and 33.00 feet north of the south line of said Northwest Quarter; thence South 89 degrees 27 minutes 02 seconds West along a line parallel with and 33.00 feet north of the south line of said Northwest Quarter, 142.09 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 116,716 square feet (2.679 acres) more or less.

Route: Bull Valley Road

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0003TE

Sta. 531 + 73.39 To Sta. 532 + 82.90

Owner: Parkway Bank and Trust

Company as Trustee under Trust

Agreement dated October 25, 1988

known as trust No. 9052

Index No. 14–02–100–002

A part of the Southwest Quarter of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois, described as follows:

Commencing at the southwest corner of said Southwest Quarter; thence North 00 degrees 40 minutes 30 seconds East, (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) along the west line of said Southwest Quarter, 33.01 feet; thence North 89 degrees 27 minutes 02 seconds East along a line parallel with and 33.00 feet north of the south line of said Southwest Quarter, 540.42 feet to the Point of Beginning; thence North 00 degrees 33 minutes 06 seconds West, 14.95 feet; thence North 89 degrees 26 minutes 54 seconds East, 109.87 feet; thence South 47 degrees 43 minutes 11 seconds West, 22.47 feet to a point on a line parallel with and 33.00 feet north of the south line of said Southwest Quarter; thence South 89 degrees 27 minutes 02 seconds West along said line parallel with and 33.00 feet north of the south line of said Southwest Quarter, 93.10 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 1,518 square feet (0.035 acres) more or less.

Route: Illinois State Route 31

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0011

Sta. 124 + 14.14 To Sta. 124 + 35.35

Owner: Trapani, LLC, an Illinois

limited liability company

Index No. 14–02–100–050

A part of the Southwest Quarter of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois, described as follows:

Commencing at the northwest corner of Lot 1 in McDonalds Subdivision, being a subdivision of part of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, according to the plat thereof recorded December 22, 1993 as Document No. 93R80090, in McHenry County, Illinois; thence Northeasterly along the easterly line of Illinois State Route 31 as dedicated per Book 12 of Miscellaneous Records, pages 200, 201 and 203, 206.43 feet along a curve to the left having a radius of 3859.83 feet, the chord of said curve bears North 2 degrees 41 minutes 29 seconds East, (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) a chord distance of 206.41 feet to the Point of Beginning; thence continuing Northeasterly along said easterly line, 21.36 feet, said line being a curve to the left having a radius of 3859.83 feet, the chord of said curve bears North 1 degrees 00 minutes 02 seconds East, a chord distance of 21.36 feet to a point the south line of a parcel of land per deed recorded February 10, 2003 as Document No. 2003R0017053; thence North 89 degrees 22 minutes 29 seconds East along said south line, 1.04 feet; thence Southwesterly 21.41 feet along a curve to the right having a radius of 6060.00 feet, the chord of said curve bears South 03 degrees 47 minutes 21 seconds West, a chord distance of 21.41 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 11 square feet (0.000 acres) more or less.

Route: Illinois State Route 31

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0011TE–1

Sta. 123 + 50.48 To Sta. 124 + 26.94

Owner: Trapani, LLC, an Illinois

limited liability company

Index No. 14–02–100–050

A part of the Southwest Quarter of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois, described as follows:

Commencing at the northwest corner of Lot 1 in McDonalds Subdivision, being a subdivision of part of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, according to the plat thereof recorded December 22, 1993 as Document No. 93R80090, in McHenry County, Illinois; thence Northeasterly along the easterly line of Illinois State Route 31 as dedicated per Book 12 of Miscellaneous Records, pages 200, 201 and 203, 142.05 feet along a curve to the left having a radius of 3859.83 feet, the chord of said curve bears North 3 degrees 10 minutes 09 seconds East, (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) a chord distance of 142.05 feet to the Point of Beginning; thence continuing Northeasterly along said easterly line, 64.39 feet, said line being a curve to the left having a radius of 3859.83 feet, the chord of said curve bears North 1 degrees 38 minutes 13 seconds East, a chord distance of 64.38 feet; thence Northeasterly 12.69 feet along a curve to the left having a radius of 6060.00 feet, the chord of said curve bears North 03 degrees 49 minutes 49 seconds East, a chord distance of 12.69 feet; thence South 89 degrees 01 minutes 32 seconds East, 4.46 feet; thence Southwesterly 77.18 feet along a curve to the right having a radius of 3864.83 feet, the chord of said curve bears South 01 degrees 32 minutes 47 seconds West, a chord distance of 77.17 feet; thence North 87 degrees 52 minutes 53 seconds West, 5.07 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 387 square feet (0.009 acres) more or less.

Route: Charles J. Miller Road

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0011TE–2

Sta. 537 + 44.77 To Sta. 538 + 37.59

Owner: Trapani, LLC, an Illinois limited liability company

Index No. 14–02–100–050

A part of Lot 2, in McDonald's Subdivision, being a subdivision of part of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, according to the plat thereof recorded December 22, 1993 as Document No. 93R80090, in McHenry County, Illinois, described as follows:

Beginning at the southeast corner of said Lot 2; thence South 89 degrees 27 minutes 02 seconds West (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) along the south line of said Lot 2, 92.83 feet; thence North 00 degrees 33 minutes 02 seconds West, 33.91 feet; thence North 89 degrees 36 minutes 46 seconds East, 93.43 feet to a point on the east line of said Lot 2; thence South 00 degrees 28 minutes 57 seconds West along said east line, 33.66 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 3,146 square feet (0.072 acres) more or less.

Route: Charles J. Miller Road

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0016

Sta. 538 + 37.74 To Sta. 539 + 63.26

Owner: Marion R. Reinwall Hoak as Trustee of the Marion R. Reinwall Hoak Living trust dated September 15, 1998

Index No. 14–02–100–022

A part of the West Half of Government Lot 1 in the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian in McHenry County, Illinois, described as follows:

Beginning at the southeast corner of said West Half of Government Lot 1; thence South 89 degrees 27 minutes 02 seconds West (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) along the south line of said West Half of Government Lot 1, 115.35 feet to the point of intersection with the east line of Lot 2 in McDonald's Subdivision, being a subdivision of part of the Northwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, according to the plat thereof recorded December 22, 1993 as Document No. 93R80090, in McHenry County, Illinois extended southerly; thence North 00 degrees 28 minutes 57 seconds East along said east line extended southerly and along said east line, 48.01 feet; thence North 89 degrees 27 minutes 02 seconds East, 115.36 feet to a point on the east line of said West Half of Government Lot 1; thence South 00 degrees 29 minutes 41 seconds West along said east line, 48.01 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 5,537 square feet (0.127 acres) more or less, of which 0.087 acres more or less, has been previously used or dedicated.

Route: Illinois State Route 31

Section: Section 09–00372–00–PW

County: McHenry County

Job No.: R–91–020–06

Parcel: 0017

Sta. 536 + 90.86 To Sta. 539 + 43.61

Owner: Alliance Bible Church of the Christian and Missionary Alliance, an Illinois not for profit corporation

Index No. 14–02–302–005; 14–02–302–004; 14–02–302–002

A part of Lots 4 and 5, in Smith First Addition being a subdivision of the North 473.90 feet of the Northwest Quarter of the Southwest Quarter of Section 2, Township 44 North, Range 8 East of the Third Principal Meridian, lying easterly of the easterly right-of-way of State Route 31, according to the plat thereof recorded in the recorder's office of McHenry County, Illinois on February 16, 1973, as Document No. 586905 in McHenry County, Illinois, described as follows:

Beginning at the northeast corner of said Lot 5; thence South 00 degrees 08 minutes 56 seconds West (bearings based on Illinois State Plane Coordinates East Zone 1983 Datum) along the east line of said Lot 5, 33.94 feet; thence Southwesterly 106.41 feet along a curve to the right having a radius of 795.00 feet, the chord of said curve bears South 85 degrees 36 minutes 55 seconds West, a chord distance of 106.34 feet; thence South 89 degrees 26 minutes 58 seconds West, 154.36 feet to a point on the west line of said Lot 4; thence North 00 degrees 10 minutes 27 seconds East along said west line, 41.06 feet to the northwest corner of said Lot 4; thence North 89 degrees 27 minutes 02 seconds East along the north line of said Lots 4 and 5, 260.35 feet to the Point of Beginning in McHenry County, Illinois.

Said parcel containing 10,438 square feet (0.240 acres) more or less.

P.A. 94–1055, Art. 25, § 25–5–55, added by P.A. 98–852, § 5, eff. Aug. 1, 2014.

30/25–5–55. Quick-take; Village of Mundelein

Text of section as added by P.A. 98–1070. See, also, section as added by P.A. 98–852.

§ 25–5–55. Quick-take; Village of Mundelein. Quick-take proceedings under Article 20 may be used for a period of no longer than one year after the effective date of this amendatory Act of the 98th General Assembly by the Village of Mundelein in Lake County for the acquisition of property and easements, legally described below, for the purpose of widening and reconstructing Hawley Street from Midlothian Road to Seymour Avenue, and making other public utility improvements including the construction of a bike path:

PIN: 10–24–423–010

That part of Lot 11 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, described as follows: beginning at the South-

east corner of Lot 11; thence West along the South line of said Lot, 99.95 (meas.) 100.00 feet (rec.) to the Southwest corner of said Lot; thence North along the West line of said Lot, 10.00 feet; thence Southeasterly 8.51 feet to a point 6.00 feet East of and 4.00 feet North of the Southwest corner of said Lot; thence East parallel with the South line of said Lot, 93.97 feet to the East line of said Lot; thence South along said last described line, 4.00 feet to the point of beginning, Lake County, Illinois. 417.50 sq. ft.

Temporary easement:

That part of Lot 11 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plot thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, described as follows: commencing at the Southwest corner of said Lot 11; thence North along the West line of said Lot, 10.00 feet to the point of beginning; thence continuing North along said last described line, 35.00 feet; thence East parallel with the South line of said Lot, 10.00 feet; thence South parallel with the West line of said Lot, 25.00 feet to a line 20.00 feet North of and parallel with the South line of said Lot; thence East along said last described line, 20.00 feet; thence South parallel with the West line of said Lot, 16.00 feet to a line 4.00 feet North of and parallel with the South line of said Lot; thence West along said last described line, 24.00 feet to a point 6.00 feet East of the West line of said Lot; thence Northwesterly, 8.51 feet to the point of beginning, in Lake County, Illinois. Containing 712.00 sq. ft.

PIN: 10–24–423–011

The South 4.00 feet of Lot 10 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 400.00 sq. ft.

PIN: 10–24–423–013

The South 4.00 feet of Lot 8 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 400.00 sq. ft.

PIN: 10–24–423–016

The South 7.00 feet of Lot 5 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 700.00 sq. ft.

Temporary Easement:

That part of Lot 5 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, described as follows: commencing at the Southeast corner of said Lot 5; thence North along the East line of said Lot, 7.00 feet to the point of beginning; thence West parallel with the South line of said Lot, 100.00 feet to the West line of said Lot; thence North along said last described line, 5.00 feet; thence East parallel with the South line of said Lot, 52.00 feet; thence North parallel with the West line of said Lot, 22.50 feet; thence East parallel with the South line of said Lot, 14.50 feet; thence North parallel with the West line of said Lot, 5.20 feet; thence East parallel with the South line of said Lot, 33.50 feet to the East line of said Lot; thence South along the last described line, 32.70 feet to the point of beginning, in Lake County, Illinois. 1754.20 sq. ft.

PIN: 10–24–423–018

The South 13.50 feet of Lot 3 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 1350.00 sq. ft.

Temporary Easement:

That part of Lot 3 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, described as follows: commencing at the Southeast corner of said Lot 3; thence North along the East line of said Lot, 13.50 feet to the point of beginning; thence West parallel with the South line of said Lot, 100.00 feet to the West line of said Lot; thence North along said last described line, 10.00 feet; thence East parallel with the South line of said Lot, 45.00 feet; thence North parallel with the West line of said Lot, 30.00 feet; thence East parallel with the South line of said Lot, 34.00 feet; thence South parallel with the West line of said Lot, 30.00 feet; thence East parallel with the South line of said Lot, 21.00 feet to the East line of said Lot; thence South along the last described line, 10.00 feet to the point of beginning, in Lake County, Illinois. 2020.00 sq. ft.

PIN: 10–24–423–019

The South 13.50 feet of Lot 2 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 1350.00 sq. ft.

PIN: 10–24–423–021

The South 13.50 feet of a tract of land described as Lot 1 (as originally platted), (except that part taken for highway per Document No. 2242325 and 2242326), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 1040.30 sq. ft.

PIN: 10–25–205–003

Temporary Easement:

That part of Lot 44 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the

Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151 in Book "N" of Plats, Page 98, described as follows: commencing at the Northeast corner of said Lot 44; thence South along the East line of said Lot, 5.00 feet; thence West parallel with the North line of said Lot, 34.00 feet; thence South parallel with the East line of said Lot, 5.00 feet; thence West parallel with the North line of said Lot, 16.00 feet to the West line of said Lot; thence North along said last described Lot, 10.00 feet to the Northwest corner of said lot; thence East along the North line of said lot, 50.00 feet to the point of beginning, in Lake County, Illinois. Containing 331.00 sq. ft.

PIN: 10–25–205–004

Temporary Easement:

The North 10.00 feet (except the South 5.00 feet of the West 24.00 feet and the South 5.00 feet of the East 3.00 feet thereof) of Lot 45 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. Containing 365.40 sq. ft.

PIN: 10–25–205–005

Temporary Easement:

The North 5.00 feet of Lot 46 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, Lake County, Illinois. 250.00 sq. ft.

PIN: 10–25–206–003

Temporary Easement:

The North 5.00 feet of Lot 60 (as originally platted), in Western Slope Subdivision of Mundelein, being a Subdivision of part of the Southeast Quarter of Section 24, and of the Northeast Quarter of Section 25, Township 44 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded May 9, 1925 as Document 257151, in Book "N" of Plats, Page 98, in Lake County, Illinois. 250.00 sq. ft.

PIN: 11–30–101–004

Temporary Easement:

The North 5.00 feet of the East 30.00 feet of a tract of land described as the West 75.00 feet of Lots 1 and 2, in Block 1 of Hammond's Addition to Rockefeller, being a Subdivision of part of Lot 2 of the Northwest Quarter of Section 30, Township 44 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded April 2, 1895 as Document No. 61511, in Book "D" of Plats, Page 24,in Lake County, Illinois. 150.00 sq. ft.

PIN: 11–30–120–001

That part of Lot 1 in Hawley Commons, being a subdivision of part of the Northwest Quarter of Section 30, Township 44 North, Range 11 East, of the Third Principal Meridian according to the plat thereof recorded October 8, 1999 as Document No. 4432301, and described as follows: Beginning at the Northwest corner of Lot 1; thence South along the West line of said Lot 1, 17.00 feet; thence Northeasterly 23.91 feet to a point 17.00 feet East of the point of beginning and on the North line of said Lot 1; thence West along the North line of Lot 1, 17.00 feet to the point of beginning, in Lake County, Illinois. Containing 144.50 sq. ft.

PIN: 10–24–314–036

That part of Lot 14 in Block 2 in Mundelein Home Crest Subdivision of the Northeast Quarter of the Northwest Quarter of Section 25 and part of the East Half of the Southwest Quarter of Section 24, all in Township 44 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded June 4, 1926 as Document No. 280148 in Book "P" of Plats, Pages 62 and 63, described as lying Southeasterly of a curve concave Northwesterly having a radius of 45.00 feet and being tangent to the East and South lines of said Lot 14, in Lake County, Illinois. 445.10 sq. ft.

P.A. 94–1055, Art. 25, § 25–5–55, added by P.A. 98–1070, § 5, eff. Aug. 26, 2014.

