Road, Bridge and Other Related Laws of Illinois

2004 EDITION

(Includes enactments of the 93rd General Assembly through Public Act 93-1047, October 18, 2004.)

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Every attempt has been made to ensure the accuracy and the completeness of the law contained herein. No express or implied guarantees or warranties are made.

Since laws change often and vary from jurisdiction to jurisdiction, it is important to check the timeliness and applicability of the laws contained herein.

FOREWORD

The material presented herewith in convenient form is the 2004 Edition of "Road, Bridge and Other Related Laws of Illinois," as currently amended through October 18, 2004, to include the enactments of the 93rd General Assembly through Public Act 1047, for use in 2005. All changes to these laws have been incorporated in text, and effective dates have been added where applicable. Also included is a comprehensive index.

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. This was the first statutory compilation of the statutes since 1874.

To assist you in going from Illinois Revised Statutes format to the Illinois Compiled Statutes (ILCS), we have included a disposition table in the back of this publication in numerical order by Illinois Revised Statute number.

The Illinois Compiled Statutes (ILCS) are arranged topically with the chapters and acts arranged numerically. The numbering arrangement assures that every statute has a unique, unambiguous identify. 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 booklet is issued for the convenience of road and street officials and others who may be concerned with road and street matters. It provides a ready reference to various chapters and sections which are related to road and bridge matters.

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

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Bureau of Local Roads & Streets
2300 South Dirksen Parkway, Room 205
Springfield, IL 62764

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2003/2004 Legislative Changes to the ILLINOIS ROADS AND BRIDGES HANDBOOK

CHAPTER 5

Section	*Change*	*Public Act*	*Eff. Date*
120/1.02	Amend	93-617(60)	12/9/2003
120/2	Amend	93-57(5)	7/1/2003
120/2	Amend	93-79(5)	7/2/2003
120/2	Amend	93-422(5)	8/5/2003
120/2	Amend	93-577(90)	8/21/2003
120/2.06	Amend	93-523(5)	1/1/2004
120/2.06	Amend	93-974(5)	1/1/2005
220/4.5	New	93-839(10-50)	7/30/2004
220/6	Amend	93-721(5)	1/1/2005
315/20	Amend	93-442(5)	1/1/2004

CHAPTER 20

Section	*Change*	*Public Act*	*Eff. Date*
5/5-15	Amend	93-25(25-5)	6/20/2003
5/5-15	Amend	93-1029(905)	8/25/2004
5/5-20	Amend	93-1029(905)	8/25/2004
5/5-20	Amend	93-25(25-5)	6/20/2003
5/5-630	Amend	93-632(10)	2/1/2004
2705/2705-207	New	93-405(5)	8/1/2003
2705/2705-207	Amend	93-670(5)	3/19/2004
2705/2705-321	New	93-1004(5)	8/24/2004
2705/2705-505.5	New	93-310(10)	7/23/2003
3435/1.5	New	93-450(90)	8/6/2003

CHAPTER 30

Section	*Change*	*Public Act*	*Eff. Date*
105/8.3	Amend	93-25(50-10)	6/20/2003
105/8.3	Amend	93-721(25)	1/1/2005
105/8.3	Amend	93-839(10-100)	7/30/2004
235/2	Amend	93-360(5)	7/24/2003
235/2.10	New	93-246(92)	7/22/2003
235/6	Amend	93-205(890-37)	1/1/2004
235/6	Amend	93-561(815)	1/1/2004
235/6.5	New	93-756(5)	7/16/2004
235/8	New	93-251(10)	7/1/2004
305/2	Amend	93-205(890-8)	1/1/2004
305/7	Amend	93-9(5)	6/3/2003
500/5-5	Amend	93-839(10-130)	7/30/2004
500/5-25	Amend	93-839(10-130)	7/30/2004
500/5-30	New	93-839(10-130)	7/30/2004
500/30-30	Amend	93-1035(10)	9/10/2004
500/30-43	Repeal	93-632(80)	2/1/2004
500/50-10.5	New	93-600(5)	1/1/2004
500/50-11	Amend	93-25(30-5)	6/20/2003
500/50-12	New	93-25(30-5)	6/20/2003
500/50-12	New	93-575(5)	1/1/2004
500/50-13	Amend	93-615(90-35)	11/19/2003
500/50-14 [500/50-12]	Renumber	93-826(5)	7/28/2004
500/50-14	Amend	93-826(5)	7/28/2004
500/50-30	Amend	93-615(90-35)	11/19/2003
500/50-60	Amend	93-600(5)	1/1/2004
500/50-65	Amend	93-77(5)	7/2/2003
550/1	Amend	93-221(5)	1/1/2004
550/2	Amend	93-562(5)	8/20/2003

(continued)

2003/2004 Legislative Changes to the ILLINOIS ROADS AND BRIDGES HANDBOOK

(Continued)

CHAPTER 35

Section	*Change*	*Public Act*	*Eff. Date*
115/9	Amend	93-24(50-24)	6/20/2003
115/9	Amend	93-840(20-20)	7/30/2004
120/3	Amend	93-840(20-25)	7/30/2004
120/3	Amend	93-926(5)	8/12/2004
120/3	Amend	93-22(5)	6/20/2003
120/3	Amend	93-24(50-25)	6/20/2003
200/18-185	Amend	93-601(5)	1/1/2004
200/18-185	Amend	93-606(5)	11/18/2003
200/18-185	Amend	93-612(5)	11/18/2003
200/18-185	Amend	93-689(5)	7/1/2004
200/18-185	Amend	93-690(5)	7/1/2004
200/18-241	Amend	93-501(3)	8/11/2003
505/2	Amend	93-17(25)	6/11/2003
505/2b	Amend	93-32(50-35)	6/20/2003
505/8	Amend	93-32(50-35)	6/20/2003
505/8	Amend	93-839(10-145)	7/30/2004

CHAPTER 50

Section	*Change*	*Public Act*	*Eff. Date*
340/1	Amend	93-360(10)	7/24/2003

CHAPTER 55

Section	*Change*	*Public Act*	*Eff. Date*
5/5-1022	Amend	93-25(30-20)	6/20/2003
5/5-1022	Amend	93-157(5)	1/1/2004

CHAPTER 60

Section	*Change*	*Public Act*	*Eff. Date*
1/30-50	Amend	93-424(5)	8/5/2003
1/240-5	Amend	93-743(5)	7/15/2004

CHAPTER 65

Section	*Change*	*Public Act*	*Eff. Date*
5/8-10-3	Amend	93-25(30-25)	6/20/2003
5/8-10-26	New	93-58(5)	1/1/2004
5/9-2-4.5	New	93-993(5)	1/1/2005
5/9-2-9	Amend	93-196(10)	1/1/2004
5/11-91-1	Amend	93-383(5)	7/25/2003
5/11-91-1	Amend	93-703(5)	7/9/2004

CHAPTER 220

Section	*Change*	*Public Act*	*Eff. Date*
50/4	Amend	93-430(5)	8/5/2003
50/7	Amend	93-430(5)	8/5/2003
50/10	Amend	93-430(5)	8/5/2003

(continued)

2003/2004 Legislative Changes to the ILLINOIS ROADS AND BRIDGES HANDBOOK

(Continued)

CHAPTER 415

Section	*Change*	*Public Act*	*Eff. Date*
5/3.160	Amend	93-179(5)	7/11/2003
5/9.6	Amend	93-32(75-52)	7/1/2003
5/9.9	Amend	93-669(5)	3/19/2004
5/9.11	New	93-202(5)	7/14/2003
5/9.12	New	93-32(75-52)	7/1/2003
5/9.13	New	93-32(75-52)	7/1/2003
5/12.2	Amend	93-32(75-52)	7/1/2003
5/12.5	New	93-32(75-52)	7/1/2003
5/12.5	Amend	93-840(45-5)	7/30/2004
5/12.6	New	93-32(75-52)	7/1/2003
5/13	Amend	93-170(5)	7/10/2003
5/13.5	New	93-170(5)	7/10/2003
5/21	Amend	93-179(5)	7/11/2003

CHAPTER 605

Section	*Change*	*Public Act*	*Eff. Date*
5/4-219	New	93-545(5)	1/1/2004
5/6-107.1	Amend	93-743(10)	7/15/2004
5/6-201.6	Amend	93-109(10)	7/8/2003
5/6-201.6	Amend	93-610(10)	11/18/2003
5/6-201.7	Amend	93-109(10)	7/8/2003
5/6-201.7	Amend	93-164(5)	7/10/2003
5/6-201.7	Amend	93-610(10)	11/18/2003
5/6-201.14	Amend	93-321(5)	7/23/2003
5/6-201.21	New	93-109(10)	7/8/2003
5/6-201.21	New	93-610(10)	11/18/2003
5/6-315	Amend	93-183(5)	7/11/2003
5/6-407	Repeal	93-704(5)	7/9/2004
5/6-408	Amend	93-704(5)	7/9/2004
5/6-508	Amend	93-164(5)	7/10/2003
5/9-113	Amend	93-357(5)	1/1/2004
5/9-113.02	New	93-793(5)	7/22/2004
5/9-117	Amend	93-177(5)	7/11/2003
5/9-127	Amend	93-321(5)	7/23/2003

CHAPTER 625

Section	*Change*	*Public Act*	*Eff. Date*
5/11-302	Amend	93-177(10)	7/11/2003
5/11-304	Amend	93-177(10)	7/11/2003
5/11-602	Amend	93-624(5)	12/19/2003
5/11-605	Amend	93-955(5)	8/19/2004
5/11-605.1	New	93-955(5)	8/19/2004
5/11-605.2	New	93-947(90)	8/19/2004
5/15-102	Amend	93-177(10)	7/11/2003
5/15-107	Amend	93-177(10)	7/11/2003
5/15-107	Amend	93-1023(5)	8/25/2004
5/15-111	Amend	93-177(10)	7/11/2003
5/15-111	Amend	93-186(5)	1/1/2004
5/15-111	Amend	93-1023(5)	8/25/2004
5/15-301	Amend	93-718(5)	1/1/2005
5/15-301	Amend	93-971(5)	8/20/2004
5/15-301	Amend	93-1023(5)	8/25/2004
5/15-316	Amend	93-177(10)	7/11/2003

(continued)

2003/2004 Legislative Changes to the ILLINOIS ROADS AND BRIDGES HANDBOOK

(Continued)

CHAPTER 730

Section	*Change*	*Public Act*	*Eff. Date*
5/3-2-2	Amend	93-839(10-170)	7/30/2004

CHAPTER 745

Section	*Change*	*Public Act*	*Eff. Date*
10/9-103	Amend	93-721(55)	1/1/2005

CHAPTER 820

Section	*Change*	*Public Act*	*Eff. Date*
130/2	Amend	93-15(905)	6/11/2003
130/2	Amend	93-16(5)	1/1/2004
130/2	Amend	93-205(890-28)	1/1/2004
130/3	Amend	93-15(905)	6/11/2003
130/3	Amend	93-16(5)	1/1/2004
130/4	Amend	93-15(905)	6/11/2003
130/4	Amend	93-16(5)	1/1/2004
130/4	Amend	93-38(5)	6/1/2004
130/5	Amend	93-38(5)	6/1/2004
130/9	Amend	93-38(5)	6/1/2004
130/10	Amend	93-38(5)	6/1/2004
130/11a	Amend	93-38(5)	6/1/2004

TABLE OF CONTENTS

ILLINOIS COMPILED STATUTES

GOVERNMENT

Chapter		*Page*
5	General Provisions	1
20	Executive Branch	22
30	Finance	49
35	Revenue	90
50	Local Government	131
55	Counties	142
60	Townships	146
65	Municipalities	149
70	Special Districts	218

REGULATION

220	Utilities	223
225	Professions and Occupations	232

HUMAN NEEDS

310	Housing	242

HEALTH AND SAFETY

415	Environmental Safety	244
430	Public Safety	313

HUSBANDRY

505	Agriculture	315
520	Wildlife	321

TRANSPORTATION

605	Roads and Bridges	325
625	Vehicles	459

RIGHTS AND REMEDIES

720	Criminal Offenses	487
730	Corrections	494
735	Civil Procedure	498
740	Civil Liabilities	506
745	Civil Immunities	507
765	Property	515
775	Human Rights	518

BUSINESS

815	Business Transactions	520
820	Employment	521

Index 527

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CONTENTS

ILLINOIS COMPILED STATUTES

GOVERNMENT

CHAPTER 5. GENERAL PROVISIONS

OPEN MEETINGS

ACT 120. OPEN MEETINGS ACT

Section

120/1. Policy.
120/1.01. Short title.
120/1.02. Definitions.
120/2. Open meetings.
120/2.01. Times and places of meetings.
120/2.02. Public notice of all meetings.
120/2.03. Schedule of regular meetings.
120/2.04. Other notices; failure to receive notice.
120/2.05. Any person may record proceedings.
120/2.06. Minutes of meetings.
120/2a. Closed session.
120/2b. *(Repealed.)*
120/3. Civil action for noncompliance.
120/4. Penalties.
120/5. Invalid provision or application.
120/6. Minimum requirements for home rule unit.

INTERGOVERNMENTAL COOPERATION

INTERGOVERNMENTAL COOPERATION ACT

220/1. Short title.
220/2. Definitions.
220/3. Intergovernmental cooperation.
220/3.1. Municipal Joint Action Water Agency.
220/3.2. Municipal joint action agency; storage and disposal of waste.
220/3.2a. Waste disposal; Municipal lead agencies; Ordinance.
220/3.3. Local Economic Development Commissions.
220/3.4. Municipal Joint Sewage Treatment Agency.
220/3.5. Expenditure of funds.
220/3.6. Merger of special districts into townships.
220/3.7. Regional Juvenile Detention Authority.
220/3.8. Floodwater management.
220/4. Appropriations, furnishing of property, personnel and services.
220/4.5. Prohibited agreements and contracts.
220/5. Intergovernmental contracts.
220/5.1. Personnel rules; Assignment of employees.
220/6. Joint self-insurance under intergovernmental contracts.
220/7. Construction with Constitution Article 7, §10.
220/8. Separability.
220/9. County participation.
220/15. Authorized investments.
220/16. Investment policy.

(continued)

CONTENTS
(Continued)

CHAPTER 5. *(continued)*

OFFICERS AND EMPLOYEES

ILLINOIS PUBLIC LABOR RELATIONS ACT

Section
315/1. Short title.
315/20. Prohibitions.

CHAPTER 20. EXECUTIVE BRANCH

EXECUTIVE DEPARTMENTS

CIVIL ADMINISTRATIVE CODE OF ILLINOIS

Article 1. Short Title and General Provisions

5/1-1. Short title.

Article 5. Departments of State Government

5/5-5. "Department".
5/5-10. "Director".
5/5-15. Departments of State government.
5/5-20. Heads of departments.
5/5-100. Executive and administrative officers, boards, and commissions.
5/5-105. Direction, supervision, and control of officers.
5/5-185. In the Department of Transportation.
5/5-300. Officers' qualifications and salaries.
5/5-415. In the Department of Transportation.
5/5-515. Compensation prohibited.
5/5-600. Officer's performance of duties.
5/5-605. Appointment of officers.
5/5-610. Term of office.
5/5-615. Officer's oath.
5/5-620. Bond.
5/5-625. Department regulations.
5/5-630. Department offices.
5/5-635. Department office hours.
5/5-640. Department seal.
5/5-645. Department employees.
5/5-650. Department reports.
5/5-655. Cooperation by directors.
5/5-675. Acquisition of land.

DEPARTMENT OF NATURAL RESOURCES

ACT 830. INTERAGENCY WETLAND POLICY ACT OF 1989

Article I. General Provisions

830/1-1. Short title.
830/1-2. Legislative declaration.
830/1-3. Application.
830/1-4. State goal.
830/1-5. Goal implementation.
830/1-6. Definitions.

(continued)

CONTENTS
(Continued)

CHAPTER 20. *(continued)*

DEPARTMENT OF NATURAL RESOURCES

ACT 830. INTERAGENCY WETLAND POLICY ACT OF 1989

Article II. Agency Coordination

Section
830/2-1. Interagency Wetlands Committee.
830/2-2. Agency Action Plans.

Article III. State Wetland Mitigation Policy

830/3-1. State Wetland Mitigation Policy.
830/3-2. Ownership and management.
830/3-3. Wetland Compensation Account.
830/3-4. Impact evaluation.
830/3-5. Value.
830/3-6. Compensation ratios.

Article IV. Administration

830/4-1. Administration.

DEPARTMENT OF STATE POLICE

ACT 2610. STATE POLICE ACT

2610/16. Motor vehicle laws; powers and duties of State police; enforcement.
2610/21. State police, toll highways.

DEPARTMENT OF TRANSPORTATION

CIVIL ADMINISTRATIVE CODE OF ILLINOIS

Article 2705. Department of Transportation

2705/2705-1. Article short title.
2705/2705-5. Definitions.
2705/2705-10. Powers, generally.
2705/2705-15. Administrative organization.
2705/2705-90. Criminal history record information from Department of State Police.
2705/2705-100. Aeronautics; transfer from Department of Aeronautics.
2705/2705-105. Bridge and ferry operation; transfer from Department of Public Works and Buildings.
2705/2705-110. Motor vehicles; transfer from Department of Public Works and Buildings.
2705/2705-115. Roads and bridges; transfer from Department of Public Works and Buildings.
2705/2705-120. Transfer of other rights, powers, and duties from Department of Public Works and Buildings.
2705/2705-125. Safety inspection of motor vehicles; transfer from various State agencies.
2705/2705-175. State employees; effect of transfer to Department.
2705/2705-200. Master plan; reporting requirements.
2705/2705-205. Study of demand for transportation.
2705/2705-207. Regional Transportation Task Force.
2705/2705-210. Traffic control and prevention of accidents.

(continued)

CONTENTS
(Continued)

CHAPTER 20. *(continued)*

DEPARTMENT OF TRANSPORTATION

CIVIL ADMINISTRATIVE CODE OF ILLINOIS

Article 2705. Department of Transportation *(continued)*

Section

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.
2705/2705-225. Air transportation for State officers and employees.
2705/2705-240. Grants for capital assistance.
2705/2705-245. Inspection of property and records of applicants for and recipients of assistance.
2705/2705-255. Appropriations from Build Illinois Bond Fund and Build Illinois Purposes Fund.
2705/2705-265. Use of coal combustion by-products.
2705/2705-275. Grants for airport facilities.
2705/2705-285. Ports and waterways.
2705/2705-300. Powers concerning mass transportation.
2705/2705-305. Grants for mass transportation.
2705/2705-310. Grants for transportation for handicapped persons.
2705/2705-315. Grants for passenger security.
2705/2705-321. Illinois Transit Ridership and Economic Development (TRED) Pilot Project Program; new facilities and service.
2705/2705-350. Intercity bus service assistance.
2705/2705-375. Meigs Users Advisory Committee.
2705/2705-400. Authorization concerning rail assistance funds.
2705/2705-405. Preparation of State Rail Plan.
2705/2705-410. Access to information.
2705/2705-415. State Rail Plan; responsibilities of other agencies.
2705/2705-420. Copies of State Rail Plan; report.
2705/2705-425. Rail freight services assistance; loans; Rail Freight Loan Repayment Fund.
2705/2705-430. Railroad freight service assistance; lines designated for discontinuation of service or subject to abandonment.
2705/2705-435. Railroad freight service assistance; lines designated for discontinuation of service or subject to abandonment.
2705/2705-440. Intercity Rail Service.
2705/2705-445. Validation of prior agreements and contracts.
2705/2705-450. High-speed rail and magnetic levitation transportation development.
2705/2705-500. Scenic route connecting Mississippi and Ohio Rivers.
2705/2705-505. Signs indicating travel-related facilities or tourist-oriented businesses.
2705/2705-505.5. Child abduction message signs.
2705/2705-510. Use of prisoners for highway cleanup.
2705/2705-550. Transfer of realty to other State agency; acquisition of federal lands.
2705/2705-555. Lease of land or property.
2705/2705-575. Sale of used vehicles.

HISTORIC PRESERVATION AGENCY

ACT 3420. ILLINOIS STATE AGENCY HISTORIC RESOURCES PRESERVATION ACT

3420/1. Purposes.
3420/2. Short Title.
3420/3. Definitions.
3420/4. State agency undertakings.
3420/5. Responsibilities of the Historic Preservation Agency, Division of Preservation Services.
3420/6. Review of private undertakings.

(continued)

CONTENTS

(Continued)

CHAPTER 20. *(continued)*

HISTORIC PRESERVATION AGENCY

ACT 3435. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES PRESERVATION ACT

Section

3435/.01. Short title.
3435/.02. Definitions.
3435/1. Exclusive right and privilege of State.
3435/1.5. O'Hare Modernization.
3435/2. Reservation in deeds from State.
3435/3. Violations.
3435/3.1. Prosecution.
3435/3.2. Reward leading to conviction.
3435/5. Penalties; damages.
3435/6. Permits for exploration or excavation.
3435/7. Materials and records management.
3435/8. Permit exemptions, generally.
3435/9. Minimum professional standards to qualify.
3435/10. Files on known sites.
3435/11. Regulations.

CHAPTER 30. FINANCE

FUNDS

ACT 105. STATE FINANCE ACT

105/5d. State Construction Account Fund, use.
105/5e. Transfers from Road Fund to State Construction Account Fund.
105/5f. Transfers between funds, report.
105/5g. Transfer from General Revenue Fund to Road Fund.
105/6c. Road Fund.
105/6r. Money received from the rental of highway property.
105/8.3. Uses of money in Road Fund.

RECEIPT, INVESTMENT, AND DISBURSEMENT

ACT 235. PUBLIC FUNDS INVESTMENT ACT

235/0.01. Short title.
235/1. Definitions.
235/2. Authorized investments.
235/2.5. Investment policy.
235/2.10. Unit of local government; deposit at reduced rate of interest.
235/3. Designation of payee and fund; registration.
235/4. Safekeeping and disposition of securities.
235/5. Construction of Act.
235/6. Report of financial institutions.
235/6.5. Federally insured deposits at Illinois financial institutions.
235/7. Preference given to minority-owned financial institutions.
235/8. Consideration of financial institution's commitment to its community.

(continued)

CONTENTS
(Continued)

CHAPTER 30. *(continued)*

BONDS AND DEBT

ACT 305. BOND AUTHORIZATION ACT

Section
305/0.01. Short title.
305/1. Definitions.
305/2. Public corporation may pay interest; rates.
305/3. Construction and application.
305/5. Exemption of certain industrial and housing projects.
305/6. Exemption of obligations issued pursuant to the Tax Increment Allocation Redevelopment Act.
305/7. Interest rate swaps.

ACT 385. MOTOR FUEL TAX FUND BOND ACT

385/0.01. Short title.
385/1. Definitions.
385/2. Issuance of bonds.
385/3. Terms of bonds.
385/4. Use of proceeds; Bond Highway Fund.

ACT 415. TRANSPORTATION BOND ACT

415/1. Short title.
415/2. Authorization for bonds; purposes; amounts.
415/3. Interest on bonds; form of bonds; denominations; signatures.
415/4. Sale of bonds.
415/5. Use of proceeds.
415/5.1. Limitations on use of proceeds; prior obligations.
415/6. Investment of funds obtained by bonds.
415/7. Appropriation for bonds; creation of bond funds; transfers and disbursements; bonds are obligations of State.
415/8. Civil action to compel payment by State.
415/9. Certification of principal and interest; transfers to effect payment.
415/10. Refunding bonds.
415/11. Severability of invalid provisions.
415/11.1. Issuance of bonds under General Obligation Bond Act.

PURCHASES AND CONTRACTS

ACT 500. ILLINOIS PROCUREMENT CODE

Article 1. General Provisions

500/1-1. Short title.
500/1-5. Public policy.
500/1-10. Application.
500/1-15. Definitions.
500/1-15.03. Associate Procurement Officers.
500/1-15.05. Board.
500/1-15.10. Business.
500/1-15.15. Chief Procurement Officer.
500/1-15.20. Construction and construction- related services.
500/1-15.25. Construction agency.
500/1-15.30. Contract.
500/1-15.35. Cost-reimbursement contract.

(continued)

CONTENTS
(Continued)

CHAPTER 30. *(continued)*

PURCHASES AND CONTRACTS

ACT 500. ILLINOIS PROCUREMENT CODE

Article 1. General Provisions *(continued)*

Section
500/1-15.42. Grant.
500/1-15.45. Invitation for bids.
500/1-15.50. Negotiation.
500/1-15.55. Person.
500/1-15.60. Professional and artistic services.
500/1-15.65. Purchase description.
500/1-15.68. Purchase of care.
500/1-15.70. Purchasing agency.
500/1-15.75. Request for proposals.
500/1-15.80. Responsible bidder or offeror.
500/1-15.85. Responsive bidder.
500/1-15.90. Services.
500/1-15.95. Specifications.
500/1-15.100. State agency.
500/1-15.105. State purchasing officer.
500/1-15.110. Supplies.
500/1-15.115. Using agency.
500/1-25. Property rights.
500/1-30. Applicability to Constitutional Officers and the Legislative and Judicial Branches.

Article 5. Policy Organization

500/5-5. Procurement Policy Board.
500/5-23. Interests of Board members.
500/5-25. Rulemaking authority.
500/5-30. Proposed contracts; Procurement Policy Board.

Article 10. Appointments

500/10-5. Exercise of procurement authority.
500/10-10. General appointments.
500/10-15. Associate Procurement Officers.

Article 15. Procurement Bulletin

500/15-1. Publisher.
500/15-10. Contents.
500/15-15. Publication.
500/15-20. Qualified bidders.
500/15-25. Bulletin content.

Article 20. Source Selection and Contract Formation

500/20-5. Method of source selection.
500/20-10. Competitive sealed bidding.
500/20-15. Competitive sealed proposals.
500/20-20. Small purchases.
500/20-25. Sole source procurements.
500/20-30. Emergency purchases.
500/20-35. Competitive selection procedures.

(continued)

CONTENTS
(Continued)

CHAPTER 30. *(continued)*

PURCHASES AND CONTRACTS

ACT 500. ILLINOIS PROCUREMENT CODE

Article 20. Source Selection and Contract Formation *(continued)*

Section
500/20-40. Cancellation of invitations for bids or requests for proposals.
500/20-45. Prequalification of suppliers.
500/20-50. Specifications.
500/20-55. Types of contracts.
500/20-60. Duration of contracts.
500/20-65. Right to audit records.
500/20-70. Finality of determinations.
500/20-75. Disputes and protests.
500/20-80. Contract files.
500/20-85. Federal requirements.
500/20-90. Foreign country procurements.
500/20-95. Donations.
500/20-105. State agency printing.
500/20-110. Printing cost offsets.

Article 30. Construction and Construction-Related Professional Services

500/30-5. Applicability.
500/30-10. Authority.
500/30-15. Method of source selection.
500/30-20. Prequalification.
500/30-25. Retention of a percentage of contract price.
500/30-30. Contracts in excess of $250,000.
500/30-35. Expenditure in excess of contract price.
500/30-43. *(Repealed.)*
500/30-45. Other Acts.

Article 50. Procurement Ethics and Disclosure

500/50-1. Purpose.
500/50-5. Bribery.
500/50-10. Felons.
500/50-10.5. Prohibited bidders and contractors.
500/50-11. Debt delinquency.
500/50-12. Collection and remittance of Illinois Use Tax.
500/50-13. Conflicts of interest.
500/50-14. Environmental Protection Act violations.
500/50-15. Negotiations.
500/50-20. Exemptions.
500/50-25. Inducement.
500/50-30. Revolving door prohibition.
500/50-35. Disclosure and potential conflicts of interest.
500/50-40. Reporting anticompetitive practices.
500/50-45. Confidentiality.
500/50-50. Insider information.
500/50-55. Supply inventory.
500/50-60. Voidable contracts.
500/50-65. Contractor suspension.
500/50-70. Additional provisions.
500/50-75. Other violations.

(continued)

CONTENTS
(Continued)

CHAPTER 30. *(continued)*

PURCHASES AND CONTRACTS

ACT 540. STATE PROMPT PAYMENT ACT

Section
540/1. Application of Act.
540/6. Vendor's waiver of penalty for late payment.
540/7. Payments to subcontractors and material suppliers; failure to make timely payments; additional amount due.

ACT 545. PUBLIC CONTRACT FRAUD ACT

545/0.01. Short title.
545/1. Change or alteration in public work or improvement increasing cost and expense; punishment.
545/2. Spending money without obtaining title of land; approval of title by Attorney General.
545/3 Prosecution; complaint; affidavit.
545/4. State's attorney to prosecute; indictment.

ACT 550. PUBLIC CONSTRUCTION BOND ACT

550/0.01. Short title.
550/1. Bond required for work over $5,000.
550/2. Suit against contractor with State.
550/3. Builder or developer cash bond.

ACT 557. PUBLIC CONSTRUCTION CONTRACT ACT

557/1. Short title.
557/5. Definitions.
557/10. Contract requirements.
557/15. Arbitration.
557/20. Incorporation into contract.
557/25. Limitation.
557/99. Effective date.

ACT 565. STEEL PRODUCTS PROCUREMENT ACT

565/1. Short title.
565/2. Legislative findings.
565/3. Definitions.
565/4. Contracts for public works; use of United States produced steel products.
565/5. Contracts in violation of Act prohibited; penalties.
565/6. Application of Act to contracts.
565/7. Federal law or treaty not contravened.

ACT 570. EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT

570/0.01. Short title.
570/1. Definitions for Article 2.
570/1.1. Legislative findings and intent.
570/2. Application of Article 2.
570/3. Preference given to Illinois laborers.
570/4. Limitation on non-resident experts.
570/5. No conflict with federal law.
570/6. Violation and penalty.
570/7. Enforcement; injunctive relief.

(continued)

CONTENTS

(Continued)

CHAPTER 35. REVENUE

USE AND OCCUPATION TAXES

ACT 105. USE TAX ACT

Section
105/9. Payment of use tax by retailer.

ACT 110. SERVICE USE TAX ACT

110/9. Payment of service use tax by serviceman.

ACT 115. SERVICE OCCUPATION TAX ACT

115/9. Payment of service occupation tax by serviceman.

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.
200/18-65. Restriction on extension.
200/18-70. More than 5% increase; notice and hearing required.
200/18-72. Public notice to amend certificate of tax levy
200/18-75. Notice; place of publication.
200/18-80. Time and form of notice.
200/18-85. Notice if adopted levy exceeds proposed levy.
200/18-90. Limitation on extension of county clerk.
200/18-92. Maywood Public Library District Tax Levy Validation (2002) Law.
200/18-95. Effect of Truth in Taxation Law.
200/18-100. Defective publication.

Division 5. Property Tax Extension Limitation Law

200/18-185. Short title; definitions.
200/18-190. Direct referendum; new rate or increased rate.
200/18-190.5. School districts.
200/18-195. Limitation.
200/18-200. School Code.
200/18-205. Referendum to increase the extension limitation.

(continued)

CONTENTS
(Continued)

CHAPTER 35. *(continued)*

PROPERTY TAXES

ACT 200. PROPERTY TAX CODE

Title 6. Levy and Extension

Article 18. Levy and Extension Process

Division 5. Property Tax Extension Limitation Law *(continued)*

Section

200/18-210. Establishing a new levy.
200/18-212. Referendum on debt service extension base.
200/18-213. Referenda on applicability of the Property Tax Extension Limitation Law.
200/18-214. Referenda on removal of the applicability of the Property Tax Extension Limitation Law to non-home rule taxing districts.
200/18-215. Merging and consolidating taxing districts; transfer of service.
200/18-220. *(Repealed).*
200/18-225. Annexed or disconnected property.
200/18-230. Rate increase or decrease factor.
200/18-235. Tax increment financing districts.
200/18-240. Certification of new property.
200/18-241. School Finance Authority.
200/18-243. Severability.
200/18-245. Rules.

EXCISE TAXES

ACT 505. MOTOR FUEL TAX LAW

505/1. Definitions, generally.
505/1.1. "Motor Fuel" defined.
505/1.3. "Motor Vehicles" defined.
505/1.4. "Municipality" defined.
505/1.13. "Special Fuel" defined.
505/1.19. "Fuel" defined.
505/1.20. "Receiver" defined.
505/2. Tax on motor vehicles and recreational- type watercraft; exceptions.
505/2a. Tax on receiving fuel for sale or use; imposition.
505/2b. Tax on receiving fuel for sale or use; monthly tax return.
505/8. Motor Fuel Tax Fund; distributions.
505/8a. Underground Storage Tank Fund.
505/13a. Tax on use of motor fuel by commercial vehicles.

(continued)

CONTENTS

(Continued)

CHAPTER 50. LOCAL GOVERNMENT

OFFICERS AND EMPLOYEES

ACT 105. PUBLIC OFFICER PROHIBITED ACTIVITIES ACT

Holding Other Office

Section

105/0.01. Short title.
105/1. County board.
105/1.1. County board member as township highway commissioner.
105/1.2. County board member; education office.
105/1.3. Municipal board member; education office.
105/2. Limitations on holding certain offices in cities and villages; volunteer firemen excepted.
105/2a. Limitations holding certain offices in townships; volunteer firemen excepted.
105/3. Prohibited interest in contracts.
105/3.1. Disclosure of parties.
105/3.2. Pecuniary interest allowed in contracts of deposit and financial service with local banks and savings and loan associations.
105/4. Violations.
105/4.5. False verification; perjury.

ACT 110. PUBLIC OFFICER SIMULTANEOUS TENURE ACT

110/2. Simultaneous tenure declared to be lawful.

FINANCES

ACT 340. INVESTMENT OF MUNICIPAL FUNDS ACT

340/0.01. Short title.
340/1. Surplus funds may be used to purchase tax anticipation warrants.
340/2. Resale or issuance of new tax anticipation warrants; use of proceeds.

PURCHASES AND CONTRACTS

ACT 505. LOCAL GOVERNMENT PROMPT PAYMENT ACT

505/1. Short title.
505/2. Application.
505/3. Approval of bill for goods or services.
505/4. Payment of bill; interest penalty.
505/5. Failure to approve or disapprove bill.
505/6. Time periods for payment of bill.
505/7. Funds appropriated or controlled by State; certification of need.
505/9. Payments to subcontractors and suppliers; failure to make timely payments.

ACT 510. LOCAL GOVERNMENT PROFESSIONAL SERVICES SELECTION ACT

510/0.01. Short title.
510/1. Policy.
510/2. Federal Requirements.
510/3. Definitions.
510/4. Public notice.
510/5. Selection Procedure.
510/6. Selection procedure.
510/7. Contract negotiation.
510/8. Waiver of competition.

(continued)

CONTENTS
(Continued)

CHAPTER 50. *(continued)*

PROPERTY

ACT 605. LOCAL GOVERNMENT PROPERTY TRANSFER ACT

Section
605/0.01. Short title.
605/1. Definitions.
605/2. Transfer of real estate between municipalities.
605/3. Transfer of two or more parcels.
605/3.1. Lease of real property.
605/4. Transfer of real estate between municipality and State.

CHAPTER 55. COUNTIES

ACT 5. COUNTIES CODE

Article 5. Powers and Duties of County Boards

Division 5-1. In General

5/5-1014. Powers generally.
5/5-1020. Trust agreements for funds retained pending construction completion.
5/5-1022. Competitive bids.
5/5-1035.1. County Motor Fuel Tax Law.
5/5-1035.2. County economic development tax.
5/5-1067. Names of streets and highways; numbers of buildings and lots.
5/5-1079. Liability insurance.
5/5-1104. Removal of obstructions from streams, lakes, ponds, and other water courses; stream maintenance.
5/5-1104.1. Provisions to be applied consistent with established comprehensive policy.

Division 5-13. Building or Set-Back Lines

5/5-13001. Establishment of building or set-back lines.
5/5-13002. Enforcing officer.
5/5-13003. Amendments to regulations.
5/5-13004. Proceedings to restrain violation.

CHAPTER 60. TOWNSHIPS

ACT 1. TOWNSHIP CODE

Article 30. Annual Township Meeting

1/30-50. Purchase and use of property.

Article 35. Special Township Meetings

1/35-35. Filling vacancy on township board.

(continued)

CONTENTS
(Continued)

CHAPTER 60. *(continued)*

ACT 1. TOWNSHIP CODE

Article 60. Vacancies in Township Offices and the Manner of Filling Them

Section
1/60-5. Filling vacancies in township offices.

Article 85. Township Corporate Powers, Generally

1/85-30. Purchases; bids.
1/85-35. Retaining percentage of contract price; trust agreement.

Article 240. Township Borrowing Money

1/240-5. Borrowing money.

CHAPTER 65. MUNICIPALITIES

ACT 5. ILLINOIS MUNICIPAL CODE

Article 1. General Provisions

Division 1. Short Title, Definitions, Scope of Code, Grant of Certain Powers

5/1-1-1. Short title.
5/1-1-2. Definitions.
5/1-1-2.1. Form of address.

Article 2. Organization of Municipalities

Division 2. Incorporation of Cities

5/2-2-15. Boundaries of cities.

Division 3. Incorporation of Villages

5/2-3-19. Boundaries of villages.

Article 7. Territory

Division 1. Annexation

5/7-1-1. Annexation of contiguous territory, generally.
5/7-1-2. Petition or ordinance for annexation; filing; notice; fee; restrictions on annexation.
5/7-1-10. Annexation of contiguous territory dedicated or used for street or highway purposes.

Article 8. Finance

Division 1. General Provisions

5/8-1-7. Contractual liabilities; limitation.

Division 2. Annual Appropriation Ordinances

5/8-2-9.11. Retention of part of contracted price until final completion and acceptance of work.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 8. Finance

Division 3. Levy and Collection of Taxes

Section
5/8-3-4. Tax levied and set apart for particular purpose.

Division 5. Debt Limits in Municipalities of Less than 500,000

5/8-5-16. Bonds, issuance, authorization.

Division 9. Purchasing and Public Works Contracts in Municipalities of Less Than 500,000

5/8-9-1. Letting of contracts.

Division 10. Purchasing and Public Works Contracts in Cities of More than 500,000

5/8-10-1. Short title.
5/8-10-2. Additional powers and duties.
5/8-10-2.5. Airports.
5/8-10-3. Purchase orders and contracts; Competitive bids.
5/8-10-4. Contracts not requiring competitive bids.
5/8-10-5. Emergency contracts.
5/8-10-6. Requisition agents.
5/8-10-7. Advertisements for bids; Deposits.
5/8-10-8. Collusion among bidders and disclosures; Prohibition.
5/8-10-8.5. Disclosure.
5/8-10-9. Opening bids.
5/8-10-10. Awarding of contracts; Filing of purchase order or contract; Public inspection.
5/8-10-11. Responsibility of bidders; Determination.
5/8-10-12. Rejection of bids.
5/8-10-13. Bonds of bidders.
5/8-10-14. Assignment of contracts.
5/8-10-15. Purchasing agents; Tenure; removal; Salary; Bond; Exemption from Civil Service.
5/8-10-16. Purchasing agent; Powers and duties.
5/8-10-17. Revolving fund; Pecuniary interest in contracts; Penalty.
5/8-10-18. Purchasing agent; Execution of contracts.
5/8-10-19. Board of standardization; Powers and duties.
5/8-10-20. Ordinances; Adoption and publication.
5/8-10-21. Contracts executed in violation of this division; Effect.
5/8-10-22. Local improvement contracts.
5/8-10-23. Audits of expenditures; Reports.
5/8-10-24. Specifications relating to construction, alteration, rehabilitation or repair of realty; Preparation; Approval; Modification.
5/8-10-25. Conflicts of application of laws.
5/8-10-26. Long-term contracts.

Division 11. Certain Revenue Taxes

5/8-11-15. Motor fuel tax; Referendum; Liability.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 9. Local Improvements

Division 1. Provisions Generally Applicable

Section
5/9-1-1. Application.
5/9-1-2. Improvement made by general taxation.
5/9-1-3. Repeal of ordinance ordering local improvement.
5/9-1-4. Report on condition of completed work.
5/9-1-5. Undistributed or unclaimed money.
5/9-1-6. Public notice of undistributed or unclaimed money.
5/9-1-7. Unclaimed rebate fund.
5/9-1-8. Claims against unclaimed rebate fund.
5/9-1-9. Use of money in unclaimed rebate fund.
5/9-1-10. Return of money to fund.
5/9-1-11. Disposition of unclaimed money.
5/9-1-12. Transfer to unclaimed rebate fund.
5/9-1-13. Transfer when no unclaimed rebate fund exists.
5/9-1-14. Claims.