PART 7. EXISTING QUICK—TAKE POWERS

30/25–7–103.1. Quick-take; highway purposes

§ 25–7–103.1. Quick-take; highway purposes. Quick-take proceedings under Article 20 may be used by the State of Illinois, the Illinois Toll Highway Authority or the St. Louis Metropolitan Area Airport Authority for the acquisition of land or interests therein for highway purposes.

P.A. 94–1055, Art. 25, § 25–7–103.1, eff. Jan. 1, 2007.

CHAPTER 740

CIVIL LIABILITIES

ACT 35. CONSTRUCTION CONTRACT INDEMNIFICATION FOR NEGLIGENCE ACT

Section

35/0.01. Short title.

35/1. Indemnification of person from person's own negligence; effect; enforcement.

35/2. Application of act.

35/3. Construction bonds or insurance contracts; application of act.

ACT 55. CRIMINAL JURISPRUDENCE ACT (HEALTH AND SAFETY PUBLIC NUISANCE)

55/221 to 55/222. Repealed.

ACT 85. HIGHWAY CONTRACTOR LIABILITY ACT

85/0.01. Short title.

85/1. Liability of contractors.

ACT 35. CONSTRUCTION CONTRACT INDEMNIFICATION FOR NEGLIGENCE ACT

35/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Construction Contract Indemnification for Negligence Act.

P.A. 77–1629, § 0.01, added by P.A. 86–1324, § 248, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 60.90.

35/1. Indemnification of person from person's own negligence; effect; enforcement

§ 1. With respect to contracts or agreements, either public or private, for the construction, alteration, repair or maintenance of a building, structure, highway bridge, viaducts or other work dealing with construction, or for any moving, demolition or excavation connected therewith, every covenant, promise or agreement to indemnify or hold harmless another person from that person's own negligence is void as against public policy and wholly unenforceable.

P.A. 77–1629, § 1, eff. Sept. 23, 1971.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 61.

35/2. Application of act

§ 2. This Act applies only to contracts or agreements entered into after its effective date.

P.A. 77–1629, § 2, eff. Sept. 23, 1971.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 62.

35/3. Construction bonds or insurance contracts; application of act

§ 3. This Act does not apply to construction bonds or insurance contracts or agreements.

P.A. 77–1629, § 3, eff. Sept. 23, 1971.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 63.

ACT 55. CRIMINAL JURISPRUDENCE ACT (HEALTH AND SAFETY PUBLIC NUISANCE)

55/221 to 55/222. §§ 221 to 222. Repealed by P.A. 89–234, Art. 10, § 10–5, eff. Jan. 1, 1996

ACT 85. HIGHWAY CONTRACTOR LIABILITY ACT

85/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Highway Contractor Liability Act.

Laws 1955, p. 1249, § 0.01, added by P.A. 86–1324, § 875, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 364.9.

85/1. Liability of contractors

§ 1. Any contractor responsible for the construction or improvement of a public highway which has been opened to the public at the written direction of, but has not been officially accepted by, the Department of Transportation or other public body for which the said highway is being constructed, shall be liable for any injuries or damages sustained by any person using said highway only to the extent such contractor would be liable if said highway were officially accepted by the Department of Transportation or other public body.

Laws 1955, p. 1249, § 1. Amended by P.A. 77–172, § 1, eff. Jan. 1, 1972.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 365.

CHAPTER 745

CIVIL IMMUNITIES

ACT 10. LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT

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ACT 10. LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT

ARTICLE III—IMMUNITY FROM LIABILITY FOR INJURY OCCURRING IN THE USE OF PUBLIC PROPERTY

10/3–101. Definitions

§ 3–101. As used in this Article unless the context otherwise requires "property of a local public entity" and "public property" mean real or personal property owned or leased by a local public entity, but do not include easements, encroachments and other property that are located on its property but that it does not own, possess or lease.

Laws 1965, p. 2983, § 3–101, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–101.

10/3–102. Care in maintenance of property; constructive notice

§ 3–102. (a) Except as otherwise provided in this Article, a local public entity has the duty to exercise ordinary care to maintain its property in a reasonably safe condition for the use in the exercise of ordinary care of people whom the entity intended and permitted to use the property in a manner in which and at such times as it was reasonably foreseeable that it would be used, and shall not be liable for injury unless it is proven that it has actual or constructive notice of the existence of such a condition that is not reasonably safe in reasonably adequate time prior to an injury to have taken measures to remedy or protect against such condition.

(b) A public entity does not have constructive notice of a condition of its property that is not reasonably safe within the meaning of Section 3–102(a) if it establishes either:

(1) The existence of the condition and its character of not being reasonably safe would not have been discovered by an inspection system that was reasonably adequate considering the practicability and cost of inspection weighed against the likelihood and magnitude of the potential danger to which failure to inspect would give rise to inform the public entity whether the property was safe for the use or uses for which the public entity used or intended others to use the public property and for uses that the public entity actually knew others were making of the public property or adjacent property; or

(2) The public entity maintained and operated such an inspection system with due care and did not discover the condition.

Laws 1965, p. 2983, § 3–102, eff. Aug. 13, 1965. Amended by P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–102.

10/3–103. Adoption of plan or design of improvement of property

§ 3–103. (a) A local public entity is not liable under this Article for an injury caused by the adoption of a plan or design of a construction of, or an improvement to public property where the plan or design has been approved in advance of the construction or improvement by the legislative body of such entity or by some other body or employee exercising discretionary authority to give such approval or where such plan or design is prepared in conformity with standards previously so approved. The local public entity is liable, however, if after the execution of such plan or design it appears from its use that it has created a condition that it is not reasonably safe.

(b) A public employee is not liable under this Article for an injury caused by the adoption of a plan or design of a construction of, or an improvement to public property.

Laws 1965, p. 2983, § 3–103, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–103.

10/3–104. Failure to provide traffic signals and signs

§ 3–104. Neither a local public entity nor a public employee is liable under this Act for an injury caused by the failure to initially provide regulatory traffic control devices, stop signs, yield right-of-way signs, speed restriction signs, distinctive roadway markings or any other traffic regulating or warning sign, device or marking, signs, overhead lights, traffic separating or restraining devices or barriers.

Laws 1965, p. 2983, § 3–104, eff. Aug. 13, 1965. Amended by P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–104.

10/3–105. Use of streets, etc.

§ 3–105. (a) Neither a local public entity nor a public employee is liable for an injury caused by the effect of weather conditions as such on the use of streets, highways, alleys, sidewalks or other public ways, or places, or the ways adjoining any of the foregoing, or the signals, signs, markings, traffic or pedestrian control devices, equipment or structures on or near any of the foregoing or the ways adjoining any of the foregoing. For the purpose of this section, the effect of weather conditions as such includes but is not limited to the effect of wind, rain, flood, hail, ice or snow but does not include physical damage to or deterioration of streets, highways, alleys, sidewalks, or other public ways or place or the ways adjoining any of the foregoing, or the signals, signs, markings, traffic or pedestrian control devices, equipment or structures on or near any of the foregoing or the ways adjoining any of the foregoing resulting from weather conditions.

(b) Without implied limitation, neither a local public entity nor a public employee is liable for any injury caused by the failure of a local public entity or a public employee to upgrade any existing street, highway, alley, sidewalk or other public way or place, or the ways adjoining any of the foregoing, or the signals, signs, markings, traffic or pedestrian control devices, equipment or structures on or near such street, highway, alley, sidewalk or other public way or place, or the ways adjoining any of the foregoing from the standards, if any, which existed at the time of the original dedication to, or acquisition of, the right of way of such street, highway, alley, sidewalk or other public way or place, or the ways adjoining any of the foregoing, by the first local public entity to acquire the property or right of way, to standards which are or may be applicable or are imposed by any government or other person or organization between the time of such dedication and the time of such injury.

(c) Nothing in this Section shall relieve the local public entity of the duty to exercise ordinary care in the maintenance of its property as set forth in Section 3–102.

Laws 1965, p. 2983, § 3–105, eff. Aug. 13, 1965. Amended by P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–105.

10/3–106. Property used for recreational purposes

§ 3–106. Neither a local public entity nor a public employee is liable for an injury where the liability is based on the existence of a condition of any public property intended or permitted to be used for recreational purposes, including but not limited to parks, playgrounds, open areas, buildings or other enclosed recreational facilities, unless such local entity or public employee is guilty of willful and wanton conduct proximately causing such injury.

Laws 1965, p. 2983, § 3–106, eff. Aug. 13, 1965. Amended by P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–106.

10/3–107. Access roads or trails

§ 3–107. Neither a local public entity nor a public employee is liable for an injury caused by a condition of: (a) Any road which provides access to fishing, hunting, or primitive camping, recreational, or scenic areas and which is not a (1) city, town or village street, (2) county, state or federal highway or (3) a township or other road district highway. (b) Any hiking, riding, fishing or hunting trail.

Laws 1965, p. 2983, § 3–107, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–107.

10/3–108. Willful and wanton conduct concerning supervision of an activity or use of property

§ 3–108. (a) Except as otherwise provided in this Act, neither a local public entity nor a public employee who undertakes to supervise an activity on or the use of any public property is liable for an injury unless the local public entity or public employee is guilty of willful and wanton conduct in its supervision proximately causing such injury.

(b) Except as otherwise provided in this Act, neither a local public entity nor a public employee is liable for an injury caused by a failure to supervise an activity on or the use of any public property unless the employee or the local public entity has a duty to provide supervision imposed by common law, statute, ordinance, code or regulation and the local public entity or public employee is guilty of willful and wanton conduct in its failure to provide supervision proximately causing such injury.

Laws 1965, p. 2983, § 3–108, eff. Aug. 13, 1965. Amended by P.A. 90–805, § 5, eff. Dec. 2, 1998.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–108.

10/3–109. Hazardous recreational activity

§ 3–109. (a) Neither a local public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.

(b) As used in this Section, "hazardous recreational activity" means a recreational activity conducted on property of a local public entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

(1) Water contact activities, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been given or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Diving at any place or from any structure where diving is prohibited and reasonable warning as to the specific dangers present has been given.

(3) Animal racing, archery, bicycle racing or jumping, off-trail bicycling, boat racing, cross-country and downhill skiing, sledding, tobogganing, participating in an equine activity as defined in the Equine Activity Liability Act,[1] hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging where the person or persons furnished their own rope, water skiing, white water rafting, and wind surfing.

(c) Notwithstanding the provisions of subsection (a), this Section does not limit liability which would otherwise exist for any of the following:

(1) Failure of the local public entity or public employee to guard or warn of a dangerous condition of which it has actual or constructive notice and of which the participant does not have nor can be reasonably expected to have had notice.

(2) An act of willful and wanton conduct by a public entity or a public employee which is a proximate cause of the injury.

Nothing in this subsection creates a duty of care or basis of liability for personal injury or for damage to personal property.

(d) Nothing in this Section shall limit the liability of an independent concessionaire, or any person or organization other than the local public entity or public employee, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

Laws 1965, p. 2983, § 3–109, added by P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986. Amended by P.A. 89–111, § 905, eff. July 7, 1995; P.A. 89–502, § 20, eff. June 28, 1996.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–109.

[1] 745 ILCS 47/1 et seq.

10/3–110. Waterways, etc.

§ 3–110. Neither a local public entity nor a public employee is liable for any injury occurring on, in, or adjacent to any waterway, lake, pond, river or stream not owned, supervised, maintained, operated, managed or controlled by the local public entity.

Laws 1965, p. 2983, § 3–110, added by P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 3–110.

ARTICLE VII. TORT LIABILITY UNDER AGREEMENTS BETWEEN LOCAL PUBLIC ENTITIES

10/7–101. Authorization; execution of agreement

§ 7–101. When permitted by law to transfer any of its functions or services to, to lease its property to or to perform any function, service or act with or for any other local public entity or employee thereof by agreement with such other local public entity, a local public entity may agree with the other entity as to the manner in which liability for an injury resulting from such function, service or act is to be allocated or shared. Such agreement may be expressed by resolution, contract, lease, ordinance or in any other manner provided by law.

Laws 1965, p. 2983, § 7–101, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 7–101.

10/7–102. Contribution or indemnification

§ 7–102. As part of any agreement under this Article, the local public entities may provide for contribution or indemnification by any or all of the local public entities that are parties to the agreement upon any liability arising out of the performance of the agreement.

Laws 1965, p. 2983, § 7–102, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 7–102.

10/7–103. Application and construction of Article

§ 7–103. This Article applies to any agreement between local public entities whether entered into before or after the effective date of this Act. Nothing in this Article affects the right of recovery of a person injured by a local public entity or by its employee.

Laws 1965, p. 2983, § 7–103, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 7–103.

ARTICLE VIII—ACTIONS AGAINST LOCAL PUBLIC ENTITIES AND PUBLIC EMPLOYEES—LIMITATIONS, NOTICE

10/8–101. Limitation

§ 8–101. Limitation.

(a) No civil action other than an action described in subsection (b) may be commenced in any court against a local entity or any of its employees for any injury unless it is commenced within one year from the date that the injury was received or the cause of action accrued.

(b) No action for damages for injury or death against any local public entity or public employee, whether based upon tort, or breach of contract, or otherwise, arising out of

patient care shall be brought more than 2 years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of the injury or death for which damages are sought in the action, whichever of those dates occurs first, but in no event shall such an action be brought more than 4 years after the date on which occurred the act or omission or occurrence alleged in the action to have been the cause of the injury or death.

(c) For purposes of this Article, the term "civil action" includes any action, whether based upon the common law or statutes or Constitution of this State.

(d) The changes made by this amendatory Act of the 93rd General Assembly apply to an action or proceeding pending on or after this amendatory Act's effective date, unless those changes (i) take away or impair a vested right that was acquired under existing law or (ii) with regard to a past transaction or past consideration, create a new obligation, impose a new duty, or attach a new disability.

Laws 1965, p. 2983, § 8–101, eff. Aug. 13, 1965. Amended by P.A. 78–201, § 1, eff. Oct. 1, 1973; P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986; P.A. 93–11, § 5, eff. June 4, 2003.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 8–101.

10/8–103. Effect of failure to serve notice

§ 8–103. If the notice under Section 8–102 is not served as provided therein, any such civil action commenced against a local public entity, or against any of its employees whose act or omission committed while acting in the scope of his employment as such employee caused the injury, shall be dismissed and the person to whom such cause of injury accrued shall be forever barred from further suing.

Laws 1965, p. 2983, § 8–103, eff. Aug. 13, 1965.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 8–103.

ARTICLE IX—PAYMENT OF CLAIMS AND JUDGMENT

10/9–101. Definitions

§ 9–101. As used in this Article:

(a) "Board" means the governing body of a local taxing entity.

(b) "Fiscal year" means the fiscal year prescribed for a local public entity or adopted by the local public entity as authorized by law.

(c) "Local taxing entity" means a local public entity that has the power to levy or have levied on its behalf taxes or assessments upon property within the territory of the entity.

(d) "Tort judgment" means a final judgment founded on an injury, as defined by this Act, proximately caused by a negligent or wrongful act or omission of a local public entity or an employee of a local public entity while acting within the scope of his employment.

(e) "Settlement" means a payment based on an injury or event which a local public entity reasonably believes might have been caused by a negligent or wrongful act or omission of the local public entity or an employee while acting within the scope of his employment.

(f) "Claims service" means any arrangement whereby skilled personnel are employed or retained to investigate, settle, or defend an injury or event which is alleged to have been caused by, or which a local public entity reasonably believes might have been caused by, a negligent or wrongful act or omission of the local public entity or an employee while acting within the scope of his employment. The term "claims service" shall include, but not be limited to, loss control before or after an injury or event and the retention of independent legal counsel for purposes of defending claims under this Act.

Laws 1965, p. 2983, § 9–101, eff. Aug. 13, 1965. Amended by P.A. 80–1341, § 1, eff. Aug. 11, 1978.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–101.

10/9–102. Payment of judgments or settlements; compromise and settlement of claims

§ 9–102. A local public entity is empowered and directed to pay any tort judgment or settlement for compensatory damages (and may pay any associated attorney's fees and costs) for which it or an employee while acting within the scope of his employment is liable in the manner provided in this Article. All other provisions of this Article, including but not limited to the payment of judgments and settlements in installments, the issuance of bonds, the maintenance of rates and charges, and the levy of taxes shall be equally applicable to judgments or settlements relating to both a local public entity or an employee and those undertakings assumed by a local public entity in intergovernmental joint self–insurance contracts. A local public entity may make payments to settle or compromise a claim or action which has been or might be filed or instituted against it when the governing body or person vested by law or ordinance with authority to make over–all policy decisions for such entity considers it advisable to enter into such a settlement or compromise.

Laws 1965, p. 2983, § 9–102, eff. Aug. 13, 1965. Amended by P.A. 80–1341, § 1, eff. Aug. 11, 1978; P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986; P.A. 92–810, § 15, eff. Aug. 21, 2002.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–102.

10/9–103. Insurance contracts

§ 9–103. (a) A local public entity may protect itself against any property damage or against any liability or loss which may be imposed upon it or one of its employees for a tortious act under Federal or State common or statutory law, or imposed upon it under the Workers' Compensation Act,[1] the Workers' Occupational Diseases Act,[2] or the Unemployment Insurance Act[3] by means including, but not limited to, insurance, individual or joint self-insurance, including all operating and administrative costs and expenses directly associated therewith, claims services and risk management directly attributable to loss prevention and loss reduction, legal services directly attributable to the insurance, self-insurance, or joint self-insurance program, educational, inspectional, and supervisory services directly relating to loss prevention and loss reduction, or participation in a reciprocal insurer as provided in Sections 72, 76 and 81 of the Illinois Insurance Code.[4] Insurance shall be carried with a company authorized by the Department of Insurance to write such insurance coverage in Illinois.

(a–5) A local public entity may individually or jointly self-insure provided it complies with any other statutory requirements specifically related to individual or joint self-insurance by local public entities. Whenever the terms "self-insure" or "self-insurance" are utilized within this Act, such term shall apply to both individual and joint self-insurance. The expenditure of funds of a local public entity to protect itself or its employees against liability is proper for any local public entity. A local public entity that has individually self-insured may establish reserves for expected losses for any liability or loss for which the local public entity is authorized to purchase insurance under this Act. The decision of the local

public entity to establish a reserve and the amount of the reserve shall be based on reasonable actuarial or insurance underwriting evidence. Property taxes shall not be levied or extended if the effect is to increase the reserve beyond 125% of the actuary's or insurance underwriter's estimated ultimate losses at the 95% confidence level. Certification of the amount of the reserve shall be made by the independent auditor, actuary, or insurance underwriter and included in an annual report. The annual report shall also list all expenditures from the reserve or from property taxes levied or extended for tort immunity purposes. Total claims payments and total reserves must be listed in aggregate amounts. All other expenditures must be identified individually. A local public entity that maintains a self-insurance reserve or that levies and extends a property tax for tort immunity purposes must include in its audit or annual report any expenditures made from the property tax levy or self-insurance reserve within the scope of the audit or annual report.

(b) A local public entity may contract for or purchase any of the guaranteed fund certificates or shares of guaranteed capital as provided for in Section 56 of the Illinois Insurance Code.[5] The expenditure of funds of the local public entity for said contract or purchase is proper for any local public entity.

(c) Any insurance company that provides insurance coverage to a local public entity shall utilize any immunities or may assert any defenses to which the insured local public entity or its employees are entitled. Public entities which are individually or jointly self-insured shall be entitled to assert all of the immunities provided by this Act or by common law or statute on behalf of themselves or their employees unless the local public entities shall elect by action of their corporate authorities or specifically contract to waive in whole or in part such immunities.

(d) Within 30 days after January 1, 1991, and within 30 days after each January 1 thereafter, local public entities that are individually or jointly self-insured to protect against liability under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall file with the Illinois Workers' Compensation Commission a report indicating an election to self-insure.

Laws 1965, p. 2983, § 9–103, eff. Aug. 13, 1965. Amended by P.A. 80–612, § 1, eff. Oct. 1, 1977; P.A. 80–1341, § 1, eff. Aug. 11, 1978; P.A. 81–164, § 1, eff. Jan. 1, 1980; P.A. 82–783, Art. IV, § 20, eff. July 13, 1982; P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986; P.A. 86–1405, § 3, eff. Sept. 11, 1990; P.A. 87–706, § 1, eff. July 1, 1992; P.A. 89–150, § 10, eff. July 14, 1995; P.A. 91–628, § 5, eff. Jan. 1, 2000; P.A. 93–721, § 55, eff. Jan. 1, 2005.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–103.

[1] 820 ILCS 305/1 et seq.

[2] 820 ILCS 310/1 et seq.

[3] 820 ILCS 405/100 et seq.

[4] 215 ILCS 5/72, 5/76 and 5/81.

[5] 215 ILCS 5/56.

10/9–104. Payment of judgments; installments

§ 9–104. (a) Subject to subsection (b) of this Section, if a local public entity does not pay a tort judgment during the fiscal year in which it becomes final and if, in the opinion of its governing body, the payment of the judgment creates an unreasonable financial hardship for the local public entity it shall pay the balance of the judgment, with interest thereon, in installments.

(b) The court which enters judgment shall order that the governing body pay the judgment, with interest thereon, in not exceeding 10 annual installments if both of the following conditions are satisfied:

(1) The governing body of the local public entity has adopted an ordinance or resolution finding that an unreasonable hardship will result unless the judgment is paid in installments.

(2) The court, after hearing, has found that payment of the judgment in installments as ordered by the court is necessary to avoid an unreasonable hardship.

(c) Each installment payment shall be of an equal portion of the principal of the judgment except that where a judgment is $500,000 or more the court may, upon a showing by the plaintiff of an extraordinary need for immediate funds in order to secure medical necessities immediately after judgment including, but not limited to, equipment, supplies, medication, residence or other items, order that unequal payments of the principal of the judgment be made in proportions to be determined by the court, but in no event shall any increase in a payment cause such payment to be greater than 50% of the judgment. The local public entity, in its discretion, may prepay any one or more installments or any part of an installment.

(d) A local public entity shall have the power to enter into a settlement agreement subject to a term not to exceed the period of years negotiated by the parties.

Laws 1965, p. 2983, § 9–104, eff. Aug. 13, 1965. Amended by P.A. 80–1341, § 1, eff. Aug. 11, 1978; P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–104.

10/9–105. Issuance of bonds

§ 9–105. The board of a local taxing entity may, instead of following the procedure under subdivision (b) of Section 9–104 or when it considers the action advisable, issue general obligation or revenue bonds without referendum for the purpose of creating a reserve for or for the payment of any cost, liability or loss against which such entity may protect itself or self-insure pursuant to Section 9–103 or for the payment of which such entity may levy a tax pursuant to Section 9–107, including any or all tort judgments or settlements entered against or entered into by the entity or by or against another local public entity or an employee of that other public entity while acting within the scope of employment, either individually or where the local public entities have joined in an intergovernmental joint self-insurance contract which among other undertakings authorizes each local public entity to utilize its funds to protect, wholly or partially, any other local public entity or its employees against liability or loss in accordance with the intergovernmental contract. Such bonds may be issued in an amount necessary to fund a reserve created for any or all of the above described purposes including the discharge of obligations under such judgments or settlements. Such bonds shall not be considered debt under any statutory limitation, and may be issued in an amount, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to debt but subject to constitutional limits.

Any bonds issued under this Section as limited bonds as defined in Section 3 of the Local Government Debt Reform Act[1] shall comply with the requirements of the Bond Issue Notification Act.[2]

Laws 1965, p. 2983, § 9–105, eff. Aug. 13, 1965. Amended by P.A. 80–1341, § 1, eff. Aug. 11, 1978; P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986; P.A. 85–854, Art. III, § 2, eff. Sept. 24, 1987; P.A. 89–655, § 105, eff. Jan. 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–105.

[1] 30 ILCS 350/3.

[2] 30 ILCS 352/1 et seq.

10/9–106. Rates and charges; funds to pay judgments and settlements

§ 9–106. A local public entity that derives revenue for its maintenance and operation from rates and charges made for services or facilities it provides shall in each fiscal year make rates and charges or both, or otherwise provide funds, in an amount sufficient to pay all its tort judgments and settlements in accordance with this Article and its obligations under the Workers' Compensation Act,[1] the Workers' Occupational Diseases Act [2] and the Unemployment Insurance Act.[3]

Laws 1965, p. 2983, § 9–106, eff. Aug. 13, 1965. Amended by P.A. 80–1341, § 1, eff. Aug. 11, 1978; P.A. 81–164, § 1, eff. Jan. 1, 1980; P.A. 82–783, Art. IV, § 20, eff. July 13, 1982.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–106.

[1] 820 ILCS 305/1 et seq.

[2] 820 ILCS 310/1 et seq.

[3] 820 ILCS 405/100 et seq.

10/9–107. Policy; tax levy

§ 9–107. Policy; tax levy.

(a) The General Assembly finds that the purpose of this Section is to provide an extraordinary tax for funding expenses relating to (i) tort liability, (ii) liability relating to actions brought under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Environmental Protection Act, but only until December 31, 2010, (iii) insurance, and (iv) risk management programs. Thus, the tax has been excluded from various limitations otherwise applicable to tax levies. Notwithstanding the extraordinary nature of the tax authorized by this Section, however, it has become apparent that some units of local government are using the tax revenue to fund expenses more properly paid from general operating funds. These uses of the revenue are inconsistent with the limited purpose of the tax authorization.

Therefore, the General Assembly declares, as a matter of policy, that (i) the use of the tax revenue authorized by this Section for purposes not expressly authorized under this Act is improper and (ii) the provisions of this Section shall be strictly construed consistent with this declaration and the Act's express purposes.

(b) A local public entity may annually levy or have levied on its behalf taxes upon all taxable property within its territory at a rate that will produce a sum that will be sufficient to: (i) pay the cost of insurance, individual or joint self-insurance (including reserves thereon), including all operating and administrative costs and expenses directly associated therewith, claims services and risk management directly attributable to loss prevention and loss reduction, legal services directly attributable to the insurance, self-insurance, or joint self-insurance program, and educational, inspectional, and supervisory services directly relating to loss prevention and loss reduction, participation in a reciprocal insurer as provided in Sections 72, 76, and 81 of the Illinois Insurance Code, or participation in a reciprocal insurer, all as provided in settlements or judgments under Section 9–102, including all costs and reserves directly attributable to being a member of an insurance pool, under Section 9–103; (ii) pay the costs of and principal and interest on bonds issued under Section 9–105; (iii) pay judgments and settlements under Section 9–104 of this Act; (iv) discharge obligations under Section 34–18.1 of the School Code; (v) pay judgments and settlements under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Environmental Protection Act, but only until December 31, 2010; (vi) pay the costs authorized by the Metro–East Sanitary District Act of 1974 as provided in subsection (a) of Section 5–1 of that Act (70 ILCS 2905/5–1); and (vii) pay the cost of risk management programs. Provided it complies with any other applicable statutory requirements, the local public entity may self-insure and establish reserves for expected losses for any property damage or for any liability or loss for which the local public entity is authorized to levy or have levied on its behalf taxes for the purchase of insurance or the payment of judgments or settlements under this Section. The decision of the board to establish a reserve shall be based on reasonable actuarial or insurance underwriting evidence and subject to the limits and reporting provisions in Section 9–103.

If a school district was a member of a joint-self-health-insurance cooperative that had more liability in outstanding claims than revenue to pay those claims, the school board of that district may by resolution make a one-time transfer from any fund in which tort immunity moneys are maintained to the fund or funds from which payments to a joint-self-health-insurance cooperative can be or have been made of an amount not to exceed the amount of the liability claim that the school district owes to the joint-self-health-insurance cooperative or that the school district paid within the 2 years immediately preceding the effective date of this amendatory Act of the 92nd General Assembly.

Funds raised pursuant to this Section shall only be used for the purposes specified in this Act, including protection against and reduction of any liability or loss described hereinabove and under Federal or State common or statutory law, the Workers' Compensation Act, the Workers' Occupational Diseases Act and the Unemployment Insurance Act. Funds raised pursuant to this Section may be invested in any manner in which other funds of local public entities may be invested under Section 2 of the Public Funds Investment Act. Interest on such funds shall be used only for purposes for which the funds can be used or, if surplus, must be used for abatement of property taxes levied by the local taxing entity.

A local public entity may enter into intergovernmental contracts with a term of not to exceed 12 years for the provision of joint self-insurance which contracts may include an obligation to pay a proportional share of a general obligation or revenue bond or other debt instrument issued by a local public entity which is a party to the intergovernmental contract and is authorized by the terms of the contract to issue the bond or other debt instrument. Funds due under such contracts shall not be considered debt under any constitutional or statutory limitation and the local public entity may levy or have levied on its behalf taxes to pay for its proportional share under the contract. Funds raised pursuant to intergovernmental contracts for the provision of joint self-insurance may only be used for the payment of any cost, liability or loss against which a local public entity may protect itself or self-insure pursuant to Section 9–103 or for the payment of which such entity may levy a tax pursuant to this Section, including tort judgments or settlements, costs associated with the issuance, retirement or refinancing of the bonds or other debt instruments, the repayment of the principal or interest of the bonds or other debt instruments, the costs of the administration of the joint self-insurance fund, consultant, and risk care management programs or the costs of insurance. Any surplus returned to the local public entity under the terms of the intergovernmental contract

shall be used only for purposes set forth in subsection (a) of Section 9–103 and Section 9–107 or for abatement of property taxes levied by the local taxing entity.

Any tax levied under this Section shall be levied and collected in like manner with the general taxes of the entity and shall be exclusive of and in addition to the amount of tax that entity is now or may hereafter be authorized to levy for general purposes under any statute which may limit the amount of tax which that entity may levy for general purposes. The county clerk of the county in which any part of the territory of the local taxing entity is located, in reducing tax levies under the provisions of any Act concerning the levy and extension of taxes, shall not consider any tax provided for by this Section as a part of the general tax levy for the purposes of the entity nor include such tax within any limitation of the percent of the assessed valuation upon which taxes are required to be extended for such entity.

With respect to taxes levied under this Section, either before, on, or after the effective date of this amendatory Act of 1994:

(1) Those taxes are excepted from and shall not be included within the rate limitation imposed by law on taxes levied for general corporate purposes by the local public entity authorized to levy a tax under this Section.

(2) Those taxes that a local public entity has levied in reliance on this Section and that are excepted under paragraph (1) from the rate limitation imposed by law on taxes levied for general corporate purposes by the local public entity are not invalid because of any provision of the law authorizing the local public entity's tax levy for general corporate purposes that may be construed or may have been construed to restrict or limit those taxes levied, and those taxes are hereby validated. This validation of taxes levied applies to all cases pending on or after the effective date of this amendatory Act of 1994.

(3) Paragraphs (1) and (2) do not apply to a hospital organized under Article 170 or 175 of the Township Code, under the Town Hospital Act, or under the Township Non–Sectarian Hospital Act and do not give any authority to levy taxes on behalf of such a hospital in excess of the rate limitation imposed by law on taxes levied for general corporate purposes. A hospital organized under Article 170 or 175 of the Township Code, under the Town Hospital Act, or under the Township Non–Sectarian Hospital Act is not prohibited from levying taxes in support of tort liability bonds if the taxes do not cause the hospital's aggregate tax rate from exceeding the rate limitation imposed by law on taxes levied for general corporate purposes.