Division 2. Local Improvement Procedures Restricted to Certain Municipalities

5/9-2-1. Scope of division; powers conferred.
5/9-2-2. Definitions.
5/9-2-3. Special assessment for projects receiving federal or other governmental aid.
5/9-2-4. Improvement to water supply, sewer system, or highway system relating to Federal defense project.
5/9-2-4.5. Special assessment for payment of costs associated with certain ordinance violations.
5/9-2-5. Ordinance for local improvement to specify source of revenue.
5/9-2-6. Ordinance for local improvement; recommendation of board of local improvements required; abandonment of proposed improvement.
5/9-2-7. Board of local improvements, generally; creation and composition; members' limitations on holding offices.
5/9-2-8. Chief clerk of special assessments may substitute for superintendent of special assessments.
5/9-2-9. Preliminary procedure for local improvements by special assessment.
5/9-2-10. Hearing on proposed improvement; remonstrance petition.
5/9-2-11. Recommendation of board to accompany ordinance; prima facie evidence of compliance with preliminary requirements.
5/9-2-12. Cost estimate of improvement; signature of public engineer.
5/9-2-13. Referral of ordinance to committee and publication prior to action.
5/9-2-14. Taking or damaging property, generally.
5/9-2-15. Proceedings to ascertain compensation.
5/9-2-16. Just compensation; contents of petition; appointment of commissioners by court.
5/9-2-17. Filing and recording of petition; delivery and recording of order or judgment.
5/9-2-18. Commissioners' report.
5/9-2-19. Special assessment installments relating to waterworks, bridge or viaduct.
5/9-2-20. Award for property taken or damaged; net damage or benefit.
5/9-2-21. Offset for donated land.
5/9-2-22. Commissioners' certificate.
5/9-2-23. Affidavit of ownership.
5/9-2-24. Parties defendant; service of summons; appearance; public notice of special assessment.
5/9-2-25. Notice to owner of property to be taken or damaged.
5/9-2-26. Notice of assessment.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 9. Local Improvements

Division 2. Local Improvement Procedures Restricted to Certain Municipalities *(continued)*

Section

5/9-2-27. Hearing of cause; impanelling of jury; ascertaining compensation and benefits.
5/9-2-28. Separate juries may be impaneled.
5/9-2-29. View of premises by jury.
5/9-2-30. Verdict; judgment; continuation or adjournment of cause.
5/9-2-31. Change of title since filing of petition.
5/9-2-32. Adverse claimants.
5/9-2-33. Appointment of guardian ad litem.
5/9-2-34. Final judgment.
5/9-2-35. Order of possession.
5/9-2-36. Proceedings pending appeal.
5/9-2-37. Revised assessment roll.
5/9-2-38. Public benefit tax relating to waterworks and sewerage system; referendum; warrants.
5/9-2-39. Public benefit tax, generally; fund; warrants.
5/9-2-40. Property owners' petition for local improvements; sidewalks.
5/9-2-41. Special tax not to be in excess of benefit; review by court.
5/9-2-42. When ordinance does not provide for condemnation of private property, generally.
5/9-2-43. Petition to levy special assessment; jurisdiction of courts.
5/9-2-44. Order for assessment.
5/9-2-45. Apportionment of cost.
5/9-2-46. Description of property assessed.
5/9-2-47. Assessment roll; notice; affidavit.
5/9-2-48. Installment payments; interest on assessment; bonds; pedestrian mall and parking facilities.
5/9-2-48(1). Alternative assessment procedure for operation and maintenance of pedestrian mall and parking facilities.
5/9-2-49. Combined assessment for the construction of an improvement and/or the taking or damaging of property may be paid in installments; distribution of assessment.
5/9-2-50. Certification of assessment roll and judgment; issuance and delivery of warrant; first installment due and payable immediately.
5/9-2-51. Installments to bear interest; bonds issued in anticipation of collection; enforcement.
5/9-2-52. Payment of bonds; selection by lot; exception for municipality having 100,000 or more inhabitants.
5/9-2-53. Public posting and notice of application for confirmation of special assessment.
5/9-2-54. Continuance for notice.
5/9-2-55. Objections to assessment report.
5/9-2-56. Review by court.
5/9-2-57. Hearing on objection.
5/9-2-58. Hearing on objection; impaneling of jury; trial and disposition.
5/9-2-59. Redistribution of assessment; new notice.
5/9-2-60. Hearing to have precedence; exceptions.
5/9-2-61. Court may adjust assessment; abandonment of proposed improvement.
5/9-2-62. No levying of assessment or tax before acquisition and possession of land.
5/9-2-63. Prior similar improvement no objection.
5/9-2-64. Confirmation applies to all installments.
5/9-2-65. Judgment for special tax or assessment.
5/9-2-66. Sale and assignment of special assessment liens; filing and notice of petition.
5/9-2-67. Sale and assignment of special assessment liens; contents of petition; hearing.
5/9-2-68. Sale of special assessment lien.
5/9-2-69. Redemption of special assessment lien; interest.
5/9-2-70. Foreclosure of lien.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 9. Local Improvements

Division 2. Local Improvement Procedures Restricted to Certain Municipalities *(continued)*

Section

5/9-2-71. Assignee to pay cost and expense; no sale or assignment of lien with outstanding obligation.
5/9-2-72. Vacation of assessment; new assessment; direction and acceptance of work by board.
5/9-2-73. Special assessment or tax valid for work already done; new ordinance.
5/9-2-74. Supplemental assessment; rebates.
5/9-2-75. New assessment upon delinquent property.
5/9-2-76. Certification of roll and judgment after first voucher issued on account of work done.
5/9-2-77. Warrant not to authorize collection of assessment levied against municipality; installments to be paid from direct annual tax; credit.
5/9-2-78. Certification of appealed portion of judgment; contents of warrant.
5/9-2-79. Public notice of special assessment.
5/9-2-80. Collector to notify persons on assessment roll; penalty for collector's omission; effects of omission.
5/9-2-81. Warrant to be recorded in general tax books of county.
5/9-2-82. Report of delinquent list.
5/9-2-83. Designation of day for application of judgment.
5/9-2-84. Advertisement of application for judgment.
5/9-2-85. Return of delinquent assessments.
5/9-2-86. Report of municipal collector is prima facie evidence; defenses; waiver of right to enter objections; judgment.
5/9-2-87. Obtaining judgment; limitation on when to apply; sale of delinquent land.
5/9-2-88. Notice of application for judgment.
5/9-2-89. Paying amount due before sale of delinquent land.
5/9-2-90. Redemption of land after sale.
5/9-2-91. Payment of delinquent special assessment on land withdrawn from collection or forfeited in county having less than 1,000,000 inhabitants.
5/9-2-92. Payment of delinquent special assessment on land withdrawn from collection or forfeited in county having 1,000,000 or more inhabitants.
5/9-2-93. Penalties, costs, etc., in case of payment of withdrawn or forfeited assessment.
5/9-2-94. Collection of amounts due; receipt of Deposit for Redemption.
5/9-2-95. Sale where assessment paid; liability of collector and bondsmen.
5/9-2-96. Collector to pay over money to municipal treasury; compensation.
5/9-2-97. Applicability of general revenue laws.
5/9-2-98. Municipality may become purchaser at sale of property; owner to pay costs and expenses of suit to foreclose lien.
5/9-2-99. Contracts payable from assessment; claim limited to funds collected.
5/9-2-100. Letting contracts; performance of work by municipality.
5/9-2-101. Assessing officer to use highest estimate when ordinance provides for alternate specifications.
5/9-2-102. Letting of contract.
5/9-2-103. Call for bids; contents of bids; bond to accompany proposal.
5/9-2-104. Bond required of successful bidder; suit on bond.
5/9-2-105. Acceptance of bid; call for new bids; forfeiture.
5/9-2-106. Bid and award for waterworks system are provisional until levying of tax has been authorized.
5/9-2-107. Interested person is entitled to hearing before board.
5/9-2-108. Notice of awarding of contract.
5/9-2-109. Owners may elect to take work.
5/9-2-110. Rejection of bid in case of default; readvertising for bidders.
5/9-2-111. Reletting of work when not completed on time; bond required for contractors and contracting owners.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 9. Local Improvements

Division 2. Local Improvement Procedures Restricted to Certain Municipalities *(continued)*

Section

5/9-2-112. Appointment of engineer and other personnel; execution and acceptance of work; recourse on municipality.
5/9-2-113. Improvement made with federal or other governmental agency aid; resolution to proceed with work; warrant to collect assessment; limitation on liens against municipality.
5/9-2-114. Abatement; pro rata reduction applied to installments.
5/9-2-115. Certificate of board is prima facie evidence; hearing and order.
5/9-2-116. Finding against certificate; completion of improvement; supplemental applications; bonds.
5/9-2-117. Improvement made with federal or other governmental agency aid; application of Sections 9-2-114 through 9-2-116.
5/9-2-118. Inspection of work and materials.
5/9-2-119. Bonds in anticipation of collection of second and subsequent installments; form of bond and due date; surplus to be applied toward payment of outstanding vouchers or bonds.
5/9-2-120. Court may extend time of payment; redivision of installments; refunding bonds.
5/9-2-121. Petition and ordinance to extend time of payment.
5/9-2-122. Proceeding for extension of time; contents of petition.
5/9-2-123. Proceeding for extension of time; contents of petition; information accompanying petition; notice; hearing and order; payments.
5/9-2-124. Assessment and installments continue as lien; contents of order extending time of payment and authorizing refund of securities.
5/9-2-125. Extension of payments; property sold to municipality.
5/9-2-126. Duplicate municipal bonds, etc.
5/9-2-127. Bonds issued in exchange of vouchers.
5/9-2-128. Bonds issued in exchange of vouchers; form of bond.
5/9-2-129. Bonds issued in exchange of vouchers; form of bond; calling and paying for bonds; first installment to pay costs first.
5/9-2-130. Sale or payment of bond to contractor.
5/9-2-131. Improvement may be paid in bonds; vouchers relating to first installment; costs to be paid first.
5/9-2-132. Assessment may be paid in bonds or vouchers.
5/9-2-133. Contractor and holders of bonds to have lien on waterworks system.
5/9-2-134. Proceeds from operation of waterworks system to be credited upon assessment levied against municipality; waterworks fund.
5/9-2-135. Claims to be against assessment.
5/9-2-136. Payments made as work progresses.
5/9-2-137. Interest on bonds; payment.
5/9-2-138. Rebates.
5/9-2-139. Costs and expenses of board to be paid out of general corporate fund; exceptions.
5/9-2-140. Appeals.
5/9-2-141. Late appeals.
5/9-2-142. Adoption of this division by other municipalities.
5/9-2-143. Use of this division by other corporate authorities.
5/9-2-144. Pending cases; reservations.

Division 4. Improvements Affecting Property Not Within Municipality

5/9-4-1. Charge of benefits.
5/9-4-2. Petition; proceeding; summons; notice; hearing.
5/9-4-3. Lien against property.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 11. Corporate Powers and Functions

Public Health, Safety, and Welfare

Police Protection and Public Order

Division 4. Houses of Correction and Farm Colonies

Section
5/11-4-1. House of correction or farm colony; establishment; acquisition of land.
5/11-4-2. Board of inspectors to manage and direct house of correction; appointment of board; letting of contracts.
5/11-4-3. Board may establish and adopt rules; appointment of subordinate personnel; limitation on appropriations.
5/11-4-4. Compensation and duties of board; meetings; inspections.

Fire Protection

Division 8. Fire Safety Regulations

5/11-8-5. Lumber and coal yards.

Powers over Certain Businesses

Division 42.1. Public Contracts

5/11-42.1-1. Delinquent taxpayers.

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.
5/11-61-1.5. Acquiring property by gift, legacy, or grant.
5/11-61-1a. Quick-take; Municipalities over 500,000.
5/11-61-2. Establishment, improvement and vacation of streets, sidewalks, wharves, and parks.
5/11-61-3. Purchase or lease of property.

Streets and Public Ways

Division 80. General Powers over Streets and Public Ways

5/11-80-2. Use of streets and municipal property.
5/11-80-2a. Residents parking.
5/11-80-3. Obstructions upon streets.
5/11-80-5. Street lighting tax.
5/11-80-7. Gas, water, etc., infrastructure.
5/11-80-11. Cross-walks, curbs, and gutters; access for persons using wheelchairs.
5/11-80-19. Naming of streets; Change in name.
5/11-80-21. Streets and sewers across or under railroad.

(continued)

CONTENTS
(Continued)

CHAPTER 65. *(continued)*

ACT 5. ILLINOIS MUNICIPAL CODE

Article 11. Corporate Powers and Functions

Public Health, Safety, and Welfare

Streets and Public Ways

Division 85. Certain Joint Municipal and Township Construction Projects

Section
5/11-85-1. Joint construction with township.
5/11-85-2. Plans and specifications; bidding and letting of contract.
5/11-85-3. Municipality may levy special assessment or tax; prior work no defense.
5/11-85-4. Jurisdiction over improvement.

Division 91. Vacating of Streets and Alleys

5/11-91-1. Municipality may vacate street, etc.; notice and hearing; damages.
5/11-91-2. Title upon vacation.

Division 91.1. Persons Displaced by Federal Aid System of Streets and Highways

5/11-91.1-1. Moving expenses for displaced person; limitation.
5/11-91.1-2. Moving expenses; optional allowance for displacement from dwelling.
5/11-91.1-3. Moving expenses; optional fixed amount for displaced or discontinued business.
5/11-91.1-4. Additional payment for dwelling or rental of dwelling.
5/11-91.1-5. Reimbursement of fees, taxes, etc., and mortgage penalty costs.
5/11-91.1-6. Construction in relation to eminent domain.

Division 91.2. Jurisdiction over Roads by Agreement

5/11-91.2-1. Surrender of jurisdiction.

CHAPTER 70. SPECIAL DISTRICTS

STREET LIGHT

ACT 3305. STREET LIGHT DISTRICT ACT

3305/0.01. Short title.
3305/1. Incorporation of street lighting district.
3305/2. Judicial notice; suits.
3305/2a. Addition of territory.
3305/2b. Disconnection from district; procedure for owners.
3305/2c. Disconnection by operation of law; annexation; territory to remain liable for debt.
3305/3. Board of trustees; creation; succession of members; bond; quorum.
3305/4. Filling vacancy in board of trustees.
3305/5. Powers of trustees; election of president and secretary; compensation.
3305/5.1. Prompt payment.
3305/6. Public notice of ordinance imposing penalty or making appropriation.
3305/7. Proof of ordinances, orders, resolutions, etc.
3305/8. Board may contract for street lighting service.
3305/9. Board to provide for collection of direct annual tax.
3305/10. Other taxes; limitation.
3305/10.1. Voter approval required for higher taxes.

(continued)

CONTENTS

(Continued)

REGULATION

CHAPTER 220. UTILITIES

ACT 50. ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT

Section

50/1. Short title.
50/2. Definitions.
50/2.1. Person.
50/2.2. Underground utility facilities.
50/2.3. Excavation.
50/2.4. Demolition.
50/2.5. Damage.
50/2.6. Emergency locate request.
50/2.7. Tolerance zone.
50/2.8. Approximate location.
50/3. State-Wide One-Call Notice System.
50/4. Required activities.
50/5. Notice of preconstruction conference.
50/6. Emergency evacuation or demolition.
50/7. Damage or dislocation.
50/8. Liability or financial responsibility.
50/9. Negligence.
50/10. Record of notice; marking of facilities.
50/11. Penalties; liability; fund.
50/11.3. Emergency telephone system outages; reimbursement.
50/11.5. Limitation on liability.
50/12. Time limitation for action.
50/13. Mandamus or injunction.
50/14. Home rule.

ACT 55. TELEGRAPH ACT

55/0.01. Short title.
55/1. Application of Act.
55/4. Consent for erection of structures; local authorities have power to make alterations.

ACT 65. TELEPHONE COMPANY ACT

65/0.01. Short title.
65/1. Application of Act.
65/4. Right of condemnation.

CHAPTER 225. PROFESSIONS AND OCCUPATIONS

DESIGN AND CONSTRUCTION

ACT 325. PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

325/14. Seal.
325/15. Technical submissions.
325/24. Rules of professional conduct; disciplinary or administrative action.
325/41. Violation; political subdivisions, county, city or town; construction without professional engineer.

(continued)

CONTENTS
(Continued)

CHAPTER 225. *(continued)*

DESIGN AND CONSTRUCTION

ACT 340. STRUCTURAL ENGINEERING LICENSING ACT OF 1989

Section
340/12. Display of structural engineer license; seal.

SERVICE AND SALES

ACT 440. HIGHWAY ADVERTISING CONTROL ACT OF 1971

Section
440/1. Legislative findings and declarations.
440/2. Short title.
440/3. Definition of terms.
440/3.01. "Department" defined.
440/3.02. "Interstate highway" defined.
440/3.03. "Primary highway" defined.
440/3.04. "Expressway" defined.
440/3.05. "Main-traveled way" defined.
440/3.06. "Maintain" defined.
440/3.07. "Sign" defined.
440/3.08. "Erect" defined.
440/3.09. "Municipality" defined.
440/3.10. "Commercial or industrial activities" defined.
440/3.11. "Unzoned commercial or industrial area" defined.
440/3.12. "Business area" defined.
440/3.13. "Visible" defined.
440/3.14. "Urban area" defined.
440/3.15. "National Highway System" defined.
440/3.16. "Scenic byway" defined.
440/4. Limitation on erection or maintenance of signs.
440/4.01. Directional and other official signs.
440/4.02. Signs advertising the sale or lease of the property on which located.
440/4.03. Signs advertising activities conducted on the property on which located.
440/4.04. Signs erected in business areas.
440/4.05. Signs erected in business areas; previously existing signs.
440/4.06. Signs affixed by public utilities.
440/4.07. Signs which provide information relative to lodging, food, etc.
440/4.08. Signs, etc., giving specific information in the interest of the traveling public.
440/5. Prohibited signs.
440/6. Additional requirements for signs in business areas.
440/6.01. Size of signs.
440/6.02. Lighting.
440/6.03. Spacing.
440/6.04. Application of size, lighting and spacing provisions.
440/7. Effects of similar provisions.
440/8. Registration of sign; permit; tag.
440/9. Enforcement of Act; compensation for removal.
440/10. Unlawful signs; public nuisance.
440/11. Agreement with federal government.
440/12. Acceptance of federal funds.
440/13. Severability of invalid provision.
440/14. Preservation of natural beauty.
440/14.01. Rules and regulations.
440/14.02. Scenic byways; nomination.
440/16. Effective date.

(continued)

CONTENTS

(Continued)

HUMAN NEEDS

CHAPTER 310. HOUSING

ACT 35. HOUSE RELOCATION ACT

Section

35/0.01. Short title.
35/1. Legislative declaration.
35/2. Relocation and rehabilitation of dwelling.
35/3. Agreements for work and materials.
35/4. Sale of property after relocation.

ACT 40. DISPLACED PERSON RELOCATION ACT

40/0.01. Short title.
40/1. "State agency" defined.
40/1a. "Displaced person" defined.
40/2. Matching federal funds for direct financial assistance.
40/2a. Matching federal funds to reimburse owner for fees, taxes, etc.
40/3. Direct financial assistance when federal funds are not available; limitation.
40/4. Rules and regulations.
40/5. Administrative Review Law to apply.

HEALTH AND SAFETY

CHAPTER 415. ENVIRONMENTAL SAFETY

ACT 5. ENVIRONMENTAL PROTECTION ACT

Title I. General Provisions

5/3.78, 5/3.78a. *(Renumbered.)*
5/3.160. Construction or demolition debris.

Title II. Air Pollution

5/8. Legislative findings and purpose.
5/9. Acts prohibited.
5/9.1. State and federal cooperation; regulations; permit.
5/9.2. Sulfur dioxide emission standards.
5/9.3. Alternative control strategies.
5/9.4. Municipal waste incineration emission standards.
5/9.5. Toxic contaminants in the air; list of contaminants; regulations; exceptions.
5/9.6. Air pollution operating permit fee.
5/9.7. Chlorofluorocarbons (CFCs).
5/9.8. Emissions reductions market system.
5/9.9. Nitrogen oxides trading system.
5/9.10. Fossil fuel-fired electric generating plants.
5/9.11. Great Lakes Areas of Concern; mercury.
5/9.12. Construction permit fees for air pollution sources.
5/9.13. Asbestos fees.
5/10. Regulations.

(continued)

CONTENTS
(Continued)

CHAPTER 415. *(continued)*

ACT 5. ENVIRONMENTAL PROTECTION ACT

Title III. Water Pollution

Section

5/11. Water pollution; purpose of Title; regulations and procedures; limitations on provisions of Act.
5/12. Actions prohibited.
5/12.1. Prohibition against underground injection of hazardous waste; exceptions.
5/12.2. Water pollution construction permit fees.
5/12.3. Septic system sludge.
5/12.4. Vegetable by-product; land application; report.
5/12.5. NPDES discharge fees; sludge permit fees.
5/12.6. Certification fees.
5/13. Regulations.
5/13.1. Groundwater monitoring network.
5/13.2. Testing of water from private well.
5/13.3. Regulations; implementation of federal Water Pollution Control Act.
5/13.4. Pretreatment market system.
5/13.5. Sewage works; operator certification.

Title V. Land Pollution and Refuse Disposal

5/21. Prohibited acts.
5/22.12. Coordination with State Fire Marshal; leaking underground storage tanks; registration.

Title XVI. Petroleum Underground Storage Tanks

5/57. Intent and purpose.
5/57.1. Applicability.
5/57.2. Definitions.
5/57.3. Underground Storage Tank Program.
5/57.4. State agencies.
5/57.5. Underground storage tanks; removal; repair; abandonment.
5/57.6. Underground storage tanks; early action.
5/57.7. Leaking underground storage tanks; site investigation and corrective action.*
5/57.7. Leaking underground storage tanks; physical soil classification, groundwater investigation, site classification, and corrective action.*

**(Multiple versions enacted.)*

5/57.8. Underground Storage Tank Fund; payment; options for State payment; deferred correction election to commence corrective action upon availability of funds.
5/57.9. Underground Storage Tank Fund; eligibility and deductibility.
5/57.10. Professional Engineer certification; presumptions against liability.
5/57.11. Underground Storage Tank Fund; creation.
5/57.12. Underground storage tanks; enforcement; liability.
5/57.12A. Lender liability; definitions.
5/57.13. Underground Storage Tank Program; transition.
5/57.14. *(Repealed.)*
5/57.14A. Rules.
5/57.15. Authority to audit.
5/57.16. Severability.
5/57.17. Falsification.

(continued)

CONTENTS
(Continued)

CHAPTER 415. *(continued)*

ACT 5. ENVIRONMENTAL PROTECTION ACT

Title XVII. Site Remediation Program

Section

5/58. Intent.
5/58.1. Applicability.
5/58.2. Definitions.
5/58.3. Site Investigation and Remedial Activities Program; Brownfields Redevelopment Fund.
5/58.4. Permit waiver.
5/58.5. Risk-based remediation objectives.
5/58.6. Remedial investigations and reports.
5/58.7. Review and approvals.
5/58.8. Duty to record.
5/58.9. Liability.
5/58.10. Effect of completed remediation; liability releases.
5/58.11. Regulations and Site Remediation Advisory Committee.
5/58.12. Severability.
5/58.13. Brownfields Redevelopment Grant Program.
5/58.14. Environmental Remediation Tax Credit review.
5/58.15. Brownfields Redevelopment Loan Program.
5/58.15. Construction of school; requirements.
5/58.17. Environmental land use control
5/58.18. *(Repealed.)*

ACT 55. ILLINOIS GROUNDWATER PROTECTION ACT

55/1. Short title.
55/2. Legislative findings.
55/3. Definitions.
55/4. Interagency Coordinating Committee on Groundwater; members; purposes.
55/5. Groundwater Advisory Council.
55/6. Education program for groundwater protection; interagency cooperation.
55/7. Groundwater data collection and automation program; research; grants, appropriations, etc.; Southern Illinois University.
55/8. Regulations; standards; exemption from certain State requirements.
55/9. Non-community, private and semi-private water systems.
55/9.1. Notification of actual or potential contamination.

ACT 95. JUNKYARD ACT

95/0.01. Short title.
95/1. Legislative declaration.
95/2. Definitions.
95/3. Limitations on junkyard or scrap processing facility; exceptions.
95/4. Screening of facility.
95/4.5. Automobile graveyards located near canals; inspection by EPA.
95/5. Regulation of screening and fencing.
95/6. Department may acquire, relocate, or screen junkyards or scrap processing facilities.
95/7. Initiation of action to force compliance with Act; offense.
95/8. Agreements with United States Government.

(continued)

CONTENTS

(Continued)

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. Two-way traffic during construction.
105/2. Flagmen; equipment; flagging procedures.
105/3. Drivers to obey flagmen.
105/4. Marking of closed highway or bridge.
105/5. Violation.
105/6. Accrual of action.
105/7. Director of Labor to enforce compliance.
105/8. Limitation on applicability.

HUSBANDRY

CHAPTER 505. AGRICULTURE

ACT 75. FARMLAND PRESERVATION ACT

75/1. Short title.
75/2. Legislative findings and intent.
75/3. Inter-Agency Committee on Farmland Preservation; creation; members; chairman.
75/4. Committee to prepare policy statements and working agreements; periodic review and approval.
75/5. Conversion of farmland to nonagricultural purposes; acquisition of land; study of agricultural impacts.
75/6. Administration of Act and formulation of rules and regulations; reports.
75/7. Exempt projects.
75/8. Effective date.

ACT 100. ILLINOIS NOXIOUS WEED LAW

100/1. Short title.
100/2. Definitions.
100/3. Every person to control noxious weeds.
100/4. Enforcement of Act; determination of noxious weeds; methods for control; publication of rules and regulations.
100/5. Powers of Director.
100/7. Duties and responsibilities of Control Authority.
100/8. Weed Control Superintendents.
100/9. Notices for control and eradication of noxious weeds.
100/10. Proper control and eradication methods to be used on land of negligent owner; cost.
100/11. Quarantine.
100/12. Responsibility for cost.
100/13. Control and eradication without cost to owner.
100/14. Prevention of dissemination of noxious weeds; articles capable of dissemination; treatment; no removal without authorization.
100/15. Noxious Weed Control Fund.

(continued)

CONTENTS
(Continued)

CHAPTER 505. *(continued)*

ACT 100. ILLINOIS NOXIOUS WEED LAW *(continued)*

Section

100/17. Purchase of needed materials, equipment, etc., for the control and eradication of noxious weeds; deposit of funds; records.
100/18. Protest of charge for work; hearing.
100/19. Judicial review.
100/20. Entry upon lands.
100/21. Notices; form and service.
100/22. Violations; penalties.
100/23. Participation of Director in control programs; matching of federal funds.
100/24. Severability of invalid provisions.

CHAPTER 520. WILDLIFE

ACT 10. ILLINOIS ENDANGERED SPECIES PROTECTION ACT

10/1. Title of Act.
10/2. Definitions.
10/3. Endangered species; unlawful acts.
10/4. Issuance of permit; revocation.
10/5. Endangered species; limited permit.
10/5.5. Incidental taking.
10/6. Endangered Species Protection Board; duties, composition, actions.
10/7. Listing and delisting; endangered species.
10/8. Authorization of search and seizure.
10/9. Violation.
10/10. Location of program; fine deposition.
10/11. Conservation program; public policy; rules.

TRANSPORTATION

CHAPTER 605. ROADS AND BRIDGES

ACT 5. ILLINOIS HIGHWAY CODE

Article 1. Short Title, Legislative Intent, and Application of Code

5/1-101. Short title.
5/1-102. Legislative intent and declaration.
5/1-103. Application.

Article 2. Systems of Highways – Definitions

Division 1. Systems of Highways

5/2-101. Description of State highway system.
5/2-102. Description of county highway system.
5/2-103. Description of township and district road system.
5/2-104. Description of municipal street system.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 2. Systems of Highways – Definitions

Division 2. Definitions

Section

5/2-201. Definition of terms.
5/2-202. "Highway" defined.
5/2-203. "State highway" defined.
5/2-204. "County highway" defined.
5/2-205. "Township road" defined.
5/2-206. "District road" defined.
5/2-207. "Street" defined.
5/2-208. "Federal aid highway" defined.
5/2-209. "Federal Aid Road Act".
5/2-210. "Construct-Construction" defined.
5/2-211. "Department" defined.
5/2-212. "Freeway" defined.
5/2-213. "Highway authority or highway authorities" defined.
5/2-214. "Maintain-Maintenance" defined.
5/2-215. "Municipality" defined.
5/2-216. "Person" defined.
5/2-217. "Right-of-way" defined.
5/2-218. "Rural highway or rural road" defined.
5/2-219. "State funds" defined.
5/2-220. Forestation of Department-controlled lands.

Article 3. Federal Aid

5/3-101. Acceptance of federal aid.
5/3-102. Increase in network mileage; selection of highways; equitable distribution of federal aid projects.
5/3-103. Agreements with United States Government relating to selection, etc., of highways.
5/3-104. Network of federal aid secondary highways; selection and designation; joint construction; responsibilities of local authorities.
5/3-104.1. Federal aid urban system of streets and highways; selection and designation; joint construction; responsibilities of local authorities.
5/3-104.2. Public roads not on Federal-aid system.
5/3-104.3. Great River Road; work done as part of federal-aid project.
5/3-105. Federal money received for construction of highways to be placed in Road Fund; retirement of Expressway bonds.
5/3-105.1. Federal money received for implementation of Federal "Commercial Motor Vehicle Safety Act of 1986" to be placed in Road Fund.
5/3-106. Maintenance of federal aid highways.
5/3-107. Relocating utility facilities incident to project on National System of Interstate and Defense Highways.
5/3-107.1. Person displaced by highway project; payment of moving expenses, etc., and loss of personal property, generally.
5/3-107.1a. Optional allowance for moving expenses, etc., and loss of personal property.
5/3-107.1b. Optional fixed relocation payment for moving or discontinuing business.
5/3-107.1c. Additional payment for loss of dwelling or rental of dwelling.
5/3-107.1d. Reimbursement of fees, taxes, etc., and mortgage penalty costs.
5/3-107.1e. Rules and regulations for payments.
5/3-107.1f. Construction in relation to eminent domain.
5/3-108. Federal aid highway to be part of State or county highway system or municipal street system.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 4. State Administration of Highways

Division 1. General Powers of Department

Section
5/4-101. Powers and duties of Department, generally.
5/4-101.1. Supervision over highways constructed or maintained with State funds.
5/4-101.2. Rules and regulations relating to selection of county superintendent of highways.
5/4-101.3. Department to aid county superintendents of highways.
5/4-101.4. Preparation of plans, specifications, etc., for bridges and culverts.
5/4-101.5. Investigation of best methods of highway work.
5/4-101.6. Collection and compilation of data.
5/4-101.7. Approval of final plans, specifications and estimates for highways on which State funds may be expended.
5/4-101.8. Letting of contracts, generally.
5/4-101.9. Prescription of system of auditing and accounting.
5/4-101.10. Consultation with other highway authorities.
5/4-101.11. Investigations to determine future highway needs.
5/4-101.12. Promotion of highway improvements.
5/4-101.13. Maps for use by the public.
5/4-101.14. Obtaining necessary employees; limitation on discharge of operators of snow removal equipment.
5/4-101.15. Liability insurance for highway employee.
5/4-101.16. Preparation and maintenance of schedule of needs in relation to railroad-highway grade crossings.
5/4-102. Federal aid highways; preparations, contracts, bonds, work, and purchases of materials.
5/4-103. Letting of contracts; successful bidder to furnish bond; partial payments for work in progress; retainage of contract may be deposited under trust agreement.
5/4-104. Subcontractors' trust agreements.

Division 2. State Highways

5/4-201. Additional powers of Department relating to State highways, generally.
5/4-201.1. Determination and adoption of rules, regulations and specifications.
5/4-201.2. Connection of highways.
5/4-201.3. Relocation of highway in State highway system.
5/4-201.4. Contracts relating to State highways.
5/4-201.5. Construction and maintenance of highways which connect to parks, forests, wildlife refuges, and scenic or historic places.
5/4-201.6. Division of State highway system into sections or districts for repair and maintenance.
5/4-201.7. Purchase, rent, acquire and maintain equipment and material.
5/4-201.8. Purchase and acquisition of natural deposits of road material; erection of buildings and purchase of related equipment.
5/4-201.9. Acquisition and operation of ferries without charge to the public.
5/4-201.10. Lighting of State highways.
5/4-201.11. Numbering of State highways.
5/4-201.12. Erection and maintenance of traffic control devices and signs; bikeways.
5/4-201.13. Interstate bridges in federal-aid highway network.
5/4-201.14. Rest areas.
5/4-201.15. Preservation of natural beauty; cooperation with Department of Natural Resources; forestation.
5/4-201.16. Rental of land, buildings or improvements; report to General Assembly.
5/4-201.17. Leasing of projects from Illinois Highway Trust Authority.
5/4-201.18. Publicly-owned parking facilities.
5/4-201.19. Telephone service on State Highway System.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 4. State Administration of Highways

Division 2. State Highways *(continued)*

Section
5/4-201.20. Demonstration projects.
5/4-202. Additional mileage.
5/4-203. Additional highways.
5/4-204. Description of State highway; filing.
5/4-205. Route through municipality.
5/4-206. Relocation of route.
5/4-207. Mail boxes on highways.
5/4-208. Routes leading from business centers; guide signs.
5/4-209. Damaging highway; permit when necessary; bond; violation.
5/4-210. Ingress and egress for owners of property abutting upon State highway; rules, regulations and specifications.
5/4-211. Construction of entrance or exit; conformity to rules, specifications, etc.; judicial review.
5/4-212. Failure to comply with rules, specifications, etc.; penalty.
5/4-213. Motor passenger carriers; loading areas adjacent to highway.
5/4-214. Plats.
5/4-215. Territorial maps; proposed subdivisions.
5/4-216. Removal of snow from private access.
5/4-217. Standing row crops as snow breaks.
5/4-218. Pilot program to evaluate use of calcium magnesium acetate made from corn to clear roadways of snow and ice.
5/4-219. Context sensitivity.

Division 3. Planning and Programming

5/4-303. Investigations by Department of future highway needs, generally.

Division 4. Construction and Maintenance

5/4-401. Widths of State highways.
5/4-402. Construction performed on State highway route in municipality.
5/4-403. Construction of belt-line routes.
5/4-404. Width and type of extension; construction in excess of need as determined by Department.
5/4-405. Maintenance of State highways; edge lines.
5/4-406. Maintenance contracts with municipalities and counties.
5/4-406.1. Surrender of jurisdiction.
5/4-407. Temporary closure; detours.
5/4-408. Temporary closure; detours; permit issued to local government agency; liability.
5/4-409. Contracts between highway authorities.
5/4-410. Demonstration project.

Division 5. Property Acquisition and Disposal

5/4-501. Acquisition of land for highway construction; remnants.
5/4-502. Purchase of land for highway construction; acquisition by right of eminent domain; no bond required.
5/4-503. Entering upon lands or waters; responsibility for damages.
5/4-504. Acquisition of land under control and custody of other State agency.
5/4-505. Relocation of railroad tracks or public utility facilities.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 4. State Administration of Highways

Division 5. Property Acquisition and Disposal *(continued)*

Section
5/4-508. Sale or exchange of land, rights or other properties; preference given to previous owner.
5/4-508.1. Federal-aid projects; cessation; conveyance.
5/4-509. Replacement of public property.
5/4-510. Rights of way for future additions.
5/4-511. Replacement or relocation of structure demolished or removed incident to highway construction.
5/4-512. Street closing or relocating.

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, generally.
5/5-101.1. Supervision of county highways.
5/5-101.2. Levying taxes and expending funds.
5/5-101.3. Construction of county and State highways.
5/5-101.4. Appropriation of funds to aid in construction of township and district highways.
5/5-101.5. Employing the proceeds of bonds.
5/5-101.6. Appointment of county superintendent of highways.
5/5-101.7. Money turned over to the county; donations.
5/5-101.8. Plats.
5/5-101.9. Exercise of any other power and duty.
5/5-101.10. Erection and maintenance of traffic control devices and signs.
5/5-101.11. Purchase or lease of highway construction and maintenance equipment.
5/5-102. Description of county highways; additions and deletions.
5/5-103. Map of county highway system.
5/5-104. Total mileage.
5/5-105. Temporary closings; changes in county highway system; additions and deletions.
5/5-106. Municipal extension of county highway.
5/5-107. Relocations of county highways.
5/5-108. Numbering of county highways.
5/5-109. Vacation of county highway.
5/5-110. Recording of vacation; exceptions.

Division 2. County Superintendent of Highways

5/5-201. County superintendent of highways and county engineer; appointment; qualifications of candidates; preference given to residents of county; individual may hold office in more than one county.
5/5-201.1. County Division of Transportation.
5/5-202. Term and salary of county superintendent of highways; county board to provide resources and personnel.
5/5-202.1. County director of Division of Transportation is employee of county board.
5/5-203. Removal from office; Administrative Review Law to apply.
5/5-203.1. County director of Division of Transportation to serve at the pleasure of appointing authority.
5/5-204. Vacancy of office; acting superintendent.
5/5-204.1. Chairman may appoint acting director.
5/5-205. Functions generally.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 5. County Administration of Highways

Division 2. County Superintendent of Highways *(continued)*

Section
5/5-205.1. Preparation of plans, etc., of bridges and culverts.
5/5-205.2. Supervision of highway work.
5/5-205.3. Advising highway commissioners.
5/5-205.4. Preparation of maps, plans, etc., for highways using motor fuel tax funds.
5/5-205.5. Supervision of work on county highways.
5/5-205.6. Recording of contract or purchase.
5/5-205.7. Acting for county on matters relating to county unit district roads.
5/5-205.8. Performance of other duties; deputy to Department.
5/5-205.9. Report to road district treasurer.

Division 3. Planning and Programming

5/5-301. County long-range plan.

Division 4. Construction and Maintenance

5/5-401. Control and supervision of county highways; State aid roads.
5/5-402. Department approval and supervision required when certain funds are used; agreement between Department and County Highway Superintendent's Office.
5/5-403. Procedure when work is to be performed under supervision and approval of Department; resolutions; bids and letting of contracts.
5/5-405. Highway work on county lines.
5/5-406. Connection with county or State highway situated within an adjoining county.
5/5-407. Highways leading to public ferries over river which is the boundary line between two counties.
5/5-408. County funds for highway located within municipal limits.
5/5-409. Partial payments for work in progress; final payment.
5/5-410. Agreement to maintain county highway within municipal corporation.
5/5-410.1. Surrender of jurisdiction to municipality by agreement.
5/5-411. All-weather surfaces at mail boxes.
5/5-412. Standing rows of crops as snow breaks.
5/5-413. Access roads and driveways.
5/5-414. Permit for temporary closing.

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. County aid for bridges, culverts, drainage structures or grade separations; "county bridge fund".
5/5-502. County may pay for work; joint work with other highway authority; contract.
5/5-503. Bridges, culverts and drainage structures on county line roads.
5/5-504. Joint bridge construction.
5/5-505. Concurrent resolution to abandon jointly built, repaired or maintained bridge or culvert.
5/5-506. Approaches to be maintained separately.
5/5-507. Suit on joint contract.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 5. County Administration of Highways

Division 6. Taxation *(continued)*

Section
5/5-601. County highway tax; limitation on increase; election.
5/5-601.1. Referendum on tax to be in accordance with general election laws.
5/5-602. Additional annual tax.
5/5-603. Federal aid matching tax.
5/5-604. Special tax for county highways or to assist road districts; proposition.
5/5-604.1. Annual tax for highways in county not under township organization; notice; referendum.
5/5-605. Issuing county bonds or raising additional tax; referendum required.
5/5-605.1. No referendum required to issue county bonds if Department approves.
5/5-605.2. Bonds for county highways.
5/5-606. Road district may turn over money to county for county highways.
5/5-607. Tax in addition to other taxes.

Division 7. Use of Motor Fuel Tax Funds

5/5-701. County use of motor fuel tax.
5/5-701.1. Construction with money from Motor Fuel Tax Fund; priority.
5/5-701.2. State highways.
5/5-701.3. Maintenance of county or State highway.
5/5-701.4. Retirement of bonds.
5/5-701.5. Payment of bonds for superhighways; limitations.
5/5-701.6. Investigations of need for work; cooperation with other governmental units.
5/5-701.7. Payment of county's share of federal aid projects.
5/5-701.8. Money may be turned over to local transit authorities.
5/5-701.9. County garage or office space.
5/5-701.10. Circuit court or highway-related department.
5/5-701.11. Payment of bonds for county highway work.
5/5-701.12. Office space.
5/5-701.13. Motor fuel tax funds; counties over 500,000.
5/5-701.14. Grade separations and approaches.
5/5-701.15. Nondedicated subdivision roads.
5/5-701.16. Payment of bonds for county highways, roads or bridges.
5/5-701.17. Construction, maintenance, or improvement of county unit roads.
5/5-702. Compliance with Department of Transportation guidelines is continuing requirement for receipt of motor fuel tax money.

Division 8. Property Acquisition

5/5-801. Exercise of right of eminent domain; no bond required; remnants.
5/5-802. Work on ditch, drain or watercourse; no bond required in eminent domain proceeding.
5/5-803. Entry upon lands or waters; responsibility for damages.