Revenues derived from such tax shall be paid to the treasurer of the local taxing entity as collected and used for the purposes of this Section and of Section 9–102, 9–103, 9–104 or 9–105, as the case may be. If payments on account of such taxes are insufficient during any year to meet such purposes, the entity may issue tax anticipation warrants against the current tax levy in the manner provided by statute.

Laws 1965, p. 2983, § 9–107, eff. Aug. 13, 1965. Amended by P.A. 80–1341, § 1, eff. Aug. 11, 1978; P.A. 81–164, § 1, eff. Jan. 1, 1980; P.A. 82–783, Art. IV, § 20, eff. July 13, 1982; P.A. 83–718, § 1, eff. Sept. 23, 1983; P.A. 84–745, § 1, eff. Jan. 1, 1986; P.A. 84–1431, Art. 1, § 2, eff. Nov. 25, 1986; P.A. 85–854, Art. III, § 2, eff. Sept. 24, 1987; P.A. 86–725, § 1, eff. Sept. 1, 1989; P.A. 88–545, § 10, eff. Jan. 1, 1995; P.A. 88–692, § 5, eff. Feb. 4, 1995; P.A. 89–150, § 10, eff. July 14, 1995; P.A. 91–628, § 5, eff. Jan. 1, 2000; P.A. 92–732, § 5, eff. July 25, 2002; P.A. 95–244, § 10, eff. Aug. 17, 2007; P.A. 95–723, § 50, eff. June 23, 2008.

Formerly Ill.Rev.Stat.1991, ch. 85, ¶ 9–107.

P.A. 95–723 incorporated the section as amended by P.A. 95–244.

ACT 15. COUNTY ENGINEER AND HIGHWAY SUPERINTENDENT LIABILITY ACT

15/0.01. Short title

§ 0.01. Short title. This Act may be cited as the County Engineer and Highway Superintendent Liability Act.

Laws 1961, p. 3188, § 0.01, added by P.A. 86–1324, § 876, eff. Sept. 6, 1990. Amended by P.A. 87–217, § 8, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 380.

15/1. Declaration of policy

§ 1. It is the public policy of this State that county engineers and superintendents of highways should not suffer pecuniary loss because of any injury to persons or property resulting from their failure to perform or negligence in performing any official duty and which injury arises out of the use of highways, culverts, bridges, or shoulders for which they have some degree of supervisory, maintenance, repair or construction responsibility and that persons who suffer such injury should not be entirely precluded from recovery of loss occasioned by any such injury.

Laws 1961, p. 3188, § 1, eff. Aug. 14, 1961. Amended by P.A. 87–217, § 8, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 381.

15/2. Injury to person or property; limitation of actions

§ 2. No civil action shall be commenced against any county engineer or superintendent of highways by any person for any injury to his person or property resulting from the county engineer's or superintendent of highways' failure to perform or negligence in performing any official duty and which injury arises out of the use of highways, culverts, bridges, or shoulders unless it is commenced within one year after the cause of action accrued.

Laws 1961, p. 3188, § 2, eff. Aug. 14, 1961. Amended by P.A. 87–217, § 8, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 382.

15/3. Notice of injury; filing

§ 3. Within 6 months after the date that any such injury was received, any person who is about to commence any civil action against any county engineer or superintendent of highways on account of that injury shall file in the office of that county engineer or superintendent of highways and in the office of the State's Attorney of the county in which the cause of action arose, either by himself, his agent or attorney, a statement in writing signed by him, his agent or attorney, giving the name of the person to whom the cause of action has accrued, the place or location where the injury occurred, the nature of the injury and the name and address of the attending physician, if any.

Laws 1961, p. 3188, § 3, eff. Aug. 14, 1961. Amended by P.A. 87–217, § 8, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 383.

15/4. Failure to file notice; effect

§ 4. If the notice provided for by Section 3 is not filed as required therein, any such civil action commenced against any county engineer or superintendent of highways shall be dismissed and the person to whom any such cause of action accrued shall be forever barred from further suing.

Laws 1961, p. 3188, § 4, eff. Aug. 14, 1961. Amended by P.A. 87–217, § 8, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 384.

15/5. Amount of damages; limitation

§ 5. In any such civil action where it is found that there was no contributory negligence attributable to the plaintiff and that there was actionable negligence attributable to the defendant, the court or jury, as the case may be, may grant fair and reasonable compensation for the injury sustained but not in excess of $10,000.

Laws 1961, p. 3188, § 5, eff. Aug. 14, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 385.

15/6. Indemnification

§ 6. The county shall indemnify the county engineer or superintendent of highways for any judgment recovered against him in any such action and also any cost incurred in defense of such action.

Laws 1961, p. 3188, § 6, eff. Aug. 14, 1961. Amended by P.A. 87–217, § 8, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 386.

15/7. Application of act

§ 7. This Act shall apply only to such causes of action as may accrue after the effective date of this Act as the result of use of the highways.

Laws 1961, p. 3188, § 7, eff. Aug. 14, 1961.

Formerly Ill.Rev.Stat.1991, ch. 121, ¶ 387.

CHAPTER 765

PROPERTY

REAL PROPERTY

ACT 5. CONVEYANCES ACT

Section

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REAL PROPERTY

ACT 5. CONVEYANCES ACT

5/7a. Lands abutting road, street, highway or alley

§ 7a. (a) Except as provided in subsection (b), any instrument, including a will, which conveys, transfers, encumbers, leases or releases, or by which an agreement is made to convey, transfer, encumber, lease or release, or by virtue of which there is conveyed, transferred, encumbered, leased or released, any real property, whether described by a metes and bounds description or otherwise, which abuts upon any road, street, highway or alley, or upon any abandoned or vacated road, street, highway or alley shall be deemed and construed to include any right, title or interest in that part of such road, street, highway or alley which the abutting owner who makes any such instrument shall presently have or, which such owner, his heirs, successors and assigns subsequently acquires in such road, street, highway or alley unless such instrument by its terms expressly excludes, in the description of the property, such road, street, highway or alley. The right, title or interest acquired under such instrument in such road, street, highway or alley, by virtue of the provisions of this Act, shall be deemed and construed to be for the same uses and purposes set forth in such instrument with respect to the real property specifically described in the instrument. However, no covenants or agreements made by the maker of any such instrument with respect to any real property specifically described shall apply to or be enforceable with respect to any right, title or interest which is acquired solely by virtue of the provisions of this Act.

(b) With regard to any public utility, as defined in Section 3–105 of the Public Utilities Act, engaged in public water or public sanitary sewer service that comes under the jurisdiction of the Illinois Commerce Commission, any instrument, including a will, which conveys, transfers, encumbers, leases or releases, or by which an agreement is made to convey, transfer, encumber, lease or release, or by virtue of which there is conveyed, transferred, encumbered, leased or released, any real property, whether described by a metes and bounds description or otherwise, which abuts upon any road, street, highway or alley, or upon any abandoned or vacated road, street, highway or alley shall be deemed and construed to include any right, title or interest in that part of such road, street, highway or alley which the abutting owner who makes any such instrument shall presently have or, which such owner, his heirs, successors and assigns subsequently acquires in such road, street, highway or alley unless such instrument by its terms expressly excludes, in the description of the property, such road, street, highway or alley. The right, title or interest acquired under such instrument in such road, street, highway or alley, by virtue of the provisions of this Act, shall be deemed and construed to be for the same uses and purposes set forth in such instrument with respect to the real property specifically described in the instrument. However, no covenants or agreements made by the maker of any such instrument with respect to any real property specifically described shall apply to or be enforceable with respect to any right, title, or interest which is acquired solely by virtue to the provisions of this Act. "Conveyance" expressly excludes a road, street, highway, or alley if the legal description of the property uses the boundary of the road, street, highway, or alley closest to the property being conveyed as a boundary of the property being conveyed or expressly states that the road, street, highway, or alley is excepted from the property being conveyed. A conveyance does not expressly exclude a road, street, highway, or alley if the conveyance is described as being "subject to" the road, street, highway, or alley. The rights accruing in the abutting property owner under this Act shall be subject to all existing uses and easements located within the

right-of-way; the rights shall also be subject to such future uses and easements as may be permitted to be located within the right- of-way under the provisions of the Illinois Highway Code or any successor statute thereto. This provision of this amendatory Act of the 93rd General Assembly is intended to clarify, by codification, existing law and is not intended to change the law.

Laws 1871–72, p. 282, § 7a, added by P.A. 76–1660, § 1, eff. Oct. 3, 1969. Amended by P.A. 93–357, § 10, eff. Jan. 1, 2004.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 6a.

5/16. Conveyance by county

§ 16. The county board of any county may authorize any officer or member of its board to execute and deliver all deeds, grants, conveyances and other instruments in writing, which may become necessary in selling, transferring or conveying any real estate belonging to its county and such deeds, grants, conveyances and other instruments, if made without fraud or collusion, shall be obligatory upon the county to all intents and purposes.

Laws 1871–72, p. 282, § 16.

Formerly Ill.Rev.Stat.1991, ch. 30, ¶ 15.

PLATS AND SURVEYS

ACT 205. PLAT ACT

GENERAL PROVISIONS

205/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Plat Act.

R.S. 1874, p. 771, § 0.01, added by P.A. 86–1324, § 753, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 0.01.

205/1. Subdivision of land into parts of less than five acres; topographic studies; survey; plat; monuments

§ 1. (a) Except as otherwise provided in subparagraph (b) of this Section whenever the owner of land subdivides it into 2 or more parts, any of which is less than 5 acres, he must have it surveyed and a subdivision plat thereof made by an Illinois Registered Land Surveyor, which plat must particularly describe and set forth all public streets, alleys, ways for public service facilities, ways for utility services and community antenna television systems, parks, playgrounds, school grounds or other public grounds, and all the tracts, parcels, lots or blocks, and numbering all such lots, blocks or parcels by progressive numbers, giving their precise dimensions. There shall be submitted simultaneously with the subdivision plat, a study or studies which shall show topographically and by profile the elevation of the land prior to the commencement of any change in elevations as a part of any phase of subdividing, and additionally, if it is contemplated that such elevations, or the flow of surface water from such land, will be changed as a result of any portion of such subdivision development, then such study or studies shall also show such proposed changes in the elevations and the flow of surface water from such land. The topographical and profile studies required hereunder may be prepared as a subsidiary study or studies separate from, but of the same scale and size as the subdivision plat, and shall be prepared in such a manner as will permit the topographical study or studies to be used as overlays to the subdivision plat. The plat must show all angular and linear data along the exterior boundaries of the tract of land divided or subdivided, the names of all public streets and the width, course and extent of all public streets, alleys and ways for public service facilities. References must also be made upon the plat to known and permanent monuments from which future survey may be made and the surveyor must, at the time of making his survey, set in such manner that they will not be moved by frost, good and sufficient monuments marking the external boundaries of the tract to be divided or subdivided and must designate upon the plat the points where they may be found. These monuments must be placed at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line and at all angle points along a meander line, the points to be not less than 20 feet back from the normal water elevation of a lake or from the bank of a stream, except that when such corners or points fall within a street, or proposed future street, the monuments must be placed in the right of way line of the street. All internal boundaries, corners and points must be monumented in the field by like monuments as defined above. These monuments 2 of which must be of stone or reinforced concrete and must be set at the opposite extremities of the property platted, placed at all block corners, at each end of all curves, at the points where a curve changes its radius, and at all angle points in any line. All lots must be monumented in the field with 2 or more monuments.

The monuments must be furnished by the person for whom the survey is made and must be such that they will not be moved by frost. If any city, village or town has adopted an official plan, or part thereof, in the manner prescribed by law, the plat of land situated within the area affected thereby must conform to the official plan, or part thereof.

(b) Except as provided in subsection (c) of this Section, the provisions of this Act do not apply and no subdivision plat is required in any of the following instances:

1. The division or subdivision of land into parcels or tracts of 5 acres or more in size which does not involve any new streets or easements of access;

2. The division of lots or blocks of less than 1 acre in any recorded subdivision which does not involve any new streets or easements of access;

3. The sale or exchange of parcels of land between owners of adjoining and contiguous land;

4. The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;

5. The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;

6. The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

7. Conveyances made to correct descriptions in prior conveyances.

8. The sale or exchange of parcels or tracts of land following the division into no more than 2 parts of a particular parcel or tract of land existing on July 17, 1959 and not involving any new streets or easements of access.

9. The sale of a single lot of less than 5 acres from a larger tract when a survey is made by an Illinois Registered Land Surveyor; provided, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration

of the larger tract on October 1, 1973, and provided also that this exemption does not invalidate any local requirements applicable to the subdivision of land.

10. The preparation of a plat for wind energy devices under Section 10–620 of the Property Tax Code.

Nothing contained within the provisions of this Act shall prevent or preclude individual counties from establishing standards, ordinances, or specifications which reduce the acreage minimum to less than 5 acres, but not less than 2 acres, or supplementing the requirements contained herein when a survey is made by an Illinois Registered Land Surveyor and a plat thereof is recorded, under powers granted to them.

(c) However, if a plat is made by an Illinois Registered Surveyor of any parcel or tract of land otherwise exempt from the plat provisions of this Act pursuant to subsection (b) of this Section, such plat shall be recorded. It shall not be the responsibility of a recorder of deeds to determine whether the plat has been made or recorded under this subsection (c) prior to accepting a deed for recording.

R.S.1874, p. 771, § 1, eff. July 1, 1874. Amended by Laws 1943, vol. 1, p. 998, § 1, eff. July 23, 1943; Laws 1949, p. 1188, § 1, eff. Aug. 4, 1949; Laws 1955, p. 2018, § 1, eff. July 14, 1955; Laws 1959, p. 1510, § 1, eff. July 17, 1959; Laws 1965, p. 3215, § 1, eff. Aug. 20, 1965; Laws 1967, p. 2121, § 1, eff. July 26, 1967; P.A. 78–553, § 1, eff. Oct. 1, 1973; P.A. 78–567, § 1, eff. Oct. 1, 1973; P.A. 78–1297, § 34, eff. March 4, 1975; P.A. 80–318, § 1, eff. Oct. 1, 1977; P.A. 81–1509, Art. II, § 84, eff. Sept. 26, 1980; P.A. 83–627, § 1, eff. Jan. 1, 1984; P.A. 83–634, § 3, eff. Jan. 1, 1984; P.A. 84–373, § 1, eff. Jan. 1, 1986; P.A. 95–644, § 40, eff. Oct. 12, 2007.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 1.

205/1.005. School district statement

§ 1.005. School district statement.

(a) When an owner is required to file a plat pursuant to Section 1 of this Act, the owner shall submit simultaneously with the subdivision plat a notarized statement indicating, to the best of the owner's knowledge, the school district in which each tract, parcel, lot, or block lies.

(b) An owner who knowingly files an incorrect statement under this Section is liable for damages to any subsequent purchaser of the property who relies on the incorrect statement to that person's detriment.

R.S. 1874, p. 771, § 1.005, added by P.A. 90–286, § 5, eff. Jan. 1, 1998.

205/1.01. Area disconnected from park district; subdivision into plats

§ 1.01. No area of land or any part thereof which has been disconnected from any park district pursuant to Section 3–6b of "The Park District Code",[1] shall be subdivided into lots and blocks within one year from the date of such disconnection. No plan of any such proposed subdivision shall be presented by any person for recording or registration within such one year period unless the land comprising such proposed subdivision has thereafter been incorporated into a city, village or incorporated town.

R.S.1874, p. 771, § 1.01, added by Laws 1965, p. 2712, § 1, eff. Aug. 6, 1965.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 1.01.

[1] 70 ILCS 120/3–6b.

205/1.02. Area annexed to, or disconnected from, municipality; filing and preparation of plats

§ 1.02. When any city, village, municipal corporation or political subdivision in the State annexes or disconnects territory, a plat of the land included in the disconnection or annexation must be filed with the recorder in the county or counties where the territory is located. In counties where the county clerk is not also the county recorder, a copy of the plat shall also be filed with the county clerk. Each plat shall state a legal description or descriptions sufficient to identify the boundaries of the annexed or disconnected territory, by reference to government surveys or by metes and bounds, including the section, township and range in which the territory is located. Such a plat must be prepared by a Registered Land Surveyor or in the case of cities, villages and incorporated towns by a Registered Land Surveyor or a duly employed municipal engineer registered under the laws of the State of Illinois, provided such engineer has had training in the field of civil engineering.

R.S.1874, p. 771, § 1.02, added by Laws 1967, p. 2121, § 1, eff. July 26, 1967. Amended by P.A. 76–1463, § 1, eff. Sept. 22, 1969; P.A. 83–358, § 75, eff. Sept. 14, 1983; P.A. 87–1189, Art. 5, § 3, eff. Sept. 24, 1992.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 1.02.

205/2. Acknowledgment of plat; approval; recording

§ 2. The plat must be completed, a statement from a Registered Land Surveyor attached and acknowledged by the owner of the land, or his attorney duly authorized, in the same manner as deeds of land are required to be acknowledged. The plat must be submitted to the city council of the city or board of trustees of the village or town or to the officer designated by them, for their or his approval, if the land subdivided is located within the corporate limits of any such city, village or town or within contiguous territory which is affected by an official plan, or part thereof, of any city, village or town. If the land subdivided is located outside the corporate limits of any city, village or town and is not affected by such official plan, or part thereof, the plat must be submitted to the county board of the county in which the land is located for its approval. Within 3 business days after a plat is submitted for approval, the city council, board of trustees, designated officer, or county board shall notify the president of the school board of each school district in which any of the subdivided land is located that the plat has been submitted for approval and that it is available for inspection. The notice shall also give the date, time, and place of the hearing on approval or disapproval of the plat. The notice shall be served by certified mail, return receipt requested, or by personal delivery. Failure to notify the school board as required by this Section does not invalidate the plat.

Neither the city council of the city, the board of trustees of the village or town or the officer designated by them, or the county board of the county shall approve such plat, unless, in addition to any other requirements of such council, board of trustees or county board or the officer or officers designated by them, the topographical and profile studies to be submitted with the subdivision plat have on their face the signed statement of a Registered Professional Engineer, and the owner of the land or his duly authorized attorney, to the effect that to the best of their knowledge and belief the drainage of surface waters will not be changed by the construction of such subdivision or any part thereof, or, that if such surface water drainage will be changed, reasonable

provision has been made for collection and diversion of such surface waters into public areas, or drains which the subdivider has a right to use, and that such surface waters will be planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of the subdivision. The topographical and profile studies required herein shall not be recorded, but shall be retained and filed by city, village or county to which submitted for approval of the subdivision plat, as permanent public documents.

Neither the city council of the city, the board of trustees of the village or town or the officer designated by them, or the county board of the county shall approve such plat, unless, in addition to any other requirements of such council, board of trustees or county board or the officer or officers designated by them, the plat has been approved in writing (i) except in municipalities with a population of 1,000,000 or more, by the Illinois Department of Transportation with respect to roadway access where such access is to a state highway, (ii) by the relevant local highway authority with respect to all other roadway access, and (iii) by the local health department, if one exists, with respect to sewage disposal systems if any part of the platted land will not be served by a public sewer system. An applicant shall simultaneously file with the Illinois Department of Transportation, relevant local highway authority, or local health department, as appropriate, a copy of the application for preliminary approval of a proposed plat that is filed with the municipality or county. The department or authority receiving the application shall review the application based solely upon safety or access control standards and provide written approval or disapproval to the municipal or county plan commission and to the municipal or county corporate authorities not later than 90 days from the date the application is received. The 90 day period may be changed by mutual agreement. If disapproved, the department or authority shall provide reasons for the disapproval related to safety or access control standards and identify improvements that will remove the disapproval. The municipal or county corporate authorities may approve the plat once the improvements have been incorporated into the application or in the event that the department or authority fails to respond in writing to the municipality or county within the 90 day period or other period established by mutual agreement. The failure of the city council of a municipality with a population of 1,000,000 or more to obtain approval of a plat in writing by the Illinois Department of Transportation with respect to roadway access where such access is to a State highway, prior to the approval of any such plat as required by this Section, where such failure occurred on or after January 1, 1988 and before the effective date of this amendatory Act of 1989, shall not affect the validity of such plat, and any such plat otherwise complying with the provisions of this Section is validated.

The statement of the Registered Land Surveyor and of acknowledgment, together with the plat, must be recorded by the Land Surveyor who prepared the plat, or a person designated by that Land Surveyor, or upon the death, incapacity, or absence of that Land Surveyor, by the owner of the land or his or her representative, in the recorder's office of the county in which the land is situated, or if the title to the land is registered under the Land Titles Act,[1] must be filed in the office of the registrar of titles for the county, and such acknowledgment and recording or such acknowledgment and filing as aforesaid, shall have like effect and certified copies thereof and of such plat, or of any plat heretofore acknowledged and certified according to law, may be used in evidence to the same extent and with like effect, as in case of deeds. The recorder or registrar of titles shall not record or register a plat offered for recording or registration after October 1, 1977, unless such plat is at least 8½ inches by 14 inches but not more than 30 inches by 36 inches. In counties of 1,000,000 or more population the recorder or the registrar of titles must not record or register the plat unless the persons submitting the plat for recording or registration simultaneously therewith deliver to the recorder or registrar of titles 6 true and exact copies thereof. In all counties, the recorder or registrar of titles shall not record or register a plat, unless the plat states the current mailing address of the person submitting the plat for recording or registration. Any changes to the unrecorded plat as may be desired or required by any party must be made by the Registered Land Surveyor who prepared the original plat, and in the event of the death, incapacity, or absence of that Land Surveyor, by another Registered Land Surveyor who shall specifically identify the change or changes made on the face of the plat.

An original plat, having been properly certified, acknowledged, approved and recorded or filed as above provided in this Section, may be retained as the permanent record by the recorder or registrar.

R.S.1874, p. 771, § 2, eff. July 1, 1874. Amended by Laws 1921, p. 677, § 1, eff. July 1, 1921; Laws 1949, p. 1188, § 1, eff. Aug. 4, 1949; Laws 1957, p. 2827, § 1, eff. July 11, 1957; Laws 1967, p. 2121, § 1, eff. July 1, 1967; P.A. 78–567, § 1, eff. Oct. 1, 1973; P.A. 80–967, § 1, eff. Oct. 1, 1977; P.A. 81–783, § 1, eff. Jan. 1, 1980; P.A. 83–358, § 75, eff. Sept. 14, 1983; P.A. 85–500, § 1, eff. Jan. 1, 1988; P.A. 86–284, § 1, eff. Jan. 1, 1990; P.A. 86–768, § 1, eff. July 1, 1990; P.A. 86–1028, Art. II, § 2–49, eff. Feb. 5, 1990; P.A. 86–1238, § 1, eff. Aug. 31, 1990; P.A. 86–1349, § 1, eff. Jan. 1, 1991; P.A. 86–1475, Art. 2, § 2–27, eff. Jan. 10, 1991; P.A. 87–705, § 1, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 2.

[1] 765 ILCS 35/1 et seq.

205/3. Dedication; effect of

§ 3. The acknowledgment and recording of such plat, or the acknowledgment and the filing of the same shall be held in all courts to be a conveyance in fee simple of such portions of the premises platted as are marked or noted on such plat as donated or granted to the public, or any person, religious society, corporation or body politic, and as a general warranty against the donor, his or her heirs and representatives, to such donee or grantee, for their use or for the use and purposes therein named or intended, and for no other use or purpose; and the premises intended for any street, alley, way, common or other public use in any city, village or town, or addition thereto, shall be held in the corporate name thereof in trust to and for the uses and purposes set forth or intended.

R.S.1874, p. 771, § 3, eff. July 1, 1874. Amended by Laws 1921, p. 677, § 1, eff. July 1, 1921; P.A. 83–345, § 62, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 3.

205/4. Neglect to plant corner stone; penalty

§ 4. Whoever shall lay out any town or make any addition to any city, village or town, or re-subdivide any lots or blocks therein, and neglect to plant any corner stone when required by this act, or shall survey the same or cause it to be surveyed in any other manner than that which is prescribed

in this act, shall be guilty of a petty offense and fined in any sum not less than $25 nor exceeding $100.

R.S.1874, p. 771, § 4, eff. July 1, 1874. Amended by P.A. 77–2561, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 4.

205/5. Sales or leases exceeding five years; prohibitions; exception

§ 5. Whoever sells or leases for any time exceeding five years, any lot or block in or outside of any town, city or village before all the requirements of this Act have been complied with, shall be guilty of a petty offense and fined $25 for each lot or block or part thereof so disposed of or leased. Nothing in this Section shall prohibit an offer of sale or acceptance of deposit by a seller before compliance with the requirements of this Act, provided that compliance occurs before conveyance of any deed to the property.

R.S.1874, p. 771, § 5, eff. July 1, 1874. Amended by Laws 1943, vol. 1, p. 998, § 1, eff. July 23, 1943; P.A. 77–2561, § 1, eff. Jan. 1, 1973; P.A. 90–308, § 5, eff. Aug. 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 5.

205/5a. Duty of recorder or registrar of title

§ 5a. The recorder or the Registrar of Title of any county shall not record deeds or leases which attempt to convey property contrary to the provisions of this Act. In case of doubt, the recorder or the Registrar of Title of any County may require the person presenting such deed or lease to give evidence of the legality of a conveyance by an affidavit as to the facts which exempt such conveyance from the provisions of this Act.

R.S.1874, p. 771, § 5a, added by Laws 1955, p. 2018, § 1, eff. July 14, 1955. Amended by P.A. 83–358, § 75, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 5a.

VACATION OF PLATS

205/6. Written instruments; reservations; approval

§ 6. Any plat may be vacated by the owner of the premises at any time before the sale of any lot therein, by a written instrument to which a copy of the plat is attached, declaring it to be vacated. If there are public service facilities in the highways, streets, alleys and other public ways and in easements shown on the plat, the instrument shall reserve to the public body or public utility owning such facilities, the property, rights of way and easements necessary for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction of the same. The instrument shall be approved by the city council or village or county board in the same manner as plats of subdivisions. The instrument shall also be submitted for approval to the Highway Commissioner and to the county engineer or superintendent of highways and to the District Engineer of the Department of Transportation of this State and to the public utility or utilities involved. The council, board, Highway Commissioner, county engineer or superintendent of highways or District Engineer of the Department of Transportation of this State, as the case may be, may reject any instrument that abridges or destroys any public rights in any of its streets and alleys. The instrument shall be executed, acknowledged or proved and recorded or filed in the same manner as plats or subdivisions. Once recorded or filed the instrument operates to destroy the effect of the recording of the plat vacated and to divest all public rights in the streets, alleys and public grounds and all dedications laid out or described in the plat and to render effective any reservation set forth in the instrument as provided in this Section. When lots have been sold the plat may be vacated in the manner provided in this Section by all the owners of lots in the plat joining in the execution of the writing.

R.S.1874, p. 771, § 6, eff. July 1, 1874. Amended by Laws 1917, p. 642, § 1, eff. July 1, 1917; Laws 1921, p. 677, § 1, eff. July 1, 1921; Laws 1967, p. 3461, § 1, eff. Aug. 31, 1967; P.A. 81–840, § 45, eff. Sept. 19, 1979; P.A. 87–217, § 5, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 6.

205/7. Vacation of part of plat

§ 7. Any part of a plat may be vacated in the manner provided in the preceding section, and subject to the conditions therein prescribed: Provided, such vacation shall not abridge or destroy any of the rights or privileges of other proprietors in such plat: And, provided, further, that nothing contained in this section shall authorize the closing or obstructing of any public highway laid out according to law.

R.S.1874, p. 771, § 7, eff. July 1, 1874.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 7.

205/8. Canceling plat of record

§ 8. When any plat or part thereof is vacated the recorder or registrar of titles in whose office the plat is recorded or filed as aforesaid, shall, upon the recording of such vacation, write in plain letters across the plat or part so vacated the word "vacated," and shall also make a reference on the same to the volume and page in which the instrument of vacation is recorded.

R.S.1874, p. 771, § 8, eff. July 1, 1874. Amended by Laws 1921, p. 677, § 1, eff. July 1, 1921.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 8.

PLATS TO BE RECORDED, ETC.

205/9. Plats of highways, etc., to be made and recorded; registration of titles

§ 9. Whenever any highway, road, street, alley, public ground, toll-road, railroad, reservoir or canal is laid out, located, opened, widened or extended, or its location altered, it is the duty of the commissioners, authorities, officers, persons or corporations, public or private, laying out, locating, opening, widening, extending or altering the same, to make a plat, showing its width, courses and extent, and making reference to known and established corners or monuments. When the location of a subdivision, lots or parcel within a subdivision, tract, highway, road, street, alley, public ground, toll-road, railroad, reservoir or canal is known either by established corners or adequate, existing records, the monument or monuments shall be located and referenced either by or under the direction of a Registered Land Surveyor at the time such highway, road, street, alley, public ground, toll-road, railroad, reservoir or canal is laid out, located, widened or extended, or its location altered. Suitable permanent monuments shall be reset in the surface of new construction or permanent witness monuments set to perpetuate their location and certified as correct by a Registered Land Surveyor. The plat shall be recorded in the office of the recorder of the county in which the premises are taken or used, or any part thereof, are situated, or in case of land the title to which is registered under "An Act concern-

ing land titles", approved May 1, 1897, as amended,[1] to be filed in the office of the registrar of titles for the county, within 6 months after such highway, road, street, alley, public ground, toll-road, railroad, reservoir or canal is laid out, located, opened, widened, or extended, or the location thereof altered and when any highway, road, street, alley, public ground, toll-road, railroad, reservoir or canal is vacated, the order, ordinance or other declaration of vacation must be in like manner recorded or filed. The recorder or registrar of titles shall not record or register a plat offered for recording or registration after October 1, 1977, unless such plat is at least 8½ inches by 14 inches but not more than 30 inches by 36 inches. Sufficient controlling monuments shall be retained or replaced in their original positions or reference monuments established from original controlling monuments, so as to enable land lines, property corners or tract boundaries to be re-established without surveys based on monuments differing from the ones which currently control the area. Every land surveyor is under a duty to cooperate in matters of maps, field notes and other pertinent records. This Act shall not be construed to alter or affect any law specifically providing for the recording or filing of any plat, or to require the same to be recorded or filed sooner than is so specifically provided; except that any requirements to record or file such plat in any other place than is provided herein do not excuse the parties from complying with this Act. Any party who refuses or neglects to comply with this Section shall be guilty of a petty offense for every month he continues in such refusal or neglect after conviction, to be recovered by an action in the circuit court of the county, in the name of the county, ½ to the use of the county and the other ½ to the use of the person complaining.

The provisions of this Section shall not apply to a railroad subject to the jurisdiction of the Interstate Commerce Commission or any abandonment of all or a portion of such railroad, except that the provisions of this Section shall apply to the construction of a new line of railroad.

R.S.1874, p. 771, § 9, eff. July 1, 1874. Amended by Laws 1921, p. 677, § 1, eff. July 1, 1921; Laws 1965, p. 3654, § 1, eff. Aug. 24, 1965; Laws 1967, p. 2121, § 1, eff. July 26, 1967; P.A. 77–2561, § 1, eff. Jan. 1, 1973; P.A. 78–255, § 34, eff. Oct. 1, 1973; P.A. 79–1366, § 15, eff. Oct. 1, 1976; P.A. 80–967, § 1, eff. Oct. 1, 1977; P.A. 83–358, § 75, eff. Sept. 14, 1983; P.A. 88–81, § 5, eff. Jan. 1, 1994.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 9.