Division 9. Road Improvement Impact Fees

5/5-901. Short title.
5/5-902. General purposes.
5/5-903. Definitions.
5/5-904. Authorization for the imposition of an impact fee.
5/5-905. Procedure for the imposition of impact fees.
5/5-906. Impact fee ordinance or resolution requirements.
5/5-907. Advisory Committee.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 5. County Administration of Highways

Division 9. Road Improvement Impact Fees *(continued)*

Section
5/5-908. Duties of the Advisory Committee.
5/5-909. Unit of local government to cooperate with the Advisory Committee.
5/5-910. Comprehensive road improvement plan.
5/5-911. Assessment of impact fees.
5/5-912. Payment of impact fees.
5/5-913. Impact fees to be held in interest bearing accounts.
5/5-914. Expenditures of impact fees.
5/5-915. Comprehensive road improvement plan amendments and updates.
5/5-916. Refund of impact fees.
5/5-917. Appeals process.
5/5-918. Transition clauses.
5/5-919. Home rule preemption.

Article 6. Administration of Township and District Roads

Division 1. District Organization and Powers

5/6-101. Roads are under the jurisdiction of the several road districts in which they are located.
5/6-102. Road district in county under township organization; consolidated township district and county unit road district.
5/6-103. Road district in county not under township organization.
5/6-104. Organization of territory within municipality into road district; disconnection and annexation.
5/6-105. Alteration of road district boundaries in county not under township organization; petition for change in existing district or creation of new district; notice.
5/6-106. Name of road district.
5/6-107. Powers of road district in county not under township organization.
5/6-107.1. Road district may borrow money.
5/6-108. Consolidated township road district; petition for referendum; consideration by court and orders.
5/6-109. Form of proposition for consolidated township road district.
5/6-110. Several road districts organization; similarity.
5/6-111. Organization into county unit road district; referendum; district to be independent agency; taxation.
5/6-112. Highway commissioner.
5/6-113. Clerk.
5/6-114. Treasurer; bond required.
5/6-115. Eligibility requirements for offices of highway commissioner and clerk.
5/6-116. Election of highway commissioner and clerk, generally; time of taking office; exceptions.
5/6-117. Election of highway commissioner and clerk in county not under township organization.
5/6-118. Oath or affirmation of office.
5/6-119. Records and other property, etc., to go to successor; delivery upon oath.
5/6-120. Vacancies; county under township organization.
5/6-121. Vacancies; county not under township organization.
5/6-122. Highway commissioner of consolidated township road district; board of auditors to fill vacancy by appointment.
5/6-123. Highway board of auditors for consolidated township road district.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 6. Administration of Township and District Roads

Division 1. District Organization and Powers *(continued)*

Section

5/6-124. Delivery of property and funds to consolidated township road district; bonded indebtedness.
5/6-125. Responsibility of county superintendent of highways for work in county unit road district; succession to and assumption of obligations and contracts; bonded indebtedness; districts to be independent agencies.
5/6-126. Property and equipment delivered to county superintendent of highways.
5/6-127. Construction of county unit district roads; district to be administered as separate county agency; division of district into sub-units and hiring of personnel.
5/6-129. Annual budget; resume of work.
5/6-130. Minimum size of township road district.
5/6-131. Senior citizen transportation and mass transit programs; district road fund.

Division 2. Functions and Compensation of District Officials

5/6-201. Highway commissioner, generally.
5/6-201.1. Presence for conduct of official business; certification of tax levy.
5/6-201.2. Alteration of township or district roads.
5/6-201.3. Inclusion of roads in township or district road system.
5/6-201.4. Recording of roads in office of district clerk.
5/6-201.5. Determination of tax levy.
5/6-201.6. Expenditure of road moneys; warrants.
5/6-201.7. Responsibility for highway work; bidding and letting of contracts; limitations on contracts; emergency contracts.
5/6-201.8. General charge of roads of district; cooperation with the Department of Human Services or other authorities.
5/6-201.9. Possession and sheltering of machinery, equipment, etc.
5/6-201.10. Cooperation with other highway authorities in the use of machinery, equipment or tools.
5/6-201.10-1. Contracting with other governmental units for services or materials.
5/6-201.11. Erection and repair of signs.
5/6-201.12. Road lighting.
5/6-201.13. Furnishing list of warrants to county superintendent.
5/6-201.14. Building curbs and sidewalks in unincorporated communities.
5/6-201.15. Annual report.
5/6-201.16. Erection and maintenance of traffic-control devices and signs.
5/6-201.17. Purchasing or leasing or financing the purchase of highway construction and maintenance equipment under contracts providing for payment in installments.
5/6-201.18. Standing crops as snow breaks.
5/6-201.19. Hiring of legal counsel when conflict of interest.
5/6-201.20. Rules concerning employee benefits.
5/6-201.21. Special services; disaster relief.
5/6-202. Functions of district clerk, generally.
5/6-202.1. Custody of records, etc.; filing of certificates, etc., as required by law; administering oaths and taking affidavits.
5/6-202.2. Recording of orders of highway commissioner; public records.
5/6-202.3. Countersigning and recording of warrants.
5/6-202.4. Maintaining stationery supplies.
5/6-202.5. Reporting road district elections.
5/6-202.6. Calling for bids; presence when bids are opened.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 6. Administration of Township and District Roads

Division 2. Functions and Compensation of District Officials *(continued)*

Section

5/6-203. Limitation on power and jurisdiction of highway commissioner over municipal streets and alleys.
5/6-204. Failure of highway commissioner to perform duty; penalties.
5/6-205. District treasurer to receive and have charge of moneys; exceptions; sworn statement.
5/6-206. Designation of financial institution for keeping of road funds and deposit therein; compliance with Public Funds Investment Act.
5/6-207. Compensation of highway commissioner and other officers.

Division 3. Laying out, Widening, Altering, or Vacating Township and District Roads

5/6-301. Minimum width of road; designation of arterial road; limitation on closing or vacating; exceptions.
5/6-302. Reduction of width of existing road; limitation.
5/6-303. Altering, vacating, or laying out of road; petition; certificate in case of State requirement; highway commissioner may file certificate to vacate road.
5/6-304. Road district may aid Department of Transportation; authorization for payments, warrants, taxes, and bonds.
5/6-305. Highway commissioner to examine route; hearing; notice; decision.
5/6-306. Appeal.
5/6-307. Survey; resurvey.
5/6-308. Fixing of damages.
5/6-309. Agreement on damages; entering of condemnation proceedings.
5/6-310. Road work inducements.
5/6-311. Final order of highway commissioner or county superintendent of highways.
5/6-312. Appeal from final order; judicial review.
5/6-313. Effect of final order.
5/6-314. Subsequent proceedings.
5/6-315. Records of district clerk are prima facie evidence.
5/6-315a. Review under Administrative Review Law.
5/6-316. Opening of roads.
5/6-317. Removal of fences.
5/6-318. Harvesting of crops prior to taking or damaging land.
5/6-319. Roads on district and county lines, etc.
5/6-320. Allotment of new road on county or district line; division of expenses and damages; arbitration.
5/6-321. Division, allotment, and repair of roads on district or county lines.
5/6-322. State line roads.
5/6-323. Notice to railroad company.
5/6-324. Relocation, etc., of township or district road at grade crossing; certification of Illinois Commerce Commission; apportionment of costs and damages.
5/6-325. Inclusion in township or district road system; exceptions.
5/6-326. Laying out, altering, or vacating road in county unit road district.
5/6-326.1. Temporary closure.
5/6-327. Roads for private and public use.
5/6-328. Recording of plat.
5/6-329. Recording of vacation.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 6. Administration of Township and District Roads

Division 4. Construction and Maintenance of Township and District Roads

Section

5/6-401. Compelling highway commissioner to repair road.
5/6-402. Bridge or culvert on district line; joint contract; judicial enforcement.
5/6-404. Approaches to bridges on or near district lines.
5/6-405. Duty to make appropriation for shared cost; judicial order to compel compliance; recovery of expense by suit.
5/6-406. Suit on joint contract.
5/6-407. *(Repealed.)*
5/6-408. Contracts for work on district lines.
5/6-409. Contractor to file bond.
5/6-410. Final payments; prerequisites.
5/6-411. Pecuniary interest in leases.
5/6-411.1. Pecuniary interest in contracts.
5/6-411.5. Contracts for public transportation.
5/6-412. All-weather surfaces at mail boxes.
5/6-412.1. Liability insurance.

Division 5. Taxation

5/6-501. Findings and purpose.
5/6-502. Copy of certificate; preservation; district clerk not to certify levy of tax to county clerk.
5/6-503. Damages for laying out road, etc.; tax levy.
5/6-504. Referendum on increase in district's rate limitation; notice; limitation on number of referenda.
5/6-505. Form of proposition; election results; multiple proposals.
5/6-506. Extension of tax when increase has been voted.
5/6-507. Extension and collection of taxes; disposition.
5/6-508. Tax for joint construction of bridges; separate fund; transfer of surplus to road fund.
5/6-508.1. Equipment and building tax.
5/6-509. Damages allowed for roads or ditches; anticipatory orders.
5/6-510. Referendum on bonds; form of proposition; issuance, content, registration.
5/6-511. Road district may turn over money from regular road taxes to municipality .
5/6-512. "County Unit Road District Road Tax"; limitations; money for roads to be separate from money for bridges and drainage works.
5/6-512.1. Increase of road tax; petition; referendum; notice.
5/6-513. County unit road district bonds; referendum.
5/6-514. Issuance of refunding bonds after township organization abandoned; interest.
5/6-515. Resolution authorizing issuance of refunding bonds; interest.
5/6-516. Resolution authorizing refunding bonds to prescribe details and provide for direct annual tax; filing.
5/6-517. Exchange of bonds; cancellation of bonds exchanged or paid.
5/6-518. Refunding bonds, generally.
5/6-519. Reduction of taxes after purchase and cancellation of refunding bonds.
5/6-520. Sinking fund account; investments.
5/6-521. Refunding plan; agreements.
5/6-522. Authority for issuing refunding bonds; application; additional powers.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 6. Administration of Township and District Roads

Division 6. Gravel, Rock, Macadam and Other Township and District Road Improvement by Special Tax

Section
5/6-601. Petition for road or improvement; election; form of proposition.
5/6-602. Levy of tax; donations.
5/6-603. Collection of tax.
5/6-604. Bond of treasurer.
5/6-605. Duty and commission of tax collector.
5/6-615. Extension of road through municipality.
5/6-616. Surplus to go to regular road fund.
5/6-617. Repeal of special tax once levied; referendum.

Division 7. Use of Motor Fuel Tax Funds

5/6-701. Uses of motor fuel tax funds allocated for road districts, generally.
5/6-701.1. Construction of roads and grades; procedure.
5/6-701.2. Maintenance of roads and grades; compliance with Department and county guidelines.
5/6-701.3. Administration and engineering costs.
5/6-701.4. Payment of indebtedness.
5/6-701.5. Township may turn over money to local Mass Transit District.
5/6-701.6. Payment of road or grade separation bonds.
5/6-701.7. Signs or markings indicating bicycle routes.
5/6-701.8. Use of formula allocation for distribution of motor fuel tax funds.
5/6-701.9. Township's share of Great River Road projects.
5/6-702. Payment of money to county contingent upon compliance with Department guidelines.

Division 8. Property Acquisition and Disposition

5/6-801. Acquisition of land and property for township or district roads; eminent domain; bond not required.
5/6-802. Acquisition of land for ditches and drainage; eminent domain; bond not required.
5/6-803. Entering upon lands or waters; responsibility for damages.
5/6-803.1. Surplus public real estate.
5/6-804. County unit road district; powers of county.
5/6-805. Township road districts.

Division 9. State Funding of Road District Bridges

5/6-901. Appropriation and apportionment for bridges.
5/6-902. Selection of bridges to be constructed; preparation of maps, plans and estimates.
5/6-903. Payment of indebtedness.
5/6-904. County to comply with expenditure guidelines of Department of Transportation.
5/6-905. Share of local funds to obtain grant.
5/6-906. Payment to county treasurer.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 7. Municipal Administration of Streets

Division 1. General Powers

Section
5/7-101. Streets and alleys; laying out; extensions.

Division 2. Use of Motor Fuel Tax Funds

5/7-202. Use by municipalities, generally.
5/7-202.1. State or federal highways.
5/7-202.1a. County highways and extensions.
5/7-202.1b. Federal aid primary or federal aid urban streets within municipality.
5/7-202.1c. Non-arterial residential streets.
5/7-202.2. Municipal streets and alleys.
5/7-202.3. Extensions of municipal streets outside corporate limits.
5/7-202.4. Extensions of municipal streets within park district.
5/7-202.5. Traffic control and school crossing signals.
5/7-202.6. Street lighting systems.
5/7-202.7. Storm sewers.
5/7-202.8. Pedestrian subways or over head crossings.
5/7-202.10. Payment of municipality's share of federal aid transportation project.
5/7-202.11. Investigations to determine the need for work.
5/7-202.12. Engineering costs.
5/7-202.13. Municipal indebtedness.
5/7-202.14. Local mass transit districts.
5/7-202.15. Sidewalks or other pedestrian paths.
5/7-202.16. Studies for construction of toll bridges.
5/7-202.17. Acquisition of property for off street parking.
5/7-202.18. Principal and interest on bonds.
5/7-202.19. Operation and maintenance of motor vehicle safety inspection lanes.
5/7-202.20. Bicycle routes and bicycle parking facilities.
5/7-202.21. Grade separations and approaches.
5/7-202.21a. Nondedicated subdivision roads.
5/7-202.22. Increase in allocation.
5/7-203. Ordinances specifying purposes of motor fuel tax funds; department approval for specifications and work; bidding and letting of contracts; inspection of work by Department.
5/7-203.1. Municipal motor fuel tax highway program; department approval; assessment.
5/7-203.2. Agreement with Department on work financed with State funds.
5/7-204. Expenditure of funds to comply with Department guidelines.

Division 3. Planning and Programming

5/7-301. Long-range highway transportation plan.

Article 8. Freeways

5/8-101. Establishment and regulation of freeways.
5/8-102. Limitation on ingress and egress.
5/8-103. Acquisition of property.
5/8-104. Restricted easement permitting crossing of freeway.
5/8-105. Local service drives.
5/8-106. Relocation or elimination of crossing or junction.
5/8-107. Consent for new intersections or crossings.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 8. Freeways *(continued)*

Section
5/8-107.1. Telephone service within rights-of- way of fully controlled access highways.
5/8-108. Continuation of existing freeways.
5/8-109. Provisions are cumulative and confer additional powers not limitations.

Article 9. General Highway Provisions

5/9-101. Cooperative agreements among governmental agencies, generally.
5/9-101.1. Drainage and stormwater detention.
5/9-102. Keeping vehicles off highway; erection of signs and barricades.
5/9-103. Removal or possession of control device or sign.
5/9-104. Prohibition on disturbing corner stones.
5/9-105. Entrance culverts or crossings.
5/9-106. Protection of intersecting highway from freshly applied road oil.
5/9-107. Tile drains.
5/9-108. Willow hedges; planting on margin of highway is public nuisance.
5/9-109. Bridge or culvert to comply with safety guidelines; failure to conform is prima facie evidence of incapacity.
5/9-110. Specifications to be drawn so as to provide for alternative methods, materials, etc.
5/9-111. Control of noxious weeds; failure to comply.
5/9-111.1. Inspection of bridges and culverts; removal of driftwood and other trash.
5/9-112. Removal of obstructions to view at grade crossings; offense.
5/9-112.1. Billboards and other advertising to comply with Code; placement; offense.
5/9-112.2. Billboards and other advertising to comply with Code; placement; offense; limitation on design; limitation on lights; offense.
5/9-112.3. Shelters for persons waiting for buses, etc.
5/9-112.4. Signs over sidewalks.
5/9-112.5. Signs, billboards, and advertising in commuter parking lots.
5/9-113. Consent for construction; rules, regulations and specifications; non-toll federal-aid fully access-controlled State highways; compensation.
5/9-113.01. Billing of utility for damage caused by utility.
5/9-113.02. Damage to State-owned roadway property.
5/9-113.1. Commercial establishment for serving motorists or highway users; courtesy rest stop; solicitation of donation; vending machines.
5/9-114. Crossings for domestic animals.
5/9-115. Excavation or removal of lateral support; deposit of spoil; offense.
5/9-115.1. Drainage detention facilities and earthen berms.
5/9-116. Owner of hedge fence to trim; windbreak for livestock; offense.
5/9-117. Injuring or obstructing highway; repair of damage or removal of obstruction.
5/9-118. Planting of trees, shrubs, etc., along highway.
5/9-119. Injury to tree, shrub, etc., planted or growing along highway.
5/9-121. Deposit of trash along highway.
5/9-122. Injuring or obstructing sidewalk, public bridge, culvert, etc.
5/9-123. Sewage not to be discharged along highway.
5/9-124. Camping on highway prohibited.
5/9-124.1. No tethering or loosing of animals on highway for feeding of same.
5/9-125. Suits for recovery of fines or penalties.
5/9-126. Disposition of fines and penalties.
5/9-127. Title to vacated land vests in owners of land abutting thereon.
5/9-128. Damaging sign or traffic control device.
5/9-129. Agricultural aircraft; use of roads; liability for personal injuries.
5/9-130. Prohibition against deposit of snow on highway.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

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

Section
5/10-101. Gift to Department.
5/10-102. Conditions precedent.
5/10-102.1. Transfer of McKinley Bridge.
5/10-103. Joint control, maintenance and operation of bridge with adjoining state or political subdivision.

Division 2. County Construction and Maintenance of Free Bridges on State Boundaries

5/10-201. County share of expenses relating to bridge work.
5/10-202. Appropriation by county board; bonds.
5/10-203. Form of proposition.
5/10-204. Issuance of bonds; rate; registration; annual extension of tax.
5/10-205. County superintendent to approve plans and specifications; contract to be let by county board.
5/10-206. Payments of contractor.

Division 3. County Toll Bridges

5/10-301. Bridges over streams within county or forming boundary.
5/10-302. County may operate bridges and approaches; tolls.
5/10-302.5. Administrative adjudication of toll violations.
5/10-303. County board may borrow money and issue bonds for bridge.
5/10-304. Sinking fund to pay principal and interest.
5/10-305. County treasurer is legal custodian of funds; duties.
5/10-306. Accounts; audit.
5/10-307. Holder of bond may compel performance of duties.
5/10-308. Bonds payable only from revenue; letting of contracts.
5/10-309. Acquisition only in name of county.
5/10-310. County board to establish fiscal and budget year for operation of bridge.
5/10-311. Bridge commission.
5/10-312. Cumulative powers.

Division 5. Municipal Bridges and Approaches

5/10-501. Municipality may construct, acquire, and maintain bridges and approaches.
5/10-502. Toll bridges.
5/10-503. Bridge to be subject to municipal control and ordinances; county aid in construction.
5/10-504. Municipality may issue bonds for bridge.

Division 6. Municipal Bridges, Ferries, and Terminals

5/10-601. Municipality may acquire ferries, bridges, and approaches; tolls.
5/10-602. Acquisition by right of eminent domain; municipality may aid road districts and issue bonds; tolls.
5/10-603. Bridge or ferry to be subject to municipal control and ordinances; county may aid in construction.
5/10-604. Ownership and operation of terminal facilities.
5/10-605. Special tax for terminal facilities; proposition.
5/10-606. Bonds for terminal facilities.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 5. ILLINOIS HIGHWAY CODE

Article 10. Special Provisions Concerning Bridges, Ferries, Terminals, and Other Highway Structures

Division 7. Municipal Toll Bridges – Additional Authorization To Acquire, Construct, Maintain, etc.

Section
5/10-701. Definitions.
5/10-702. Powers of municipalities.
5/10-703. Municipal revenue bonds.
5/10-704. Ordinance authorizing bonds.
5/10-705. Municipality to fix rates of toll; record of costs; no toll after bonds paid.
5/10-706. Refunding revenue bonds.
5/10-707. Ordinance authorizing refunding revenue bonds; terms.
5/10-708. Ordinance authorizing refunding revenue bonds; publication.
5/10-709. Sale or exchange of refunding revenue bonds.
5/10-710. Sinking fund publicity; expenditures without prior appropriation.
5/10-711. Holder of bond may compel performance of duties; receivership.
5/10-712. Revenue bonds may be issued without voter approval.
5/10-713. Bridge Commission.
5/10-714. Projects involving two or more municipalities.
5/10-715. Bonds are legal investments.

Division 8. Municipal Bridges over River Forming State Boundary

5/10-801. Definitions.
5/10-802. Powers of municipality.
5/10-803. Municipality may issue revenue bonds.
5/10-804. Ordinance authorizing bonds; publication.
5/10-805. Municipality to fix rates of toll; record of costs.
5/10-806. Municipality may issue refunding revenue bonds; bonds to be payable solely from revenue of bridge.
5/10-807. Holder of bond may compel performance of duties; receivership.
5/10-808. Revenue bonds may be issued without voter approval.
5/10-809. Validation of proceedings and bond issues.

Division 9. Department Acquisition and Operation of Certain Ferries

5/10-901. Department may acquire ferries.
5/10-902. Department may maintain and operate ferry.
5/10-903. Use of funds.

Division 10. Department Maintenance and Control of Covered Bridges

5/10-1001. Department to maintain and operate covered bridges on boundaries.

Article 11. Effect of Code, Repeal and Other Provisions

5/11-101. Effect of headings.
5/11-102. Cross references.
5/11-103. Partial invalidity.
5/11-104. Saving provisions; continuation of prior statutes.
5/11-105. Outstanding bonds.
5/11-106. Cumulative powers.

(continued)

CONTENTS
(Continued)

CHAPTER 605. *(continued)*

ACT 15. DIRKSEN MEMORIAL HIGHWAY ACT

Section
15/0.01. Short title.
15/1. Designation.

ACT 20. PEERSON MEMORIAL HIGHWAY ACT

20/0.01. Short title.
20/1. Designation.

ACT 25. JOLLIET–MARQUETTE TRAIL ACT

25/0.01. Short title.
25/1. Designation.
25/2. Plaques.

ACT 30. BIKEWAY ACT

30/0.01. Short title.
30/1. Legislative declarations and findings.
30/2. Responsible agency; bikeways program; use of funds.
30/3. Funds for bikeways.
30/4. Cooperation with other governmental units and agencies.

ACT 105. BRIDGE CONSTRUCTION ACT

105/0.01. Short title.
105/1. Assent of State for construction of interstate bridges.

ACT 110. BRIDGE PIER PROTECTION ACT

110/1. Construction and maintenance of piers.
110/1.1. Short title.

ACT 120. ILLINOIS ADOPT-A-HIGHWAY ACT

120/1. Short title.
120/5. Purpose.
120/10. Definitions.
120/15. Participation in Adopt-A-Highway Program.
120/20. Agreement.
120/25. Responsibilities of the group.
120/30. Responsibilities of the sponsoring jurisdiction.
120/35. Signs.
120/40. Safety training.
120/45. Other conditions.
120/100. Effective date of Act.

(continued)

CONTENTS

(Continued)

CHAPTER 625. VEHICLES

ACT 5. ILLINOIS VEHICLE CODE

Chapter 11. Rules of the Road

Article III. Traffic Signs, Signals and Markings

Section

5/11-301. Department to adopt sign manual.
5/11-301.1. Person with disabilities sign.
5/11-302. Authority to designate through highway and stop and yield intersections.
5/11-303. The Department to place signs on all State highways.
5/11-304. Local traffic-control devices; tourist oriented businesses signs.
5/11-305. Obedience to and required traffic-control devices.
5/11-310. Display of unauthorized signs, signals or markings.
5/11-311. Interference with official traffic-control devices or railroad signs or signals.
5/11-312. Unlawful use or damage to highways, appurtenances and structures.
5/11-313. Unlawful possession of highway sign or marker.

Article VI. Speed Restrictions

5/11-601. General speed restrictions.
5/11-601.5. Driving 40 miles per hour or more in excess of applicable limit.
5/11-602. Alteration of limits by Department.
5/11-603. Alteration of limits by Toll Highway Authority.
5/11-604. Alteration of limits by local authorities.
5/11-605. Special speed limit while passing schools.
5/11-605.1. Special limit while traveling through a highway construction or maintenance speed zone.
5/11-605.2. Delegation of authority to set a special speed limit while traveling through highway construction or maintenance zones.

Article XIII. Stopping, Standing, and Parking

5/11-1304. Additional parking regulations.
5/11-1304.5. Parking of vehicle with expired registration.

Article XIV. Miscellaneous Laws

5/11-1426. Operation of all-terrain vehicles and off-highway motorcycles on streets, roads and highways.
5/11-1428. Operation of golf carts on streets, roads, and highways.

Chapter 15. Size, Weight, and Load Permits

5/15-100. *(Repealed.)*

Article I. Size, Weight, and Load

5/15-101. Scope and effect of Chapter 15.
5/15-102. Width of Vehicles.
5/15-103. Height of vehicles.
5/15-104. *(Repealed.)*
5/15-105. Projecting loads on passenger vehicles.
5/15-106. Protruding members of vehicles.
5/15-107. Length of vehicles.
5/15-108. Planking edge of a pavement.
5/15-109. Spilling loads on highways prohibited.

(continued)

CONTENTS
(Continued)

CHAPTER 625. *(continued)*

ACT 5. ILLINOIS VEHICLE CODE

Chapter 15. Size, Weight, and Load Permits

Article I. Size, Weight, and Load

Section
5/15-109.1. Covers or tarpaulins required for certain loads.
5/15-110. Towed vehicles.
5/15-111. Wheel and axle loads and gross weights.
5/15-112. Officers to weigh vehicles and require removal of excess loads.
5/15-113. Violations; Penalties.
5/15-113.1. Violations; Sentence of permit moves.
5/15-113.2. Violations; Sentence of permit moves exceeding axle weights.
5/15-113.3. Violations; Sentence of permit moves exceeding gross weight.
5/15-114. Pushing of disabled vehicles.
5/15-115. Report; operation of larger vehicles; consumption of diesel fuel by first and second division vehicles.

Article III. Permits

5/15-301. Permits for excess size and weight.
5/15-316. When the Department, local authority or road district highway commissioner may restrict right to use highways.
5/15-317. Special weight limitation on elevated structures.
5/15-318. Liability if highway or structure damaged.

ACT 40. SNOWMOBILE REGISTRATION AND SAFETY ACT

Article V. Control Provisions

40/5-2. Operation on highways.

RIGHTS AND REMEDIES

CHAPTER 720. CRIMINAL OFFENSES

CRIMINAL CODE

ACT 5. CRIMINAL CODE OF 1961

Title III. Specific Offenses

Part C. Offenses Directed Against Property

Article 21. Damage and Trespass to Property

5/21-3. Criminal trespass to real property.
5/21-5. Criminal trespass to State supported land.

(continued)

CONTENTS
(Continued)

CHAPTER 720. *(continued)*

CRIMINAL CODE

ACT 5. CRIMINAL CODE OF 1961

Title III. Specific Offenses

Part F. Certain Aggravated Offenses

Article 33E. Public Contracts

Section
5/33E-1. Interference with public contracting.
5/33E-2. Definitions.
5/33E-3. Bid-rigging.
5/33E-4. Bid rotating.
5/33E-5. Acquisition or disclosure of bidding information by public official.
5/33E-6. Interference with contract submission and award by public official.
5/33E-7. Kickbacks.
5/33E-8. Bribery of inspector employed by contractor.
5/33E-9. Change orders.
5/33E-10. Rules of evidence.
5/33E-11. Certification.
5/33E-12. Exemptions of government officials.
5/33E-13. Local Government Professional Services Selection Act unaffected.
5/33E-14. False statements on vendor applications.
5/33E-15. False entries.
5/33E-16. Misapplication of funds.
5/33E-17. Unlawful participation.
5/33E-18. Unlawful stringing of bids.

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

605/0.01. Short title.
605/1. Protective covering or fencing required.

CHAPTER 730. CORRECTIONS

ACT 5. UNIFIED CODE OF CORRECTIONS

Chapter III. Department of Corrections

Article 2. Organization of Department

5/3-2-2. Powers and duties of the Department.

(continued)

CONTENTS

(Continued)

CHAPTER 735. CIVIL PROCEDURE

ACT 5. CODE OF CIVIL PROCEDURE

Article VII. Eminent Domain

Section

5/7-101. Compensation; jury.
5/7-102. Parties.
5/7-102.1. State agency proceedings; information.
5/7-103. "Quick-take".
5/7-103.1. Quick-take; highway purposes.
5/7-104. Preliminary finding of compensation.
5/7-105. Deposit in court; possession.
5/7-106. Withdrawal by persons having an interest.
5/7-107. Persons contesting not to be prejudiced.
5/7-108. Interest payments.
5/7-109. Refund of excess of deposit.
5/7-110. Dismissal; abandonment.
5/7-111. Payment of costs.
5/7-112. Construction of Article.
5/7-113. Construction easement.
5/7-114. Service; notice.
5/7-115. Hearing.
5/7-116. Challenge of jurors.
5/7-117. Oath of jury.
5/7-118. View of premises.
5/7-119. Admissibility of evidence.
5/7-120. Special benefits.
5/7-121. Value.
5/7-122. Reimbursement.
5/7-123. Judgments.
5/7-124. Intervening petition.
5/7-125. Bond; use of premises.
5/7-126. Payment to county treasurer.
5/7-127. Distribution of compensation.
5/7-128. Verdict and judgment to be filed of record.
5/7-129. Lands of State institutions not taken.

CHAPTER 740. CIVIL LIABILITIES

ACT 35. CONSTRUCTION CONTRACT INDEMNIFICATION FOR NEGLIGENCE ACT

35/0.01. Short title.
35/1. Negligence.
35/2. Application of Act; effective date.
35/3. Application of Act; exclusions.

ACT 55. *(Repealed.)*

ACT 85. HIGHWAY CONTRACTOR LIABILITY ACT

85/0.01. Short title.
85/1. Contractor liability.

(continued)

CONTENTS

(Continued)

CHAPTER 745. CIVIL IMMUNITIES

ACT 10. LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT

Article III. Immunity from Liability for Injury Occurring in the Use of Public Property

Section

10/3-101. Definitions.
10/3-102. Duty to maintain property in safe condition; liability.
10/3-103. No liability when higher authority approves plan or design.
10/3-104. Failure to provide traffic signals and signs.
10/3-105. No liability for injury caused by the effect of weather conditions; no liability for failure to upgrade road or signs, etc., without limitation.
10/3-106. Liability for public recreational property.
10/3-107. No liability for certain access roads and trails.
10/3-108. Liability relating to supervision of use of public property.
10/3-109. No liability to person who participates in hazardous recreational activity.
10/3-110. No liability when waterway not owned, supervised, etc., by local public entity.

Article VII. Tort Liability Under Agreements Between Local Public Entities

10/7-101. Agreement to share liability.
10/7-102. Contribution or indemnification.
10/7-103. Application and construction of Article.

Article VIII. Actions Against Local Public Entities and Public Employees – Limitations, Notice

10/8-101. Limitation of actions.
10/8-103. Failure to serve notice.

Article IX. Payment of Claims and Judgment

10/9-101. Definitions.
10/9-102. Payment of tort judgment or settlement for compensatory damages.
10/9-103. Insurance contracts.
10/9-104. Payment of tort judgment in installments; settlement agreements.
10/9-105. Issuance of bonds.
10/9-106. Funds to pay judgments and settlements.
10/9-107. Policy; tax levy.

ACT 15. COUNTY ENGINEER AND HIGHWAY SUPERINTENDENT LIABILITY ACT

15/0.01. Short title.
15/1. Declaration of policy.
15/2. Time limitation on commencement of action for injury to person or property.
15/3. Notice of injury; filing.
15/4. Failure to file notice.
15/5. Amount of damages.
15/6. County to indemnify engineer or superintendent of highways for judgment and cost.
15/7. Application of Act.

(continued)

CONTENTS

(Continued)

CHAPTER 765. PROPERTY

PLATS AND SURVEYS

ACT 205. PLAT ACT

General Provisions

Section

205/2. Acknowledgment of plat; approval by city authorities or county board; notice and hearing; recording.

205/6. Vacation of plat; instruments; reservations.

Vacation of Plats

205/7. Vacation not to abridge or destroy rights or privileges of other proprietors; no authorization for closure or obstruction of public highway.

205/8. Canceling plat of record.

Plats To Be Recorded, etc.

205/9. Plat of highway, reservoir, etc.; recording; registration of titles.

205/9.1. Extension or widening of highway.

CHAPTER 775. HUMAN RIGHTS

ACT 10. PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT

10/0.01. Short title.

10/1. Discrimination in employment prohibited; compliance with Illinois Human Rights Act.

10/2. Incorporation of provisions in State contracts.

10/3. Application to contracts entered into by contractors, associations, etc.

10/4. Contractors not to discriminate; deduction from compensation.

10/5. Recovery.

10/6. Violations; punishment.

10/7. Provisions of Act to be printed on contract.

10/8. Partial invalidity; construction.

BUSINESS

CHAPTER 815. BUSINESS TRANSACTIONS

CONTRACTS

ACT 660. NON-RESIDENT CONTRACTOR BOND ACT

660/1. to 660/49 *(Repealed.)*

(continued)

CONTENTS

(Continued)

CHAPTER 820. EMPLOYMENT

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 wages; call for bids to specify prevailing wages; contracts; bonds.
130/5. Records of employees and wages paid.
130/6. Violations of Act; enforcement.
130/7. Finding as to prevailing wage final unless reviewed; higher wages; hours.
130/8. Prevailing wages not ascertainable.
130/9. Prevailing wages; ascertaining; public notice; objections to determination of Department of Labor; hearing; review; appeal.
130/10. Witnesses; subpoenas.
130/10a. *(Repealed.)*
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.
130/11b. Discharge or discipline of "whistle blowers" prohibited.
130/12. Partial invalidity.

(continued)

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ILLINOIS COMPILED STATUTES

GOVERNMENT

CHAPTER 5
GENERAL PROVISIONS
(Selected Act)

OPEN MEETINGS

Act
120. Open Meetings Act.

INTERGOVERNMENTAL COOPERATION

220. Intergovernmental Cooperation Act.

OFFICERS AND EMPLOYEES

315. Illinois Public Labor Relations Act.

OPEN MEETINGS

ACT 120. OPEN MEETINGS ACT
(Complete Act)

Section
120/1. Policy.
120/1.01. Short title.
120/1.02. Definitions.
120/2. Open meetings.
120/2.01. Times and places of meetings.
120/2.02. Public notice of all meetings.
120/2.03. Schedule of regular meetings.
120/2.04. Other notices; failure to receive notice.
120/2.05. Any person may record proceedings.
120/2.06. Minutes of meetings.
120/2a. Closed session.
120/2b. *(Repealed.)*
120/3. Civil action for noncompliance.
120/4. Penalties.
120/5. Invalid provision or application.
120/6. Minimum requirements for home rule unit.

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.

(Source: P.A. 88-621.)

120/1.01. Short title.

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

(Source: P.A. 82-378.)

120/1.02. Definitions.

§1.02. For the purposes of this Act:

"Meeting" means any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business.

"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 Planning 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 [20 ILCS 515/1 et seq.] or an ethics commission acting under the State Officials and Employees Ethics Act.

(Source: P.A. 92-468. Chgd. by P.A. 93-617, §60, eff. 12/9/2003.)

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.

(8) Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or 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 [745 ILCS 10/1-101 et seq.], 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 [20 ILCS 3935/1 et seq.].

(20) The classification and discussion of matters classified as confidential or continued confidential by the State Employees 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 Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council under the Residential Health Care Facility Resident Sexual Assault and Death Review Team 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.

(Source: P.A. 91-730. Chgd. by P.A. 93-57, §5, 7/1/2003; 93-79, §5, eff. 7/2/2003; 93-422, §5, eff. 8/5/2003; 93-577, §90, eff. 8/21/2003.)

120/2.01. Times and places of meetings.

§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.

(Source: P.A. 88-621.)

120/2.02. Public notice of all meetings.

§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. 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 bona fide 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. 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.

(Source: P.A. 89-86.)

120/2.03. Schedule of regular 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.

(Source: Laws 1967, p. 1960.)

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.

(Source: Laws 1967, p. 1960.)

120/2.05. Any person may record proceedings.

§2.05. Subject to the provisions of "An Act in relation to the rights of witnesses at proceedings conducted by a court, commission, administrative agency or other tribunal in this State which are

televised or broadcast or at which motion pictures are taken" [repealed; see now 735 ILCS 5/8-701], approved July 14, 1953, as amended, 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 "An Act in relation to the rights of witnesses at proceedings conducted by a court, commission, administrative agency or other tribunal in this State which are televised or broadcast or at which motion pictures are taken", approved July 14, 1953, as amended.
(Source: P.A. 82-378.)

120/2.06. Minutes of meetings.

§2.06. (a) All public bodies shall keep written minutes of all their open 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

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

(b) The minutes of meetings open to the public shall be available for public inspection within 7 days of the approval of such minutes by the public body.

(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 and recordings 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 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 may 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 in camera 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 or administrative hearing officer 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.
(Chgd. by P.A. 93-523, §5, eff. 1/1/2004; 93-974, §5, eff. 1/1/2005.)

120/2a. Closed session.

§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.
(Source: P.A. 89-86.)

120/2b. *(Repealed.)*

120/3. Civil action for noncompliance.

§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.

(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.
(Source: P.A. 88-621.)

120/4. Penalties.

§4. Any person violating any of the provisions of this Act shall be guilty of a Class C misdemeanor.
(Source: P.A. 77-2549.)

120/5. Invalid provision or application.

§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.
(Source: Laws 1957, p. 2892.)

120/6. Minimum requirements for home rule unit.

§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.
(Source: P.A. 78-448.)

INTERGOVERNMENTAL COOPERATION

ACT 220. INTERGOVERNMENTAL COOPERATION ACT

(Complete Act)

Section

220/1. Short title.
220/2. Definitions.
220/3. Intergovernmental cooperation.
220/3.1. Municipal Joint Action Water Agencies.
220/3.2. Municipal joint action agency; storage and disposal of waste.
220/3.2a. Waste disposal; Municipal lead agencies; Ordinance.
220/3.3. Local Economic Development Commissions.
220/3.4. Municipal Joint Sewage Treatment Agency.
220/3.5. Expenditure of funds.
220/3.6. Merger of special districts into townships.
220/3.7. Regional Juvenile Detention Authority.
220/3.8. Floodwater management.
220/4. Appropriations, furnishing of property, personnel and services.
220/4.5. Prohibited agreements and contracts.
220/5. Intergovernmental contracts.
220/5.1. Personnel rules; Assignment of employees.
220/6. Joint self-insurance.
220/7. Construction with Constitution Article 7, §10.
220/8. Separability.
220/9. County participation.
220/15. Authorized investments.
220/16. Investment policy.

220/1. Short title.

This Act may be cited as the Intergovernmental Cooperation Act.
(Source: P.A. 78-785.)

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 [70 ILCS 1832/1 et seq.].

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

(Source: P.A. 90-636.)

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 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.

(Source: P.A. 91-298.)

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, 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. For purposes of this Act, the water supply may only be derived from Lake Michigan, the Mississippi River, the Missouri River, or the Sangamon River Valley Alluvium. 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, and counties, upon approval by an ordinance adopted by the corporate authorities of each member municipality, public water district, township, 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, and counties. The agreement may provide for additional municipalities, public water districts, 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, 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, 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, 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, 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, or county, as designated by ordinance from time to time by the corporate authorities of the member municipality, public water district, township, 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 [35 ILCS 235/.01 et seq. repealed.] 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, 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, 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, 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, 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 determine 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. *(Source: P.A. 91-134.)*

220/3.2. Municipal joint action agency; storage and disposal of waste.

§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 [415 ILCS 10/1 et seq.].

(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 closing 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.

(Source: P.A. 87-650.)

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.

(Source: P.A. 86-771.)

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.
(Source: P.A. 83-1362.)

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.
(Source: P.A. 83-1423.)

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 [30 ILCS 505/1 et seq.] 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 [30 ILCS 525/.01 et seq.]. Such self-insurance or insurance pools may enter into reinsurance agreements for the protection of their members.
(Source: P.A. 84-1431.)

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 in a county having less than 1,000,000 inhabitants 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) be merged into ..... Township?	YES	
	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.
(Source: P.A. 89-150.)

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.
(Source: P.A. 86-669.)

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.
(Source: P.A. 91-424.)

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

§4. Appropriations, furnishing of property, personnel and services.

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.
(Source: P.A. 78-785.)

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.
(Added by P.A. 93-839, §10-50, eff. 7/30/2004.)

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.
(Source: P.A. 91-298.)

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.
(Source: P.A. 84-1248.)

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 and the Workers' Occupational Diseases Act shall file with the Illinois Workers' Compensation Commission a report indicating an election to self-insure.

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, 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.

(Source: P.A. 92-530. Chgd. by P.A. 93-721, §5, eff. 1/1/2005.)