[1] 765 ILCS 35/0.01 et seq.

205/9.1. Extensions or widenings of highways

§ 9.1. When any county or township authority proposes to extend or widen a public highway by obtaining easements from abutting property owners without transfer of land titles, then such map or plat of the land parcels involved in the easement must be prepared by a Registered Land Surveyor or by a duly employed county engineer or superintendent of highways registered as an engineer under the laws of the State of Illinois.

R.S.1874, p. 771, § 9.1, added by P.A. 76–1463, § 1, eff. Sept. 22, 1969. Amended by P.A. 87–217, § 5, eff. Jan. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 9.1.

205/10. Prosecuting offenders

§ 10. Whenever it shall come to the knowledge of the recorder or of the registrar of titles of any county that any of the provisions of this Act have been violated, it shall be his duty to notify the State's attorney of the fact, and the State's attorney shall immediately institute proceedings, and prosecute the same to final judgment against the person offending.

R.S.1874, p. 771, § 10, eff. July 1, 1874. Amended by Laws 1921, p. 677, § 1, eff. July 1, 1921; P.A. 83–358, § 75, eff. Sept. 14, 1983.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 10.

205/11. Destruction or removal of stake, pin, etc.; punishment

§ 11. Any unauthorized person who knowingly damages, destroys or removes a stake, pin, monument or other survey marker shall be guilty of a Class A misdemeanor. For purposes of this Section, a surveyor who moves a stake, pin, monument or other survey marker for the purpose of correcting a survey is an authorized person.

R.S.1874, p. 771, § 11, added by P.A. 76–650, § 1, eff. Aug. 6, 1969. Amended by P.A. 77–2561, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 109, ¶ 10.1.

205/56. Duty of counties issuing building/improvement permits.

§ 56. Duty of counties issuing building/improvement permits. Counties that are authorized by law to exercise land use control through a building/improvement permit process may deny the issuance of a building permit for building or other improvement to be constructed on a parcel of land subdivided contrary to the provisions of this Act.

R.S. 1874, p. 771, § 56, added by P.A. 93–744, § 5, eff. July 15, 2004.

CHAPTER 775

HUMAN RIGHTS

ACT 10. PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT

Section

10/0.01. Short title.

10/1. Discrimination in employment prohibited.

10/2. Deemed incorporated in contract.

10/3. Includes independent contractors, etc..

10/4. Deduction from compensation.

10/5. Recovery by injured person.

10/6. Violations; punishment.

10/7. To be inscribed in contract.

10/8. Partial invalidity; construction.

ACT 10. PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT

10/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Public Works Employment Discrimination Act.

Laws 1933, p. 296, § 0.01, added by P.A. 86–1324, § 243, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 16.9.

10/1. Discrimination in employment prohibited

§ 1. (a) No person shall be refused or denied employment in any capacity on the ground of unlawful discrimination, as that term is defined in the Illinois Human Rights Act,[1] nor be subjected to unlawful discrimination in any manner, in connection with the contracting for or the performance of any work or service of any kind, by, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, or other political subdivision or agency thereof.

(b) The Illinois Human Rights Act applies to all contracts identified in subsection (a).

Laws 1933, p. 296, § 1. Amended by P.A. 78–848, § 1, eff. Oct. 1, 1973; P.A. 81–1216, § 10–101, eff. July 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 17.

[1] 775 ILCS 5/1–101 et seq.

10/2. Deemed incorporated in contract

§ 2. The provisions of this Act shall automatically enter into and become a part of each and every contract or other agreement hereafter entered into by, with, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, providing for or relating to the performance of any of the said work or services or of any part thereof.

Laws 1933, p. 296, § 2.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 18.

10/3. Includes independent contractors, etc.

§ 3. The provisions of this Act also shall apply to all contracts entered into by or on behalf of all independent contractors, subcontractors, and any and all other persons, association or corporations, providing for or relating to the doing of any of the said work or the performance of any of the said services, or any part thereof.

Laws 1933, p. 296, § 3.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 19.

10/4. Deduction from compensation

§ 4. No contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work for the benefit of the State or for any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, on account of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin; and there may be deducted from the amount payable to the contractor by the State of Illinois or by any municipal corporation thereof, under this contract, a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Act.

Laws 1933, p. 296, § 4. Amended by P.A. 80–336, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 20.

10/5. Recovery by injured person

§ 5. Any person, agency, corporation or association who violates any of the provisions of this Act, or who aids, abets, incites or otherwise participates in the violation of any of the provisions, whether the violation or participation therein occurs through action in a private, public or in any official capacity, shall be guilty of a petty offense for each and every violation or participation therein with respect to each person aggrieved thereby, to be recovered by each such aggrieved person, or by any other person to whom such aggrieved person shall assign his cause of action, in the circuit court in the county in which the plaintiff or the defendant shall reside.

Laws 1933, p. 296, § 5. Amended by P.A. 77–2365, § 1, eff. Jan. 1, 1973; P.A. 79–1360, § 2, eff. Oct. 1, 1976.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 21.

10/6. Violations; punishment

§ 6. Any person who or any agency, corporation or association which shall violate any of the provisions of the foregoing sections, or who or which shall aid, abet, incite or otherwise participate in the violation of any of the said provisions, whether the said violation or participation therein shall occur through action in a private, in a public, or in any official capacity, shall also be deemed guilty of a petty offense for each and every said violation or participation or,

in the case of non-corporate violators, or participators, of a Class B misdemeanor.

Laws 1933, p. 296, § 6. Amended by P.A. 77–2365, § 1, eff. Jan. 1, 1973.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 22.

10/7. To be inscribed in contract

§ 7. The provisions of this Act shall be printed or otherwise inscribed on the face of each contract to which it shall be applicable, but their absence therefrom shall in no wise prevent or affect the application of the said provisions to the said contract.

Laws 1933, p. 296, § 7.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 23.

10/8. Partial invalidity; construction

§ 8. The invalidity or unconstitutionality of any one or more provisions, parts, or sections of this Act shall not be held or construed to invalidate the whole or any other provision, part, or section thereof, it being intended that this Act shall be sustained and enforced to the fullest extent possible and that it shall be construed as liberally as possible to prevent refusals, denials, and discriminations of and with reference to the award of contracts and employment thereunder, on the ground of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin.

Laws 1933, p. 296, § 8. Amended by P.A. 80–336, § 1, eff. Oct. 1, 1977.

Formerly Ill.Rev.Stat.1991, ch. 29, ¶ 24.

CHAPTER 815

BUSINESS TRANSACTIONS

CONTRACTS

ACT 660. NON–RESIDENT CONTRACTOR BOND ACT

Section

660/1 to 660/49. Repealed.

CONTRACTS

ACT 660. NON–RESIDENT CONTRACTOR BOND ACT

660/1 to 660/49. §§ 1 to 49. Repealed by P.A. 92–323, § 5, eff. Jan. 1, 2002

CHAPTER 820

EMPLOYMENT

WAGES AND HOURS

ACT 130. PREVAILING WAGE ACT

Section

130/0.01. Short title.
130/1. Declaration of policy.
130/2. Application of Act; definitions.
130/3. Generally prevailing wages to be paid; employees included.
130/4. Ascertaining prevailing wage.
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130/8. Prevailing wage not ascertainable; contract.
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130/10. Witnesses; subpoena.
130/11. Prerequisites to institution or continuance of work; recovery of difference between stipulated or prevailing wages and wages received; costs and attorney's fees.
130/11a. Contractors or subcontractors; disregarding obligations to employees; publication; hearings.
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130/12. Partial invalidity.

HEALTH AND SAFETY

ACT 265. SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS PROJECT ACT

265/1. Short title.
265/5. Definitions.
265/10. Substance abuse prohibited.
265/15. Substance abuse prevention programs required.
265/20. Employee access to project.
265/25. Applicability.
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WAGES AND HOURS

ACT 130. PREVAILING WAGE ACT

130/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Prevailing Wage Act.

Laws 1941, vol. 1, p. 703, § 0.01, added by P.A. 86–1324, § 456, eff. Sept. 6, 1990.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–0.01.

130/1. Declaration of policy

§ 1. It is the policy of the State of Illinois that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workers and mechanics employed by or on behalf of any and all public bodies engaged in public works.

Laws 1941, vol. 1, p. 703, § 1, eff. July 1, 1941. Amended by Laws 1957, p. 2662, § 1, eff. July 11, 1957; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 83–443, § 1, eff. Jan. 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–1.

130/2. Application of Act; definitions

§ 2. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

As used in this Act, unless the context indicates otherwise:

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), [1] the Industrial Building Revenue Bond Act, [2] the Illinois Finance Authority Act, [3] the Illinois Sports Facilities Authority Act, [4] or the Build Illinois Bond Act; [5] loans or other funds made available pursuant to the Build Illinois Act;[6] loans or other funds made available pursuant to the Riverfront Development Fund under Section 10–15 of the River Edge Redevelopment Zone Act; or funds from the Fund for Illinois' Future under Section 6z–47 of the State Finance Act, [7] funds for school construction under Section 5 of the General Obligation Bond Act, [8] funds authorized under Section 3 of the School Construction Bond Act, [9] funds for school infrastructure under Section 6z–45 of the State Finance Act, [10] and funds for transportation purposes under Section 4 of the General Obligation Bond Act. [11] "Public works" also includes (i) all projects financed in whole or in part with funds from the Department of Commerce and Economic Opportunity under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement; (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act or the Public–Private Agreements for the South Suburban Airport Act; and (iii) all projects undertaken under a public-private agreement under the Public–Private Partnerships for Transportation Act. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a

business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes any corrective action performed pursuant to Title XVI of the Environmental Protection Act for which payment from the Underground Storage Tank Fund is requested. "Public works" does not include projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence. "Public works" does not include work performed for soil and water conservation purposes on agricultural lands, whether or not done under public supervision or paid for wholly or in part out of public funds, done directly by an owner or person who has legal control of those lands.

"Construction" means all work on public works involving laborers, workers or mechanics. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus annualized fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

Laws 1941, vol. 1, p. 703, § 2, eff. July 1, 1941. Amended by Laws 1951, p. 1493, § 1, eff. July 12, 1951; Laws 1957 p. 2662, § 1, eff. July 11, 1957; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; Laws 1963, p. 1951, § 1, eff. July 25, 1963; Laws 1967, p. 2392, § 1, eff. July 31, 1967; P.A. 77–169, § 1, eff. Jan. 1, 1972; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 83–443, § 1, eff. Jan. 1, 1984; P.A. 86–799, § 1, eff. Jan. 1, 1990; P.A. 86–1028, Art. III, § 3–16, eff. Feb. 5, 1990; P.A. 91–105, § 5, eff. Jan. 1, 2000; P.A. 91–935, § 25, eff. June 1, 2001; P.A. 92–16, § 106, eff. June 28, 2001; P.A. 93–15, § 905, eff. June 11, 2003; P.A. 93–16, § 5, eff. Jan. 1, 2004; P.A. 93–205, Art. 890, § 890–28, eff. Jan. 1, 2004; P.A. 94–750, § 910, eff. May 9, 2006; P.A. 95–341, § 5, eff. Aug. 21, 2007; P.A. 96–28, § 10, eff. July 1, 2009; P.A. 96–58, § 5, eff. Jan. 1, 2010; P.A. 96–186, § 5, eff. Jan. 1, 2010; P.A. 96–913, § 945, eff. June 9, 2010; P.A. 96–1000, § 695, eff. July 2, 2010; P.A. 97–502, § 950, eff. Aug. 23, 2011; P.A. 98–109, § 5–75, eff. July 25, 2013; P.A. 98–482, § 5, eff. Jan. 1, 2014; P.A. 98–740, § 5, eff. July 16, 2014; P.A. 98–756, § 825, eff. July 16, 2014.

[1] 65 ILCS 5/11–74–1 et seq.

[2] 50 ILCS 445/1 et seq.

[3] 20 ILCS 3505/1 et seq.

[4] 70 ILCS 3205/1 et seq.

[5] 30 ILCS 425/1 et seq.

[6] 30 ILCS 750/1–1 et seq.

[7] 30 ILCS 105/6z–47.

[8] 30 ILCS 330/5.

[9] 30 ILCS 390/3.

[10] 30 ILCS 105/6z–45.

[11] 30 ILCS 330/4.

P.A. 98–740, § 5, in the paragraph beginning with " 'Public works' ", added " 'Public works' does not include work performed for soil and water conservation purposes on agricultural lands, whether or not done under public supervision or paid for wholly or in part out of public funds, done directly by an owner or person who has legal control of those lands."

P.A. 98–756, the First 2014 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to renumber sections, and to resolve multiple actions. Public Acts 97–1145 through 98–589 were considered in the preparation of the combining revisories included in this Act.

See 5 ILCS 70/6 as to effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

130/3. Generally prevailing wages to be paid; employees included

§ 3. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction or demolition of public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented. Only such laborers, workers and mechanics as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the site, but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment, in the execution of any contract or contracts for public works with any public body shall be deemed to be employed upon public works. The wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction or demolition.

Laws 1941, vol. 1, p. 703, § 3, eff. July 1, 1941. Amended by Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 83–443, § 1, eff. Jan. 1, 1984; P.A. 93–15, § 905, eff. June 11, 2003; P.A. 93–16, § 5, eff. Jan. 1, 2004; P.A. 95–341, § 5, eff. Aug. 21, 2007; P.A. 96–186, § 5, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–3.

130/4. Ascertaining prevailing wage

§ 4. Ascertaining prevailing wage.

(a) The public body awarding any contract for public work or otherwise undertaking any public works, shall ascertain the general prevailing rate of hourly wages in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract, and where the public body performs the work without letting a contract therefor, shall ascertain the prevailing rate of wages on a per hour basis in the locality, and such public body shall specify in the resolution or ordinance and in the call for bids for the contract, that the general prevailing rate of wages in the locality for each craft or type of worker or mechanic needed to execute the contract or perform such work, also the general prevailing rate for legal holiday and overtime work, as ascertained by the public body or by the Department of Labor shall be paid for each craft or type of worker needed to execute the contract or to perform such work, and it shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, and where the public body performs the work, upon the public body, to pay not less than the specified rates to all laborers, workers and mechanics employed by them in the execution of the contract or such work; provided, however, that if the public body desires that the Department of Labor ascertain the prevailing rate of wages, it shall notify the Department of Labor to ascertain the general prevailing rate of hourly wages for work under contract, or for work performed by a public body without letting a contract as required in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. Upon such notification the Department of Labor shall ascertain such general prevailing rate of wages, and certify the prevailing wage to such public body.

(a–1) The public body or other entity awarding the contract shall cause to be inserted in the project specifications and the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers and mechanics performing work under the contract.

(a–2) When a public body or other entity covered by this Act has awarded work to a contractor without a public bid, contract or project specification, such public body or other entity shall comply with subsection (a–1) by providing the contractor with written notice on the purchase order related to the work to be done or on a separate document indicating that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers, and mechanics performing work on the project.

(a–3) Where a complaint is made and the Department of Labor determines that a violation occurred, the Department of Labor shall determine if proper written notice under this Section 4 was given. If proper written notice was not provided to the contractor by the public body or other entity, the Department of Labor shall order the public body or other entity to pay any interest, penalties or fines that would have been owed by the contractor if proper written notice were provided. The failure by a public body or other entity to provide written notice does not relieve the contractor of the duty to comply with the prevailing wage rate, nor of the obligation to pay any back wages, as determined under this Act. For the purposes of this subsection, back wages shall be limited to the difference between the actual amount paid and the prevailing rate of wages required to be paid for the project. The failure of a public body or other entity to provide written notice under this Section 4 does not diminish the right of a laborer, worker, or mechanic to the prevailing rate of wages as determined under this Act.