220/7. Construction with Constitution Article 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.

(Source: P.A. 78-785.)

220/8. Separability.

§8. Separability.

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.

(Source: P.A. 78-785.)

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.

(Source: P.A. 91-298.)

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 and registered under the Illinois Securities Law of 1953 or an investment adviser as defined under the federal Investment Advisers Act of 1940;

(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.
(Source: P.A. 90-319.)

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.
(Source: P.A. 89-592.)

OFFICERS AND EMPLOYEES

(Selected Sections)

Section
315/1. Short title.
315/20. Prohibitions.

315/1. Short title.

§1. This Act shall be known and may be cited as the "Illinois Public Labor Relations Act".
(Source: P.A. 83-1012.)

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 35 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, units of local government employing more than 35 employees where the total number of employees falls below 35 after the Board has certified a bargaining unit, and fire protection districts required by the Fire Protection District Act to appoint a Board of Fire Commissioners.
(Chgd. by P.A. 93-442, §5, eff. 1/1/2004.)

CHAPTER 20
EXECUTIVE BRANCH
(Selected Acts)

EXECUTIVE DEPARTMENTS

Act
5. Civil Administrative Code of Illinois.

DEPARTMENT OF NATURAL RESOURCES

830. Interagency Wetland Policy Act of 1989.

DEPARTMENT OF STATE POLICE

2610. State Police Act.

DEPARTMENT OF TRANSPORTATION

Civil Administrative Code of Illinois.

HISTORIC PRESERVATION AGENCY

3420. Illinois State Agency Historic Resources Preservation Act.
3435. Archaeological and Paleontological Resources Preservation Act.

EXECUTIVE DEPARTMENTS

CIVIL ADMINISTRATIVE CODE OF ILLINOIS
(Selected Articles)

Article
1. Short Title and General Provisions.
5. Departments of State Government.

ARTICLE 1. SHORT TITLE AND GENERAL PROVISIONS
(Selected Sections)

Section
5/1-1. Short title.

5/1-1. Short title.

§1-1. Short title. This Act may be cited as the Civil Administrative Code of Illinois.
(Source: P.A. 91-239.)

ARTICLE 5. DEPARTMENTS OF STATE GOVERNMENT
(Selected Sections)

Section
5/5-5. "Department".
5/5-10. "Director".
5/5-15. Departments of State government.
5/5-20. Heads of departments.
5/5-100. Executive and administrative officers, boards, and commissions.
5/5-105. Direction, supervision, and control of officers.
5/5-185. In the Department of Transportation.
5/5-300. Officers' qualifications and salaries.
5/5-415. In the Department of Transportation.
5/5-515. Compensation prohibited.
5/5-600. Officer's performance of duties.
5/5-605. Appointment of officers.
5/5-610. Term of office.
5/5-615. Officer's oath.
5/5-620. Bond.
5/5-625. Department regulations.
5/5-630. Department offices.
5/5-635. Department office hours.
5/5-640. Department seal.
5/5-645. Department employees.
5/5-650. Department reports.
5/5-655. Cooperation by directors.
5/5-675. Acquisition of land.

5/5-5. "Department".

§5-5. "Department".

As used in the Civil Administrative Code of Illinois, 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.
(Source: P.A. 91-239.)

5/5-10. "Director".

§5-10. "Director".

As used in the Civil Administrative Code of Illinois, 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.
(Source: P.A. 91-239.)

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 Emergency Management Agency.
The Department of Financial Institutions.
The Department of Human Rights.
The Department of Human Services.
The Department of Insurance.
The Department of Labor.
The Department of the Lottery.
The Department of Natural Resources.
The Department of Professional Regulation.
The Department of Public Aid.
The Department of Public Health.
The Department of Revenue.
The Department of State Police.
The Department of Transportation.
The Department of Veterans' Affairs.

(Source: P.A. 91-239. Chgd. by P.A. 93-25, §25-5, eff. 6/20/2003; 93-1029, §905, eff. 8/25/2004.)

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 [20 ILCS 5/1-1 et seq.], 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 Emergency Management Agency, for the Emergency Management Agency.

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

Director of Financial Institutions, for the Department of Financial Institutions.

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

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

Director of Insurance, for the Department of Insurance.

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 Professional Regulation, for the Department of Professional Regulation.

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

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.

(Source: P.A. 91-239. Chgd. by P.A. 93-25, §25-5, eff. 6/20/2003; 93-1029, §905, eff. 8/25/2004.)

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.
(Source: P.A. 91-239.)

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, 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.
(Source: P.A. 91-239.)

5/5-185. In the Department of Transportation.

§5-185. In the Department of Transportation. Assistant Secretary of Transportation.
(Source: P.A. 91-239.)

5/5-300. Officers' qualifications and salaries.

Sec. 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.
(Source: P.A. 91-25; 91-239; 92-16.)

5/5-415. In the Department of Transportation.

Sec. 5-415. In the Department of Transportation.

The Secretary of Transportation shall receive an annual salary as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.

The Assistant Secretary of Transportation shall receive an annual salary as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.
(Source: P.A. 91-25; 91-239; 92-16.)

5/5-515. Compensation prohibited.

§5-515. Compensation prohibited. No member of an advisory and non-executive board shall receive any compensation.
(Source: P.A. 91-239.)

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 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.
(Source: P.A. 91-239.)

5/5-605. Appointment of officers.

§5-605. Appointment of officers.

Each officer whose office is created by the Civil Administrative Code of Illinois 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.
(Source: P.A. 91-239.)

5/5-610. Term of office.

§5-610. Term of office.

Each officer whose office is created by the Civil Administrative Code of Illinois, 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.
(Source: P.A. 91-239.)

5/5-615. Officer's oath.

§5-615. Officer's oath.

Each officer whose office is created by the Civil Administrative Code of Illinois 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.
(Source: P.A. 91-239.)

5/5-620. Bond.

§5-620. Bond.

Each executive and administrative officer whose office is created by the Civil Administrative Code of Illinois 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 [5 ILCS 260/14.1, 260/14.2].

All official bonds required to be executed and filed under this Section are subject to the requirements of the Official Bond Act.
(Source: P.A. 90-372; 91-239.)

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.
(Source; P.A. 91-239.)

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.
(Source: P.A. 91-239. Chgd. by P.A. 93-632, §10, eff. 2/1/2004.)

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.
(Source: P.A. 91-239.)

5/5-640. Department seal.

§5-640. Department seal.

Each department shall adopt and keep an official seal.
(Source: P.A. 91-239.)

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 [20 ILCS 415/1 et seq.].
(Source: P.A. 91-239.)

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.

(Source: P.A. 91-239.)

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.

(Source: P.A. 91-239.)

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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.], 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 [42 U.S.C. 4601 et seq.], Public Law 91-646, 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 Article VII of the Code of Civil Procedure, 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.

(Source: P.A. 91-239.)

DEPARTMENT OF NATURAL RESOURCES

ACT 830. INTERAGENCY WETLAND POLICY ACT OF 1989

(Complete Act)

Article
I. General Provisions.
II. Agency Coordination.
III. State Wetland Mitigation Policy.
IV. Administration.

ARTICLE I. GENERAL PROVISIONS

Section
830/1-1. Short title.
830/1-2. Legislative declaration.
830/1-3. Application.
830/1-4. State goal.
830/1-5. Goal implementation.
830/1-6. Definitions.

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".

(Source: P.A. 86-157.)

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.

(Source: P.A. 86-157.)

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) [42 U.S.C. 9602], as amended; (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, of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) [42 U.S.C. 6901 et seq.]; (3) the State remedial action program established under Section 4 of the Environmental Protection Act [415 ILCS 5/4], as amended, 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) [42 U.S.C. 4321 et seq.] 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.

(Source: P.A. 86-157.)

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.

(Source: P.A. 86-157.)

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.

(Source: P.A. 86-157.)

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.

(Source: P.A. 89-445.)

ARTICLE II. AGENCY COORDINATION

Section

830/2-1. Interagency Wetlands Committee.
830/2-2. Agency Action Plans.

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 Commerce and Community Affairs,

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.

(Source: P.A. 92-651.)

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 including 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.

(Source: P.A. 86-157.)

ARTICLE III. STATE WETLAND MITIGATION POLICY

Section
830/3-1. State Wetland Mitigation Policy.
830/3-2. Ownership and management.
830/3-3. Wetland Compensation Account.
830/3-4. Impact evaluation.
830/3-5. Value.
830/3-6. Compensation ratios.

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 [520 ILCS 10/1 et seq.].
(Source: P.A. 86-157.)

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.
(Source: P.A. 86-157.)

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.
(Source: P.A. 86-157.)

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.
(Source: P.A. 86-157.)

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.
(Source: P.A. 86-157.)

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. Compensation 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.
(Source: P.A. 86-157.)

ARTICLE IV. ADMINISTRATION

Section
830/4-1. Administration.

830/4-1. Administration.

§4-1. Administration. The Department shall administer this Act and shall formulate rules and regulations necessary for its implementation.
(Source: P.A. 86-157.)

DEPARTMENT OF STATE POLICE

ACT 2610. STATE POLICE ACT
(Selected Sections)

Section
2610/16. Motor vehicle laws; powers and duties of State police; enforcement.
2610/21. State police, toll highways.

2610/16. Motor vehicle laws; powers and duties of State police; enforcement.

§16. State policemen shall enforce the provisions of The Illinois Vehicle Code [625 ILCS 5/1-100 et seq.], approved September 29, 1969, as amended, and Article 9 of the "Illinois Highway Code" [605 ILCS 5/9-100 et seq.] as amended; 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.
(Source: P.A. 84-25.)

2610/21. State police, toll highways.

§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" [605 ILCS 10/1 et seq.], approved August 7, 1967, as amended.
(Source: P.A. 85-1042.)

DEPARTMENT OF TRANSPORTATION

CIVIL ADMINISTRATIVE CODE OF ILLINOIS
(Selected Articles)

Article
2705. Department of Transportation.

ARTICLE 2705. Department of Transportation
(Complete Article)

Section
2705/2705-1. Article short title.
2705/2705-5. Definitions.
2705/2705-10. Powers, generally.
2705/2705-15. Administrative organization.

2705/2705-90. Criminal history record information from Department of State Police.
2705/2705-100. Aeronautics; transfer from Department of Aeronautics.
2705/2705-105. Bridge and ferry operation; transfer from Department of Public Works and Buildings.
2705/2705-110. Motor vehicles; transfer from Department of Public Works and Buildings.
2705/2705-115. Roads and bridges; transfer from Department of Public Works and Buildings.
2705/2705-120. Transfer of other rights, powers, and duties from Department of Public Works and Buildings.
2705/2705-125. Safety inspection of motor vehicles; transfer from various State agencies.
2705/2705-175. State employees; effect of transfer to Department.
2705/2705-200. Master plan; reporting requirements.
2705/2705-205. Study of demand for transportation.
2705/2705-207. Regional Transportation Task Force.
2705/2705-210. Traffic control and prevention of accidents.
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.
2705/2705-225. Air transportation for State officers and employees.
2705/2705-240. Grants for capital assistance.
2705/2705-245. Inspection of property and records of applicants for and recipients of assistance.
2705/2705-255. Appropriations from Build Illinois Bond Fund and Build Illinois Purposes Fund.
2705/2705-265. Use of coal combustion by-products.
2705/2705-275. Grants for airport facilities.
2705/2705-285. Ports and waterways.
2705/2705-300. Powers concerning mass transportation.
2705/2705-305. Grants for mass transportation.
2705/2705-310. Grants for transportation for handicapped persons.
2705/2705-315. Grants for passenger security.
2705/2705-321. Illinois Transit Ridership and Economic Development (TRED) Pilot Project Program; new facilities and service.
2705/2705-350. Intercity bus service assistance.
2705/2705-375. Meigs Users Advisory Committee.
2705/2705-400. Authorization concerning rail assistance funds.
2705/2705-405. Preparation of State Rail Plan.
2705/2705-410. Access to information.
2705/2705-415. State Rail Plan; responsibilities of other agencies.
2705/2705-420. Copies of State Rail Plan; report.
2705/2705-425. Rail freight services assistance; loans; Rail Freight Loan Repayment Fund.
2705/2705-430. Railroad freight service assistance; lines designated for discontinuation of service or subject to abandonment.
2705/2705-435. Loans, grants, or contracts to rehabilitate, improve, or construct rail facilities; State Rail Freight Loan Repayment Fund.
2705/2705-440. Intercity Rail Service.
2705/2705-445. Validation of prior agreements and contracts.
2705/2705-450. High-speed rail and magnetic levitation transportation development.
2705/2705-500. Scenic route connecting Mississippi and Ohio Rivers.
2705/2705-505. Signs indicating travel-related facilities or tourist-oriented businesses.
2705/2705-505.5. Child abduction message signs.
2705/2705-510. Use of prisoners for highway cleanup.
2705/2705-550. Transfer of realty to other State agency; acquisition of federal lands.
2705/2705-555. Lease of land or property.
2705/2705-575. Sale of used vehicles.

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.
(Source: P.A. 91-239.)

2705/2705-5. Definitions.

§2705-5. Definitions.

In this Law:

"Department" means the Department of Transportation.

"Secretary" means the Secretary of Transportation.
(Source: P.A. 91-239.)

2705/2705-10. Powers, generally.

§2705-10. Powers, generally.

The Department has the powers enumerated in the following Sections.
(Source: P.A. 91-239.)

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 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.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 [620 ILCS 5/1 et seq.]. 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.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 [625 ILCS 5/1-100 et seq.].
(Source: P.A. 91-239.)

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 [605 ILCS 5/1-101 et seq.] and any other law relating to roads, streets, and bridges and toll highways.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 [625 ILCS 5/13-100 et seq.], 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 training schools for hire licensed under Article IV of the Illinois Driver Licensing Law [625 ILCS 5/6-401 et seq.] or under any other law relating to the safety inspection of motor vehicles of the second division as defined in the Illinois Vehicle Code [625 ILCS 5/1-100 et seq.].
(Source P.A. 91-239.)

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 [20 ILCS 415/1 et seq.], or other laws relating to State employees.
(Source: P.A. 91-239.)

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 [605 ILCS 5/5-301 and 5/7-301], 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 January 1, 1982 and every 2 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 provide particular emphasis and detail of the 5 year period in the immediate future.

Annual and 5 year 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 5 year 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 Highway Improvement Program reporting the number of fiscal years each project has been on previous 5-year 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.

(Source: P.A. 91-239; 91-357; 92-16.)

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 [25 ILCS 5/3.1] 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 [15 ILCS 320/7].

(Source: P.A. 91-239.)

2705/2705-207. Regional Transportation Task Force.

(Repealed by its own terms 1/1/2005.)

§2705-207. Regional Transportation Task Force.

(a) The Regional Transportation Task Force is created within the Department.

(b) The Task Force shall consist of 11 voting members, as follows: 3 members appointed by the Governor, one of whom shall be designated as chair of the task force at the time of appointment; 2 members appointed by the President of the Senate; 2 members appointed by the Senate Minority Leader; 2 members appointed by the Speaker of the House of Representatives; and 2 members appointed by the House Minority Leader.

The following shall serve, ex officio, as non-voting members: the Secretary of Transportation; one member designated by the Chicago Area Transportation Study (CATS); one member designated by the Northeastern Illinois Planning Commission (NIPC); one member designated by the Regional Transportation Authority (RTA); one member designated by the Illinois State Toll Highway Authority (ISTHA); 2 members of Congress representing Illinois

from different political parties, as designated by the Governor; and 4 members designated by the Metropolitan Mayors Caucus.

If a vacancy occurs in the task force membership, the vacancy shall be filled in the same manner as the initial appointment.

(c) The task force may begin to conduct business upon the appointment of a majority of the voting members, including the chair.

(d) The task force may adopt bylaws; it must meet at least once each calendar quarter; and it may establish committees and officers as it deems necessary. For purposes of task force meetings, a quorum is 6 voting members. Meetings of the task force are subject to the Open Meetings Act. The task force must afford an opportunity for public comment at each of its meetings.

(e) Task force members shall serve without compensation, but may be reimbursed for their reasonable travel expenses from funds available for that purpose. The Department shall provide staff and administrative support services to the task force. The Department and the task force may accept donated services and other resources from registered not-for-profit organizations as may be necessary to complete the work of the task force with minimal expense to the State of Illinois.

(f) The task force shall gather information and make recommendations to the Governor and to the General Assembly regarding metro area transportation programs in northeastern Illinois, which includes, without limitation, the counties of Cook, DuPage, Kane, Lake, McHenry, and Will. These recommendations must include, without limitation:

(1) examining the feasibility of merging CATS, NIPC, RTA, and ISTHA into a single agency;

(2) identifying areas where functions of these and other agencies are redundant or unnecessary;

(3) identifying methods to promote cost effectiveness, efficiency, and equality in meeting area transportation needs; and

(4) examining regional and economic impact as it relates to potential policy implementation.

(g) The task force shall submit a report to the Governor and the General Assembly by April 15, 2004 concerning its findings and recommendations.

(h) This Section is repealed on January 1, 2005.

(Added by P.A. 93-405, §5, eff. 8/1/2003; chgd. by P.A. 93-670, §5, eff. 3/19/2004.)

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.

(Source: P.A. 91-239.)

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 [5 ILCS 220/1 et seq.]. 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.

(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 each municipality, district, or carrier receiving or applying for capital assistance from the State.
(Source: P.A. 91-239.)

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 Community Affairs prior to expending any funds for those purposes pursuant to appropriations from the Build Illinois Bond Fund and the Build Illinois Purposes Fund.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 or the Build Illinois Purposes Fund.
(Source: P.A. 91-239.)

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 Community Affairs.
(Source: P.A. 91-239.)

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.

(Source: P.A. 91-239.)

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 [70 ILCS 3610/1 et seq.].

(ii) The Authority created pursuant to the Metropolitan Transit Authority Act [70 ILCS 3605/1 et seq.].

(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 [70 ILCS 3615/1.01 et seq.].

"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 [49 U.S.C. 5301 et seq.] 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 or the Build Illinois Purposes 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 [30 ILCS 330/4], 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.
(Source: P.A. 91-239.)

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 [49 U.S.C. 5309, 5311] 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, 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.
(Source: P.A. 91-239.)

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 [70 ILCS 3615/1.01] 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 [70 ILCS 3605/1 et seq.], 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.

(Source: P.A. 91-239.)

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 studwith transportation alternatives.
(Added by P.A. 93-1004, §5, eff. 8/24/2004.)

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 [49 U.S.C. 1601 et seq.], 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.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 [45 U.S.C. 701 et seq.], the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 801 et seq.], 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.
(Source: P.A. 91-239.)

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 Community Affairs, railroad management, affected units of local government, affected State agencies, and affected shipping interests.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 [repealed; see now 49 U.S.C. 20101 et seq.]. Nothing herein shall provide for or effect the transfer of responsibilities between State agencies.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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 [repealed; see now 49 U.S.C. 22101 et seq.] 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.
(Source: P.A. 91-239.)

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 [49 U.S.C. 10903 to 10905] 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 [25 ILCS 5/3.1] 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 [15 ILCS 320/7].

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.
(Source: P.A. 91-239.)

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 Community Affairs. No funds provided under this Section shall be expended for the acquisition of a right of way or rolling stock 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.
(Source: P.A. 91-239.)

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 7 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 itself become the owner of railroad locomotives or other rolling stock, or 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.

(Source: P.A. 91-239.)

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.

(Source: P.A. 91-239.)

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.

(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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.
(Added by P.A. 93-310, §10, eff. 7/23/2003.)

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 [730 ILCS 5/3-2-2] for the cleaning of trash and garbage from the highways of this State.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239.)

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.
(Source: P.A. 91-239; 91-783.)

2705/2705-575. Sale of used vehicles.

§2705-575. Sale of used vehicles.

Whenever the Department shall replace any used vehicle, it shall notify and give units of local government in this State and the Department of Natural Resources the first opportunity to purchase the vehicle. The Department shall be required to notify only the Department of Natural Resources and those units of local government that have previously requested the notification. 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.
(Source: P.A. 91-239.)

HISTORIC PRESERVATION AGENCY

ACT 3420. ILLINOIS STATE AGENCY HISTORIC RESOURCES PRESERVATION ACT

(Complete Act)

Section

3420/1. Purposes.
3420/2. Short Title.
3420/3. Definitions.
3420/4. State agency undertakings.
3420/5. Responsibilities of the Historic Preservation Agency, Division of Preservation Services.
3420/6. Review of private undertakings.

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.
(Source: P.A. 86-707.)

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".
(Source: P.A. 86-707.)

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 [5 ILCS 100/1-20], 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) is listed in the Illinois Register of Historic Places.

(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 Batavia 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.
(Source: P.A. 88-45.)

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 effect 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 [16 U.S.C. 470 et seq.], 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. When an undertaking involves a structure listed on the Illinois Register of Historic Places, the rules and procedures of the Illinois Historic Preservation Act shall apply. 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 [225 ILCS 725/1 et seq.], the Surface-Mined Land Conservation and Reclamation Act [225 ILCS 715/1 et seq.] and the

Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.01 et seq.].
(Source: P.A. 87-895.)

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.
(Source: P.A. 92-842.)

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 [5 ILCS 100/1-1 et seq.], 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.
(Source: P.A. 87-847.)

ACT 3435. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES PRESERVATION ACT

(Complete Act)

Section

3435/.01. Short title.
3435/.02. Definitions.
3435/1. Exclusive right and privilege of State.
3435/1.5. O'Hare Modernization.
3435/2. Reservation in deeds from State.
3435/3. Violations.
3435/3.1. Prosecution.
3435/3.2. Reward leading to conviction.
3435/5. Penalties; damages.
3435/6. Permits for exploration or excavation.
3435/7. Materials and records management.
3435/8. Permit exemptions, generally.
3435/9. Minimum professional standards to qualify.

3435/10. Files on known sites.
3435/11. Regulations.

3435/.01. Short title.

§.01. This Act shall be known and may be cited as the "Archaeological and Paleontological Resources Protection Act".
(Source: P.A. 86-459; 86-707.)

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.
(Source: P.A. 86-459; 86-707.)

3435/1. Exclusive right and privilege of 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.
(Added by P.A. 86-459; 86-707.)

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.
(Added by P.A. 93-450, §90, eff. 8/6/2003.)

3435/2. Reservation 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.
(Source: P.A. 86-459; 86-707.)

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.
(Source: P.A. 86-459; 86-707.)

3435/3.1. Prosecution.

§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 cooperate with the State's Attorney or the Attorney General. Persons aware of any violation of this Act shall contact the Historic Preservation Agency.
(Source: P.A. 86-459; 86-707.)

3435/3.2. Reward leading to conviction.

§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.
(Source: P.A. 86-459; 86-707.)

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.
(Source: P.A. 86-459; 86-707.)

3435/6. Permits for exploration or excavation.

§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.
(Source: P.A. 86-459; 86-707.)

3435/7. Materials and records 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.
(Source: P.A. 86-459; 86-707.)

3435/8. Permit exemptions, generally.

§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 protection, 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.
(Source: P.A. 86-459; 86-707.)

3435/9. Minimum professional standards to qualify.

§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.
(Source: P.A. 86-459; 86-707.)

3435/10. Files on known sites.

§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.
(Source: P.A. 86-459; 86-707.)

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.
(Source: P.A. 86-459; 86-707.)

CHAPTER 30
FINANCE
(Selected Acts)

FUNDS

Act
105. State Finance Act.

RECEIPT, INVESTMENT, AND DISBURSEMENT

235. Public Funds Investment Act.

BONDS AND DEBT

305. Bond Authorization Act.
385. Motor Fuel Tax Fund Bond Act.
415. Transportation Bond Act.

PURCHASES AND CONTRACTS

500. Illinois Procurement Code.
550. Public Construction Bond Act.
557. Public Construction Contract Act.
570. Employment of Illinois Workers on Public Works Act.

FUNDS

ACT 105. STATE FINANCE ACT
(Selected Sections)

Section
105/5d. State Construction Account Fund, use.
105/5e. Transfers from Road Fund to State Construction Account Fund.
105/5f. Transfers between funds, report.
105/5g. Transfer from General Revenue Fund to Road Fund.
105/6c. Road Fund.
105/6r. Money received from the rental of highway property.
105/8.3. Uses of money in Road Fund.

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 [35 ILCS 505/1 et seq.] as now or hereafter amended, 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.
(Source: P.A. 84-431.)

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.
(Source: P.A. 84-431.)

105/5f. Transfers between funds, report.

§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.
(Source: P.A. 84-431.)

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.
(Source: P.A. 87-860.)

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.
(Source: P.A. 81-1550.)

105/6r. Money received from the 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 [605 ILCS 5/4-201.16] shall be remitted to the State Treasurer for payment into the Road Fund in the State treasury.
(Source: P.A. 80-1129.)

105/8.3. Uses of money in 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 [625 ILCS 5/1-100 et seq.], 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 [820 ILCS 305/1 et seq.] or Workers' Occupational Diseases Act [820 ILCS 310/1 et seq.] 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 reasonably 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 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;
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 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 [30 ILCS 415/1 et seq.], 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, 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 [35 ILCS 505/8].

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, and 2005 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. 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	$80,500,000;
Fiscal Year 2004	$130,500,000;
Fiscal Year 2005	$130,500,000;
Fiscal year 2006 and each year thereafter	$30,500,000.

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 and 93-0025 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 93rd 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.

(Source: P.A. 91-37; 91-760; 92-600; chgd. by P.A. 93-25, §50-10, eff. 6/20/2003; 93-721, §25, eff. 1/1/2005; 93-839, §10-100, eff. 7/30/2004.)

RECEIPT, INVESTMENT, AND DISBURSEMENT

ACT 235. PUBLIC FUNDS INVESTMENT ACT

(Complete Act)

Section

235/0.01. Short title.
235/1. Definitions.
235/2. Authorized investments.
235/2.5. Investment policy.
235/2.10. Unit of local government; deposit at reduced rate of interest.
235/3. Designation of payee and fund; registration.
235/4. Safekeeping and disposition of securities.
235/5. Construction of Act.
235/6. Report of financial institutions.
235/6.5. Federally insured deposits at Illinois financial institutions.
235/7. Preference given to minority-owned financial institutions.
235/8. Consideration of financial institution's commitment to its community.

235/0.01. Short title.

§0.01. Short title. This Act may be cited as the Public Funds Investment Act.

(Source: P.A. 86-1324.)

235/1. Definitions.

§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 [40 ILCS 5/1 et seq.], except as otherwise provided in that Code.

(Source: P.A. 91-669; 92-797.)

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 or its agencies;

(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 [205 ILCS 5/1 et seq.];

(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 180 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 [15 U.S.C. 80a-1 et seq.], 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 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 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 [65 ILCS 5/3-14-4] or under Section 3.2 of the Public Officer Prohibited Practices Act [50 ILCS 105/3.2], 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 [15 ILCS 505/17]. 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 [30 ILCS 105/4.1] or the Local Governmental Tax Collection Act [35 ILCS 715/1 et seq.], 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 [15 U.S.C. 78a et seq.] 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, 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. *(Chgd. by P.A. 93-360, §5, eff. 7/24/2003.)*

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.

(Source: P.A. 90-688.)

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.

(Added by P.A. 93-246, §92, eff. 7/22/2003.)

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.

(Source: Laws 1943, vol. 1, p. 951.)

235/4. Safekeeping and disposition of securities.

§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" [30 ILCS 105/4.1], 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.
(Source: P.A. 84-1378.)

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.
(Source: Laws 1943, vol. 1, p. 951.)

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 authorities 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 Guaranty under the Illinois Farm Development 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.

(Source: P.A. 91-324; 91-773; chgd. by P.A. 93-205, §890-37, 93-561, §815, eff. 1/1/2004.)

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, 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 time 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 otherwise required by subsections (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.

(Added by P.A. 93-756, §5, eff. 7/16/2004.)

235/7. Preference given to 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.

(Source: P.A. 84-754.)

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.

(Added by P.A. 93-251, §10, eff. 7/1/2004.)

BONDS AND DEBT

ACT 305. BOND AUTHORIZATION ACT

(Complete Act)

Section

305/0.01. Short title.
305/1. Definitions.
305/2. Public corporation may pay interest; rates.
305/3. Construction and application.
305/5. Exemption of certain industrial and housing projects.
305/6. Exemption of obligations issued pursuant to the Tax Increment Allocation Redevelopment Act.
305/7. Interest rate swaps.

305/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Bond Authorization Act.

(Source: P.A. 86-4.)

305/1. Definitions.

§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.

(Source: P.A. 82-622.)

305/2. Public corporation may pay interest; rates.

§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 anticipation 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 [26 U.S.C. 103], as now or hereafter amended, or successor code or provision, then the interest rate or rates payable thereon shall be determined by substituting 13½% 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 Sections 7.50 through 7.61 of the Illinois Finance Authority Act [20 ILCS 3505/7.50 to 3505/7.61], 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.
(Chgd. by P.A. 93-205, §890-8, eff. 1/1/2004.)

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.
(Source: P.A. 76-1971.)

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" [65 ILCS 5/11-74-1 et seq.], approved May 29, 1961, as now or hereafter amended, and the "Industrial Building Revenue Bond Act" [50 ILCS 445/1 et seq.], approved July 26, 1967, as now or hereafter amended, 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 [20 ILCS 3805/1 et seq.], as now or hereafter amended, 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 [20 ILCS 3805/16].
(Source: P.A. 86-1017.)

305/6. Exemption of obligations issued pursuant to the Tax Increment Allocation Redevelopment Act.

§6. Obligations issued to finance redevelopment projects pursuant to the Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-1 et seq.] shall not be subject to the provisions of this Act.
(Source: P.A. 84-1418.)

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 [30 ILCS 350/1 et seq.]. 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 asinterest 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 [30 ILCS 305/0.01 et seq.], 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.
(Chgd. by P.A. 93-9, §5, eff. 6/3/2003.)

ACT 385. MOTOR FUEL TAX FUND BOND ACT

(Complete Act)

Section
385/0.01. Short title.
385/1. Definitions.
385/2. Issuance of bonds.
385/3. Terms of bonds.
385/4. Use of proceeds; Bond Highway Fund.

385/0.01. Short title.

§0.01. Short title. This Act may be cited as the Motor Fuel Tax Fund Bond Act.
(Source: P.A. 86-1324.)

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 [605 ILCS 5/1-101 et seq.].

(c) "Road District" means a road district as defined in the Illinois Highway Code.
(Source: P.A. 76-374.)

385/2. Issuance of bonds.

§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.
(Source: P.A. 87-217.)

385/3. Terms of bonds.

§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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

385/4. Use of proceeds; 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 [605 ILCS 5/1-101 et seq.].

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.
(Source: P.A. 77-179.)

ACT 415. TRANSPORTATION BOND ACT

(Complete Act)

Section	
415/1.	Short title.
415/2.	Authorization for bonds; purposes; amounts.
415/3.	Interest on bonds; form of bonds; denominations; signatures.
415/4.	Sale of bonds.
415/5.	Use of proceeds.
415/5.1.	Limitations on use of proceeds; prior obligations.
415/6.	Investment of funds obtained by bonds.
415/7.	Appropriation for bonds; creation of bond funds; transfers and disbursements; bonds are obligations of State.
415/8.	Civil action to compel payment by State.
415/9.	Certification of principal and interest; transfers to effect payment.
415/10.	Refunding bonds.
415/11.	Severability of invalid provisions.
415/11.1.	Issuance of bonds under General Obligation Bond Act.

415/1. Short title.

§1. This Act shall be known and may be cited as the "Transportation Bond Act".
(Source: P.A. 77-150.)

415/2. Authorization for bonds; purposes; amounts.

§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" [620 ILCS 5/34a], approved July 24, 1945, as amended, 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" [70 ILCS 3615/1.01 et seq.], enacted by the 78th General Assembly. 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 [605 ILCS 5/1-101 et seq.] 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 [605 ILCS 5/6-902 to 5/6-905].

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.
(Source: P.A. 86-453.)

415/3. Interest on bonds; form of bonds; 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.
(Source: P.A. 77-150.)

415/4. Sale of bonds.

§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.
(Source: P.A. 77-150.)

415/5. Use of proceeds.

§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 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.
(Source: P.A. 81-1509.)

415/5.1. Limitations on use of proceeds; prior obligations.

§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.
(Source: P.A. 77-150.)

415/6. Investment of funds obtained by bonds.

§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 interest 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" [30 ILCS 235/6], approved July 23, 1943, as now or hereafter amended.
(Source: P.A. 83-541.)

415/7. Appropriation for bonds; creation of bond funds; transfers and disbursements; bonds are obligations of State.

§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.
(Source: P.A. 77-150.)

415/8. Civil action to compel payment by State.

§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.
(Source: P.A. 77-150.)

415/9. Certification of principal and interest; transfers to effect 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.
(Source: P.A. 83-1280.)

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.
(Source: P.A. 77-150.)

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.
(Source: P.A. 77-150.)

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" [30 ILCS 330/1 et seq.].
(Source: P.A. 83-1490.)

PURCHASES AND CONTRACTS

ACT 500. ILLINOIS PROCUREMENT CODE

(Selected Articles)

Article
1. General Provisions.
5. Policy Organization.
10. Appointments.
15. Procurement Bulletin.
20. Source Selection and Contract Formation.
30. Construction and Construction-Related Professional Services.
50. Procurement Ethics and Disclosure.

ARTICLE 1. GENERAL PROVISIONS

(Complete Article)

Section
500/1-1. Short title.
500/1-5. Public policy.
500/1-10. Application.
500/1-15. Definitions.
500/1-15.03. Associate Procurement Officers.
500/1-15.05. Board.
500/1-15.10. Business.
500/1-15.15. Chief Procurement Officer.
500/1-15.20. Construction and construction-related services.
500/1-15.25. Construction agency.
500/1-15.30. Contract.
500/1-15.35. Cost-reimbursement contract.
500/1-15.42. Grant.
500/1-15.45. Invitation for bids.
500/1-15.50. Negotiation.
500/1-15.55. Person.
500/1-15.60. Professional and artistic services.
500/1-15.65. Purchase description.
500/1-15.68. Purchase of care.
500/1-15.70. Purchasing agency.
500/1-15.75. Request for proposals.
500/1-15.80. Responsible bidder or offeror.
500/1-15.85. Responsive bidder.
500/1-15.90. Services.
500/1-15.95. Specifications.
500/1-15.100. State agency.
500/1-15.105. State purchasing officer.
500/1-15.110. Supplies.
500/1-15.115. Using agency.
500/1-25. Property rights.
500/1-30. Applicability to Constitutional Officers and the Legislative and Judicial Branches.

500/1-1. Short title.

§1-1. Short title.

This Act may be cited as the Illinois Procurement Code.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

500/1-10. Application.

§1-10. Application.

(a) This Code applies only to procurements for which 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.

(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.

(Source: P.A. 91-627; 91-904; 92-797.)

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.

(Source: P.A. 90-572.)

500/1-15.03. Associate Procurement Officers.

§1-15.03. Associate Procurement Officers.

"Associate Procurement Officers" means those persons appointed as provided in Section 10-15.

(Source: P.A. 90-572.)

500/1-15.05. Board.

§1-15.05. Board.

"Board" means the Procurement Policy Board.

(Source: P.A. 90-572.)

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.

(Source: P.A. 90-572.)

500/1-15.15. Chief Procurement Officer.

§1-15.15. Chief Procurement Officer.

"Chief Procurement Officer" means:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board, the executive director 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 Secretary of Transportation.

(3) for all procurements made by a public institution of higher education, a representative designated by the Governor.

(4) for all other procurements, the Director of the Department of Central Management Services.

(Source: P.A. 90-572.)

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.

(Source: P.A. 90-572.)

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; and any other State agency entering into construction contracts as authorized by law or by delegation from the chief procurement officer.

(Source: P.A. 90-572.)

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 or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, and change orders.

(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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 prospective contractors.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

500/1-15.70. Purchasing agency.

§1-15.70. Purchasing agency.

"Purchasing agency" means a State agency that is authorized by this Code, by its implementing rules, or by authorized delegation of a chief procurement officer to enter into contracts.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

500/1-15.80. Responsible bidder or offeror.

§1-15.80. Responsible bidder or offeror.

"Responsible bidder 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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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 [40 ILCS 5/1-101 et seq.] 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 [110 ILCS 805/1-1 et seq.], and the Illinois Comprehensive Health Insurance Board.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

500/1-15.115. Using agency.

§1-15.115. Using agency.

"Using agency" means a State agency that uses items procured under this Code.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

ARTICLE 5. POLICY ORGANIZATION

(Complete Article)

Section
500/5-5. Procurement Policy Board.
500/5-23. Interests of Board members.
500/5-25. Rulemaking authority.

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.

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, associate procurement officer, State purchasing officer, 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.

(Chgd. by P.A. 93-839, §10-130, eff. 7/30/2004.)

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.

(Source: P.A. 90-572.)

500/5-25. Rulemaking authority.

§5-25. Rulemaking authority.

(a) Rulemaking. A State agency authorized to make procurements under this Code shall have the authority to promulgate rules to carry out that authority. That rulemaking on specific procurement topics is 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. 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 its review and comment. The Board shall express its opinions and recommendations in writing. Both the proposed rules and Board recommendations shall be made available for public review. The rules shall also be approved by the applicable chief procurement officer and the Joint Committee on Administrative Rules.

(b) Policy. Each chief procurement officer, associate procurement officer, and State agency 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.

(Chgd. by P.A. 93-839, §10-130, eff. 7/30/2004.)

500/5-30. Proposed contracts; Procurement Policy Board.

§5-30. Proposed contracts; Procurement Policy Board.

(a) Except as provided in subsection (c), within 30 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 5 business 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 8 business 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.

(Added by P.A. 93-839, §10-130, eff. 7/30/2004.)

ARTICLE 10. APPOINTMENTS

(Complete Article)

Section

500/10-5. Exercise of procurement authority.
500/10-10. General appointments.
500/10-15. Associate Procurement Officers.

500/10-5. Exercise of procurement authority.

§10-5. Exercise of procurement authority.

The State purchasing officers shall be appointed by their respective chief procurement officer and approved by the director of each State agency. The State purchasing officer of each State agency shall exercise the procurement authority created by this Code except as otherwise provided in this Code.

(Source: P.A. 90-572.)

500/10-10. General appointments.

§10-10. General appointments.

The chief procurement officer shall appoint and the director of each State agency shall approve a State purchasing officer to exercise within his or her jurisdiction the procurement authority created by this Code. In the absence of an appointed and approved State purchasing officer, the applicable chief procurement officer

shall exercise the procurement authority created by this Code.
(Source: P.A. 90-572.)

500/10-15. Associate Procurement Officers.

§10-15. Associate Procurement Officers.

The Governor, with the consent of the statutory chief procurement officers, may for proper and effective administration of this Code appoint associate procurement officers. All associate procurement officers shall be submitted to the Senate for advice and consent. For the purposes of this Code, duly appointed associate procurement officers shall function in all respects as chief procurement officers. Associate procurement officers shall serve at the pleasure of the Governor.
(Source: P.A. 90-572.)

ARTICLE 15. PROCUREMENT BULLETIN

(Complete Article)

Section
500/15-1. Publisher.
500/15-10. Contents.
500/15-15. Publication.
500/15-20. Qualified bidders.
500/15-25. Bulletin content.

500/15-1. Publisher.

§15-1. Publisher.

The Department of Central Management Services is the State agency responsible for publishing its volumes of the Illinois Procurement Bulletin. The Capital Development Board is responsible for publishing its volumes of the Illinois Procurement Bulletin. The Department of Transportation is responsible for publishing its volumes of the Illinois Procurement Bulletin. The higher education chief procurement officer is responsible for publishing the higher education volumes 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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

500/15-20. Qualified bidders.

§15-20. Qualified bidders. Subscription to the Illinois Procurement Bulletin shall not be required to qualify as a bidder or offeror under this Code.
(Source: P.A. 90-572.)

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. 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, and information of how to obtain a comprehensive purchase description and any disclosure and contract forms.

(b) Contracts let or awarded. Notice of each and every contract that is let or awarded, including renegotiated contracts and change orders, shall be published in the next available subsequent Bulletin, and 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.

(c) Emergency purchase disclosure. Any chief procurement officer, State purchasing officer, or designee 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.

(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.
(Source: P.A. 90-572.)

ARTICLE 20. SOURCE SELECTION AND CONTRACT FORMATION

(Complete Article)

Section
500/20-5. Method of source selection.
500/20-10. Competitive sealed bidding.
500/20-15. Competitive sealed proposals.
500/20-20. Small purchases.
500/20-25. Sole source procurements.
500/20-30. Emergency purchases.
500/20-35. Competitive selection procedures.
500/20-40. Cancellation of invitations for bids or requests for proposals.
500/20-45. Prequalification of suppliers.
500/20-50. Specifications.
500/20-55. Types of contracts.
500/20-60. Duration of contracts.
500/20-65. Right to audit records.
500/20-70. Finality of determinations.
500/20-75. Disputes and protests.
500/20-80. Contract files.
500/20-85. Federal requirements.
500/20-90. Foreign country procurements.
500/20-95. Donations.
500/20-105. State agency printing.
500/20-110. Printing cost offsets.