(b) It shall also be mandatory upon the contractor to whom the contract is awarded to insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. It shall also be mandatory upon each subcontractor to cause to be inserted into each lower tiered subcontract and into the project specifications for each lower tiered subcontract a stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. A contractor or subcontractor who fails to comply with this subsection (b) is in violation of this Act.

(b–1) When a contractor has awarded work to a subcontractor without a contract or contract specification, the contractor shall comply with subsection (b) by providing a subcontractor with a written statement indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project. A contractor or subcontractor who fails to comply with this subsection (b–1) is in violation of this Act.

(b–2) Where a complaint is made and the Department of Labor determines that a violation has occurred, the Department of Labor shall determine if proper written notice under this Section 4 was given. If proper written notice was not provided to the subcontractor by the contractor, the Department of Labor shall order the contractor to pay any interest, penalties, or fines that would have been owed by the subcontractor if proper written notice were provided. The failure by a contractor to provide written notice to a subcontractor does not relieve the subcontractor of the duty to comply with the prevailing wage rate, nor of the obligation to pay any back wages, as determined under this Act. For the purposes of this subsection, back wages shall be limited to the difference between the actual amount paid and the prevailing rate of wages required for the project. However, if proper written notice was not provided to the contractor by the public body or other entity under this Section 4, the Department of Labor shall order the public body or other entity to pay any interest, penalties, or fines that would have been owed by the subcontractor if proper written notice were provided. The failure by a public body or other entity to provide written notice does not relieve the subcontractor of the duty to comply with the prevailing wage rate, nor of the obligation to pay any back wages, as determined under this Act. For the purposes of this subsection, back wages shall be limited to the difference between the actual amount paid and the prevailing rate of wages required for the project. The failure to provide written notice by a public body, other entity, or contractor does not diminish the right of a laborer, worker, or mechanic to the prevailing rate of wages as determined under this Act.

(c) A public body or other entity shall also require in all contractor's and subcontractor's bonds that the contractor or subcontractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract or other written instrument. All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract.

(d) If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body or other entity, the revised rate shall apply to such contract, and the public

body or other entity shall be responsible to notify the contractor and each subcontractor, of the revised rate.

The public body or other entity shall discharge its duty to notify of the revised rates by inserting a written stipulation in all contracts or other written instruments that states the prevailing rate of wages are revised by the Department of Labor and are available on the Department's official website. This shall be deemed to be proper notification of any rate changes under this subsection.

(e) Two or more investigatory hearings under this Section on the issue of establishing a new prevailing wage classification for a particular craft or type of worker shall be consolidated in a single hearing before the Department. Such consolidation shall occur whether each separate investigatory hearing is conducted by a public body or the Department. The party requesting a consolidated investigatory hearing shall have the burden of establishing that there is no existing prevailing wage classification for the particular craft or type of worker in any of the localities under consideration.

(f) It shall be mandatory upon the contractor or construction manager to whom a contract for public works is awarded to post, at a location on the project site of the public works that is easily accessible to the workers engaged on the project, the prevailing wage rates for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. In lieu of posting on the project site of the public works, a contractor which has a business location where laborers, workers, and mechanics regularly visit may: (1) post in a conspicuous location at that business the current prevailing wage rates for each county in which the contractor is performing work; or (2) provide such laborer, worker, or mechanic engaged on the public works project a written notice indicating the prevailing wage rates for the public works project. A failure to post or provide a prevailing wage rate as required by this Section is a violation of this Act.

Laws 1941, vol. 1, p. 703, § 4, eff. July 1, 1941. Amended by Laws 1951, p. 1493, § 1, eff. July 12, 1951; Laws 1957, p. 2662, § 1, eff. July 11, 1957; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 86–799, § 1, eff. Jan. 1, 1990; P.A. 92–783, § 7, eff. Aug. 6, 2002; P.A. 93–15, § 905, eff. June 11, 2003; P.A. 93–16, § 5, eff. Jan. 1, 2004; P.A. 93–38, § 5, eff. June 1, 2004; P.A. 95–331, § 1270, eff. Aug. 21, 2007; P.A. 96–437, § 5, eff. Jan. 1, 2010; P.A. 97–964, § 5, eff. Jan. 1, 2013.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–4.

130/5. Certified payroll

§ 5. Certified payroll.

(a) Any contractor and each subcontractor who participates in public works shall:

(1) make and keep, for a period of not less than 3 years from the date of the last payment made before January 1, 2014 (the effective date of Public Act 98–328) and for a period of 5 years from the date of the last payment made on or after January 1, 2014 (the effective date of Public Act 98–328) on a contract or subcontract for public works, records of all laborers, mechanics, and other workers employed by them on the project; the records shall include (i) the worker's name, (ii) the worker's address, (iii) the worker's telephone number when available, (iv) the worker's social security number, (v) the worker's classification or classifications, (vi) the worker's gross and net wages paid in each pay period, (vii) the worker's number of hours worked each day, (viii) the worker's starting and ending times of work each day, (ix) the worker's hourly wage rate, (x) the worker's hourly overtime wage rate, (xi) the worker's hourly fringe benefit rates, (xii) the name and address of each fringe benefit fund, (xiii) the plan sponsor of each fringe benefit, if applicable, and (xiv) the plan administrator of each fringe benefit, if applicable; and

(2) no later than the 15th day of each calendar month file a certified payroll for the immediately preceding month with the public body in charge of the project. A certified payroll must be filed for only those calendar months during which construction on a public works project has occurred. The certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (a), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that: (i) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor. A general contractor is not prohibited from relying on the certification of a lower tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification. Any contractor or subcontractor subject to this Act and any officer, employee, or agent of such contractor or subcontractor whose duty as such officer, employee, or agent it is to file such certified payroll who willfully fails to file such a certified payroll on or before the date such certified payroll is required by this paragraph to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor. The public body in charge of the project shall keep the records submitted in accordance with this paragraph (2) of subsection (a) before January 1, 2014 (the effective date of Public Act 98–328) for a period of not less than 3 years, and the records submitted in accordance with this paragraph (2) of subsection (a) on or after January 1, 2014 (the effective date of Public Act 98–328) for a period of 5 years, from the date of the last payment for work on a contract or subcontract for public works. The records submitted in accordance with this paragraph (2) of subsection (a) shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The public body shall accept any reasonable submissions by the contractor that meet the requirements of this Section.

A contractor, subcontractor, or public body may retain records required under this Section in paper or electronic format.

(b) Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in paragraph (1) of subsection (a) of this Section to the public body in charge of the project, its officers and agents, the Director of Labor and his deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

(c) A contractor or subcontractor who remits contributions to fringe benefit funds that are jointly maintained and jointly governed by one or more employers and one or more labor organizations in accordance with the federal Labor Manage-

ment Relations Act shall make and keep certified payroll records that include the information required under items (i) through (viii) of paragraph (1) of subsection (a) only. However, the information required under items (ix) through (xiv) of paragraph (1) of subsection (a) shall be required for any contractor or subcontractor who remits contributions to a fringe benefit fund that is not jointly maintained and jointly governed by one or more employers and one or more labor organizations in accordance with the federal Labor Management Relations Act.

Laws 1941, vol. 1, p. 703, § 5, eff. July 1, 1941. Amended by Laws 1951, p. 1493, § 1, eff. July 12, 1951; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 92–783, § 7, eff. Aug. 6, 2002; P.A. 93–38, § 5, eff. June 1, 2004; P.A. 94–515, § 5, eff. Aug. 10, 2005; P.A. 94–1023, § 5, eff. July 12, 2006; P.A. 97–571, § 5, eff. Jan. 1, 2012; P.A. 98–328, § 5, eff. Jan. 1, 2014; P.A. 98–482, § 5, eff. Jan. 1, 2014; P.A. 98–756, § 825, eff. July 16, 2014.

130/5.1. Electronic database

§ 5.1. Electronic database. Subject to appropriation, the Department shall develop and maintain an electronic database capable of accepting and retaining certified payrolls submitted under this Act. The database shall accept certified payroll forms provided by the Department that are fillable and designed to accept electronic signatures.

Laws 1941, vol. 1, p. 703, § 5.1, added by P.A. 98–482, § 5, eff. Jan. 1, 2014.

130/6. Violations of Act; enforcement

§ 6. Any officer, agent or representative of any public body who wilfully violates, or willfully fails to comply with, any of the provisions of this Act, and any contractor or subcontractor, and any officer, employee, or agent thereof, who as such officer, employee, or agent, has a duty to create, keep, maintain, or produce any record or document required by this Act to be created, kept, maintained, or produced who willfully fails to create, keep, maintain, or produce such record or document as or when required by this Act, is guilty of a Class A misdemeanor.

The Department of Labor shall inquire diligently as to any violation of this Act, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of this Act. The Attorney General shall prosecute such cases upon complaint by the Department or any interested person.

Laws 1941, vol. 1, p. 703, § 6, eff. July 1, 1941. Amended by Laws 1951, p. 104, § 1, eff. July 1, 1951; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 77–2421, § 1, eff. Jan. 1, 1973; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 94–488, § 5, eff. Jan. 1, 2006; P.A. 97–571, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–6.

130/7. Finding as to prevailing wage final unless reviewed; higher wages; hours

§ 7. The finding of the public body awarding the contract or authorizing the work or the Department of Labor ascertaining and declaring the general prevailing rate of hourly wages shall be final for all purposes of the contract for public work then being considered, unless reviewed under the provisions of this Act. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, worker or mechanic employed on any public work, as aforesaid, of more than the prevailing rate of wages; provided further that nothing in this Act shall be construed to limit the hours of work which may be performed by any person in any particular period of time.

Laws 1941, vol. 1, p. 703, § 7, eff. July 1, 1941. Amended by Laws 1957, p. 2662, § 1, eff. July 11, 1957; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 81–992, § 14, eff. Jan. 1, 1980.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–7.

130/8. Prevailing wage not ascertainable; contract

§ 8. In the event the public body authorizing the work or the Department of Labor is unable to ascertain the prevailing rate of wage of any class of work required to be performed under the proposed contract, it is the duty of the Department of Labor where the determination of said prevailing rate has been referred to it to so notify the public body authorizing the proposed work, and it is the duty of the public body in either case to state the fact of inability to ascertain said prevailing rate in its resolution, ordinance or notice for bids in which event the clause specifying the prevailing wage as to such class of work may be excluded from the contract unless such wage may be determined by the court on appeal as provided by this Act.

Laws 1941, vol. 1, p. 703, § 8, eff. July 1, 1941. Amended by Laws 1951, p. 1493, § 1, eff. July 12, 1951; Laws 1957, p. 2662, § 1, eff. July 11, 1957.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–8.

130/9. Posting prevailing rates; filing publication; objections; hearing; review; appeal

§ 9. To effectuate the purpose and policy of this Act each public body shall, during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages as defined in this Act and publicly post or keep available for inspection by any interested party in the main office of such public body its determination of such prevailing rate of wage and shall promptly file, no later than July 15 of each year, a certified copy thereof in the office of the Illinois Department of Labor.

The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State. If a public body does not investigate and ascertain the prevailing rate of wages during the month of June as required by the previous paragraph, then the prevailing rate of wages for that public body shall be the rate as determined by the Department under this paragraph for the county in which such public body is located.

Where the Department of Labor ascertains the prevailing rate of wages, it is the duty of the Department of Labor within 30 days after receiving a notice from the public body authorizing the proposed work, to conduct an investigation to ascertain the prevailing rate of wages as defined in this Act and such investigation shall be conducted in the locality in which the work is to be performed. The Department of Labor shall send a certified copy of its findings to the public body authorizing the work and keep a record of its findings available for inspection by any interested party in the office of the Department of Labor at Springfield.

The public body except for the Department of Transportation with respect to highway contracts shall within 30 days after filing with the Department of Labor, or the Department of Labor shall within 30 days after filing with such public body, publish in a newspaper of general circulation within the area that the determination is effective, a notice of its determination and shall promptly mail a copy of its

determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

At any time within 30 days after the Department of Labor has published on its official web site a prevailing wage schedule, any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the public body or Department of Labor, whichever has made such determination, stating the specified grounds of the objection. It shall thereafter be the duty of the public body or Department of Labor to set a date for a hearing on the objection after giving written notice to the objectors at least 10 days before the date of the hearing and said notice shall state the time and place of such hearing. Such hearing by a public body shall be held within 45 days after the objection is filed, and shall not be postponed or reset for a later date except upon the consent, in writing, of all the objectors and the public body. If such hearing is not held by the public body within the time herein specified, the Department of Labor may, upon request of the objectors, conduct the hearing on behalf of the public body.

The public body or Department of Labor, whichever has made such determination, is authorized in its discretion to hear each written objection filed separately or consolidate for hearing any one or more written objections filed with them. At such hearing the public body or Department of Labor shall introduce in evidence the investigation it instituted which formed the basis of its determination, and the public body or Department of Labor, or any interested objectors may thereafter introduce such evidence as is material to the issue. Thereafter, the public body or Department of Labor, must rule upon the written objection and make such final determination as it believes the evidence warrants, and promptly file a certified copy of its final determination with such public body, and serve a copy by personal service or registered mail on all parties to the proceedings. The final determination by the Department of Labor or a public body shall be rendered within 30 days after the conclusion of the hearing.

If proceedings to review judicially the final determination of the public body or Department of Labor are not instituted as hereafter provided, such determination shall be final and binding.

The provisions of the Administrative Review Law, [1] and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of any public body or the Department of Labor hereunder. The term "administrative decision" is defined as in Section 3–101 of the Code of Civil Procedure. [2]

Appeals from all final orders and judgments entered by the court in review of the final administrative decision of the public body or Department of Labor, may be taken by any party to the action.

Any proceeding in any court affecting a determination of the Department of Labor or public body shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the Department of Labor, and defend its determination. The Attorney General shall not represent any public body, except the State, in any such review or appeal.

Laws 1941, vol. 1, p. 703, § 9, eff. July 1, 1941. Amended by Laws 1945, p. 765, § 1, eff. Jan. 1, 1946; Laws 1951, p. 1493, § 1, eff. July 12, 1951; Laws 1957, p. 2662, § 1, eff. July 11, 1957; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; Laws 1963, p. 2127, § 1, eff. July 29, 1963; Laws 1965, p. 3508, § 1, eff. Aug. 24, 1965; P.A. 77–169, § 1, eff. Jan. 1, 1972; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 82–783, Art. XI, § 97, eff. July 13, 1982; P.A. 83–201, § 1, eff. Jan. 1, 1984; P.A. 93–38, § 5, eff. June 1, 2004; P.A. 98–173, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–9.

[1] 735 ILCS 5/3–101 et seq.

[2] 735 ILCS 5/3–101.

130/10. Witnesses; subpoena

§ 10. The presiding officer of the public body, or his or her authorized representative and the Director of the Department of Labor, or his or her authorized representative may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to the matter under investigation or hearing. Such subpoena shall be signed and issued by such presiding officer or his or her authorized representative, or the Director or his or her authorized representative.

Upon request by the Director of Labor or his or her deputies or agents, records shall be copied and submitted for evidence at no cost to the Department of Labor. Every employer upon request shall furnish to the Director or his or her authorized representative, on demand, a sworn statement of the accuracy of the records. Any employer who refuses to furnish a sworn statement of the records is in violation of this Act.

In case of failure of any person to comply with any subpoena lawfully issued under this section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of such presiding officer or his or her authorized representative, or the Director or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. Such presiding officer and the Director may certify to official acts.