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.
(Source: P.A. 90-572.)

500/20-10. Competitive sealed bidding.

§20-10. Competitive sealed bidding.

(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 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.

(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.
(Source: P.A. 90-572.)

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 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 proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit 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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

500/20-25. Sole source procurements.

§20-25. Sole source procurements.

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. At least 2 weeks before entering into a sole source contract, the purchasing agency shall publish in the Illinois Procurement Bulletin a notice of intent to do so along with a description of the item to be procured and the intended sole source contractor.
(Source: P.A. 90-572.)

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 State services, or to ensure the integrity of State records. 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. 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 purchasing agency making a procurement under this Section shall file affidavits with the chief procurement officer and the Auditor General within 10 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 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.
(Source: P.A. 90-572.)

500/20-35. Competitive selection procedures.

§20-35. Competitive selection procedures.

(a) Conditions for use. The services specified in Article 35 [30 ILCS 500/35-5 et seq.] 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. Potential contractors 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 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 offeror, and state the relative importance of particular qualifications.

(d) Discussions. The purchasing agency may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(e) Award. Award shall be made to the offeror 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.
(Source: P.A. 90-572.)

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 or proposals 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.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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, and shall include a restriction on the use of specifications drafted by a potential bidder. 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 a contract 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 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.
(Source: P.A. 90-572; 91-627.)

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.
(Source: P.A. 90-572.)

500/20-60. Duration of contracts.

§20-60. Duration of contracts.

(a) Maximum duration. A contract may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25.

(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.
(Source: P.A. 90-572.)

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 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.
(Source: P.A. 90-572.)

500/20-70. Finality of determinations.

§20-70. Finality of determinations.

Determinations made by a purchasing agency under this Code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.
(Source: P.A. 90-572.)

500/20-75. Disputes and protests.

§20-75. Disputes and protests.

The chief procurement officers shall by rule establish procedures to be followed by purchasing agencies in resolving protested solicitations and awards and contract controversies, for debarment or suspension of contractors, and for resolving other procurement-related disputes.
(Source: P.A. 90-572.)

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, exceeding $10,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 15 days thereafter. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 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 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 days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Professional and artistic services 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 for services involving professional or artistic skills involving an expenditure of more than $5,000 for the same type of service at the same location during any fiscal year unless the contract is reduced to writing before the services are performed and filed with the Comptroller. When a contract for professional or artistic skills in excess of $5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the State agency files with the Comptroller:

(1) a written contract covering the services, and

(2) an affidavit, signed by the chief executive officer of the State agency or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced.

A copy of this affidavit shall be filed with the Auditor General. The Comptroller shall maintain professional or artistic service contracts filed under this Section separately from other filed contracts.

(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.
(Source: P.A. 91-904.)

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.
(Source: P.A. 90-572.)

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.

(Source: P.A. 90-572.)

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 contractor, provided that the grant, gift, or bequest provides majority funding for the contract.

(Source: P.A. 90-572.)

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.

(Source: P.A. 90-572.)

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.

(Source: P.A. 90-572.)

ARTICLE 30. CONSTRUCTION AND CONSTRUCTION-RELATED PROFESSIONAL SERVICES

(Complete Article)

Section

500/30-5. Applicability.
500/30-10. Authority.
500/30-15. Method of source selection.
500/30-20. Prequalification.
500/30-25. Retention of a percentage of contract price.
500/30-30. Contracts in excess of $250,000.
500/30-35. Expenditure in excess of contract price.
500/30-43. *(Repealed.)*
500/30-45. Other Acts.

500/30-5. Applicability.

§30-5. Applicability.

Construction and construction-related professional services shall be procured in accordance with this Article.

(Source: P.A. 90-572.)

500/30-10. Authority.

§30-10. Authority.

Construction agencies shall have the authority to procure construction and construction-related professional services.

(Source: P.A. 90-572.)

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 [30 ILCS 535/1 et seq.]. "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.

(Source: P.A. 90-572.)

500/30-20. Prequalification.

§30-20. Prequalification.

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.

(Source: P.A. 90-572.)

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 [605 ILCS 5/2-101 et seq.], or for the reclamation of abandoned lands as those terms are defined in Article I of the Abandoned Mined Lands and Water Reclamation Act [20 ILCS 1920/1.01 et seq.] 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.

(Source: P.A. 90-572.)

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. A contract may be let for one or more buildings in any project to the same contractor. The specifications shall require, however, that unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for each or all of the buildings included in the specifications.

Until a date 2 years after the effective date of this amendatory Act of the 93rd General Assembly, the requirements of this Section do not apply to the construction of an Emergency Operations Center for the Illinois Emergency Management Agency if (i) the majority of the funding for the project is from federal funds, (ii) 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 (iii) 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.

(Chgd. by P.A. 93-1035, §10, eff. 9/10/2004.)

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.
(Source: P.A. 90-572.)

500/30-43. *(Repealed by P.A. 93-632, §80, eff. 2/1/2004.)*

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 [820 ILCS 130/0.01 et seq.];

(2) the Public Construction Bond Act [30 ILCS 550/0.01 et seq.];

(3) the Public Works Employment Discrimination Act [775 ILCS 10/0.01 et seq.];

(4) the Public Works Preference Act [30 ILCS 560/0.01 et seq.];

(5) the Employment of Illinois Workers on Public Works Act [30 ILCS 570/0.01 et seq.];

(6) the Public Contract Fraud Act [30 ILCS 545/0.01 et seq.]; and

(7) the Illinois Construction Evaluation Act [20 ILCS 3015/1 et seq.].
(Source: P.A. 90-572.)

ARTICLE 50. PROCUREMENT ETHICS AND DISCLOSURE

(Complete Article)

Section

500/50-1. Purpose.
500/50-5. Bribery.
500/50-10. Felons.
500/50-10.5. Prohibited bidders and contractors.
500/50-11. Debt delinquency.
500/50-12. Collection and remittance of Illinois Use Tax.
500/50-13. Conflicts of interest.
500/50-14. Environmental Protection Act violations.
500/50-15. Negotiations.
500/50-20. Exemptions.
500/50-25. Inducement.
500/50-30. Revolving door prohibition.
500/50-35. Disclosure and potential conflicts of interest.
500/50-40. Reporting anticompetitive practices.
500/50-45. Confidentiality.
500/50-50. Insider information.
500/50-55. Supply inventory.
500/50-60. Voidable contracts.
500/50-65. Contractor suspension.
500/50-70. Additional provisions.
500/50-75. Other violations.

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.
(Source: P.A. 90-572.)

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 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, 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 1961 [720 ILCS 5/5-4].

(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 submitted to and contract executed by the State shall contain a certification by the contractor that the contractor is not barred from being awarded a contract or subcontract under this Section. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.
(Source: P.A. 90-572.)

500/50-10. Felons.

§50-10. Felons.

Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency 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.
(Source: P.A. 90-572.)

500/50-10.5. Prohibited bidders and contractors.

§50-10.5. Prohibited bidders and contractors.

(a) Unless otherwise provided, no business shall bid or enter into a contract with the State of Illinois or any State agency 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 submitted to and contract executed by the State shall contain a certification by the bidder or contractor that the contractor is not barred from being awarded a contract under this Section and that the contractor acknowledges that the contracting State agency shall declare the contract void if the certification completed pursuant to this subsection (b) is 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.
(Added by P.A. 93-600, §5, eff. 1/1/2004.)

500/50-11. Debt delinquency.

§50-11. Debt delinquency.

(a) No person shall submit a bid for or enter into a contract with a State agency under this Code 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 Board. 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 submitted to and contract executed by the State shall contain a certification by the bidder or contractor that the contractor and its affiliate is not barred from being awarded a contract under this Section and that the contractor acknowledges that the contracting State agency may declare the contract void if the certification completed pursuant to this subsection (b) is false.
(Source: P.A. 92-404. Chgd. by P.A. 93-25, §30-5, eff. 6/20/2003.)

500/50-12. Collection and remittance of Illinois Use Tax.

(a) No person shall enter into a contract with a State agency 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 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. 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 submitted and contract executed by the State shall contain a certification by the bidder or contractor that the bidder or contractor is not barred from bidding for or entering into a contract under subsection (a) of this Section and that the bidder or contractor acknowledges that the contracting State agency may declare the contract void if the certification completed pursuant to this subsection (b) is false.
(Added by P.A. 93-25, §30-5, eff. 6/20/2003. Another §50-12 renumbered to §50-14.)

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 7½% 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 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 Public Aid, 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.

(Source: P.A. 90-572. Chgd. by P.A. 93-615, §90-35, eff. 11/19/2003.)

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 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 under 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 submitted to and contract executed by the State shall contain a certification by the bidder or contractor that the bidder or contractor is not barred from being awarded a contract under this Section and that the contractor acknowledges that the contracting State

agency may declare the contract void if the certification completed pursuant to this subsection (c) is false.
(Added by P.A. 93-575, §5, eff. 1/1/2004; renumbered from 30 ILCS 500/50-12 and amended by P.A. 93-826, §5, eff. 7/28/2004.)

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.
(Source: P.A. 90-572.)

500/50-20. Exemptions.

§50-20. Exemptions.

With the approval of the appropriate chief procurement officer involved, the Governor, or an executive ethics board or commission he or she designates, may exempt named individuals from the prohibitions of Section 50-13 when, in his, her, or its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. An exemption is effective only when it is filed with the Secretary of State and the Comptroller 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.
(Source: P.A. 90-572.)

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 bid for a State contract or as recompense for not having bid on a State contract is guilty of a Class 4 felony. Any person who accepts any money or other valuable thing for not bidding for a State contract or who withholds a bid in consideration of the promise for the payment of money or other valuable thing is guilty of a Class 4 felony.
(Source: P.A. 90-572.)

500/50-30. Revolving door prohibition.

§50-30. Revolving door prohibition.

(a) Chief procurement officers, associate procurement officers, State purchasing officers, 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.
(Source: P.A. 90-572. Chgd. by P.A. 93-615, §90-35, eff. 11/19/2003.)

500/50-35. Disclosure and potential conflicts of interest.

§50-35. Disclosure and potential conflicts of interest.

(a) All offers from responsive bidders or offerors with an annual value of more than $10,000 shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer. The financial disclosure of each successful bidder or offeror shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer.

(b) Disclosure by the responsive bidders or offerors 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 bidding entity or its parent entity, whichever is less, unless the contractor or bidder (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 400 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 person 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.

(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) In the case of any contract for personal services in excess of $50,000; any contract competitively bid in excess of $250,000; any other contract in excess of $50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected it shall 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 to void or allow the contract, bid, offer, or proposal weighing the best interest of the State of Illinois. The comment and determination shall become a publicly available part of the contract, bid, or proposal file.

(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 proposal. 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, proposal, 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, proposals, 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, proposal, 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, proposals, 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, proposals, leases, or other ongoing procurement relationships the bidding, proposing, or offering entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship.
(Source: P.A. 91-146.)

500/50-40. Reporting anticompetitive practices.

§50-40. Reporting anticompetitive practices.

When, for any reason, any vendor, bidder, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer.
(Source: P.A. 90-572.)

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 bid documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or contract process shall be subject to immediate dismissal, regardless of the Personnel Code [20 ILCS 415/1 et seq.], any contract, or any collective bargaining agreement, and may in addition be subject to criminal prosecution.
(Source: P.A. 90-572.)

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.
(Source: P.A. 90-572.)

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 life-saving medications, mechanical spare parts, and items for which the supplier requires a minimum order stipulation.
(Source: P.A. 90-572.)

500/50-60. Voidable contracts.

§50-60. Voidable contracts.

(a) If any contract is entered into or purchase or expenditure of funds is made in violation of this Code or any other law, the contract 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 contracting agency determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of this Code, the State agency may declare the contract void if it determines that voiding the contract is in the best interests of the State. The Debt Collection Board shall adopt rules for the implementation of this subsection (b).

(c) If, during the term of a contract, the contracting agency determines that the contractor is in violation of Section 50-10.5 of this Code, the contracting agency shall declare the contract void.
(Source: P.A. 92-404. Chgd. by P.A. 93-600, §5, eff. 1/1/2004.)

500/50-65. Contractor suspension.

§50-65. Contractor suspension.

Any contractor 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 may be debarred in accordance with rules promulgated by the chief procurement officer or as otherwise provided by law.
(Source: P.A. 90-572. Chgd. by P.A. 93-77, §5, eff. 7/2/2003.)

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 1961 [720 ILCS 5/33E-1 et seq.];

(2) the Illinois Human Rights Act [775 ILCS 5/1-101 et seq.];

(3) the Discriminatory Club Act [775 ILCS 25/0.01 et seq.];

(4) the Illinois Governmental Ethics Act [5 ILCS 420/1-101 et seq.];

(5) the State Prompt Payment Act [30 ILCS 540/0.01 et seq.];

(6) the Public Officer Prohibited Activities Act [50 ILCS 105/0.01 et seq.]; and

(7) the Drug Free Workplace Act [30 ILCS 580/1 et seq.].
(Source: P.A. 90-572.)

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 [20 ILCS 415/1 et seq.], 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.
(Source: P.A. 90-572.)

ACT 540. STATE PROMPT PAYMENT ACT

(Selected Sections)

Section	
540/1.	Application of Act.
540/6.	Vendor's waiver of penalty for late payment.
540/7.	Payments to subcontractors and material suppliers; failure to make timely payments; additional amount due.

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 covered health care provided to eligible members and their covered dependents in accordance with the State Employees Group Insurance Act of 1971 [5 ILCS 375/1 et seq.], including coverage through a physician-owned health maintenance organization under Section 6.1 of that Act.

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.
(Source: P.A. 91-266; 92-384.)

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.
(Source: P.A. 87-773.)

540/7. Payments to subcontractors and material suppliers; failure to make timely payments; additional amount due.

§7. 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. 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.

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 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.
(Source: P.A. 87-773.)

ACT 545. PUBLIC CONTRACT FRAUD ACT

(Complete Act)

Section	
545/0.01.	Short title.
545/1.	Change or alteration in public work or improvement increasing cost and expense; punishment.
545/2.	Spending money without obtaining title of land; approval of title by Attorney General.
545/3.	Prosecution; complaint; affidavit.
545/4.	State's attorney to prosecute; indictment.

545/0.01. Short title.

§0.01. Short title. This Act may be cited as the Public Contract Fraud Act.
(Source: P.A. 86-1324.)

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.
(Source: P.A. 77-2596.)

545/2. Spending money without obtaining title of 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 [20 ILCS 1135/2] or for projects constructed under the Bikeway Act [605 ILCS 30/0.01 et seq.], 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 [30 ILCS 5/1-1 et seq.], 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.
(Source: P.A. 89-78.)

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.
(Source: Laws 1965, p. 3749.)

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.
(Source: Laws 1933, p. 475.)

ACT 550. PUBLIC CONSTRUCTION BOND ACT

(Complete Act)

Section
550/0.01. Short title.
550/1. Bond required for work over $5,000.
550/2. Suit against contractor with State.
550/3. Builder or developer cash bond or other surety.

550/0.01. Short title.

§0.01. Short title. This Act may be cited as the Public Construction Bond Act.
(Source: P.A. 86-1324.)

550/1. Bond required for work over $5,000.

§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 $5,000 to be performed for the State, or a 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 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 [30 ILCS 500/1-1 et seq.], 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."

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.

(Source: P.A. 91-456. Chgd. by P.A. 93-221, §5, eff. 1/1/2004.)

550/2. Suit against contractor with State.

§2. Every person furnishing material or performing labor, either as an individual or as a sub-contractor 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 subcontractor, 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 person having a claim for labor, and material as aforesaid shall have no such right of action unless he 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.

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) the amount of the claim; (5) a brief description of the public improvement sufficient for identification.

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 until the expiration of 120 days after the date of the last item of work or the furnishing of the last item of materials, except in cases where the final settlement between the officer, board, bureau or department of municipal corporation and the contractor shall have been made prior to the expiration of the 120 day period, in which case action may be taken immediately following such final settlement; nor shall any action of any kind be brought later than 6 months after the acceptance by the State or political subdivision thereof of the building project or work. 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.

(Chgd. by P.A. 93-562, §5, eff. 8/20/2003.)

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 supercedes and controls over other provisions of the Counties Code or Illinois Municipal Code 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.
(Source: P.A. 92-479.)

ACT 557. PUBLIC CONSTRUCTION CONTRACT ACT

(Source: 91-647.)
(Complete Act)

Section
557/1. Short title.
557/5. Definitions.
557/10. Contract requirements.
557/15. Arbitration.
557/20. Incorporation into contract.
557/25. Limitation.
557/99. Effective date.

557/1. Short title.

§1. Short title.

This Act may be cited as the Public Construction Contract Act.
(Source: 91-647.)

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 [225 ILCS 305/1 et seq.], the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330/1 et seq.], or the Professional Engineering Practice Act of 1989 [225 ILCS 325/1 et seq.].

"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.
(Source: 91-647.)

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.
(Source: 91-647.)

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.
(Source: 91-647.)

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.
(Source: 91-647.)

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.
(Source: 91-647.)

557/99. Effective date.

§99. Effective date.

This Act takes effect upon becoming law.
(Source: 91-647.)

ACT 565. STEEL PRODUCTS PROCUREMENT ACT

(Complete Act)

Section
565/1. Short title.
565/2. Legislative findings.
565/3. Definitions.
565/4. Contracts for public works; use of United States produced steel products.
565/5. Contracts in violation of Act prohibited; penalties.
565/6. Application of Act to contracts.
565/7. Federal law or treaty not contravened.

565/1. Short title.

§1. This Act shall be known and may be cited as the "Steel Products Procurement Act".
(Source: P.A. 83-1030.)

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.
(Source: P.A. 83-1030.)

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.

(Source: P.A. 83-1030.)

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.

(Source: P.A. 83-1030.)

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. [30 ILCS 565/4]. It shall be a business offense for any vendor or contractor to knowingly enter into any contract in violation of Section 4 [30 ILCS 565/4] or to knowingly violate contract provisions required by Section 4 [30 ILCS 565/4]. 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.

(Source: P.A. 83-1030.)

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.

(Source: P.A. 83-1030.)

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.

(Source: P.A. 83-1030.)

ACT 570. EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT

(Complete Act)

Section

570/0.01. Short title.
570/1. Definitions for Article 2.
570/1.1. Legislative findings and intent.
570/2. Application of Article 2.
570/3. Preference given to Illinois laborers.
570/4. Limitation on non-resident experts.
570/5. No conflict with federal law.
570/6. Violation and penalty.
570/7. Enforcement; injunctive relief.

570/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Employment of Illinois Workers on Public Works Act.

(Source: P.A. 86-1324.)

570/1. Definitions for Article 2.

§1. For the purposes of Article 2 of this Act [30 ILCS 570/0.01 et seq.], 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 [415 ILCS 5/3.220].

(Source: P.A. 92-574.)

570/1.1. Legislative findings and intent.

§1.1. The General Assembly finds and declares that unemployment in Illinois 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.
(Source: P.A. 87-377.)

570/2. Application of Article 2.

§2. Article 2 of this Act [30 ILCS 570/0.01 et seq.] 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 activities, whether skilled, semi-skilled or unskilled, whether manual or non-manual.
(Source: P.A. 86-1015.)

570/3. Preference given to Illinois laborers.

§3. Whenever there is a period of excessive unemployment in Illinois, every person who is charged with the duty, either by law or contract, of constructing or building any public works project or improvement or for the clean-up and on-site disposal of hazardous waste for the State of Illinois or any political subdivision, municipal corporation or other governmental unit thereof shall employ only Illinois laborers on such project or improvement, and every 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.
(Source: P.A. 86-1015.)

570/4. Limitation on non-resident experts.

§4. 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 Article 2 of this Act [30 ILCS 570/0.01 et seq.].
(Source: P.A. 86-1015.)

570/5. No conflict with federal law.

§5. (a) In all contracts involving the expenditure of federal aid funds in relation to a public works project or improvement, Article 2 of this Act [30 ILCS 570/0.01 et seq.] 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.
(Source: P.A. 86-1015.)

570/6. Violation and penalty.

§6. Any person who knowingly fails to use Illinois laborers as required in Article 2 of this Act [30 ILCS 570/0.01 et seq.], shall be guilty of a Class C misdemeanor. Each separate case of failure to use Illinois laborers on such public works projects or improvements or for the clean-up and on-site disposal of hazardous waste shall constitute a separate offense.
(Source: P.A. 86-1015.)

570/7. Enforcement; injunctive relief.

§7. Article 2 of this Act [30 ILCS 570/0.01 et seq.] shall be enforced by the Department of Labor, which, as represented by the Attorney General, is empowered to 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 Article 2 of this Act are not being met.
(Source: P.A. 86-1015.)

CHAPTER 35
REVENUE
(Selected Acts)

USE AND OCCUPATION TAXES

Act
105. Use Tax Act.
110. Service Use Tax Act.
115. Service Occupation Tax Act.
120. Retailers' Occupation Tax Act.

PROPERTY TAXES

200. Property Tax Code.

EXCISE TAXES

505. Motor Fuel Tax Law.

USE AND OCCUPATION TAXES

ACT 105. USE TAX ACT
(Selected Section)

Section
105/9. Payment of use tax by retailer.

105/9. Payment of use tax by retailer.

§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. 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 [35 ILCS 120/1 et seq.], 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 [20 ILCS 2505/2505-210]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 [35 ILCS 120/1 et seq.], the Service Occupation Tax Act [35 ILCS 115/1 et seq.], the Service Use Tax Act [35 ILCS 110/1 et seq.] 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 [35 ILCS 120/1 et seq.], the Service Occupation Tax Act [35 ILCS 115/1 et seq.], and the Service Use Tax Act [35 ILCS 110/1 et seq.]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 [35 ILCS 120/1 et seq.], the Service Occupation Tax Act [35 ILCS 115/1 et seq.] and the Service Use Tax Act [35 ILCS 110/1 et seq.], 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 [35 ILCS 120/1 et seq.], the Service Occupation Tax Act [35 ILCS 115/1 et seq.] and the Service Use Tax Act [35 ILCS 110/1 et seq.], 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 [35 ILCS 120/1 et seq.], the Service Occupation Tax Act [35 ILCS 115/1 et seq.] and the Service Use Tax Act [35 ILCS 110/1 et seq.], 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 [35 ILCS 105/3-55], 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 [625 ILCS 45/3-2], 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 [625 ILCS 5/5-402] 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 [35 ILCS 105/2] 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 [625 ILCS 5/5-402], 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 [35 ILCS 105/2] 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 [35 ILCS 120/1 et seq.], 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 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.

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 [35 ILCS 120/3], Section 9 of the Use Tax Act [35 ILCS 105/9], Section 9 of the Service Use Tax Act [35 ILCS 110/9], and Section 9 of the Service Occupation Tax Act [35 ILCS 115/9], 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 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 [30 ILCS 425/1 et seq.] 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. If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act [30 ILCS 425/13], 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, 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 [30 ILCS 425/12].

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 and each fiscal year thereafter that bonds are outstanding under Section 13.2 of the Metropolitan Pier and Exposition Authority Act [70 ILCS 210/13.2], but not after fiscal year 2042.	275,000,000

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 [70 ILCS 210/13], 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, 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 Community Affairs Law of the Civil Administrative Code of Illinois [20 ILCS 605/605-332].

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 [30 ILCS 105/8a].

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.

(Source: P.A. 91-51; 91-101; 91-541; 91-872; 91-901; 92-12; 92-16; 92-208; 92-492; 92-600; 92-651.)

ACT 110. SERVICE USE TAX ACT

(Selected Section)

Section
110/9. Payment of service use tax by serviceman.

110/9. Payment of service use tax by serviceman.

§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. 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 [35 ILCS 115/1 et seq.] 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 [35 ILCS 110/2d];

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 [35 ILCS 115/1 et seq.], 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.

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 [35 ILCS 120/3], Section 9 of the Use Tax Act [35 ILCS 105/9], Section 9 of the Service Use Tax Act [35 ILCS 110/9], and Section 9 of the Service Occupation Tax Act [35 ILCS 115/9], such Acts being hereinafter called the "Tax Acts" [35 ILCS 120/1 et seq., 35 ILCS 105/1 et seq., 35 ILCS 110/1 et seq., 35 ILCS 115/1 et seq.] 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 [30 ILCS 425/1 et seq.] 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. 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 [30 ILCS 425/13], 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 [30 ILCS 425/12].

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 [30 ILCS 105/8.25f], 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	108,000,00
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 and each fiscal year thereafter that bonds are outstanding under Section 13.2 of the Metropolitan Pier and Exposition Authority Act [70 ILCS 210/13.2], but not after fiscal year 2042.	275,000,000

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 [70 ILCS 210/13], 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, 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 Community Affairs Law [20 ILCS 605/605-332] of the Civil Administrative Code of Illinois [20 ILCS 5/1 et seq.].

All remaining moneys received by the Department pursuant to this Act shall be paid into the General Revenue Fund of the State Treasury.

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.

(Source: P.A. 91-37; 91-51; 91-101; 91-541; 91-872; 92-12; 92-208; 92-492; 92-600; 92-651.)

ACT 115. SERVICE OCCUPATION TAX ACT

(Selected Section)

Section
115/9. Payment of service occupation tax by serviceman.

115/9. Payment of service occupation tax by serviceman.

§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.

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[35 ILCS 115/2d];

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 [35 ILCS 110/3-70] 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 [35 ILCS 120/1 et seq.], the Use Tax Act [35 ILCS 105/1 et seq.] or the Service Use Tax Act [35 ILCS 110/1 et seq.], 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.

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 [35 ILCS 120/3], Section 9 of the Use Tax Act [35 ILCS 105/9], Section 9 of the Service Use Tax Act [35 ILCS 110/9], and Section 9 of the Service Occupation Tax Act [35 ILCS 115/9], 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 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 [30 ILCS 425/1 et seq.] 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 [30 ILCS 425/13], 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 [30 ILCS 425/12].

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 [30 ILCS 105/8.25], 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 [35 ILCS 105/9], Section 9 of the Service Use Tax Act [35 ILCS 110/9], Section 9 of the Service Occupation Tax Act [35 ILCS 115/9], and Section 3 of the Retailers' Occupation Tax Act [35 ILCS 120/3] 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 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 2042.	275,000,000

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 [70 ILCS 210/13], 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, 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 [20 ILCS 605/605-332] of the Civil Administrative Code of Illinois [20 ILCS 5/1-1 et seq.].

Remaining moneys received by the Department pursuant to this Act shall be paid into the General Revenue Fund of the State Treasury.

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 [35 ILCS 735/3-4].

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.

(Source: P.A. 91-37; 91-51; 91-101; 91-541; 91-872; 92-12; 92-208; 92-492; 92-600; 92-651. Chgd. by P.A. 93-24, §50-24, eff. 6/20/2003; revised 10/15/2003; chgd. by P.A. 93-840, §20-20, eff. 7/30/2004.)

ACT 120. RETAILERS' OCCUPATION TAX ACT

(Selected Section)

Section
120/3. Returns; payment; electronic funds transfer; deductions; discounts; disposition of proceeds; accounts.

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 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 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 [625 ILCS 45/3-2], 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 [625 ILCS 5/5-402] 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.

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act [35 ILCS 105/1 et seq.], the Service Occupation Tax Act [35 ILCS 115/1 et seq.], and the Service Use Tax Act [35 ILCS 10/1 et seq.], 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 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.

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 [35 ILCS 105/9], Section 9 of the Service Use Tax Act [35 ILCS 110/9], and Section 9 of the Service Occupation Tax Act [35 ILCS 115/9], 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 [30 ILCS 425/13]) 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 [30 ILCS 425/1 et seq.] 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 [30 ILCS 425/12].

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 [30 ILCS 105/8.25], 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 [35 ILCS 120/3] 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
997	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 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 2042.	275,000,000

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 [70 ILCS 210/13], 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, 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 [20 ILCS 605/605-332] of the Civil Administrative Code of Illinois [20 ILCS 5/1-1 et seq.].

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 [30 ILCS 105/8a].

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 [35 ILCS 735/3-4].

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 [225 ILCS 465/2], 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.
(Source: P.A. 91-37; 91-51; 91-101; 91-541; 91-872; 91-901; 92-12; 92-16; 92-208; 92-484; 92-492; 92-600; 92-651. Chgd. by P.A. 93-22, §5, 93-24, §50-25, eff. 6/20/2003; revised 10/15/2003; chgd. by P.A. 93-840, §20-25, eff. 7/30/2004; 93-926, §5, eff. 8/12/2004.)

PROPERTY TAXES

ACT 200. PROPERTY TAX CODE
(Selected Title)

Title
6. Levy and Extension.

TITLE 6. LEVY AND EXTENSION

Article 18
Levy and Extension Process

Division 2
Truth in Taxation

Section
200/18-55. Short title and definitions.
200/18-56. Legislative purpose.
200/18-60. Estimate of taxes to be levied.
200/18-65. Restriction on extension.
200/18-70. More than 5% increase; notice and hearing required.
200/18-72. Public notice to amend certificate of tax levy.
200/18-75. Notice; place of publication.
200/18-80. Time and form of notice.
200/18-85. Notice if adopted levy exceeds proposed levy.
200/18-90. Limitation on extension of county clerk.
200/18-92. Maywood Public Library District Tax Levy Validation (2002) Law.
200/18-95. Effect of Truth in Taxation Law.
200/18-100. Defective publication.

Division 5
Property Tax Extension Limitation Law

200/18-185. Short title; definitions.
200/18-190. Direct referendum; new rate or increased rate.
200/18-190.5. School districts.
200/18-195. Limitation.
200/18-200. School Code.
200/18-205. Referendum to increase the extension limitation.
200/18-210. Establishing a new levy.
200/18-212. Referendum on debt service extension base.
200/18-213. Referenda on applicability of the Property Tax Extension Limitation Law.
200/18-214. Referenda on removal of the applicability of the Property Tax Extension Limitation Law to non-home rule taxing districts.

200/18-215. Merging and consolidating taxing districts; transfer of service.
200/18-220. *(Repealed).*
200/18-225. Annexed or disconnected property.
200/18-230. Rate increase or decrease factor.
200/18-235. Tax increment financing districts.
200/18-240. Certification of new property.
200/18-241. School Finance Authority.
200/18-243. Severability.
200/18-245. Rules.

ARTICLE 18. LEVY AND EXTENSION PROCESS

(Selected Divisions)

DIVISION 2. TRUTH IN TAXATION

(Complete Division)

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.

(Source: 91-357; 91-523.)

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.

(Source: P.A. 88-660.)

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.

(Source: P.A. 88-455.)

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.

(Source: P.A. 88-455.)

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.

(Source: P.A. 88-455.)

200/18-72. Public notice to amend certificate of tax levy.

§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 [105 ILCS 5/17-11.1].

(Source: P.A. 91-850.)

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.
(Source: P.A. 88-455.)

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.
(Source: P.A. 92-382.)

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).

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.

(Source: P.A. 88-455.)

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.
(Source: P.A. 88-455; 88-660.)

200/18-92. Maywood Public Library District Tax Levy Validation (2002) Law.

§18-92. Maywood Public Library District Tax Levy Validation (2002) Law.

The provisions of the Truth in Taxation Law [35 ILCS 200/18-55 et seq.] are subject to the Maywood Public Library District Tax Levy Validation (2002) Law [75 ILCS 23/10-5 et seq.].
(Source: P.A. 92-884.)

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.
(Source: P.A. 88-455.)

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.
(Source: P.A. 88-455.)

DIVISION 5. PROPERTY TAX EXTENSION LIMITATION LAW

(Complete Division)

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; and (m) 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.

"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; (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; and (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.

"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; 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.

"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). 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 18-215 through 18-230.

"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, and (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. 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, 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. The denominator shall not include the recovered tax increment value.

(Source: P.A. 91-357; 91-478; 92-547. Chgd. by P.A. 93-601, §5, 93-606, §5, 93-612, §5, eff. 11/18/2003; 93-689, §5, 93-690, §5, eff. 7/1/2004.)

200/18-190. Direct referendum; new rate or increased rate.

§18-190. Direct referendum; new rate or increased rate.

If a new rate or a rate increase 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 [10 ILCS 5/28-2], the governing body of the affected taxing district before levying the new rate or rate increase shall submit the new rate or rate increase to direct referendum under the provisions of Article 28 of the Election Code [10 ILCS 5/28-1 et seq.]. 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. 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 [10 ILCS 5/1-1 et seq.].

(Source: P.A. 89-385; 89-718.)

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 clause (m) of Section 18-185 of this Code.

(Source: P.A. 92-547.)

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.

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. 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. *(Source: P.A. 91-859.)*

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 [105 ILCS 5/18-8] 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. *(Source: P.A. 88-455.)*

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 increase 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 a current levy year if that taxing district holds a referendum before the levy date 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 [10 ILCS 5/1-1 et seq.] provided that notice of the referendum, if held before July 1, 1999, has been given in accordance with the provisions of Section 12-5 of the Election Code [10 ILCS 5/12-5] 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 presented in substantially the following manner:

Shall the extension limitation under the Property Tax Extension Limitation Law for (taxing district name) be increased from (the lesser of 5% or the increase in the Consumer Price Index over the prior levy year) % to (percentage of proposed increase) % for the (levy year) levy year?	YES	
	NO	

If a majority of voters voting on the issue approves the adoption of the increase, the increase shall be applicable for the levy year specified.
(Source: P.A. 91-57.)

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 [10 ILCS 5/1-1 et seq.] 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 [10 ILCS 5/12-5] 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, 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.
(Source: P.A. 91-57.)

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. Referenda under this Section shall be conducted at a regularly scheduled election in accordance with the Election Code [10 ILCS 5/1-1 et seq.]. 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 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?"

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.
(Source: P.A. 89-385.)

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.

(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 [10 ILCS 5/1-1 et seq.].

(Source: P.A. 89-510; 89-718.)

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 [35 ILCS 200/18-185 et seq.] 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.
(Source: P.A. 89-718.)

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 [35 ILCS 200/18-190] of this Law requiring a referendum to establish a new levy shall not apply.
(Source: P.A. 90-719.)

200/18-220. *(Repealed.)*

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.
(Source: P.A. 89-1.)

200/18-230. Rate increase or decrease factor.

§18-230. Rate increase or decrease factor.

When a new rate or a rate increase or decrease first effective for the current levy year has been approved by referendum, the aggregate extension base, as adjusted in Sections 18-215 and 18-220 [35 ILCS 200/18-215], 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 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 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.
(Source: P.A. 88-455.)

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.
(Source: P.A. 88-455.)

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.
(Source: P.A. 89-510.)

200/18-241. School Finance Authority.

§18-241. School Finance Authority.

(a) A School Finance Authority established under Article 1E or 1F of the School Code [105 ILCS 5/1E-1 et seq. or 5/1F-1 et seq.] 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.
(Source: P.A. 92-547. Chgd. by P.A. 93-501, §3, eff. 8/11/2003.)

200/18-243. Severability.

§18-243. Severability.

The provisions of the Property Tax Extension Limitation Law are severable under Section 1.31 of the Statute on Statutes [5 ILCS 70/1.31].
(Source: P.A. 89-1.)

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.
(Source: P.A. 88-455.)

EXCISE TAXES

ACT 505. MOTOR FUEL TAX LAW

(Selected Sections)

Section

505/1. Definitions, generally.
505/1.1. "Motor Fuel" defined.
505/1.3. "Motor Vehicles" defined.
505/1.4. "Municipality" defined.
505/1.13. "Special Fuel" defined.
505/1.19. "Fuel" defined.
505/1.20. "Receiver" defined.
505/2. Tax on motor vehicles and recreational-type watercraft; exceptions.
505/2a. Tax on receiving fuel for sale or use; imposition.
505/2b. Tax on receiving fuel for sale or use; monthly tax return.
505/8. Motor Fuel Tax Fund; distributions.
505/8a. Underground Storage Tank Fund.
505/13a. Tax on use of motor fuel by commercial vehicles.

505/1. Definitions, generally.

§1. For the purposes of this Act the terms set out in Sections 1.1 through 1.21 have the meanings ascribed to them in those Sections.
(Source: P.A. 86-16; 86-1028.)

505/1.1. "Motor Fuel" defined.

§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.
(Source: Laws 1963, p. 1557.)

505/1.3. "Motor Vehicles" defined.

§1.3. "Motor Vehicles" means motor vehicles as defined by The Illinois Vehicle Code [625 ILCS 5/1-100 et seq.] and watercraft propelled by an internal combustion engine.
(Source: P.A. 77-1079.)

505/1.4. "Municipality" defined.

§1.4. "Municipality" means city, village or incorporated town.
(Source: Laws 1961, p. 3653.)

505/1.13. "Special Fuel" defined.

§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.
(Source: P.A. 83-1362.)

505/1.19. "Fuel" defined.

§1.19. "Fuel" means all liquids defined as "Motor Fuel" in Section 1.1 of this Act and aviation fuels and kerosene, but excluding liquefied petroleum gases.
(Source: P.A. 86-125.)

505/1.20. "Receiver" defined.

§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.
(Source: P.A. 86-125; 86-958.)

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 2½ 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.

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.

(Source: P.A. 91-173. Chgd. by P.A. 93-17, §25, eff. 6/11/2003.)

505/2a. Tax on receiving fuel for sale or use; imposition.

§2a. Except as hereinafter provided, on and after January 1, 1990 and before January 1, 2013, 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 [625 ILCS 5/18c-7201] 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.

(Source: P.A. 92-232.)

505/2b. Tax on receiving fuel for sale or use; monthly tax return.

§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.

(Source: P.A. 91-173; 92-30. Chgd. by P.A. 93-32, §50-35, eff. 6/20/2003.)

505/8. Motor Fuel Tax Fund; distributions.

§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) 2½ 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 [625 ILCS 45/10-1 et seq.];

(c) $2,250,000 shall be transferred each month to the Grade Crossing Protection Fund to be used as follows: not less than $6,000,000 each fiscal year shall be used for the construction or reconstruction of rail highway grade separation structures; $2,250,000 in fiscal year 2004 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 [625 ILCS 5/18c-7401], 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 [605 ILCS 5/1-101 et seq.], 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 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 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 of this Act and 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 [625 ILCS 5/13A-101 et seq.], 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, and 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, 2006, for the administration of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-1 et seq.], 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 [605 ILCS 5/6-901 to 5/6-906];

(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, 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. 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 [605 ILCS 5/6-601, 5/6-602, 5/6-603], 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. 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 [35 ILCS 200/18-185 et seq.], road districts may retain their entitlement to a motor fuel tax 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 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, "road district" also includes park districts, forest preserve districts and conservation districts organized under Illinois law and "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. *(Source: P.A. 91-37; 91-59; 91-173; 91-357; 91-91-704; 91-725; 91-794; 92-16; 92-30. Chgd. by P.A. 93-32, §50-35, eff. 6/20/2003; 93-839, §10-145, eff. 7/30/2004.)*

505/8a. Underground Storage Tank Fund.

§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 [415 ILCS 5/57.11], as now or hereafter amended.
(Source: P.A. 88-496.)

505/13a. Tax on use of motor fuel by 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 [35 ILCS 120/1 et seq.], per gallon of motor fuel sold in this State during the previous 12 months and multiplying it by 6¼% 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 Retailer's 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.
(Source: P.A. 91-872, 4th Spec. Sess., §22.)

CHAPTER 50
LOCAL GOVERNMENT
(Selected Acts)

OFFICERS AND EMPLOYEES

Act
105. Public Officer Prohibited Activities Act.
110. Public Officer Simultaneous Tenure Act.

FINANCES

340. Investment of Municipal Funds Act.

PURCHASES AND CONTRACTS

505. Local Government Prompt Payment Act.
510. Local Government Professional Services Selection Act.

PROPERTY

605. Local Government Property Transfer Act.

OFFICERS AND EMPLOYEES

ACT 105. PUBLIC OFFICER PROHIBITED ACTIVITIES ACT
(Complete Act)

HOLDING OTHER OFFICE

Section
105/0.01. Short title.
105/1. County board.
105/1.1. County board member as township highway commissioner.
105/1.2. County board member; education office.
105/1.3. Municipal board member; education office.
105/2. Limitations on holding certain offices in cities and villages; volunteer firemen excepted.
105/2a. Limitations holding certain offices in townships; volunteer firemen excepted.
105/3. Prohibited interest in contracts.
105/3.1. Disclosure of parties.
105/3.2. Pecuniary interest allowed in contracts of deposit and financial service with local banks and savings and loan associations.
105/4. Violations.
105/4.5. False verification; perjury.

HOLDING OTHER OFFICE

105/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Public Officer Prohibited Activities Act.
(Source: P.A. 86-1324.)