Laws 1941, vol. 1, p. 703, § 10, eff. July 1, 1941. Amended by Laws 1957, p. 2662, § 1, eff. July 11, 1957; Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; Laws 1965, p. 3508, § 1, eff. Aug. 24, 1965; P.A. 83–334, § 39, eff. Sept. 14, 1983; P.A. 93–38, § 5, eff. June 1, 2004.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–10.

130/11. Prerequisites to institution or continuance of work; recovery of difference between stipulated or prevailing wages and wages received; costs and attorney's fees

§ 11. No public works project shall be instituted unless the provisions of this Act have been complied with. The provisions of this Act shall not be applicable to Federal construction projects which require a prevailing wage determination by the United States Secretary of Labor. The Illinois Department of Labor represented by the Attorney General is empowered to sue for injunctive relief against the

awarding of any contract or the continuation of work under any contract for public works at a time when the prevailing wage prerequisites have not been met. Any contract for public works awarded at a time when the prevailing wage prerequisites had not been met shall be void as against public policy and the contractor is prohibited from recovering any damages for the voiding of the contract or pursuant to the terms of the contract. The contractor is limited to a claim for amounts actually paid for labor and materials supplied to the public body. Where objections to a determination of the prevailing rate of wages or a court action relative thereto is pending, the public body shall not continue work on the project unless sufficient funds are available to pay increased wages if such are finally determined or unless the Department of Labor certifies such determination of the prevailing rate of wages as correct.

Any laborer, worker or mechanic employed by the contractor or by any sub-contractor under him who is paid for his services in a sum less than the stipulated rates for work done under such contract, shall have a right of action for whatever difference there may be between the amount so paid, and the rates provided by the contract together with costs and such reasonable attorney's fees as shall be allowed by the court. Such contractor or subcontractor shall also be liable to the Department of Labor for 20% of such underpayments and shall be additionally liable to the laborer, worker or mechanic for punitive damages in the amount of 2% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which such underpayments remain unpaid. Where a second or subsequent action to recover underpayments is brought against a contractor or subcontractor and the contractor or subcontractor is found liable for underpayments to any laborer, worker, or mechanic, the contractor or subcontractor shall also be liable to the Department of Labor for 50% of the underpayments payable as a result of the second or subsequent action, and shall be additionally liable for 5% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which the underpayments remain unpaid. The Department shall also have a right of action on behalf of any individual who has a right of action under this Section. An action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages. The action shall be brought within 5 years from the date of the failure to pay the wages or compensation. At the request of any laborer, workman or mechanic employed by the contractor or by any subcontractor under him who is paid less than the prevailing wage rate required by this Act, the Department of Labor may take an assignment of such wage claim in trust for the assigning laborer, workman or mechanic and may bring any legal action necessary to collect such claim, and the contractor or subcontractor shall be required to pay the costs incurred in collecting such claim.

Laws 1941, vol. 1, p. 703, § 11, eff. July 1, 1941. Amended by Laws 1961, p. 2919, § 1, eff. Aug. 8, 1961; P.A. 81–992, § 14, eff. Jan. 1, 1980; P.A. 83–668, § 1, eff. Jan. 1, 1984; P.A. 83–1054, § 1, eff. July 1, 1984; P.A. 83–1362, Art. II, § 57, eff. Sept. 11, 1984; P.A. 86–799, § 1, eff. Jan. 1, 1990; P.A. 94–488, § 5, eff. Jan. 1, 2006; P.A. 98–328, § 5, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–11.

130/11a. Contractors or subcontractors; disregarding obligations to employees; publication; hearings

§ 11a. The Director of the Department of Labor shall publish in the Illinois Register no less often than once each calendar quarter a list of contractors or subcontractors found to have disregarded their obligations to employees under this Act. The Department of Labor shall determine the contractors or subcontractors who, on 2 separate occasions within 5 years, have been determined to have violated the provisions of this Act. Upon such determination the Department shall notify the violating contractor or subcontractor. Such contractor or subcontractor shall then have 10 working days to request a hearing by the Department on the alleged violations. Failure to respond within the 10 working day period shall result in automatic and immediate placement and publication on the list. If the contractor or subcontractor requests a hearing within the 10 working day period, the Director shall set a hearing on the alleged violations. Such hearing shall take place no later than 45 calendar days after the receipt by the Department of Labor of the request for a hearing. The Department of Labor is empowered to promulgate, adopt, amend and rescind rules and regulations to govern the hearing procedure. No contract shall be awarded to a contractor or subcontractor appearing on the list, or to any firm, corporation, partnership or association in which such contractor or subcontractor has an interest until 4 years have elapsed from the date of publication of the list containing the name of such contractor or subcontractor.

A contractor or subcontractor convicted or found guilty under Section 5 or 6 of this Act shall be subject to an automatic and immediate debarment, thereafter prohibited from participating in any public works project for 4 years, with no right to a hearing.

Laws 1941, vol. 1, p. 703, § 11a, added by P.A. 83–813, § 1, eff. Jan. 1, 1983. Amended by P.A. 86–693, § 1, eff. Jan. 1, 1990; P.A. 86–799, § 1, eff. Jan. 1, 1990; P.A. 86–1028, Art. II, § 2–34, eff. Feb. 5, 1990; P.A. 93–38, § 5, eff. June 1, 2004; P.A. 94–488, § 5, eff. Jan. 1, 2006; P.A. 97–571, § 5, eff. Jan. 1, 2012.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–11a.

130/11b. Discharge or discipline of "whistle blowers" prohibited

§ 11b. Discharge or discipline of "whistle blowers" prohibited.

(a) No person shall discharge, discipline, or in any other way discriminate against, or cause to be discharged, disciplined, or discriminated against, any employee or any authorized representative of employees by reason of the fact that the employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of this Act, or offers any evidence of any violation of this Act.

(b) Any employee or a representative of employees who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) of this Section may, within 30 days after the alleged violation occurs, apply to the Director of Labor for a review of the discharge, discipline, or alleged discrimination. A copy of the application shall be sent to the person who allegedly committed the violation, who shall be the respondent. Upon receipt of an application, the Director shall cause such investigation to be made as he or she deems appropriate. The investigation shall provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least 5 days before the hearing. Upon receiving the report of the investigation, the Director shall make findings of fact. If the Director finds

that a violation did occur, he or she shall issue a decision incorporating his or her findings and requiring the party committing the violation to take such affirmative action to abate the violation as the Director deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his or her former position and compensating him or her for the time he or she was unemployed. The party committing the violation shall also be liable to the Department of Labor for a penalty of $5,000 for each violation of this Section. If the Director finds that there was no violation, he or she shall issue an order denying the application. An order issued by the Director under this Section shall be subject to judicial review under the Administrative Review Law.[1]

(c) The Director shall adopt rules implementing this Section in accordance with the Illinois Administrative Procedure Act.[2]

Laws 1941, vol. 1, p. 703, § 11b, added by P.A. 88–359, § 5, eff. Jan. 1, 1994. Amended by P.A. 94–488, § 5, eff. Jan. 1, 2006.

[1] 735 ILCS 5/3–101 et seq.

[2] 5 ILCS 100/1–1 et seq.

130/12. Partial invalidity

§ 12. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The General Assembly hereby declares that it would have passed this Act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts might be declared unconstitutional.

Laws 1941, vol. 1, p. 703, § 12, eff. July 1, 1941.

Formerly Ill.Rev.Stat.1991, ch. 48, ¶ 39s–12.

HEALTH AND SAFETY

ACT 265. SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS PROJECT ACT

265/1. Short title

§ 1. Short title. This Act may be cited as the Substance Abuse Prevention on Public Works Projects Act.

P.A. 95–635, § 1, eff. Jan. 1, 2008.

An Act concerning employment. P.A. 95–635, approved October 5, 2007, effective January 1, 2008.

265/5. Definitions

§ 5. Definitions. As used in this Act:

"Accident" means an incident caused, contributed to, or otherwise involving an employee that resulted in death, personal injury, or property damage and that occurred while the employee was performing work on a public works project.

"Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and isopropanol.

"Alcohol concentration" means: (1) the number of grams of alcohol per 210 liters of breath; or (2) the number of grams of alcohol per 100 milliliters of blood.

"Drug" means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act for which testing is required by an employer under its substance abuse prevention program under this Act. The term "drug" includes prescribed medications not used in accordance with a valid prescription.

"Employee" means a laborer, mechanic, or other worker employed in any public works by anyone under a contract for public works.

"Employer" means a contractor or subcontractor performing a public works project.

"Public works" and "public body" have the meanings ascribed to those terms in the Prevailing Wage Act.

P.A. 95–635, § 5, eff. Jan. 1, 2008.

265/10. Substance abuse prohibited

§ 10. Substance abuse prohibited. No employee may use, possess, distribute, deliver, or be under the influence of a drug, or use or be under the influence of alcohol, while performing work on a public works project. An employee is considered to be under the influence of alcohol for purposes of this Act if the alcohol concentration in his or her blood or breath at the time alleged as shown by analysis of the employee's blood or breath is at or above 0.02.

P.A. 95–635, § 10, eff. Jan. 1, 2008.

265/15. Substance abuse prevention programs required

§ 15. Substance abuse prevention programs required.

(1) Before an employer commences work on a public works project, the employer shall have in place a written program which meets or exceeds the program requirements in this Act, to be filed with the public body engaged in the construction of the public works and made available to the general public, for the prevention of substance abuse among its employees. The testing must be performed by a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services. At a minimum, the program shall include all of the following:

(A) A minimum requirement of a 9 panel urine drug test plus a test for alcohol. Testing an employee's blood may only be used for post-accident testing, however, blood testing is not mandatory for the employer where a urine test is sufficient.

(B) A prohibition against the actions or conditions specified in Section 10.

(C) A requirement that employees performing the work on a public works project submit to pre-hire, random, reasonable suspicion, and post-accident drug and alcohol testing. Testing of an employee before commencing work on a public works project is not required if the employee has been participating in a random testing program during the 90 days preceding the date on which the employee commenced work on the public works project.

(D) A procedure for notifying an employee who violates Section 10, who tests positive for the presence of a drug in his or her system, or who refuses to submit to drug or alcohol testing as required under the program that the employee may not perform work on a public works project until the employee meets the conditions specified in subdivisions (2)(A) and (2)(B) of Section 20.

(2) Reasonable suspicion testing. An employee whose supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or a drug is subject to discipline up to and including suspension, and be required

to undergo an alcohol or drug test. "Reasonable suspicion" means a belief, based on behavioral observations or other evidence, sufficient to lead a prudent or reasonable person to suspect an employee is under the influence and exhibits slurred speech, erratic behavior, decreased motor skills, or other such traits. Circumstances, both physical and psychological, shall be given consideration. Whenever possible before an employee is required to submit to testing based on reasonable suspicion, the employee shall be observed by more than one supervisory or managerial employee. It is encouraged that observation of an employee should be performed by a supervisory or managerial employee who has successfully completed a certified training program to recognize drug and alcohol abuse. The employer who is requiring an employee to be tested based upon reasonable suspicion shall provide transportation for the employee to the testing facility and may send a representative to accompany the employee to the testing facility. Under no circumstances may an employee thought to be under the influence of alcohol or a drug be allowed to operate a vehicle or other equipment for any purpose. The employee shall be removed from the job site and placed on inactive status pending the employer's receipt of notice of the test results. The employee shall have the right to request a representative or designee to be present at the time he or she is directed to provide a specimen for testing based upon reasonable suspicion. If the test result is positive for drugs or alcohol, the employee shall be subject to termination. The employer shall pay all costs related to this testing. If the test result is negative, the employee shall be placed on active status and shall be put back to work by the employer. The employee shall be paid for all lost time to include all time needed to complete the drug or alcohol test and any and all overtime according to the employee's contract.

(3) An employer is responsible for the cost of developing, implementing, and enforcing its substance abuse prevention program, including the cost of drug and alcohol testing of its employees under the program, except when these costs are covered under provisions in a collective bargaining agreement. The testing must be performed by a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services. The contracting agency is not responsible for that cost, for the cost of any medical review of a test result, or for any rehabilitation provided to an employee.

P.A. 95–635, § 15, eff. Jan. 1, 2008.

265/20. Employee access to project

§ 20. Employee access to project.

(1) An employer may not permit an employee who violates Section 10, who tests positive for the presence of a drug in his or her system, or who refuses to submit to drug or alcohol testing as required under the employer's substance abuse prevention program under Section 15 to perform work on a public works project until the employee meets the conditions specified in subdivisions (2)(A) and (2)(B). An employer shall immediately remove an employee from work on a public works project if any of the following occurs:

(A) The employee violates Section 10, tests positive for the presence of a drug in his or her system, or refuses to submit to drug or alcohol testing as required under the employer's substance abuse prevention program.

(B) An officer or employee of the contracting agency, preferably one trained to recognize drug and alcohol abuse, has a reasonable suspicion that the employee is in violation of Section 10 and requests the employer to immediately remove the employee from work on the public works project for reasonable suspicion testing.

(2) An employee who is barred or removed from work on a public works project under subsection (1) may commence or return to work on the public works project upon his or her employer providing to the contracting agency documentation showing all of the following:

(A) That the employee has tested negative for the presence of drugs in his or her system and is not under the influence of alcohol as described in Section 10.

(B) That the employee has been approved to commence or return to work on the public works project in accordance with the employer's substance abuse prevention program.

(C) Testing for the presence of drugs or alcohol in an employee's system and the handling of test specimens was conducted in accordance with guidelines for laboratory testing procedures and chain-of-custody procedures established by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services.

(3) Upon successfully completing a rehabilitation program, an employee shall be reinstated to his or her former employment status if work for which he or she is qualified exists.

P.A. 95–635, § 20, eff. Jan. 1, 2008.

265/25. Applicability

§ 25. Applicability. This Act applies to a contract to perform work on a public works project for which bids are opened on or after January 1, 2008, or, if bids are not solicited for the contract, to a contract to perform such work entered into on or after January 1, 2008. The provisions of this Act apply only to the extent there is no collective bargaining agreement in effect dealing with the subject matter of this Act.

P.A. 95–635, § 25, eff. Jan. 1, 2008.

265/99. Effective date

§ 99. Effective date. This Act takes effect January 1, 2008.

P.A. 95–635, § 99, eff. Jan. 1, 2008.

COMPARATIVE TABLES

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Ch. 5, par. 951	505 ILCS 100/1
Ch. 5, par. 952	505 ILCS 100/2
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Ch. 5, par. 957	505 ILCS 100/7
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Ch. 5, par. 959	505 ILCS 100/9
Ch. 5, par. 960	505 ILCS 100/10
Ch. 5, par. 961	505 ILCS 100/11

ILL. REV. STAT. SECTION	ILCSA SECTION
Ch. 5, par. 962	505 ILCS 100/12
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765 ILCS 205/6	Ch. 109, par. 6
765 ILCS 205/7	Ch. 109, par. 7
765 ILCS 205/8	Ch. 109, par. 8
765 ILCS 205/9	Ch. 109, par. 9
765 ILCS 205/9.1	Ch. 109, par. 9.1
775 ILCS 10/0.01	Ch. 29, par. 16.9
775 ILCS 10/1	Ch. 29, par. 17
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775 ILCS 10/3	Ch. 29, par. 19
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820 ILCS 130/1	Ch. 48, par. 39s-1
820 ILCS 130/2	Ch. 48, par. 39s-2
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820 ILCS 130/4	Ch. 48, par. 39s-4
820 ILCS 130/5	Ch. 48, par. 39s-5
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820 ILCS 130/7	Ch. 48, par. 39s-7
820 ILCS 130/8	Ch. 48, par. 39s-8
820 ILCS 130/9	Ch. 48, par. 39s-9
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820 ILCS 130/11	Ch. 48, par. 39s-11
820 ILCS 130/11a	Ch. 48, par. 39s-11a
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