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 or (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, 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 [505 ILCS 45/7], or as a member of an Emergency Telephone System Board as provided in Section 15.4 of the Emergency Telephone System Act [50 ILCS 750/15.4], or as appointed members of the board of review as provided in Section 6-30 of the Property Tax Code [35 ILCS 200/6-30]. 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.
(Source: P.A. 91-732; 92-111.)

105/1.1. County board member as township highway commissioner.

§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.
(Source: P.A. 86-1330.)

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, or board of school inspectors.
(Source: P.A. 88-471.)

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.
(Source: 91-161.)

105/2. Limitations on holding certain offices in cities and villages; volunteer firemen excepted.

§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. 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.
(Source: P.A. 89-89.)

105/2a. Limitations holding certain offices in townships; volunteer firemen excepted.

§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.
(Source: P.A. 89-89.)

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 or to any director serving on a hospital district board as provided under subsection (a-5) of Section 13 of the Hospital District Law [70 ILCS 910/13].

(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 7½% 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 $1,500, or awarded without bidding if the amount of the contract is less than $1,500; 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 7½% 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 negotiation, 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, 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.

(Source: P.A. 90-197; 90-364; 90-655.)

105/3.1. Disclosure of parties.

§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 7½% 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, 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 7½% 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.

(Source: P.A. 91-361.)

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 [40 ILCS 5/3-101 et seq., 5/4-101 et seq.] 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 [70 ILCS 910/13]) 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.
(Source: P.A. 90-197.)

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.
(Source: P.A. 77-2721.)

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 1961 [720 ILCS 5/32-2, 5/32-3] 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.
(Source: P.A. 89-91.)

ACT 110. PUBLIC OFFICER SIMULTANEOUS TENURE ACT

(Selected Section)

Section
110/2. Simultaneous tenure declared to be lawful.

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.
(Source: P.A. 90-748.)

FINANCES

ACT 340. INVESTMENT OF MUNICIPAL FUNDS ACT

(Complete Act)

Section
340/0.01. Short title.
340/1. Surplus funds may be used to purchase tax anticipation warrants.
340/2. Resale or issuance of new tax anticipation warrants; use of proceeds.

340/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Investment of Municipal Funds Act.
(Source: P.A. 86-1324.)

340/1. Surplus funds may be used to purchase tax anticipation warrants.

§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" [35 ILCS 505/1 et seq.], 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" [30 ILCS 235/6], approved July 23, 1943, as now or hereafter amended.

This amendatory Act of 1975 is not a limit on any home rule unit.

(Chgd. by P.A. 93-360, §10, eff. 7/24/2003.)

340/2. Resale or issuance of new tax anticipation warrants; use of proceeds.

§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.

(Source: Laws 1941, vol. 2, p. 473.)

PURCHASES AND CONTRACTS

ACT 505. LOCAL GOVERNMENT PROMPT PAYMENT ACT

(Complete Act)

Section
505/1. Short title.
505/2. Application.
505/3. Approval of bill for goods or services.
505/4. Payment of bill; interest penalty.
505/5. Failure to approve or disapprove bill.
505/6. Time periods for payment of bill.
505/7. Funds appropriated or controlled by State; certification of need.
505/9. Payments to subcontractors and suppliers; failure to make timely payments.

505/1. Short title.

§1. This Act shall be known and may be cited as the "Local Government Prompt Payment Act".
(Source: P.A. 84-731.)

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.
(Source: P.A. 85-1159.)

505/3. Approval of bill for goods or services.

§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. 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.
(Source: P.A. 87-773.)

505/4. Payment of bill; interest 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.
(Source: P.A. 84-731.)

505/5. Failure to approve or disapprove bill.

§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.
(Source: P.A. 84-731.)

505/6. Time periods for payment of bill.

§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.
(Source: P.A. 87-773.)

505/7. Funds appropriated or controlled by State; certification of need.

§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.
(Source: P.A. 85-1159.)

505/9. Payments to subcontractors and suppliers; failure to make timely payments.

§9. 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. 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 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.
(Source: P.A. 87-773.)

ACT 510. LOCAL GOVERNMENT PROFESSIONAL SERVICES SELECTION ACT

(Complete Act)

Section
510/0.01. Short title.
510/1. Policy.
510/2. Federal Requirements.
510/3. Definitions.
510/4. Public notice.
510/5. Selection Procedure.
510/6. Selection procedure.
510/7. Contract negotiation.
510/8. Waiver of competition.

510/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Local Government Professional Services Selection Act.
(Source: P.A. 86-1324.)

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.
(Source: P.A. 85-854.)

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.
(Source: P.A. 85-854.)

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 [225 ILCS 305/5].

(3) "Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 [225 ILCS 325/4] or Section 5 of the Structural Engineering Practice Act of 1989 [225 ILCS 340/5].

(4) "Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330/5].

(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.
(Source: 91-91.)

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 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; or

(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.
(Source: P.A. 85-854.)

510/5. Selection procedure.

§5. Selection 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 and budget requirements, location, workload of the firm and such other 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.
(Source: P.A. 85-854.)

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.
(Source: P.A. 85-854.)

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.
(Source: P.A. 85-854.)

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.
(Source: P.A. 87-1034.)

PROPERTY

ACT 605. LOCAL GOVERNMENT PROPERTY TRANSFER ACT

(Complete Act)

Section
605/0.01. Short title.
605/1. Definitions.
605/2. Transfer of real estate between municipalities.
605/3. Transfer of two or more parcels.
605/3.1. Lease of real property.
605/4. Transfer of real estate between municipality and State.

605/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Local Government Property Transfer Act.
(Source: P.A. 86-1324.)

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 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, 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," [repealed; see now 65 ILCS 5/9-2-1 et seq.] approved June 14, 1897, and the amendments thereto.

(i) The term "State of Illinois" shall mean the State of Illinois or any department, commission, board or other agency of the State.
(Source: P.A. 82-783.)

605/2. Transfer of real estate between municipalities.

§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", [50 ILCS 20/1 et seq.] approved July 5, 1955, as amended, 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 [repealed; see now 65 ILCS 5/9-2-1 et seq.], 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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.].

(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.
(Source: P.A. 83-358.)

605/3. Transfer of two or more parcels.

§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.
(Source: Laws 1925, p. 246.)

605/3.1. Lease of real 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.
(Source: P.A. 79-1093.)

605/4. Transfer of real estate between municipality and State.

§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" [525 ILCS 30/1 et seq.] as now or hereafter amended. 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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.].
(Source: P.A. 82-783.)

CHAPTER 55
COUNTIES
(Selected Act)

Act
5. Counties Code.

ACT 5. COUNTIES CODE
(Selected Article)

Article
5. Powers and Duties of County Boards.

ARTICLE 5. POWERS AND DUTIES OF COUNTY BOARDS
(Selected Divisions)

Division 5-1
In General

Section
5/5-1014. Powers generally.
5/5-1020. Trust agreements for funds retained pending construction completion.
5/5-1022. Competitive bids.
5/5-1035.1. County Motor Fuel Tax Law.
5/5-1035.2. County economic development tax.
5/5-1067. Names of streets and highways; numbers of buildings and lots.
5/5-1079. Liability insurance.
5/5-1104. Removal of obstructions from streams, lakes, ponds, and other water courses; stream maintenance.
5/5-1104.1. Provisions to be applied consistent with established comprehensive policy.

Division 5-13
Building or Set-Back Lines

5/5-13001. Establishment of building or set-back lines.
5/5-13002. Enforcing officer.
5/5-13003. Amendments to regulations.
5/5-13004. Proceedings to restrain violation.

DIVISION 5-1. IN GENERAL
(Selected Sections)

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.
(Source: P.A. 86-962.)

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 [605 ILCS 5/5-409] is applicable) or of a local improvement as defined in Division 5-32 [55 ILCS 5/5-32001 et seq.], 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" [30 ILCS 235/6], approved July 23, 1943, as now or hereafter amended.
(Source: P.A. 86-962.)

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 $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 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 $25,000, 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 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. 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.

(Chgd. by P.A. 93-25, §30-20, eff. 6/20/2003, 93-157, §5, eff. 1/1/2004.)

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 [35 ILCS 505/1 et seq.], 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 [35 ILCS 120/1 et seq.], as now or hereafter amended, 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 the amount expended during the second preceding month by the Department pursuant to appropriation from the County Option Motor Fuel Tax Fund for the administration and enforcement of this Section, which appropriation shall not exceed $200,000 for fiscal year 1990 and, for each year thereafter, shall not exceed 2% of the amount deposited into the County Option Motor Fuel Tax Fund during the preceding fiscal year.

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.
(Source: P.A. 87-289.)

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.
(Source: P.A. 86-1028.)

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.
(Source: P.A. 88-387.)

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.
(Source: P.A. 86-962.)

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, 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.

(Source: P.A. 87-847.)

5/5-1104.1. Provisions to be applied consistent with established comprehensive policy.

§5-1104.1. If a forest preserve district organized under the Downstate Forest Preserve District Act [70 ILCS 805/0.001 et seq.] 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.

(Source: P.A. 87-847.)

DIVISION 5-13. BUILDING OR SET-BACK LINES

(Complete Division)

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.

(Source: P.A. 86-962.)

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.

(Source: P.A. 86-962.)

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.

(Source: P.A. 86-962.)

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.

(Source: P.A. 86-962.)

CHAPTER 60
TOWNSHIPS
(Selected Act)

Act
1. Township Code.

ACT 1. TOWNSHIP CODE
(Selected Articles)

Article
30. Annual Township Meeting.
35. Special Township Meetings.
60. Vacancies in Township Offices and the Manner of Filling Them.
85. Township Corporate Powers, Generally.
240. Township Borrowing Money.

ARTICLE 30. ANNUAL TOWNSHIP MEETING
(Selected Section)

Section
1/30-50. Purchase and use of property.

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 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 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 10 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 10 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 or personal property, unless the personal property has a sale value of $2,500 or less, the electors shall adopt a resolution stating the intent to lease or sell the real or personal 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).

When a township sells township or road district personal property valued for sale at $2,500 or less, the electors are not required to adopt a resolution. Prior to the sale, the clerk shall prepare a notice stating the intent of the township or road district to sell personal property with a sale value of $2,500 or less and describing the property in full.

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, 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.

(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.

(Chgd. by P.A. 93-424, §5, eff. 8/5/2003.)

ARTICLE 35. SPECIAL TOWNSHIP MEETINGS

(Selected Section)

Section
1/35-35. Filling vacancy on township board.

1/35-35. Filling vacancy on township board.

§35-35. Filling vacancy on township board.

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.

(Source: P.A. 92-194.)

ARTICLE 60. VACANCIES IN TOWNSHIP OFFICES AND THE MANNER OF FILLING THEM

(Selected Section)

Section
1/60-5. Filling vacancies in township offices.

1/60-5. Filling vacancies in township offices.

§60-5. Filling vacancies in township offices.

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, 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 [35 ILCS 200/1-1 et seq.].

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.

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.

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

[10 ILCS 5/10-2], 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.
(Source: P.A. 90-748.)

ARTICLE 85. TOWNSHIP CORPORATE POWERS, GENERALLY

(Selected Sections)

Section
1/85-30. Purchases; bids.
1/85-35. Retaining percentage of contract price; trust agreement.

1/85-30. Purchases; bids.

§85-30. Purchases; bids.

Any purchase by a township having fewer than 10,000 inhabitants and located in a county with a population under 3,000,000 for services, materials, equipment, or supplies in excess of $10,000 (other than professional services) and any purchase by a township in a county with a population of 3,000,000 or more, or by a township having 10,000 or more inhabitants and located in a county with a population of less than 3,000,000, for services, materials, equipment, or supplies in excess of $10,000 (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.
(Source: P.A. 92-627.)

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.
(Source: P.A. 88-62.)

ARTICLE 240. TOWNSHIP BORROWING MONEY

(Complete Article)

Section
1/240-5. 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 [205 ILCS 5/1 et seq.], any savings and loan association subject to the Illinois Savings and Loan Act of 1985 [205 ILCS 105/1-1 et seq.], and any federally chartered commercial bank or savings and loan association organized and operated in this State under the laws of the United States.
(Chgd. by P.A. 93-743, §5, eff. 7/15/2004.)

CHAPTER 65
MUNICIPALITIES
(Selected Act)

Act
5. Illinois Municipal Code.

ACT 5. ILLINOIS MUNICIPAL CODE
(Selected Articles)

Article
1. General Provisions.
2. Organization of Municipalities.
7. Territory.
8. Finance.
9. Local Improvements.
11. Corporate Powers and Functions.

ARTICLE 1. GENERAL PROVISIONS
(Selected Divisions)

1. Short Title, Definitions, Scope of Code, Grant of Certain Powers.
7. Census Provisions.

Division 1
Short Title, Definitions, Scope of Code, Grant of Certain Powers

Section
5/1-1-1. Short title.
5/1-1-2. Definitions.
5/1-1-2.1. Form of address.

Division 7
Census Provisions

5/1-7-1. Powers of municipalities.
5/1-7-2. Population; determination; duty of Secretary of State; judicial notice.

DIVISION 1. SHORT TITLE, DEFINITIONS, SCOPE OF CODE, GRANT OF CERTAIN POWERS
(Selected Sections)

5/1-1-1. Short title.

§1-1-1. This Code shall be known and may be cited as the Illinois Municipal Code.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 87-1119.)

5/1-1-2.1. Form of address.

§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. *(Source: P.A. 76-1911.)*

DIVISION 7. CENSUS PROVISIONS

(Complete)

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.
(Source: P.A. 76-985.)

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, to certify to each municipality the number of inhabitants, as shown by that 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.
(Source: Laws 1961, p. 576.)

ARTICLE 2. ORGANIZATION OF MUNICIPALITIES

(Selected Divisions)

Division 2
Incorporation of Cities

Section
5/2-2-15. Boundaries of cities.

Division 3
Incorporation of Villages

5/2-3-19. Boundaries of villages.

DIVISION 2. INCORPORATION OF CITIES

(Selected Section)

5/2-2-15. Boundaries of cities.

§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.
(Source: P.A. 84-898.)

DIVISION 3. INCORPORATION OF VILLAGES

(Selected Section)

5/2-3-19. Boundaries of villages.

§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.
(Source: P.A. 85-293.)

ARTICLE 7. TERRITORY

(Selected Division)

Division 1
Annexation

Section
5/7-1-1. Annexation of contiguous territory.
5/7-1-2. Petition or ordinance for annexation; filing; notice; fee; restrictions on annexation.
5/7-1-10. Annexation of contiguous territory dedicated or used for street or highway purposes.

DIVISION 1. ANNEXATION
(Selected Sections)

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 railroad or public utility right-of-way, but upon annexation the area included within that right-of-way shall not be considered to be annexed to the municipality.

Except in counties with a population of more than 500,000 but less than 3,000,000, territory which is not contiguous to a municipality but is separated therefrom only by a forest preserve district may be annexed to the municipality pursuant to Sections 7-1-7 or 7-1-8, but only if the annexing municipality can show that the forest preserve district creates an artificial barrier preventing the annexation and that the location of the forest preserve district property prevents the orderly natural growth of the annexing municipality. It shall be conclusively presumed that the forest preserve district 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), (ii) forest preserve district property, or (iii) a combination of other municipalities and forest preserve district property. It shall also be conclusively presumed that the forest preserve district does not create an artificial barrier if the municipality seeking annexation is not the closest municipality to the property to be annexed. The territory included within such forest preserve district shall not be annexed to the municipality nor shall the territory of the forest preserve district be subject to rights-of-way for access or services between the parts of the municipality separated by the forest preserve district without the consent of the governing body of the forest preserve district. The changes made to this Section by this amendatory Act of 91st General Assembly are declaratory of existing law and shall not be construed as a new enactment.

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.

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 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 annexation. In the event that a municipality fails to notify the Township Commissioner of Highways and the Board of Town Trustees 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.
(Source: P.A. 91-824.)

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.

(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.
(Source: P.A. 88-355.)

5/7-1-10. Annexation of contiguous territory dedicated or used for street or highway purposes.

§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.
(Source: P.A. 83-358.)

ARTICLE 8. FINANCE

(Selected Divisions)

Division 1
General Divisions

Section
5/8-1-7. Contractual liabilities; limitation.

Division 2
Annual Appropriation Ordinances

5/8-2-9.11. Retention of part of contracted price until final completion and acceptance of work.

Division 3
Levy and Collection of Taxes

5/8-3-4. Tax levied and set apart for particular purpose.

Division 5

5/8-5-16. Bonds, issuance, authorization.

Division 9
Purchasing and Public Works Contracts in Municipalities of Less Than 500,000

5/8-9-1. Letting of contracts.

Division 10R Purchasing and Public Works Contracts in Cities of More Than 500,000

5/8-10-1. Short title.
5/8-10-2. Additional powers and duties.
5/8-10-2.5. Airports.
5/8-10-3. Purchase orders and contracts; Competitive bids.
5/8-10-4. Contracts not requiring competitive bids.
5/8-10-5. Emergency contracts.
5/8-10-6. Requisition agents.
5/8-10-7. Advertisements for bids; Deposits.
5/8-10-8. Collusion among bidders and disclosures; Prohibition.
5/8-10-8.5. Disclosure.
5/8-10-9. Opening bids.
5/8-10-10. Awarding of contracts; Filing of purchase order or contract; Public inspection.
5/8-10-11. Responsibility of bidders; Determination.
5/8-10-12. Rejection of bids.
5/8-10-13. Bonds of bidders.
5/8-10-14. Assignment of contracts.
5/8-10-15. Purchasing agents; Tenure; removal; Salary; Bond; Exemption from Civil Service.
5/8-10-16. Purchasing agent; Powers and duties.
5/8-10-17. Revolving fund; Pecuniary interest in contracts; Penalty.
5/8-10-18. Purchasing agent; Execution of contracts.
5/8-10-19. Board of standardization; Powers and duties.
5/8-10-20. Ordinances; Adoption and publication.
5/8-10-21. Contracts executed in violation of this division; Effect.
5/8-10-22. Local improvement contracts.
5/8-10-23. Audits of expenditures; Reports.
5/8-10-24. Specifications relating to construction, alteration, rehabilitation or repair of realty; Preparation; Approval; Modification.
5/8-10-25. Conflicts of application of laws.
5/8-10-26. Long-term contracts.

Division 11
Certain Revenue Taxes

5/8-11-15. Motor fuel tax; Referendum; Liability.

DIVISION 1. GENERAL PROVISIONS

(Selected Section)

5/8-1-7. Contractual liabilities; Limitiation.

§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.

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.
(Source: P.A. 90-517.)

DIVISION 2. ANNUAL APPROPRIATION ORDINANCES

(Selected Section)

5/8-2-9.11. Retention of part of contracted price until final completion and acceptance of work.

§8-2-9.11. Whenever any municipality 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, 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.
(Source: P.A. 82-503.)

DIVISION 3. LEVY AND COLLECTION OF TAXES

(Selected Section)

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 [35 ILCS 505/1 et seq.], as heretofore and hereafter amended 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.
(Source: Laws 1961, p. 576.)

DIVISION 5. DEBT LIMITS IN MUNICIPALITIES OF LESS THAN 500,000

(Selected Section)

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. 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.
(Source: P.A. 89-655.)

DIVISION 9. PURCHASING AND PUBLIC WORKS CONTRACTS IN MUNICIPALITIES OF LESS THAN 500,000

(Selected Section)

5/8-9-1. Letting of contracts.

§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 $10,000, 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 $10,000 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.
(Source: P.A. 86-576.)

DIVISION 10. PURCHASING AND PUBLIC WORKS CONTRACTS IN CITIES OF MORE THAN 500,000

(Complete)

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."
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 89-405.)

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 [35 ILCS 105/1], 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. 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.
(Chgd. by P.A. 93-25, §30-25, eff. 6/20/2003.)

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 reports, 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.
(Source: Laws 1967, p. 3599.)

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.
(Source: P.A. 81-1376.)

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.
(Source: P.A. 81-1376.)

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.
(Source: P.A. 84-1269.)

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.
(Source: Laws 1961, p. 576.)

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 7 ½% 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.
(Source: P.A. 89-405.)

5/8-10-9. Opening 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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 81-1376.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 81-1376.)

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.
(Source: Laws 1967, p. 3599.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1967, p. 3599.)

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 employee 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 employees 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 employee, 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.
(Source: P.A. 77-2500.)

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 employee 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.
(Source: Laws 1961, p. 576.)

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 municipality 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.
(Source: Laws 1967, p. 3599.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 89-405.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1967, p. 3599.)

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, the provisions of "An Act concerning municipalities, counties and other political subdivisions" shall prevail.
(Source: P.A. 85-854.)

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.
(Added by P.A. 93-58, §5, eff. 1/1/2004.)

DIVISION 11. CERTAIN REVENUE TAXES

(Selected Section)

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. 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".
(Source: P.A. 84-1099.)

ARTICLE 9. LOCAL IMPROVEMENTS

(Selected Divisions)

Division 1
Provisions Generally Applicable

Section
5/9-1-1. Application.
5/9-1-2. Improvement made by general taxation.
5/9-1-3. Repeal of ordinance ordering local improvement.
5/9-1-4. Report on condition of completed work.
5/9-1-5. Undistributed or unclaimed money.
5/9-1-6. Public notice of undistributed or unclaimed money.
5/9-1-7. Unclaimed rebate fund.
5/9-1-8. Claims against unclaimed rebate fund.
5/9-1-9. Use of money in unclaimed rebate fund.
5/9-1-10. Return of money to fund.
5/9-1-11. Disposition of unclaimed money.
5/9-1-12. Transfer to unclaimed rebate fund.
5/9-1-13. Transfer when no unclaimed rebate fund exists.
5/9-1-14. Claims.

Division 2
Local Improvement Procedures Restricted to Certain Municipalities

5/9-2-1. Scope of division; powers conferred.
5/9-2-2. Definitions.
5/9-2-3. Special assessment for projects receiving federal or other governmental aid.
5/9-2-4. Improvement to water supply, sewer system, or highway system relating to Federal defense project.
5/9-2-4.5. Special assessment for payment of costs associated with certain ordinance violations.
5/9-2-5. Ordinance for local improvement to specify source of revenue.
5/9-2-6. Ordinance for local improvement; recommendation of board of local improvements required; abandonment of proposed improvement.
5/9-2-7. Board of local improvements, generally; creation and composition; members' limitations on holding offices.
5/9-2-8. Chief clerk of special assessments may substitute for superintendent of special assessments.
5/9-2-9. Preliminary procedure for local improvements by special assessment.
5/9-2-10. Hearing on proposed improvement; remonstrance petition.
5/9-2-11. Recommendation of board to accompany ordinance; prima facie evidence of compliance with preliminary requirements.
5/9-2-12. Cost estimate of improvement; signature of public engineer.
5/9-2-13. Referral of ordinance to committee and publication prior to action.
5/9-2-14. Taking or damaging property, generally.
5/9-2-15. Proceedings to ascertain compensation.
5/9-2-16. Just compensation; contents of petition; appointment of commissioners by court.
5/9-2-17. Filing and recording of petition; delivery and recording of order or judgment.
5/9-2-18. Commissioners' report.
5/9-2-19. Special assessment installments relating to waterworks, bridge or viaduct.
5/9-2-20. Award for property taken or damaged; net damage or benefit.
5/9-2-21. Offset for donated land.
5/9-2-22. Commissioners' certificate.
5/9-2-23. Affidavit of ownership.
5/9-2-24. Parties defendant; service of summons; appearance; public notice of special assessment.
5/9-2-25. Notice to owner of property to be taken or damaged.
5/9-2-26. Notice of assessment.
5/9-2-27. Hearing of cause; impanelling of jury; ascertaining compensation and benefits.
5/9-2-28. Separate juries may be impaneled.
5/9-2-29. View of premises by jury.
5/9-2-30. Verdict; judgment; continuation or adjournment of cause.
5/9-2-31. Change of title since filing of petition.
5/9-2-32. Adverse claimants.
5/9-2-33. Appointment of guardian ad litem.
5/9-2-34. Final judgment.
5/9-2-35. Order of possession.
5/9-2-36. Proceedings pending appeal.
5/9-2-37. Revised assessment roll.
5/9-2-38. Public benefit tax relating to waterworks and sewerage system; referendum; warrants.
5/9-2-39. Public benefit tax, generally; fund; warrants.
5/9-2-40. Property owners' petition for local improvements; sidewalks.
5/9-2-41. Special tax not to be in excess of benefit; review by court.
5/9-2-42. When ordinance does not provide for condemnation of private property, generally.
5/9-2-43. Petition to levy special assessment; jurisdiction of courts.
5/9-2-44. Order for assessment.
5/9-2-45. Apportionment of cost.
5/9-2-46. Description of property assessed.
5/9-2-47. Assessment roll; notice; affidavit.
5/9-2-48. Installment payments; interest on assessment; bonds; pedestrian mall and parking facilities.
5/9-2-48(1). Alternative assessment procedure for operation and maintenance of pedestrian mall and parking facilities.
5/9-2-49. Combined assessment for the construction of an improvement and/or the taking or damaging of property may be paid in installments; distribution of assessment.
5/9-2-50. Certification of assessment roll and judgment; issuance and delivery of warrant; first installment due and payable immediately.
5/9-2-51. Installments to bear interest; bonds issued in anticipation of collection; enforcement.
5/9-2-52. Payment of bonds; selection by lot; exception for municipality having 100,000 or more inhabitants.
5/9-2-53. Public posting and notice of application for confirmation of special assessment.
5/9-2-54. Continuance for notice.
5/9-2-55. Objections to assessment report.
5/9-2-56. Review by court.
5/9-2-57. Hearing on objection.
5/9-2-58. Hearing on objection; impaneling of jury; trial and disposition.
5/9-2-59. Redistribution of assessment; new notice.
5/9-2-60. Hearing to have precedence; exceptions.
5/9-2-61. Court may adjust assessment; abandonment of proposed improvement.
5/9-2-62. No levying of assessment or tax before acquisition and possession of land.
5/9-2-63. Prior similar improvement no objection.
5/9-2-64. Confirmation applies to all installments.
5/9-2-65. Judgment for special tax or assessment.
5/9-2-66. Sale and assignment of special assessment liens; filing and notice of petition.
5/9-2-67. Sale and assignment of special assessment liens; contents of petition; hearing.
5/9-2-68. Sale of special assessment lien.
5/9-2-69. Redemption of special assessment lien; interest.
5/9-2-70. Foreclosure of lien.

5/9-2-71. Assignee to pay cost and expense; no sale or assignment of lien with outstanding obligation.
5/9-2-72. Vacation of assessment; new assessment; direction and acceptance of work by board.
5/9-2-73. Special assessment or tax valid for work already done; new ordinance.
5/9-2-74. Supplemental assessment; rebates.
5/9-2-75. New assessment upon delinquent property.
5/9-2-76. Certification of roll and judgment after first voucher issued on account of work done.
5/9-2-77. Warrant not to authorize collection of assessment levied against municipality; installments to be paid from direct annual tax; credit.
5/9-2-78. Certification of appealed portion of judgment; contents of warrant.
5/9-2-79. Public notice of special assessment.
5/9-2-80. Collector to notify persons on assessment roll; penalty for collector's omission; effects of omission.
5/9-2-81. Warrant to be recorded in general tax books of county.
5/9-2-82. Report of delinquent list.
5/9-2-83. Designation of day for application of judgment.
5/9-2-84. Advertisement of application for judgment.
5/9-2-85. Return of delinquent assessments.
5/9-2-86. Report of municipal collector is prima facie evidence; defenses; waiver of right to enter objections; judgment.
5/9-2-87. Obtaining judgment; limitation on when to apply; sale of delinquent land.
5/9-2-88. Notice of application for judgment.
5/9-2-89. Paying amount due before sale of delinquent land.
5/9-2-90. Redemption of land after sale.
5/9-2-91. Payment of delinquent special assessment on land withdrawn from collection or forfeited in county having less than 1,000,000 inhabitants.
5/9-2-92. Payment of delinquent special assessment on land withdrawn from collection or forfeited in county having 1,000,000 or more inhabitants.
5/9-2-93. Penalties, costs, etc., in case of payment of withdrawn or forfeited assessment.
5/9-2-94. Collection of amounts due; receipt of Deposit for Redemption.
5/9-2-95. Sale where assessment paid; liability of collector and bondsmen.
5/9-2-96. Collector to pay over money to municipal treasury; compensation.
5/9-2-97. Applicability of general revenue laws.
5/9-2-98. Municipality may become purchaser at sale of property; owner to pay costs and expenses of suit to foreclose lien.
5/9-2-99. Contracts payable from assessment; claim limited to funds collected.
5/9-2-100. Letting contracts; performance of work by municipality.
5/9-2-101. Assessing officer to use highest estimate when ordinance provides for alternate specifications.
5/9-2-102. Letting of contract.
5/9-2-103. Call for bids; contents of bids; bond to accompany proposal.
5/9-2-104. Bond required of successful bidder; suit on bond.
5/9-2-105. Acceptance of bid; call for new bids; forfeiture.
5/9-2-106. Bid and award for waterworks system are provisional until levying of tax has been authorized.
5/9-2-107. Interested person is entitled to hearing before board.
5/9-2-108. Notice of awarding of contract.
5/9-2-109. Owners may elect to take work.
5/9-2-110. Rejection of bid in case of default; readvertising for bidders.
5/9-2-111. Reletting of work when not completed on time; bond required for contractors and contracting owners.
5/9-2-112. Appointment of engineer and other personnel; execution and acceptance of work; recourse on municipality.
5/9-2-113. Improvement made with federal or other governmental agency aid; resolution to proceed with work; warrant to collect assessment; limitation on liens against municipality.
5/9-2-114. Abatement; pro rata reduction applied to installments.
5/9-2-115. Certificate of board is prima facie evidence; hearing and order.
5/9-2-116. Finding against certificate; completion of improvement; supplemental applications; bonds.
5/9-2-117. Improvement made with federal or other governmental agency aid; application of Sections 9-2-114 through 9-2-116.
5/9-2-118. Inspection of work and materials.
5/9-2-119. Bonds in anticipation of collection of second and subsequent installments; form of bond and due date; surplus to be applied toward payment of outstanding vouchers or bonds.
5/9-2-120. Court may extend time of payment; redivision of installments; refunding bonds.
5/9-2-121. Petition and ordinance to extend time of payment.
5/9-2-122. Proceeding for extension of time; contents of petition.
5/9-2-123. Proceeding for extension of time; contents of petition; information accompanying petition; notice; hearing and order; payments.
5/9-2-124. Assessment and installments continue as lien; contents of order extending time of payment and authorizing refund of securities.
5/9-2-125. Extension of payments; property sold to municipality.
5/9-2-126. Duplicate municipal bonds, etc.
5/9-2-127. Bonds issued in exchange of vouchers.
5/9-2-128. Bonds issued in exchange of vouchers; form of bond.
5/9-2-129. Bonds issued in exchange of vouchers; form of bond; calling and paying for bonds; first installment to pay costs first.
5/9-2-130. Sale or payment of bond to contractor.
5/9-2-131. Improvement may be paid in bonds; vouchers relating to first installment; costs to be paid first.
5/9-2-132. Assessment may be paid in bonds or vouchers.

5/9-2-133. Contractor and holders of bonds to have lien on waterworks system.
5/9-2-134. Proceeds from operation of waterworks system to be credited upon assessment levied against municipality; waterworks fund.
5/9-2-135. Claims to be against assessment.
5/9-2-136. Payments made as work progresses.
5/9-2-137. Interest on bonds; payment.
5/9-2-138. Rebates.
5/9-2-139. Costs and expenses of board to be paid out of general corporate fund; exceptions.
5/9-2-140. Appeals.
5/9-2-141. Late appeals.
5/9-2-142. Adoption of this division by other municipalities.
5/9-2-143. Use of this division by other corporate authorities.
5/9-2-144. Pending cases; reservations.

Division 4
Improvements Affecting Property Not Within Municipality

5/9-4-1. Charge of benefits.
5/9-4-2. Petition; proceeding; summons; notice; hearing.
5/9-4-3. Lien against property.

DIVISION 1. PROVISIONS GENERALLY APPLICABLE

(Complete Division)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

5/9-1-3. Repeal of ordinance ordering local 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.
(Source: Laws 1961, p. 576.)

5/9-1-4. Report on condition of completed work.

§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.
(Source: P.A. 80-324.)

5/9-1-5. Undistributed or unclaimed money.

§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.
(Source: Laws 1963, p. 2431.)

5/9-1-6. Public notice of undistributed or unclaimed money.

§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.
(Source: P.A. 80-179.)

5/9-1-7. Unclaimed rebate 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.
(Source: Laws 1961, p. 576.)

5/9-1-8. Claims against unclaimed rebate fund.

§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.
(Source: Laws 1963, p. 2431.)

5/9-1-9. Use of money in unclaimed rebate fund.

§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.
(Source: P.A. 84-581.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

5/9-1-12. Transfer to unclaimed rebate fund.

§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.
(Source: Laws 1961, p. 576.)

5/9-1-13. Transfer when no unclaimed rebate fund exists.

§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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

DIVISION 2. LOCAL IMPROVEMENT PROCEDURES RESTRICTED TO CERTAIN MUNICIPALITIES

(Complete Division)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 82-642.)

5/9-2-3. Special assessment for projects receiving federal or other governmental aid.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-4. Improvement to water supply, sewer system, or highway system relating to Federal defense project.

§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.
(Source: P.A. 80-1495.)

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) non-compliance 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.
(Added by P.A. 93-993, §5, eff. 1/1/2005.)

5/9-2-5. Ordinance for local improvement to specify source of revenue.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-6. Ordinance for local improvement; recommendation of board of local improvements required; 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.
(Source: Laws 1963, p. 2424.)

5/9-2-7. Board of local improvements, generally; creation and composition; members' limitations on holding offices.

§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.
(Source: P.A. 82-432.)

5/9-2-8. Chief clerk of special assessments may substitute for superintendent of special assessments.

§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.
(Source: Laws 1961, p. 576.)

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.
(Chgd. by P.A. 93-196, §10, eff. 1/1/2004.)

5/9-2-10. Hearing on proposed improvement; 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 improvement 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.
(Source: Laws 1963, p. 2425.)

5/9-2-11. Recommendation of board to accompany ordinance; prima facie evidence of compliance with preliminary requirements.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-12. Cost estimate of improvement; signature of public engineer.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-13. Referral of ordinance to committee and publication prior to action.

§9-2-13. 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 $200,000, 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, 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 that plat, plan, profile, or drawing in connection with the publication of the ordinance.
(Source: Laws 1961, p. 576.)

5/9-2-14. Taking or damaging property, generally.

§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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1967, p. 3762.)

5/9-2-16. Just compensation; contents of petition; appointment of commissioners by court.

§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 [35 ILCS 200/9-45], 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.
(Source: P.A. 88-670.)

5/9-2-17. Filing and recording of petition; delivery and recording of order or judgment.

§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.
(Source: P.A. 85-1252.)

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 [35 ILCS 200/9-45], 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.
(Source: P.A. 88-670.)

5/9-2-19. Special assessment installments relating to waterworks, bridge or viaduct.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-20. Award for property taken or damaged; 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.
(Source: Laws 1961, p. 576.)

5/9-2-21. Offset for donated land.

§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.
(Source: P.A. 79-1361.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-24. Parties defendant; service of summons; appearance; public notice of special assessment.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-25. Notice to owner of property to be taken or damaged.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-26. Notice of assessment.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-27. Hearing of cause; impanelling of jury; ascertaining compensation and benefits.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-28. Separate juries may be impaneled.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-29. View of premises by 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.
(Source: Laws 1961, p. 576.)

5/9-2-30. Verdict; judgment; continuation or adjournment of cause.

§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.
(Source: P.A. 84-452; 84-545)

5/9-2-31. Change of title since filing of petition.

§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.
(Source: P.A. 79-1361.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-33. Appointment of guardian ad litem.

§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.
(Source: P.A. 83-706.)

5/9-2-34. Final 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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 79-1361.)

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 compensation 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.
(Source: Laws 1961, p. 576.)

5/9-2-37. Revised assessment roll.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-38. Public benefit tax relating to waterworks and sewerage system; referendum; 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.
(Source: P.A. 81-1509.)

5/9-2-39. Public benefit tax, generally; fund; warrants.

§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.
(Source: P.A. 81-1509.)

5/9-2-40. Property owners' petition for local improvements; 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.
(Source: Laws 1961, p. 576.)

5/9-2-41. Special tax not to be in excess of benefit; review by court.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-42. When ordinance does not provide for condemnation of private property, generally.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-43. Petition to levy special assessment; 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.
(Source: Laws 1967, p. 3762.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 85-1252.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-47. Assessment roll; notice; affidavit.

§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 [35 ILCS 200/9-45], 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.

(Source: P.A. 88-670.)

5/9-2-48. Installment payments; interest on assessment; bonds; pedestrian mall and parking facilities.

§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" [65 ILCS 5/11-71-1 et seq.], 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 [65 ILCS 5/9-2-10] 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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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. *(Source: P.A. 86-4.)*

5/9-2-48(1). Alternative assessment procedure for operation and maintenance of pedestrian mall and parking facilities.

§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 assessment 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 [65 ILCS 5/9-2-10].

(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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/9-2-49. Combined assessment for the construction of an improvement and/or the taking or damaging of property may be paid in installments; 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.
(Source: Laws 1961, p. 576.)

5/9-2-50. Certification of assessment roll and judgment; issuance and delivery of warrant; first installment due and payable immediately.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-51. Installments to bear interest; bonds issued in anticipation of collection; enforcement.

§9-2-51. All installments established pursuant to Section 9-2-50 shall bear in Section 9-2-10 of the Illinois Municipal Code [65 ILCS 5/9-2-10] 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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.

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(Source: P.A. 86-4.)

5/9-2-52. Payment of bonds; selection by lot; exception for municipality having 100,000 or more inhabitants.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-53. Public posting and notice of application for confirmation of special assessment.

§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.
(Source: 91-357, §75.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-55. Objections to assessment report.

§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.
(Source: P.A. 79-1361.)

5/9-2-56. Review by 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.
(Source: Laws 1967, p. 3762.)

5/9-2-57. Hearing on objection.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-58. Hearing on objection; impaneling of jury; trial and disposition.

§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.
(Source: P.A. 79-1361.)

5/9-2-59. Redistribution of assessment; 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.
(Source: Laws 1961, p. 576.)

5/9-2-60. Hearing to have precedence; exceptions.

§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.
(Source: Laws 1967, p. 3740.)

5/9-2-61. Court may adjust assessment; abandonment of proposed improvement.

§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.
(Source: Laws 1963, p. 2424.)

5/9-2-62. No levying of assessment or tax before acquisition and possession of land.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-63. Prior similar improvement no 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.
(Source: Laws 1961, p. 576.)

5/9-2-64. Confirmation applies to all installments.

§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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 87-728; 87-895.)

5/9-2-66. Sale and assignment of special assessment liens; filing and notice of petition.

§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" [715 ILCS 5/0.01 et seq.], approved February 13, 1874, as heretofore and hereafter amended. 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.
(Source: P.A. 79-1361.)

5/9-2-67. Sale and assignment of special assessment liens; contents of petition; 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.
(Source: Laws 1961, p. 576.)

5/9-2-68. Sale of special assessment lien.

§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" [715 ILCS 5/0.01 et seq.], approved February 13, 1874, as heretofore and hereafter amended, 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.
(Source: P.A. 79-1361.)

5/9-2-69. Redemption of special assessment lien; interest.

§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 [35 ILCS 200/21-75].

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.
(Source: P.A. 88-670.)

5/9-2-70. Foreclosure of lien.

§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.
(Source: P.A. 79-198.)

5/9-2-71. Assignee to pay cost and expense; no sale or assignment of lien with outstanding obligation.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-72. Vacation of assessment; new assessment; direction and acceptance of work 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.
(Source: Laws 1961, p. 576.)

5/9-2-73. Special assessment or tax valid for work already done; 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.
(Source: Laws 1961, p. 576.)

5/9-2-74. Supplemental assessment; rebates.

§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 an 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.
(Source: Laws 1961, p. 576.)

5/9-2-75. New assessment upon delinquent property.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-76. Certification of roll and judgment after first voucher issued on account of work done.

§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 municipality 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.
(Source: P.A. 76-1556.)

5/9-2-77. Warrant not to authorize collection of assessment levied against municipality; installments to be paid from direct annual tax; 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.
(Source: Laws 1961, p. 576.)

5/9-2-78. Certification of appealed portion of judgment; contents of warrant.

§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.
(Source: P.A. 90-655.)

5/9-2-79. Public notice of special assessment.

§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.
(P.A. 91-357, §75.)

5/9-2-80. Collector to notify persons on assessment roll; penalty for collector's omission; effects of omission.

§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.
(Source: P.A. 87-532.)

5/9-2-81. Warrant to be recorded in general tax books of county.

§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."
(Source: P.A. 82-1013.)

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.

(Source: P.A. 82-1013.)

5/9-2-83. Designation of day for application of 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.

(Source: P.A. 85-1137.)

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.

(Source: P.A. 91-864.)

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.
(Source: P.A. 82-1013.)

5/9-2-86. Report of municipal collector is prima facie evidence; defenses; waiver of right to enter objections; judgment.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-87. Obtaining judgment; limitation on when to apply; sale of delinquent land.

§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.
(Source: P.A. 82-1013.)

5/9-2-88. Notice 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.
(Source: P.A. 91-864.)

5/9-2-89. Paying amount due before sale of delinquent land.

§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.
(Source: P.A. 82-1013.)

5/9-2-90. Redemption of land after sale.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-91. Payment of delinquent special assessment on land withdrawn from collection or forfeited in county having less than 1,000,000 inhabitants.

§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.
(Source: P.A. 82-1013.)

5/9-2-92. Payment of delinquent special assessment on land withdrawn from collection or forfeited in county having 1,000,000 or more inhabitants.

§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.
(Source: P.A. 82-1013.)

5/9-2-93. Penalties, costs, etc., in case of payment of withdrawn or forfeited assessment.

§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.
(Source: P.A. 85-1137.)

5/9-2-94. Collection of amounts due; receipt of Deposit for Redemption.

§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.

Volume ___ Page ___
State of Illinois Office of (give title of
County of Cook municipal office)

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) .

(P.A. 91-357.)

5/9-2-95. Sale where assessment paid; liability of collector and bondsmen.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-96. Collector to pay over money to municipal treasury; 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.
(Source: Laws 1961, p. 576.)

5/9-2-97. Applicability of general revenue laws.

§9-2-97. The general revenue laws 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.
(Source: Laws 1961, p. 576.)

5/9-2-98. Municipality may become purchaser at sale of property; owner to pay costs and expenses of suit to foreclose lien.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-99. Contracts payable from assessment; claim limited to funds collected.

§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.
(Source: Laws 1961, p. 576.)

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 $500, 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 $500, 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.
(Source: Laws 1961, p. 576.)

5/9-2-101. Assessing officer to use highest estimate when ordinance provides for 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.
(Source: Laws 1961, p. 576.)

5/9-2-102. Letting of contract.

§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.
(Source: P.A. 84-551.)

5/9-2-103. Call for bids; contents of bids; bond to accompany proposal.

§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.
(P.A. 91-296.)

5/9-2-104. Bond required of successful bidder; 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.
(Source: Laws 1961, p. 576.)

5/9-2-105. Acceptance of bid; call for new bids; 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.
(Source: Laws 1961, p. 576.)

5/9-2-106. Bid and award for waterworks system are provisional until levying of tax has been authorized.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-107. Interested person is entitled to hearing before board.

§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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-109. Owners may elect to take work.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-110. Rejection of bid in case of default; readvertising for bidders.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-111. Reletting of work when not completed on time; bond required for contractors and contracting owners.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-112. Appointment of engineer and other personnel; 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.
(Source: Laws 1961, p. 576.)

5/9-2-113. Improvement made with federal or other governmental agency aid; resolution to proceed with work; warrant to collect assessment; limitation on liens against municipality.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-114. Abatement; pro rata reduction applied to installments.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-115. Certificate of board is prima facie evidence; hearing and 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.
(Source: P.A. 79-1361.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-117. Improvement made with federal or other governmental agency aid; application of Sections 9-2-114 through 9-2-116.

§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 improvements 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.
(Source: Laws 1961, p. 576.)

5/9-2-118. Inspection of work and materials.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-119. Bonds in anticipation of collection of second and subsequent installments; form of bond and due date; surplus to be applied toward payment of outstanding vouchers or bonds.

§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 [9-2-10] of the Illinois Municipal Code 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. *(P.A. 91-357.)*

5/9-2-120. Court may extend time of payment; redivision 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.

(Source: Laws 1961, p. 576.)

5/9-2-121. Petition and ordinance to extend time of payment.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-122. Proceeding for extension of time; 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.
(Source: Laws 1961, p. 576.)

5/9-2-123. Proceeding for extension of time; contents of petition; information accompanying petition; 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.
(Source: P.A. 79-1361.)

5/9-2-124. Assessment and installments continue as lien; contents of order extending time of payment and authorizing refund of securities.

§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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 83-358.)

5/9-2-126. Duplicate municipal bonds, etc.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-127. Bonds issued in exchange of vouchers.

§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 [9-2-10] 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. *(Source: P.A. 82-642.)*

5/9-2-128. Bonds issued in exchange of vouchers; form of bond.

§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. _____

(Source: Laws 1961, p. 576.)

5/9-2-129. Bonds issued in exchange of vouchers; form of bond; calling and paying for bonds; first installment to pay costs first.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-130. Sale or payment of bond to contractor.

§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.
(Source: Laws 1961, p. 576.)

5/9-2-131. Improvement may be paid in bonds; vouchers relating to first installment; costs to be paid first.

§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. *(Source: P.A. 82-642.)*

5/9-2-132. Assessment may be paid in 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." *(Source: Laws 1961, p. 576.)*

5/9-2-133. Contractor and holders of bonds to have lien on waterworks system.

§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. *(Source: Laws 1961, p. 576.)*

5/9-2-134. Proceeds from operation of waterworks system to be credited upon assessment levied against municipality; 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 provision of this section shall not apply to any city having a population of 500,000 or more.
(Source: Laws 1961, p. 576.)

5/9-2-135. Claims to be 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.
(Source: Laws 1961, p. 576.)

5/9-2-136. Payments made 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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1965, p. 2969.)

5/9-2-139. Costs and expenses of board to be paid out of general corporate fund; exceptions.

§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.
(Source: P.A. 76-758.)

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 judgement 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.
(Source: P.A. 76-1407.)

5/9-2-141. Late appeals.

§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.
(Source: Laws 1967, p. 3762.)

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.
(Source: Laws 1961, p. 576.)

5/9-2-143. Use 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.
(Source: Laws 1961, p. 576.)

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.
(Source: Laws 1961, p. 576.)

DIVISION 4. IMPROVEMENTS AFFECTING PROPERTY NOT WITHIN MUNICIPALITY

(Complete Division)

5/9-4-1. Charge of benefits.

§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.
(Source: Laws 1965, p. 668.)

5/9-4-2. Petition; proceeding; 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.
(Source: P.A. 76-1549.)

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.
(Source: P.A. 76-1549.)

ARTICLE 11. CORPORATE POWERS AND FUNCTIONS

(Selected Divisions)

Public Health, Safety, and Welfare

Police Protection and Public Order

Division 4
Houses of Correction and Farm Colonies

Section	
5/11-4-1.	House of correction or farm colony; establishment; acquisition of land.
5/11-4-2.	Board of inspectors to manage and direct house of correction; appointment of board; letting of contracts.
5/11-4-3.	Board may establish and adopt rules; appointment of subordinate personnel; limitation on appropriations.
5/11-4-4.	Compensation and duties of board; meetings; inspections.

Fire Protection

Division 8
Fire Safety Regulations

5/11-8-5. Lumber and coal yards.

Powers over Certain Businesses

Division 42.1
Public Contracts

5/11-42.1-1. Delinquent taxpayers.

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.
5/11-61-1.5. Acquiring property by gift, legacy, or grant.
5/11-61-1a. Quick-take; Municipalities over 500,000.
5/11-61-2. Establishment, improvement and vacation of streets, sidewalks, wharves, and parks.
5/11-61-3. Purchase or lease of property.

Streets and Public Ways

Division 80
General Powers over Streets and Public Ways

5/11-80-2. Use of streets and municipal property.
5/11-80-2a. Residents parking.
5/11-80-3. Obstructions upon streets.
5/11-80-5. Street lighting tax.
5/11-80-7. Gas, water, etc., infrastructure.
5/11-80-11. Cross-walks, curbs, and gutters; access for persons using wheelchairs.
5/11-80-19. Naming of streets; Change in name.
5/11-80-21. Streets and sewers across or under railroad.

Division 85
Certain Joint Municipal and Township Construction Projects

5/11-85-1. Joint construction with township.
5/11-85-2. Plans and specifications; bidding and letting of contract.
5/11-85-3. Municipality may levy special assessment or tax; prior work no defense.
5/11-85-4. Jurisdiction over improvement.

Division 91
Vacating of Streets and Alleys

5/11-91-1. Municipality may vacate street, etc.; notice and hearing; damages.
5/11-91-2. Title upon vacation.

Division 91.1
Persons Displaced by Federal Aid System of Streets and Highways

5/11-91.1-1. Moving expenses for displaced person; limitation.
5/11-91.1-2. Moving expenses; optional allowance for displacement from dwelling.
5/11-91.1-3. Moving expenses; optional fixed amount for displaced or discontinued business.
5/11-91.1-4. Additional payment for dwelling or rental of dwelling.
5/11-91.1-5. Reimbursement of fees, taxes, etc., and mortgage penalty costs.
5/11-91.1-6. Construction in relation to eminent domain.

Division 91.2
Jurisdiction over Roads by Agreement

5/11-91.2-1. Surrender of jurisdiction.

PUBLIC HEALTH, SAFETY, AND WELFARE

POLICE PROTECTION AND PUBLIC ORDER

DIVISION 4. HOUSES OF CORRECTION AND FARM COLONIES

(Selected Sections)

5/11-4-1. House of correction or farm colony; establishment; acquisition of land.

§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.
(Source: P.A. 76-425.)

5/11-4-2. Board of inspectors to manage and direct house of correction; appointment of board; letting of contracts.

§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 [65 ILCS 5/8-9-1 et seq., 5/8-10-1 et seq.] 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.
(Source: Laws 1961, p. 576.)

5/11-4-3. Board may establish and adopt rules; appointment of subordinate personnel; limitation on 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.
(Source: Laws 1961, p. 576.)

5/11-4-4. Compensation and duties of board; meetings; inspections.

§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 [730 ILCS 5/3-15-2]. 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.
(Source: 91-239.)

FIRE PROTECTION

DIVISION 8. FIRE SAFETY REGULATIONS

(Selected Sections)

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.
(Source: Laws 1961, p. 576.)

POWERS OVER CERTAIN BUSINESSES

DIVISION 42.1. PUBLIC CONTRACTS

(Complete Division)

5/11-42.1-1. Contract or agreement with delinquent taxpayer; false statements.

§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.

(Source: P.A. 86-1039.)

PUBLIC WORKS, BUILDINGS AND PROPERTY EMINENT DOMAIN AND PUBLIC WORKS; GENERAL

DIVISION 61. GENERAL EMINENT DOMAIN POWER AND POWER TO PURCHASE ON CONTRACT

(Complete Division)

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.

(Source: Laws 1961, p. 2425.)

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.

(Source: P.A. 92-102.)

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 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.

(Source: P.A. 84-1477.)

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.

(Source: Laws 1961, p. 576.)

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. 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.
(Source: P.A. 91-493.)

STREETS AND PUBLIC WAYS

DIVISION 80. GENERAL POWERS OVER STREETS AND PUBLIC WAYS

(Selected Sections)

5/11-80-2. Use of streets and municipal property.

§11-80-2. The corporate authorities of each municipality may regulate the use of the streets and other municipal property.
(Source: Laws 1961, p. 576.)

5/11-80-2a. Residents parking.

§11-80-2a. In areas zoned for residential use, the corporate authorities may restrict part of each street for "residents parking only".
(Source: P.A. 79-545.)

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.
(Source: Laws 1961, p. 576.)

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.
(Source: P.A. 86-280.)

5/11-80-7. Gas, water, etc., infrastructure.

§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.
(Source: Laws 1961, p. 576.)

5/11-80-11. Cross-walks, curbs, and gutters; access for persons using wheelchairs.

§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 [410 ILCS 25/1 et seq.]. 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.
(Source: P.A. 86-447.)

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.
(Source: P.A. 80-398.)

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.
(Source: Laws 1961, p. 576.)

DIVISION 85. CERTAIN JOINT MUNICIPAL AND TOWNSHIP CONSTRUCTION PROJECTS

(Complete Division)

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.
(Source: Laws 1961, p. 576.)

5/11-85-2. Plans and specifications; bidding and 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 constructing 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.
(Source: Laws 1961, p. 576.)

5/11-85-3. Municipality may levy special assessment or tax; prior work no defense.

§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.
(Source: Laws 1961, p. 576.)

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 improvement so turned over, and may exercise its police powers thereover in like manner as if the improvement lay entirely within the municipality.
(Source: Laws 1961, p. 576.)

DIVISION 91. VACATING OF STREETS AND ALLEYS

(Complete Division)

5/11-91-1. Municipality may vacate street, etc.; notice and hearing; 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.
(Chgd. by P.A. 93-383, §5, eff. 7/25/2003; 93-703, §5, eff. 7/9/2004.)

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.
(Source: Laws 1961, p. 576.)

DIVISION 91.1. PERSONS DISPLACED BY FEDERAL AID SYSTEM OF STREETS AND HIGHWAYS

(Complete Division)

5/11-91.1-1. Moving expenses for displaced person; 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.
(Source: P.A. 76-1644.)

5/11-91.1-2. Moving expenses; optional allowance for displacement from dwelling.

§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.
(Source: P.A. 76-1644.)

5/11-91.1-3. Moving expenses; optional fixed amount for displaced or discontinued business.

§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.
(Source: P.A. 76-1644.)

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.
(Source: P.A. 76-1644.)

5/11-91.1-5. Reimbursement of fees, taxes, etc., and mortgage penalty costs.

§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.
(Source: P.A. 81-840.)

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.

(Source: P.A. 76-1644.)

DIVISION 91.2. JURISDICTION OVER ROADS BY AGREEMENT

(Complete Division)

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.

(Source: P.A. 85-1421.)

CHAPTER 70
SPECIAL DISTRICTS
(Selected Act)

STREET LIGHT

Act
3305. Street Light District Act.

STREET LIGHT

ACT 3305. STREET LIGHT DISTRICT ACT
(Complete Act)

Section
3305/0.01. Short title.
3305/1. Incorporation of street lighting district.
3305/2. Judicial notice; suits.
3305/2a. Addition of territory.
3305/2b. Disconnection from district; procedure for owners.
3305/2c. Disconnection by operation of law; annexation; territory to remain liable for debt.
3305/3. Board of trustees; creation; succession of members; bond; quorum.
3305/4. Filling vacancy in board of trustees.
3305/5. Powers of trustees; election of president and secretary; compensation.
3305/5.1. Prompt payment.
3305/6. Public notice of ordinance imposing penalty or making appropriation.
3305/7. Proof of ordinances, orders, resolutions, etc.
3305/8. Board may contract for street lighting service.
3305/9. Board to provide for collection of direct annual tax.
3305/10. Other taxes; limitation.
3305/10.1. Voter approval required for higher taxes.

3305/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Street Light District Act.

(Source: P.A. 86-1324.)

3305/1. Incorporation of street lighting district.

§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.

(Source: P.A. 83-343.)

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.
(Source: Laws 1949, p. 1363.)

3305/2a. Addition of territory.

§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.
(Source: P.A. 81-1489.)

3305/2b. Disconnection from district; procedure for owners.

§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.
(Source: Laws 1967, p. 4046.)

3305/2c. Disconnection by operation of law; annexation; territory to remain liable for debt.

§2c. 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.
(Source: Laws 1959, p. 2048.)

3305/3. Board of trustees; creation; succession of members; bond; quorum.

§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.
(Source: P.A. 79-319; 79-855; 79-1454.)

3305/4. Filling vacancy in board of trustees.

§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.
(Source: P.A. 81-1489.)

3305/5. Powers of trustees; election of president and secretary; compensation.

§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.
(Source: Laws 1953, p. 226.)

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" [50 ILCS 505/1 et seq.], approved by the Eighty-fourth General Assembly.
(Source: P.A. 84-731.)

3305/6. Public notice of ordinance imposing penalty or making appropriation.

§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.
(Source: P.A. 82-367.)

3305/7. Proof of ordinances, orders, resolutions, etc.

§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.
(Source: Laws 1949, p. 1363.)

3305/8. Board may contract for street lighting service.

§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	

(Source: P.A. 81-1489.)

3305/9. Board to provide for collection of direct annual tax.

§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.
(Source: P.A. 81-1509.)

3305/10. Other taxes; limitation.

§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.
(Source: P.A. 81-1509.)

3305/10.1. Voter approval required for higher taxes.

§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.
(Source: P.A. 82-783.)

REGULATION

CHAPTER 220. UTILITIES
(Selected Acts)

Act
50. Illinois Underground Utility Facilities Damage Prevention Act.
55. Telegraph Act.
65. Telephone Company Act.

ACT 50. ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT
(Complete Act)

Section
50/1. Short title.
50/2. Definitions.
50/2.1. Person.
50/2.2. Underground utility facilities.
50/2.3. Excavation.
50/2.4. Demolition.
50/2.5. Damage.
50/2.6. Emergency locate request.
50/2.7. Tolerance zone.
50/2.8. Approximate location.
50/3. State-Wide One-Call Notice System.
50/4. Required activities.
50/5. Notice of preconstruction conference.
50/6. Emergency evacuation or demolition.
50/7. Damage or dislocation.
50/8. Liability or financial responsibility.
50/9. Negligence.
50/10. Record of notice; marking of facilities.
50/11. Penalties; liability; fund.
50/11.3. Emergency telephone system outages; reimbursement.
50/11.5. Limitation on liability.
50/12. Time limitation for action.
50/13. Mandamus or injunction.
50/14. Home rule.

50/1. Short title.

§1. This Act shall be known and may be cited as the Illinois Underground Utility Facilities Damage Prevention Act.
(Source: P.A. 86-674.)

50/2. Definitions.

§2. Definitions.

As used in this Act, unless the context clearly otherwise requires, the terms specified in Sections 2.1 through 2.8 have the meanings ascribed to them in those Sections.
(Source: P.A. 92-179.)

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, assignee or personal representative thereof.
(Source: P.A. 86-674.)

50/2.2. Underground utility facilities.

§2.2. Underground utility facilities.

"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 a public utility (as is defined in the Illinois Public Utilities Act, as amended [220 ILCS 5/1-101 et seq.]), or by a municipally owned or mutually owned utility providing a similar utility service, except an electric cooperative as defined in the Illinois Public Utilities Act, as amended, or by a pipeline entity transporting gases, crude oil, petroleum products, or other hydrocarbon materials within the State or by a telecommunications carrier as defined in the Universal Telephone Service Protection Law of 1985 [220 ILCS 5/13-100 et seq.], or by a company described in Section 1 of "An Act relating to the powers, duties and property of telephone companies", approved May 16, 1903 [220 ILCS 65/0.01], as amended, or by a community antenna television system, hereinafter referred to as "CATS", as defined in the Illinois Municipal Code, as amended [65 ILCS 5/1-1-1 et seq.].
(Source: P.A. 92-179.)

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 [30 U.S.C.A. §1201 et seq.] 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 [225 ILCS 330/1 et seq.] when not using power equipment.
(Source: P.A. 92-179.)

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.
(Source: P.A. 86-674.)

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.
(Source: P.A. 86-674.)

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 immediate repair or action.
(Source: P.A. 92-179.)

50/2.7. Tolerance zone.

Sec. 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 1-1/2 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.
(Source: P.A. 92-179.)

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.
(Source: P.A. 92-179.)

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.
(Source: P.A. 86-674.)

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 or CATS 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 or CATS 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 (exclusive of Saturdays, Sundays and holidays) 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 or CATS 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;

(e) provide, during and following excavation or demolition, such support for existing underground utility facilities or CATS 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 or CATS 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 or CATS facilities in and near the excavation or demolition area; and

(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 or CATS 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.

At a minimum, the notice required under clause (d) shall provide:

(1) the person's name, address, and (i) phone number at which a person can be reached and (ii) fax number;

(2) the start date of the planned excavation or demolition;

(3) the address at which the excavation or demolition will take place;

(4) the type and extent of the work involved; and

(5) section/quarter sections when the above information does not allow the State-Wide One-Call Notice System to determine the appropriate geographic section/quarter sections. This item (5) does not apply to residential property owners.

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 or CATS facilities.
(Source: P.A. 92-179. Chgd. by P.A. 93-430, §5, eff. 8/5/2003.)

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.
(Source: P.A. 92-179.)

50/6. Emergency evacuation 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 or CATS 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 or CATS 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;

(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.

A 2-hour wait time exists 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 2-hour wait time, it is the responsibility of the excavator to demonstrate that site conditions warranted this earlier start time.

(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 or CATS 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 or CATS 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.
(Source: P.A. 92-179.)

50/7. Damage or dislocation.

§7. Damage or dislocation.

In the event of any damage to or dislocation of any underground utility facilities or CATS 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 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. 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.
(Source: P.A. 92-179. Chgd. by P.A. 93-430, §5, eff. 8/5/2003.)

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 [605 ILCS 5/9-113]. 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.
(Source: P.A. 92-179.)

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.
(Source: P.A. 86-674.)

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 or CATS 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 (excluding Saturdays, Sundays and holidays) of receipt of notice, the approximate locations of such facilities so as to enable the person excavating or demolishing to establish the location of the underground utility facilities or CATS 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. It is unreasonable to request owners and operators of underground utility facilities and CATS 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 and CATS facilities must reasonably anticipate seasonal fluctuations in the number of locate requests and staff accordingly.

If a person owning or operating underground utility facilities or CATS facilities receives a notice under this Section but does not own or operate any underground utility facilities or CATS facilities within the proposed excavation or demolition area described in the notice, that person, within 48 hours (excluding Saturdays, Sundays, and holidays) 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 or CATS 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 or CATS 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 or CATS facility is marked with stakes or other physical means, the following color coding shall be employed:

Utility or Community Antenna Television Systems and Type of Product	Identification Color
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
Temporary Survey	Safety Pink
Proposed Excavation	Safety White (Black when snow is on the ground)

(Source: P.A. 92-179. Chgd. by P.A. 93-430, §5, eff. 8/5/2003.)

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 or CATS facility near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 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.

(b) Every person who, while engaging in excavation or demolition, has provided the notice to the owners or operators of the underground utility facilities or CATS facilities in and near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 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 or CATS facilities in and near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 of this Act, but otherwise, while acting reasonably, damages any underground utility facilities or CATS 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 or CATS facility is properly marked as provided in Section 10 of this Act.

(d) Every person who, while engaging in excavation or demolition, provides notice to the owners or operators of the underground utility facilities or CATS 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 or CATS facilities who wilfully fail to comply with this Act by a failure to mark the location of an underground utility or CATS facility, 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 resulting from the failure to mark an underground utility facility or CATS facility.

(f) As provided in Section 3 of this Act, all owners or operators of underground utility facilities or CATS 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 or CATS 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 or CATS 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 or CATS facility 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 or CATS 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 or CATS facility 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) The excavator shall exercise due care at all times to protect underground utility facilities and CATS facilities. If, after proper notification through the State-Wide One-Call Notice System and upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility or CATS facility in the area of the proposed excavation, the excavator shall not begin excavating until 2 hours after an additional call is made to the State-Wide One-Call Notice System for the area. The operator of the utility or CATS facility shall respond within 2 hours of the excavator's call to the State-Wide One-Call Notice System.

(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 [220 ILCS 5/1-101 et seq.] 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;
(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 and CATS 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 [735 ILCS 5/1-101 et seq.], 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 [220 ILCS 5/10-101 et seq.], including the provisions governing judicial review.

(Source: P.A. 92-179.)

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.

(Source: P.A. 92-149.)

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.
(Source: P.A. 90-481.)

50/12. Time limitation for action.

§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.
(Source: P.A. 86-674.)

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.
(Source: P.A. 92-179.)

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.
(Source: P.A. 92-179.)

ACT 55. TELEGRAPH ACT

(Selected Sections)

Section
55/0.01. Short title.
55/1. Application of Act.
55/4. Consent for erection of structures; local authorities have power to make alterations.

55/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Telegraph Act.
(Source: P.A. 86-1324.)

55/1. Application of Act.

§1. That 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.
(Source: Laws 1874, p. 1052.)

55/4. Consent for erection of structures; local authorities have power to make alterations.

§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" [605 ILCS 5/9-113] as the same may from time to time be amended.
(Source: Laws 1959, p. 187.)

ACT 65. TELEPHONE COMPANY ACT

(Selected Sections)

Section
65/0.01. Short title.
65/1. Application of Act.
65/4. Right of condemnation.

65/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Telephone Company Act.

(Source: P.A. 86-1324.)

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.

(Source: Laws 1903, p. 350.)

65/4. Right of condemnation.

§4. Right of condemnation. Every telecommunications carrier as defined in the Telecommunications Infrastructure Maintenance Fee Act [35 ILCS 635/1 et seq.] 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 [220 ILCS 55/0.01 et seq.] 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 [605 ILCS 5/9-113]. 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 [220 ILCS 5/1-101 et seq.], 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 [220 ILCS 5/13-502], 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.

(Source: P.A. 92-526.)

CHAPTER 225
PROFESSIONS AND OCCUPATIONS
(Selected Acts)

DESIGN AND CONSTRUCTION

Act
325. Professional Engineering Practice Act of 1989.
340. Structural Engineering Licensing Act of 1989.

SERVICE AND SALES

440. Highway Advertising Control Act of 1971.

DESIGN AND CONSTRUCTION

ACT 325. PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

(Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)
(Selected Sections)

Section
325/14. Seal.
325/15. Technical submissions.
325/24. Rules of professional conduct; disciplinary or administrative action.
325/41. Violation; political subdivisions, county, city or town; construction without professional engineer.

325/14. Seal.

(Effective only until 1/1/2010.)

§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 professional 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. When technical submissions are prepared utilizing a computer or other electronic means, the seal may be generated by the computer. Signatures generated by computer shall not be permitted.

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.

(Source: P.A. 91-92; 92-145. Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)

325/15. Technical submissions.

(Effective only until 1/1/2010.)

§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.

(Source: P.A. 91-92; 92-145. Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)

325/24. Rules of professional conduct; disciplinary or administrative action.

(Effective only until 1/1/2010.)

§24. Rules of professional conduct; disciplinary or administrative action.

(a) The Department shall adopt rules setting standards of professional conduct and establish appropriate penalty for the breach of such rules.

(a-1) The Department may, singularly or in combination, refuse to issue, restore, or renew a license or registration, revoke or suspend a license or registration, or place on probation, reprimand, or impose a civil penalty not to exceed $10,000 upon any person, corporation, partnership, or professional design firm licensed or registered under this Act for any one or combination of the following:

(1) Material misstatement in furnishing information to the Department.

(2) Failure to comply with any provisions of this Act or any of its rules.

(3) Conviction of any crime under the laws of the United States, or any state or territory thereof, which is a felony, whether related to practice or not, or conviction of any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is dishonesty or which is directly related to the practice of engineering.

(4) Making any misrepresentation for the purpose of obtaining licensure, or in applying for restoration or renewal; or practice of any fraud or deceit in taking any examination to qualify for licensure under this Act.

(5) Purposefully making false statements or signing false statements, certificates, or affidavits 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) Habitual intoxication or addiction to the use of drugs.

(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 Board 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) Physical illness, including but not limited to deterioration through the aging process or loss of motor skill, which results in the inability to practice the profession with reasonable judgment, skill or safety.

(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 multi-story housing unit is in compliance with the Environmental Barriers Act when such plan is not in compliance.

(17) Failing to file a return, or 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 a tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(a-5) In enforcing this Section, the Board upon a showing of a possible violation may compel a person licensed to practice under this Act, or who has applied for licensure or certification pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians shall be those specifically designated by the Board. The Board or the Department may order the examining physician to present testimony concerning this mental or physical 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 person to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any person to submit to a mental or physical examination, when directed, shall be grounds for suspension of a license until the person submits to the examination if the Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Board finds a person unable to practice because of the reasons set forth in this Section, the Board may require that person to submit to care, counseling, or treatment by physicians approved or designated by the Board as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Board may recommend to the Department to file a complaint to immediately suspend, revoke, or otherwise discipline the license of the person. Any person whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions and who fails to comply with such terms, conditions, or restrictions shall be referred to the Director for a determination as to whether the person shall have his or her license suspended immediately, pending a hearing by the Board.

(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, 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.
(Source: P.A. 91-92; 92-145. Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)

325/41. Violation; political subdivisions, county, city or town; construction without professional engineer.
(Effective only until 1/1/2010.)

§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.
(Source: P.A. 86-667. Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)

ACT 340. STRUCTURAL ENGINEERING LICENSING ACT OF 1989

(Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)
(Selected Section)

Section
340/12. Display of structural engineer license; seal.

340/12. Display of structural engineer license; seal.
(Effective only until 1/1/2010.)

§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.
(Source: P.A. 91-91. Repealed by the terms of 5 ILCS 80/4.20, eff. 1/1/2010.)

SERVICE AND SALES

ACT 440. HIGHWAY ADVERTISING CONTROL ACT OF 1971

(Selected Sections)

Section
440/1. Legislative findings and declarations.
440/2. Short title.
440/3. Definition of terms.
440/3.01. "Department" defined.
440/3.02. "Interstate highway" defined.
440/3.03. "Primary highway" defined.
440/3.04. "Expressway" defined.
440/3.05. "Main-traveled way" defined.
440/3.06. "Maintain" defined.
440/3.07. "Sign" defined.
440/3.08. "Erect" defined.
440/3.09. "Municipality" defined.
440/3.10. "Commercial or industrial activities" defined.
440/3.11. "Unzoned commercial or industrial area" defined.
440/3.12. "Business area" defined.
440/3.13. "Visible" defined.
440/3.14. "Urban area" defined.
440/3.15. "National Highway System" defined.
440/3.16. "Scenic byway" defined.
440/4. Limitation on erection or maintenance of signs.
440/4.01. Directional and other official signs.
440/4.02. Signs advertising the sale or lease of the property on which located.
440/4.03. Signs advertising activities conducted on the property on which located.
440/4.04. Signs erected in business areas.
440/4.05. Signs erected in business areas; previously existing signs.
440/4.06. Signs affixed by public utilities.
440/4.07. Signs which provide information relative to lodging, food, etc.
440/4.08. Signs, etc., giving specific information in the interest of the traveling public.
440/5. Prohibited signs.
440/6. Additional requirements for signs in business areas.
440/6.01. Size of signs.
440/6.02. Lighting.

440/6.03. Spacing.
440/6.04. Application of size, lighting and spacing provisions.
440/7. Effects of similar provisions.
440/8. Registration of sign; permit; tag.
440/9. Enforcement of Act; compensation for removal.
440/10. Unlawful signs; public nuisance.
440/11. Agreement with federal government.
440/12. Acceptance of federal funds.
440/13. Severability of invalid provision.
440/14. Preservation of natural beauty.
440/14.01. Rules and regulations.
440/14.02. Scenic byways; nomination.
440/16. Effective date.

440/1. Legislative findings and declarations.

§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.

(Source: P.A. 77-1815.)

440/2. Short title.

§2. This Act shall be known and may be cited as the "Highway Advertising Control Act of 1971".

(Source: P.A. 77-1815.)

440/3. Definition of terms.

§3. As used in this Act, unless the context otherwise requires, the terms defined in Sections 3.01 through 3.16 have the meanings ascribed to them in those Sections.

(Source: P.A. 92-651.)

440/3.01. "Department" defined.

§3.01. "Department" means the Department of Transportation of the State of Illinois.

(Source: P.A. 77-1815.)

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.

(Source: P.A. 77-1815.)

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.

(Source: P.A. 89-605.)

440/3.04. "Expressway" defined.

§3.04. "Expressway" means a primary highway constructed as a freeway which has complete control of access.

(Source: P.A. 77-1815.)

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.

(Source: P.A. 77-1815.)

440/3.06. "Maintain" defined.

§3.06. "Maintain" means to allow to exist.

(Source: P.A. 77-1815.)

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.

(Source: P.A. 79-1009.)

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.
(Source: P.A. 77-1815.)

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.
(Source: P.A. 77-1815.)

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.
(Source: P.A. 79-1009.)

440/3.11. "Unzoned commercial or industrial area" 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.
(Source: P.A. 77-1815.)

440/3.12. "Business area" defined.

§3.12. "Business area" means any part of an area adjacent to and within 660 feet of the right-of-way which is at any time zoned for business, commercial or industrial activities 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.
(Source: P.A. 79-1009.)

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.
(Source: P.A. 77-1815.)

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.
(Source: P.A. 79-1009.)

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.
(Source: P.A. 89-605.)

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).
(Source: P.A. 89-605.)

440/4. Limitation on erection or maintenance of signs.

§4. Signs shall not be erected or maintained along primary or Interstate highways except those described in Sections 4.01 through 4.08.
(Source: P.A. 77-1815.)

440/4.01. Directional and other 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.
(Source: P.A. 77-1815.)

440/4.02. Signs advertising the sale or lease of the property on which located.

§4.02. Signs advertising the sale or lease of property on which they are located, which signs, if along Interstate highways outside a "business area", comply with the following requirements:

(a) There may not be more than one such sign designed to attract traffic on the Interstate highway proceeding in any one direction;

(b) The sign may not exceed 150 square feet in size;

(c) No such sign may be erected or maintained which attempts or appears to attempt to direct the movement of traffic or which interferes with, indicates or resembles any official traffic sign, signal or device;

(d) No such sign may be erected or maintained which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic;

(e) No such sign may be erected or maintained which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights;

(f) No lighting may be used in any way, in connection with any such sign, unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the highway, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle;

(g) No such sign may be erected or maintained which moves or has any animated or moving parts and no such sign may be erected or maintained upon trees or painted or drawn upon rocks or other natural features.
(Source: P.A. 77-1815.)

440/4.03. Signs advertising activities conducted on the property on which located.

§4.03. Signs advertising activities conducted on the property on which they are located; which, if along Interstate highways outside a "business area" comply with the following requirements:

(a) There may not be more than one such sign located more than 50 feet from such activity designed to attract traffic on the Interstate highway proceeding in any one direction;

(b) No such sign visible to traffic on an Interstate highway and located more than 50 feet from such activity, which displays any trade name referring to or identifying any service rendered or any product sold, used or otherwise handled, may be permitted unless the name of the advertised activity is displayed as conspicuously as such trade name. This restriction does not apply if the trade name identifies or characterizes places for lodging, eating, telephone facilities, vehicle service and repair, or identifies vehicle equipment, parts, accessories, fuels, oils or lubricants being offered for sale at such places;

(c) No such sign in excess of 20 feet in length, width or height, or 150 square feet in area, including border and trim, but excluding supports, may be erected or maintained more than 50 feet from the activities conducted upon the property where the sign is located;

(d) The sign must comply with subparagraphs (c), (d), (f) and (g) of Section 4.02;

(e) No such sign may be erected or maintained which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights except those which may be changed at reasonable intervals by electronic process or by remote control as long as these do not interfere with the effectiveness of an official traffic control device.
(Source: P.A. 81-550.)

440/4.04. Signs erected in business areas.

§4.04. 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.
(Source: P.A. 77-1815.)

440/4.05. Signs erected in business areas; previously existing signs.

§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.
(Source: P.A. 77-1815.)

440/4.06. Signs affixed by public utilities.

§4.06. Signs affixed by public utilities to their poles and other facilities for identification.
(Source: P.A. 77-1815.)

440/4.07. Signs which provide information relative to lodging, food, etc.

§4.07. Signs within 660 feet of the right-of-way which provide information relative to lodging, food, outdoor recreational or automotive service facilities which are located within 12 air miles from such sign. Signs of this category may be permitted in areas covered under the provisions of Sections 4.04 and 4.05 of this Act, and may also be erected and maintained along interstate highways in areas which are at anytime zoned for commercial or industrial activities under the authority of any law of this State, or along Interstate highways in areas which come within the definition in Section 3.11 of an "Unzoned commercial or industrial area" along primary highways; provided however, that such signs erected under provisions of this Section 4.07 comply with the following:

(a) No such sign may be erected or maintained within two miles approaching an interchange;

(b) Only six such signs may be erected or maintained within two to five miles approaching an interchange;

(c) An average of only one sign per mile shall be erected or maintained more than five miles approaching an interchange;

(d) No such sign shall be permitted to be erected or maintained for 1,000 feet beyond an interchange;

(e) Subject to subsections (a), (b), (c) and (d) of this Section, not more than two such signs will be permitted within any mile distance measured from any point, and no such signs will be permitted to be less than 1,000 feet apart;

(f) All such signs shall comply with the provisions of subsections (a), (b), (c), (d), (f) and (g) of Section 4.02 of this Act.
(Source: P.A. 79-1009.)

440/4.08. Signs, etc., giving specific information in the interest of the 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.
(Source: P.A. 90-272.)

440/5. Prohibited signs.

§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.
(Source: P.A. 89-605.)

440/6. Additional requirements for signs in business areas.

§6. Signs permitted under Section 4.04 must comply with the requirements of Sections 6.01, 6.02 and 6.03.
(Source: P.A. 77-1815.)

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, excluding 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.
(Source: P.A. 91-774.)

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.
(Source: P.A. 77-1815.)

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 1,000 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.
(Source: P.A. 87-1205.)

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.
(Source: P.A. 77-1815.)

440/7. Effects of similar 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.
(Source: P.A. 77-1815.)

440/8. Registration of sign; permit; tag.

§8. Within 90 days after the effective date of this Act each sign, except signs described by Section 4.01 and signs along primary highways described by Sections 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 Section 4.01 and signs along primary highways described by Sections 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.

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 be 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 be 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.
(Source: P.A. 87-1205.)

440/9. Enforcement of Act; compensation for removal.

§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.
(Source: P.A. 77-1815.)

440/10. Unlawful signs; 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.
(Source: P.A. 79-1009.)

440/11. Agreement with federal government.

§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, 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) [*l*] of that Section 131.
(Source: P.A. 77-1815.)

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 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.
(Source: P.A. 77-1815.)

440/13. Severability of invalid provision.

§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.
(Source: P.A. 77-1815.)

440/14. Preservation of natural beauty.

§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" [605 ILCS 5/4-201.15], approved June 8, 1959, as amended, including, but not limited to, removal of signs under that Code.
(Source: P.A. 77-1815.)

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.
(Source: P.A. 79-1009.)

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.
(Source: P.A. 89-605.)

440/16. Effective date.

§16. This Act takes effect July 1, 1972.
(Source: P.A. 77-1815.)

CHAPTER 310
HOUSING
(Selected Acts)

Act
35. House Relocation Act.
40. Displaced Person Relocation Act.

ACT 35. HOUSE RELOCATION ACT
(Complete Act)

Section
35/0.01. Short title.
35/1. Legislative declaration.
35/2. Relocation and rehabilitation of dwelling.
35/3. Agreements for work and materials.
35/4. Sale of property after relocation.

35/0.01. Short title.
§0.01. Short title.
This Act may be cited as the House Relocation Act.
(Source: P.A. 86-1324.)

35/1. Legislative declaration.
§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.
(Source: Laws 1949, p. 1023.)

35/2. Relocation and rehabilitation of dwelling.
§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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.], approved August 19, 1981, as amended, 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.
(Source: P.A. 83-388.)

35/3. Agreements for work and materials.
§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.
(Source: Laws 1949, p. 1023.)

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.
(Source: Laws 1949, p. 1023.)

ACT 40. DISPLACED PERSON RELOCATION ACT
(Complete Act)

Section
40/0.01. Short title.
40/1. "State agency" defined.
40/1a. "Displaced person" defined.
40/2. Matching federal funds for direct financial assistance.
40/2a. Matching federal funds to reimburse owner for fees, taxes, etc.
40/3. Direct financial assistance when federal funds are not available; limitation.
40/4. Rules and regulations.
40/5. Administrative Review Law to apply.

40/0.01. Short title.
§0.01. Short title.
This Act may be cited as the Displaced Person Relocation Act.
(Source: P.A. 86-1324.)

40/1. "State agency" defined.
§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.
(Source: P.A. 85-1407.)

40/1a. "Displaced person" defined.
§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 [42 U.S.C. 4601 et seq.].
(Source: P.A. 85-1407.)

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.
(Source: P.A. 77-1571.)

40/2a. Matching federal funds to reimburse owner for fees, taxes, etc.

§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.
(Source: P.A. 77-1977.)

40/3. Direct financial assistance when federal funds are not available; limitation.

§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.
(Source: P.A. 77-1571.)

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.
(Source: P.A. 77-1571.)

40/5. Administrative Review Law to apply.

§5. The provisions of the Administrative Review Law [735 ILCS 5/3-101 et seq.] 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 [735 ILCS 5/3-101].
(Source: P.A. 82-783.)

CHAPTER 415
ENVIRONMENTAL SAFETY
(Selected Acts)

Act
5. Environmental Protection Act.
55. Illinois Groundwater Protection Act.
95. Junkyard Act.

ACT 5. ENVIRONMENTAL PROTECTION ACT
(Selected Titles)

Title
I. General Provisions.
II. Air Pollution.
III. Water Pollution.
V. Land Pollution and Refuse Disposal.
XVI. Petroleum Underground Storage Tanks.
XVII. Site Remediation Program.

TITLE I. GENERAL PROVISIONS
(Selected Sections)

Section
5/3.78, 5/3.78a. *(Renumbered.)*
5/3.160. Construction or demolition debris.

5/3.78, 5/3.78a. *(Renumbered to 415 ILCS 5/3.160 by P.A. 92-574, §5.)*

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 asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and 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.

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed 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, 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) within 30 days of its generation, 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.

(Renumbered from 415 ILCS 5/3.78 and 5/3.78a and amended by P.A. 92-574, §5; chgd. by P.A. 93-179, §5, eff. 7/11/2003.)

TITLE II. AIR POLLUTION
(Complete Title)

Section
5/8. Legislative findings and purpose.
5/9. Acts prohibited.
5/9.1. State and federal cooperation; regulations; permit.
5/9.2. Sulfur dioxide emission standards.
5/9.3. Alternative control strategies.
5/9.4. Municipal waste incineration emission standards.
5/9.5. Toxic contaminants in the air; list of contaminants; regulations; exceptions.
5/9.6. Air pollution operating permit fee.
5/9.7. CFC's.
5/9.8. Emissions reductions market system.
5/9.9. Nitrogen oxides trading system.
5/9.10. Fossil fuel-fired electric generating plants.
5/9.11. Great Lakes Areas of Concern; mercury.
5/9.12. Constructiion permit fees for air pollution sources.
5/9.13. Asbestos fees.
5/10. Regulations.

5/8. Legislative findings and purpose.

§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.
(Source: P.A. 76-2429.)

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, without a permit granted by the Agency, or 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 [42 U.S.C. 6201 et seq.], 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 [42 U.S.C. 7411], shall continue to apply to grain elevators.
(Source: P.A. 89-328; 89-491.)

5/9.1. State and federal cooperation; regulations; permit.

§9.1. (a) The General Assembly finds that the federal Clean Air Act [42 U.S.C. 7401 et seq.], as amended, 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 [42 U.S.C. §§7411, 7412, 7475, 7503], as now or hereafter amended, 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 without a permit granted by the Agency or 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 [415 ILCS 5/26 et seq.] shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35], 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) If a complete application for a permit renewal is submitted to the Agency at least 90 days prior to expiration of the permit, all of the terms and conditions of the permit shall remain in effect until final administrative action has been taken on the application.
(Source: P.A. 88-45.)

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.
(Source: P.A. 92-574.)

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 [415 ILCS 5/26 et seq.].

(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 [42 USCA §7401 et seq.] 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.
(Source: P.A. 92-574.)

5/9.4. 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 [415 ILCS 5/26 et seq.], 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.
(Source: P.A. 91-357; 92-574.)

5/9.5. Toxic contaminants in the air; list of contaminants; regulations; exceptions.

§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 [415 ILCS 5/26 et seq.], 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.
(Source: P.A. 85-752.)

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) Notwithstanding any rules to the contrary, 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, is $100 per year beginning July 1, 1993, and increases to $200 per year beginning on July 1, 2003, 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, is $1,000 per year beginning July 1, 1993, and increases to $1,800 per year beginning on July 1, 2003, 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 is $2,500 per year beginning July 1, 1993, and increases to $3,500 per year beginning on July 1, 2003, except as provided in subsection (c) of this Section; provided, however, that the fee shall not exceed the amount that would be required for the site if it were subject to the fee requirements of Section 39.5 of this Act.

(c) The owner or operator of any source subject to paragraphs (b)(1), (b)(2), or (b)(3) 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 source becomes subject to the fee set forth within subsection 18 of Section 39.5 of this Act. In the event a site has paid a fee under this Section during the 12 month period following the effective date of the CAAPP for that site, the fee amount shall be deducted from any amount due under subsection 18 of Section 39.5 of this Act. Owners or operators that are subject to paragraph (b)(1), (b)(2), or (b)(3) of this Section, but that are not also subject to Section 39.5, or excluded pursuant to subsection 1.1 or subsection 3(c) of Section 39.5 shall continue to pay the fee amounts set forth within paragraphs (b)(1), (b)(2), or (b)(3), whichever is applicable.

(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.
(Chgd. by P.A. 93-32, §75-52, eff. 7/1/2003.)

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.
(Source: P.A. 90-372.)

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 [42 U.S.C. 7401 et seq.] 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 standards 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.

(Source: P.A. 89-173; 89-465.)

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.

(Source: P.A. 91-631; 92-12; 92-279. Chgd. by P.A. 93-669, §5, eff. 3/19/2004.)

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.
(Source: P.A. 92-12; 92-279.)

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.
(Added by P.A. 93-202, §5, eff. 7/14/2003.)

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) If the construction permit application review involves a determination of whether an emission unit has Clean Unit Status and is therefore not subject to the Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) 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.

(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) If the applicant is requesting a construction permit that will alter the source's status so that it is no longer a major source subject to Section 39.5 of this Act, a fee of $4,000.

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000, subject to adjustment under subsection (f) of this Section.

(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.

(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) A construction permit application for an insignificant activity as described in 35 Ill. Adm. Code 201.210.

(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 Section 39(a) 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 Section 39(a) 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.

(Added by P.A. 93-32, §75-52, eff. 7/1/2003.)

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.
(Added by P.A. 93-32, §75-52, eff. 7/1/2003.)

5/10. Regulations.

§10. Regulations.

(A) The Board, pursuant to procedures prescribed in Title VII of this Act [415 ILCS 5/26 et seq.], 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) Ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere;

(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 shall adopt sulfur dioxide regulations and emission standards for existing fuel combustion stationary emission sources located in all areas of the State of Illinois, except the Chicago, St. Louis (Illinois) and Peoria major metropolitan areas, in accordance with the following requirements:

(1) Such regulations shall not be more restrictive than necessary to attain and maintain the "Primary National Ambient Air Quality Standards for Sulfur Dioxide" and within a reasonable time attain and maintain the "Secondary National Ambient Air Quality Standards for Sulfur Dioxide."

(2) Such regulations shall be based upon ambient air quality monitoring data insofar as possible, consistent with regulations of the United States Environmental Protection Agency. To the extent that air quality modeling techniques are used for setting standards, such techniques shall be fully described and documented in the record of the Board's rulemaking proceeding.

(3) Such regulations shall provide a mechanism for the establishment of emission standards applicable to a specific site as an alternative to a more restrictive general emission standard. The Board shall delegate authority to the Agency to determine such specific site emission standards, pursuant to regulations adopted by the Board.

(4) Such regulations and standards shall allow all available alternative air quality control methods consistent with federal law and regulations.

(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 [625 ILCS 5/15-109.1]. 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.
(Source: P.A. 89-79.)

TITLE III. WATER POLLUTION

(Complete Title)

Section

5/11. Water pollution; purpose of Title; regulations and procedures; limitations on provisions of Act.
5/12. Actions prohibited.
5/12.1. *(Repealed.)*
5/12.2. Water pollution construction permit fees.
5/12.3. Septic system sludge.
5/12.4. Vegetable by-product; land application; report.
5/12.5. NPDES discharge fees; sludge permit fees.
5/12.6. Certification fees.
5/13. Regulations.
5/13.1. Groundwater monitoring network.
5/13.2. Testing of water from private well.
5/13.3. Regulations; implementation of federal Water Pollution Control Act.
5/13.4. Pretreatment market system.
5/13.5. Sewage works; operator certification.

5/11. Water pollution; purpose of Title; regulations and procedures; limitations on provisions of Act.

§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 [33 U.S.C. 1251 et seq.], as now or hereafter amended, 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) [42 U.S.C. 300h et seq.], as amended, 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.
(Source: P.A. 86-671.)

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 [33 U.S.C.A. §1251 et seq.], 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, as now or hereafter amended [33 U.S.C.A. §1342], 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 [42 U.S.C.A. §300h et seq.], 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.
(Source: P.A. 92-574.)

5/12.1. *(Repealed by P.A. 92-574.)*

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.

(Added by P.A. 93-32, §75-52, eff. 7/1/2003.)

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.

(Source: P.A. 87-1138.)

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.

(Source: P.A. 88-454.)

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, 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 individual NPDES permit or for activity under a new individual 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 individual 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.

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 increase, 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, 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 construction site or industrial storm water, the fee is $500.

(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, 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*), 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.
(Added by P.A. 93-32, §75-52, eff. 7/1/2003; chgd. by P.A. 93-840, §45-5, eff. 7/30/2004.)

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 with the application. The Agency shall deny an application for which a fee is required under this Section, if the application does not contain the appropriate fee.

(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.
(Added by P.A. 93-32, §75-52, eff. 7/1/2003.)

5/13. Regulations.

§13. Regulations.

(a) The Board, pursuant to procedures prescribed in Title VII of this Act [415 ILCS 5/26 et seq.], 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 [415 ILCS 60/1 et seq.];

(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 [33 U.S.C.A. §1251 et seq.]. 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 [42 U.S.C.A. §300h]. 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 ILCS 100/5-35] 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 [42 U.S.C.A. §300f et seq.], 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.
(Chgd. by P.A. 93-170, §5, eff. 7/10/2003.)

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.)*
(Source: P.A. 92-574.)

5/13.2. Testing of water from private well.

§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.
(Source: P.A. 83-1528.)

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 [33 U.S.C. 1317, 1342], as amended. 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 [415 ILCS 5/26 et seq.] shall not apply to regulations adopted under this Section. Sections 5-35 and 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35, 100/5-75] 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.
(Source: P.A. 89-445.)

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 [5 ILCS 100/1-1 et seq.].

(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.

(Source: P.A. 90-773.)

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.

(Added by P.A. 93-170, §5, eff. 7/10/2003.)

TITLE V. LAND POLLUTION AND REFUSE DISPOSAL

(Selected Sections)

Section
5/21. Prohibited acts.
5/22.12. Coordination with State Fire Marshal; leaking underground storage tanks; registration.

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" [625 ILCS 5/1-100 et seq.], 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, 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;

(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, 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; 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 permit from the Agency in accordance with the Uniform Program implemented under subsection (l-5) of Section 22.2; 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

(2) applying landscape waste or composted landscape waste at agronomic rates; 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 Agency may allow a higher percentage for individual sites where the owner or operator has demonstrated to the Agency that the site's soil characteristics or crop needs require a higher rate;

(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, 1990 (or the January 1 following commencement of operation, whichever is later) and January 1 of each year thereafter, (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), (B) and (C) of this paragraph (q)(3), 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) 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 was placed more than 5 feet above the water table.

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 Agency may allow a higher rate for individual sites where the owner or operator has demonstrated to the Agency 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 [20 ILCS 1920/1.01 et seq.]; 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 [415 ILCS 55/1 et seq.], 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 [220 ILCS 5/1-101 et seq.]) 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.

(Source: P.A. 91-72; 92-574. Chgd. by P.A. 93-179, §5, eff. 7/11/2003.)

5/22.12. Coordination with State Fire Marshal; leaking underground storage tanks; registration.

§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) [42 U.S.C. 6901 et seq.]. 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 [42 U.S.C. 9601 et seq.], 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.

(Source: P.A. 88-496.)

TITLE XVI. PETROLEUM UNDERGROUND STORAGE TANKS

(Complete Title)

Section
5/57. Intent and purpose.
5/57.1. Applicability.
5/57.2. Definitions.
5/57.3. Underground Storage Tank Program.
5/57.4. State agencies.
5/57.5. Underground storage tanks; removal; repair; abandonment.
5/57.6. Underground storage tanks; early action.
5/57.7.* Leaking underground storage tanks; site investigation and corrective action.
5/57.7.* Leaking underground storage tanks; physical soil classification, groundwater investigation, site classification, and corrective action.
5/57.8. Underground Storage Tank Fund; payment; options for State payment; deferred correction election to commence corrective action upon availability of funds.
5/57.9. Underground Storage Tank Fund; eligibility and deductibility.
5/57.10. Professional Engineer certification; presumptions against liability.
5/57.11. Underground Storage Tank Fund; creation.
5/57.12. Underground storage tanks; enforcement; liability.
5/57.12A. Lender liability; definitions.
5/57.13. Underground Storage Tank Program; transition.
5/57.14. *(Repealed.)*
5/57.14A. Rules.
5/57.15. Authority to audit.
5/57.16. Severability.
5/57.17. Falsification.

******(Multiple versions of 415 ILCS 5/57.7.)*

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, in accordance with the requirements of the Hazardous and Solid Waste Amendments of 1984 of the Resource Conservation and Recovery Act of 1976 [42 U.S.C. 6901 et seq.] 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.

(Source: P.A. 91-357.)

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.

(Source: P.A. 92-554.)

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) [42 U.S.C. 6901 et seq.]; 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.

"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 [415 ILCS 55/1 et seq.].

"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.
(Source: P.A. 92-554; 92-735.)

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.
(Source: P.A. 88-496.)

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.
(Source: P.A. 88-496.)

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.
(Source: P.A. 92-554.)

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.
(Source: P.A. 92-554.)

5/57.7. Leaking underground storage tanks; site investigation and corrective action.
(Multiple versions enacted. See other 415 ILCS §57.7 below.)

§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.

(4) For any plan or report received after the effective date of this amendatory Act of 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. *(Source: P.A. 92-554.)*

5/57.7. Leaking underground storage tanks; physical soil classification, groundwater investigation, site classification, and corrective action.

(Multiple versions enacted. See other 415 ILCS §57.7 above.)

§57.7. Leaking underground storage tanks; physical soil classification, groundwater investigation, site classification, and corrective action.

(a) Physical soil classification and groundwater investigation.

(1) Prior to conducting any physical soil classification and groundwater investigation activities required by statute or regulation, the owner or operator shall prepare and submit to the Agency for the Agency's approval or modification:

(A) a physical soil classification and groundwater investigation plan designed to determine site classification, in accordance with subsection (b) of this Section, as High Priority, Low Priority, or No Further Action.

(B) a request for payment of costs associated with eligible early action costs as provided in Section 57.6(b). However, for purposes of payment for early action costs, fill materials shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank.

(2) If the owner or operator intends to seek payment from the Fund, prior to conducting any physical soil classification and groundwater investigation activities required by statute or regulation, the owner or operator shall submit to the Agency for the Agency's approval or modification a physical soil classification and groundwater investigation budget which includes, but is not limited to, an accounting of all costs associated with the implementation and completion of the physical soil classification and groundwater investigation plan.

(3) Within 30 days of completion of the physical soil classification or groundwater investigation report the owner or operator shall submit to the Agency:

(A) all physical soil classification and groundwater investigation results; and

(B) a certification by a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as High Priority, Low Priority, or No Further Action in accordance with subsection (b) of this Section as High Priority, Low Priority, or No Further Action.

(b) Site Classification.

(1) After evaluation of the physical soil classification and groundwater investigation results, when required, and general site information, the site shall be classified as "No Further Action", "Low Priority", or "High Priority" based on the requirements of this Section. Site classification shall be determined by a Licensed Professional Engineer or Licensed Professional Geologist in accordance with the requirements of this Title and the Licensed Professional Engineer or Licensed Professional Geologist shall submit a certification to the Agency of the site classification. The Agency has the authority to audit site classifications and reject or modify any site classification inconsistent with the requirements of this Title.

(2) Sites shall be classified as No Further Action if the criteria in subparagraph (A) are satisfied:

(A) (i) The site is located in an area designated D, E, F and G on the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.;

(ii) A site evaluation under the direction of a Licensed Professional Engineer or Licensed Professional Geologist verifies the physical soil classification conditions are consistent with those indicated on the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; and

(iii) The conditions identified in subsections (b)(3)(B), (C), (D), and (E) do not exist.

(B) Groundwater investigation monitoring may be required to confirm that a site meets the criteria of a No Further Action site. The Board shall adopt rules setting forth the criteria under which the Agency may exercise its discretionary authority to require investigations and the minimum field requirements for conducting investigations.

(3) Sites shall be classified as High Priority if any of the following are met:

(A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; a site evaluation under the direction of a Licensed Professional Engineer or Licensed Professional Geologist verifies the physical soil classifications conditions are consistent with those indicated on the Illinois Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; and the results of the physical soil classification and groundwater investigation indicate that an applicable indicator contaminant groundwater quality standard or groundwater objective has been exceeded at the property boundary line or 200 feet from the excavation, whichever is less as a consequence of the underground storage tank release.

(B) The underground storage tank is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well.

(C) There is evidence that, through natural or manmade pathways, migration of petroleum

or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

(D) Class III special resource groundwater exists within 200 feet of the excavation.

(E) A surface water body is adversely affected by the presence of a visible sheen or free product layer as the result of an underground storage tank release.

(4) Sites shall be classified as Low Priority if all of the following are met:

(A) The site does not meet any of the criteria for classification as a High Priority Site.

(B) (i) The site is located in area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, C5 on the Illinois Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; and

(ii) a site evaluation under the direction of a Licensed Professional Engineer or Licensed Professional Geologist verifies the physical soil classification conditions are consistent with those indicated on the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; and

(iii) the results of the physical soil classification and groundwater investigation do not indicate an applicable indicator contaminant groundwater quality standard or groundwater objective has been exceeded at the property boundary line or 200 feet from the underground storage tank, whichever is less.

(5) In the event the results of the physical soil classification and any required groundwater investigation reveal that the actual site geologic characteristics are different than those indicated by the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois" by Berg, Richard C., et al., classification of the site shall be determined using the actual site geologic characteristics.

(6) For purposes of physical soil classification, the Board is authorized to prescribe by regulation alternatives to use of the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois" by Berg, Richard C., et al.

(c) Corrective Action.

(1) High Priority Site.

(A) Prior to performance of any corrective action, beyond that required by Section 57.6 and subsection (a) of Section 57.7 of this Act, the owner or operator shall prepare and submit to the Agency for the Agency's approval or modification a corrective action plan designed to mitigate any threat to human health, human safety or the environment resulting from the underground storage tank release.

(B) If the owner or operator intends to seek payment from the Fund, prior to performance of any corrective action beyond that required by Section 57.6 and subsection (a) of Section 57.7, the owner or operator shall submit to the Agency for the Agency's approval or modification a corrective action plan budget which includes, but is not limited to, an accounting of all costs associated with the implementation and completion of the corrective action plan.

(C) The corrective action plan shall do all of the following:

(i) Provide that applicable indicator contaminant groundwater quality standards or groundwater objectives will not be exceeded in groundwater at the property boundary line or 200 feet from the excavation, whichever is less, or other level if approved by the Agency, for any contaminant identified in the groundwater investigation after complete performance of the corrective action plan.

(ii) Provide that Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the excavation will not be exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation after complete performance of the corrective action plan.

(iii) Remediate threats due to the presence or migration, through natural or manmade pathways, of petroleum in concentrations sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

(iv) Remediate threats to a potable water supply.

(v) Remediate threats to a surface water body.

(D) Within 30 days of completion of the corrective action, the owner or operator shall submit to the Agency such a completion report that includes a description of the corrective action plan and a description of the corrective action work performed and all analytical or sampling results derived from performance of the corrective action plan.

(E) The Agency shall issue to the owner or operator a no further remediation letter in accordance with Section 57.10 if all of the following are met:

(i) The corrective action completion report demonstrates that: (a) applicable indicator contaminant groundwater quality standards or groundwater objectives are not exceeded at the property boundary line or 200 feet from the excavation, whichever is less, as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation; (b) Class III special use resource groundwater quality standards, for Class III special use resource groundwater within 200 feet of the underground storage tank, are not exceeded as a result of the underground storage tank release for any contaminant identified in the

groundwater investigation; (c) the underground storage tank release does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum or hazardous substances in concentrations sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces; (d) the underground storage tank release does not threaten any surface water body; and (e) the underground storage tank release does not threaten any potable water supply.

(ii) The owner or operator submits to the Agency a certification from a Licensed Professional Engineer that the work described in the approved corrective action plan has been completed and that the information presented in the corrective action completion report is accurate and complete.

(2) Low Priority Site.

(A) Corrective action at a low priority site must include groundwater monitoring consistent with part (B) of this paragraph (2).

(B) Prior to implementation of groundwater monitoring, the owner or operator shall prepare and submit to the Agency a groundwater monitoring plan and, if the owner or operator intends to seek payment under this Title, an associated budget which includes, at a minimum, all of the following:

(i) Placement of groundwater monitoring wells at the property line, or at 200 feet from the excavation which ever is closer, designed to provide the greatest likelihood of detecting migration of groundwater contamination.

(ii) Quarterly groundwater sampling for a period of one year, semi-annual sampling for the second year and annual groundwater sampling for one subsequent year for all indicator contaminants identified during the groundwater investigation.

(iii) The annual submittal to the Agency of a summary of groundwater sampling results.

(C) If at any time groundwater sampling results indicate a confirmed exceedence of applicable indicator contaminant groundwater quality standards or groundwater objectives as a result of the underground storage tank release, the site may be reclassified as a High Priority Site by the Agency at any time before the Agency's final approval of a Low Priority groundwater monitoring completion report. Agency review and approval shall be in accordance with paragraph (4) of subsection (c) of this Section. If the owner or operator elects to appeal an Agency action to disapprove, modify, or reject by operation of law a Low Priority groundwater monitoring completion report, the Agency shall indicate to the Board in conjunction with such appeal whether it intends to reclassify the site as High Priority. If a site is reclassified as a High Priority Site, the owner or operator shall submit a corrective action plan and budget to the Agency within 120 days of the confirmed exceedence and shall initiate compliance with all corrective action requirements for a High Priority Site.

(D) If, throughout the implementation of the groundwater monitoring plan, the groundwater sampling results do not confirm an exceedence of applicable indicator contaminant groundwater quality standards or groundwater objectives as a result of the underground storage tank release, the owner or operator shall submit to the Agency a certification of a Licensed Professional Engineer or Licensed Professional Geologist so stating.

(E) Unless the Agency takes action under subsection (b)(2)(C) to reclassify a site as high priority, upon receipt of a certification by a Licensed Professional Engineer or Licensed Professional Geologist submitted pursuant to paragraph (2) of subsection (c) of this Section, the Agency shall issue to the owner or operator a no further remediation letter in accordance with Section 57.10.

(3) No Further Action Site.

(A) No Further Action sites require no remediation beyond that required in Section 57.6 and subsection (a) of this Section if the owner or operator has submitted to the Agency a certification by a Licensed Professional Engineer or Licensed Professional Geologist that the site meets all of the criteria for classification as No Further Action in subsection (b) of this Section.

(B) Unless the Agency takes action to reject or modify a site classification under subsection (b) of this Section or the site classification is rejected by operation of law under item (4)(B) of subsection (c) of this Section, upon receipt of a certification by a Licensed Professional Engineer or Licensed Professional Geologist submitted pursuant to part (A) of paragraph (3) of subsection (c) of this Section, the Agency shall issue to the owner or operator a no further remediation letter in accordance with Section 57.10.

(4) Agency review and approval.

(A) Agency approval of any plan and associated budget, as described in this item (4), 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.

(B) 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.

(i) For purposes of those plans as identified in subparagraph (E) of this subsection (c)(4),

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 item (7) of subsection (b) of 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.

(ii) For purposes of those plans submitted pursuant to Part (E)(iii) of this paragraph (4) 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 Section 57(c)(1)(D). In the event the Agency approved the plan, it shall proceed under the provisions of Section 57(c)(4).

(C) In approving any plan submitted pursuant to Part (E) of this paragraph (4), the Agency shall determine, by a procedure promulgated by the Board under item (7) of subsection (b) of Section 57.14, that the costs associated with the plan are reasonable, will be incurred in the performance of corrective action, and will not be used for corrective action activities in excess of those required to meet the minimum requirements of this title.

(D) For any plan or report received after September 13, 1993, 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 corrective action plan for which payment is not being sought, within 120 days of receipt of the corrective action completion report, and shall be accompanied by:

(i) an explanation of the Sections of this Act which may be violated if the plans were approved;

(ii) an explanation of the provisions of the regulations, promulgated under this Act, which may be violated if the plan were approved;

(iii) an explanation of the specific type of information, if any, which the Agency deems the applicant did not provide the Agency; and

(iv) 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.

(E) For purposes of this Title, the term "plan" shall include:

(i) Any physical soil classification and groundwater investigation plan submitted pursuant to item (1)(A) of subsection (a) of this Section, or budget under item (2) of subsection (a) of this Section;

(ii) Any groundwater monitoring plan or budget submitted pursuant to subsection (c)(2)(B) of this Section;

(iii) Any corrective action plan submitted pursuant to subsection (c)(1)(A) of this Section; or

(iv) Any corrective action plan budget submitted pursuant to subsection (c)(1)(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 physical soil classification, groundwater investigation, site classification or other 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 corrective action which was necessary at the site along with the 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.
(Source: P.A. 92-574; 92-651; 92-735.)

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.

(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.
(Source: P.A. 91-357; 92-554; 92-574; 92-735.)

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 [35 ILCS 505/1 et seq.].

(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 [35 ILCS 505/1.19].

(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 [35 ILCS 505/1.3].

(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 [220 ILCS 15/0.01 et seq.].

(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) 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.

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 [5 ILCS 100/1-1 et seq.] 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.

(Source: P.A. 88-496.)

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 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.

(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.

(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) [42 U.S.C. 6901 et seq.].

(Source: P.A. 92-554; 92-735.)

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 [220 ILCS 15/4, 15/5] and as fees pursuant to the Motor Fuel Tax Law [35 ILCS 505/1 et seq.]. 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 [35 ILCS 505/13a.8].

(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 General Obligation Bond Act [30 ILCS 330/6]. 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.
(Source: P.A. 90-491.)

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.
(Source: P.A. 89-428; 89-457.)

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, re-lease 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).

(Source: P.A. 89-200; 89-626.)

5/57.13. Underground Storage Tank Program; transition.

(Multiple versions enacted. See other version 415 ILCS 5/57.13 below.)

§57.13. Underground Storage Tank Program; transition.

(a) If a release is reported to the proper State authority on or after the effective date of this amendatory Act of 2002, the owner or operator shall comply with the requirements of this Title.

(b) If a release is reported to the proper State authority prior to the effective date of this amendatory Act of 2002, the owner or operator of an underground storage tank may elect to proceed in accordance with the requirements of this Title by submitting a written statement to the Agency of such election. If the owner or operator elects to proceed under the requirements of this Title all costs incurred in connection with the incident prior to notification shall be reimbursable in the same manner as was allowable under the then existing law. Completion of corrective action shall then follow the provisions of this Title. Owners and operators who have not elected to proceed in accordance with the requirements of this Title shall proceed in accordance with the law in effect prior to the effective date of this amendatory Act of 2002.

(Source: P.A. 92-554.)

5/57.13. Underground Storage Tank Program; transition.

(Multiple versions enacted. See other version 415 ILCS 5/57.13 above.)

§57.13. Underground Storage Tank Program; transition.

(a) If a release is reported to the proper State authority on or after September 13, 1993, the owner or operator shall comply with the requirements of this Title.

(b) If a release is reported to the proper State authority prior to September 13, 1993, the owner or operator of an underground storage tank may elect to proceed in accordance with the requirements of this Title by submitting a written statement to the Agency of such election. If the owner or operator elects to proceed under the requirements of this Title all costs incurred in connection with the incident prior to notification shall be reimbursable in the same manner as was allowable under the then existing law. Completion of corrective action shall then follow the provisions of this Title.

(Source: P.A. 92-574.)

5/57.14. *(Repealed by P.A. 91-798.)*

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.

(Source: P.A. 92-554.)

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.

(Source: P.A. 88-496.)

5/57.16. Severability.

§57.16. Severability.

The provisions of this Title are severable under Section 1.31 of the Statute on Statutes [5 ILCS 70/1.31].

(Source: P.A. 88-496.)

5/57.17. Falsification.

§57.17. Falsification.

Any person who knowingly makes a false material statement or representation in any label, manifest, record, report, permit or license, or other document filed, maintained or used for the purpose of compliance with this Title commits a Class 4 felony. Any second or subsequent offense after conviction hereunder is a Class 3 felony.

(Source: P.A. 88-496.)

TITLE XVII. SITE REMEDIATION PROGRAM

(Complete Title)

Section	
5/58.	Intent.
5/58.1.	Applicability.
5/58.2.	Definitions.
5/58.3.	Site Investigation and Remedial Activities Program; Brownfields Redevelopment Fund.
5/58.4.	Permit waiver.
5/58.5.	Risk-based remediation objectives.
5/58.6.	Remedial investigations and reports.
5/58.7.	Review and approvals.
5/58.8.	Duty to record.
5/58.9.	Liability.
5/58.10.	Effect of completed remediation; liability releases.
5/58.11.	Regulations and Site Remediation Advisory Committee.
5/58.12.	Severability.
5/58.13.	Brownfields Redevelopment Grant Program.
5/58.14.	Environmental Remediation Tax Credit review.

5/58.15. Brownfields Redevelopment Loan Program.
5/58.15. Construction of school; requirements.
5/58.17. Environmental land use control.
5/58.18. *(Repealed.)*

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.
(Source: P.A. 91-36.)

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 [415 ILCS 60/19], and shall be eligible for the relief provided under Section 58.10.
(Source: P.A. 89-431; 89-443.)

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 [415 ILCS 55/1 et seq.].

"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) [42 U.S.C. 9601] 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.

"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.

"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.

(Source: P.A. 92-735.)

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 and Brownfields Revitilization Act of 2002, related to brownfields cleanup and reuse in accordance with that law and this Title.
(Source: P.A. 91-36; 92-486; 92-715.)

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.
(Source: P.A. 89-431; 89-443.)

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 [415 ILCS 55/1 et seq.] 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) [(d)(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 [415 ILCS 5/57 et seq.] shall apply to all environmental assessments and soil or groundwater remedial action conducted under this Title.

(Source: P.A. 91-909.)

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. *(Source: P.A. 92-735.)*

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.
(Source: P.A. 92-574; 92-735.)

5/58.8. Duty to record.

§58.8. Duty to record.

(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) At no time shall any site for which a land use limitation has been imposed as a result of remediation activities under this Title be used in a manner inconsistent with the land use limitation unless further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use and a new No Further Remediation Letter obtained and recorded in accordance with this Title.

(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.
(Source: P.A. 92-574.)

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 [415 ILCS 55/1 et seq.] 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 [205 ILCS 5/2] 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.
(Source: P.A. 90-484.)

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 [205 ILCS 5/2] 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. *(Source: P.A. 89-431; 89-443; 89-626.)*

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.
(Source: P.A. 92-735.)

5/58.12. Severability.

§58.12. Severability.

The provisions of this Title XVII are severable under Section 1.31 of the Statute on Statutes [5 ILCS 70/1.31].
(Source: P.A. 89-431; 89-443.)

5/58.13. Brownfields Redevelopment Grant Program.

§58.13. 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, 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) Grants shall be limited to a maximum of $240,000, 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 [50 ILCS 510/0.01].
(Source: P.A. 92-486; 92-715.)

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 [35 ILCS 5/201], 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 [5 ILCS 100/1-1 et seq.] for the administration and enforcement of Section 58.9 of the Environmental Protection Act [5 ILCS 100/58.9-1], 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 Community Affairs 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 [35 ILCS 5/201]), 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.
(Source: P.A. 92-574.)

5/58.15. Brownfields Redevelopment Loan Program.

§58.15. 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 Community Affairs, 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 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 Community Affairs 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 Community Affairs 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 Community Affairs. 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 Community Affairs. "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 Community Affairs. 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 Community Affairs.

(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 Community Affairs under this subsection (B) is $1,000 for each site reviewed. The application fee must be made payable to the Department of Commerce and Community Affairs 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 Community Affairs of an application meeting the requirements of subdivision (B)(b), the Department of Commerce and Community Affairs 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 Community Affairs' 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 Community Affairs.

(e) An application for a review of remediation costs must not be submitted to the Agency unless the Department of Commerce and Community Affairs has determined the Remediation Applicant is eligible under subdivision (B)(d). If the Department of Commerce and Community Affairs 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 Community Affairs' 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 Community Affairs' 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 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 Procedures Act [5 ILCS 100/1-1], 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 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.

(Source: 91-36; 92-16; 92-715.)

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 1 Environmental Audit, conducted in accordance with Section 22.2 of this Act, is obtained;

(2) if the Phase 1 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, and (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.

(Source: P.A. 91-442; 92-16; 92-151.)

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.

(Source: P.A. 91-909; 92-574.)

5/58.18. *(Repealed by P.A. 92-715.)*

ACT 55. ILLINOIS GROUNDWATER PROTECTION ACT

(Complete Act)

Section

55/1. Short title.
55/2. Legislative findings.
55/3. Definitions.
55/4. Interagency Coordinating Committee on Groundwater; members; purposes.
55/5. Groundwater Advisory Council.
55/6. Education program for groundwater protection; interagency cooperation.
55/7. Groundwater data collection and automation program; research; grants, appropriations, etc.; Southern Illinois University.
55/8. Regulations; standards; exemption from certain State requirements.
55/9. Non-community, private and semi-private water systems.
55/9.1. Notification of actual or potential contamination.

55/1. Short title.

§1. This Act shall be known as and may be cited as the "Illinois Groundwater Protection Act". *(Source: P.A. 85-863.)*

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. *(Source: P.A. 85-863.)*

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. *(Source: P.A. 89-445.)*

55/4. Interagency Coordinating Committee on Groundwater; members; purposes.

§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 Community Affairs.

(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.
(Source: P.A. 89-445.)

55/5. Groundwater 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.
(Source: P.A. 85-863.)

55/6. Education program for groundwater protection; interagency cooperation.

§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.
(Source: P.A. 85-863.)

55/7. Groundwater data collection and automation program; research; grants, appropriations, etc.; Southern Illinois University.

§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, non-community 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.
(Source: P.A. 87-479.)

55/8. Regulations; standards; exemption from certain State requirements.

§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 [415 ILCS 5/26 et seq.], 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 [415 ILCS 5/27]; 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" [20 ILCS 1105/4, 1105/5], approved July 1, 1978, as amended.

(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.

(Source: P.A. 90-655.)

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 [42 ILCS U.S.C.A. §300f et seq.].

(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 [225 ILCS 725/16 and 725/19], 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 [5 ILCS 100/1-1 et seq.], 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 [5 ILCS 100/5-35] 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 [735 ILCS 5/1-101 et seq.].

(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 [735 ILCS 5/3-101 et seq.]. 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 [415 ILCS 5/1 et seq.], 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.

(Source: P.A. 92-369; 92-652.)

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 [42 U.S.C.A. §300f et seq.] maximum contaminant level while performing its obligations under Section 7 of this Act, Section 13.1 of the Environmental Protection Act [415 ILCS 5/13.1], 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.

(Source: P.A. 92-652.)

ACT 95. JUNKYARD ACT

(Complete Act)

Section	
95/0.01.	Short title.
95/1.	Legislative declaration.
95/2.	Definitions.
95/3.	Limitations on junkyard or scrap processing facility; exceptions.
95/4.	Screening of facility.
95/4.5.	Automobile graveyards located near canals; inspection by EPA.
95/5.	Regulation of screening and fencing.
95/6.	Department may acquire, relocate, or screen junkyards or scrap processing facilities.
95/7.	Initiation of action to force compliance with Act; offense.
95/8.	Agreements with United States Government.

95/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Junkyard Act.

(Source: P.A. 86-1324.)

95/1. Legislative declaration.

§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.
(Source: Laws 1967, p. 1927.)

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.
(Source: P.A. 77-175.)

95/3. Limitations on junkyard or scrap processing facility; exceptions.

§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.
(Source: Laws 1967, p. 1927.)

95/4. Screening of facility.

§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.
(Source: Laws 1967, p. 1927.)

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 1,000 feet of a canal in Illinois to determine if any contaminates are entering canal waters from the automobile graveyard.
(Source: P.A. 88-381.)

95/5. Regulation of screening and fencing.

§5. The Department shall promulgate regulations governing the location, planting, construction and maintenance, including materials used in screening or fencing required by this Act.
(Source: Laws 1967, p. 1927.)

95/6. Department may acquire, relocate, or screen junkyards or scrap processing facilities.

§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.
(Source: Laws 1967, p. 1927.)

95/7. Initiation of action to force compliance with Act; 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.
(Source: P.A. 84-1308.)

95/8. Agreements with United States Government.

§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.
(Source: Laws 1967, p. 1927.)

CHAPTER 430
PUBLIC SAFETY
(Selected Acts)

Act
70. Illinois Public Demonstrations Law.
105. Road Worker Safety Act.

ACT 70. ILLINOIS PUBLIC DEMONSTRATIONS LAW
(Selected Sections)

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.

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" [605 ILCS 5/2-202], 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.
(Source: P.A. 81-840.)

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 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 such permit, or, if not, with permission of the principal law enforcement officer for such area.
(Source: Laws 1967, p.3613.)

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 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 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.
(Source: Laws 1967, p.3613.)

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.
(Source: Laws 1967, p.3613.)

70/8. Sentence.
§8. Sentence.

Violation of this Act is a Class A misdemeanor.
(Source: P.A. 77-2646.)

ACT 105. ROAD WORKER SAFETY ACT
(Complete Act)

Section
105/0.01. Short title.
105/1. Two-way traffic during construction.
105/2. Flagmen; equipment; flagging procedures.
105/3. Drivers to obey flagmen.
105/4. Marking of closed highway or bridge.
105/5. Violation.
105/6. Accrual of action.
105/7. Director of Labor to enforce compliance.
105/8. Limitation on applicability.

105/0.01. Short title.
§0.01. Short title.

This Act may be cited as the Road Worker Safety Act.
(Source: P.A. 86-1324.)

105/1. Two-way traffic during construction.
§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.
(Source: Laws 1959, p. 2044.)

105/2. Flagmen; equipment; flagging procedures.
§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.
(Source: P.A. 82-408.)

105/3. Drivers 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.
(Source: Laws 1967, p. 468.)

105/4. Marking of closed highway or bridge.

§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.
(Source: P.A. 77-176.)

105/5. Violation.

§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.
(Source: P.A. 77-2242.)

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.
(Source: P.A. 80-1154.)

105/7. Director of Labor to enforce compliance.

§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.
(Source: Laws 1959, p. 2044.)

105/8. Limitation on applicability.

§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.
(Source: Laws 1959, p. 2044.)

CHAPTER 505
AGRICULTURE
(Selected Acts)

Act
75. Farmland Preservation Act.
100. Illinois Noxious Weed Law.

ACT 75. FARMLAND PRESERVATION ACT
(Complete Act)

Section
75/1. Short title.
75/2. Legislative findings and intent.
75/3. Inter-Agency Committee on Farmland Preservation; creation; members; chairman.
75/4. Committee to prepare policy statements and working agreements; periodic review and approval.
75/5. Conversion of farmland to nonagricultural purposes; acquisition of land; study of agricultural impacts.
75/6. Administration of Act and formulation of rules and regulations; reports.
75/7. Exempt projects.
75/8. Effective date.

75/1. Short title.

§1. Short Title.

This Act shall be known and may be cited as the "Farmland Preservation Act."
(Source: P.A. 82-945.)

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 non-farm 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.
(Source: P.A. 82-945.)

75/3. Inter-Agency Committee on Farmland Preservation; creation; members; chairman.

§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 Community Affairs;
(d) the Environmental Protection Agency;
(e) the Department of Transportation;
(f) the Bureau of the 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.
(Source: P.A. 89-445.)

75/4. Committee to prepare policy statements and working agreements; periodic review and approval.

§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.
(Source: P.A. 82-945.)

75/5. Conversion of farmland to nonagricultural purposes; acquisition of land; study of agricultural impacts.

§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.
(Source: P.A. 82-945.)

75/6. Administration of Act and formulation of rules and regulations; reports.

§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.
(Source: P.A. 82-945.)

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.
(Source: P.A. 82-945.)

75/8. Effective date.

§8. This Act shall take effect upon becoming law.
(Source: P.A. 82-945.)

ACT 100. ILLINOIS NOXIOUS WEED LAW

(Complete Act)

Section

100/1. Short title.
100/2. Definitions.
100/3. Every person to control noxious weeds.
100/4. Enforcement of Act; determination of noxious weeds; methods for control; publication of rules and regulations.
100/5. Powers of Director.
100/7. Duties and responsibilities of Control Authority.
100/8. Weed Control Superintendents.
100/9. Notices for control and eradication of noxious weeds.
100/10. Proper control and eradication methods to be used on land of negligent owner; cost.
100/11. Quarantine.
100/12. Responsibility for cost.
100/13. Control and eradication without cost to owner.
100/14. Prevention of dissemination of noxious weeds; articles capable of dissemination; treatment; no removal without authorization.
100/15. Noxious Weed Control Fund.
100/17. Purchase of needed materials, equipment, etc., for the control and eradication of noxious weeds; deposit of funds; records.
100/18. Protest of charge for work; hearing.
100/19. Judicial review.
100/20. Entry upon lands.
100/21. Notices; form and service.
100/22. Violations; penalties.
100/23. Participation of Director in control programs; matching of federal funds.
100/24. Severability of invalid provisions.

100/1. Short title.

§1. This Act shall be known and may be cited as the Illinois Noxious Weed Law.
(Source: P.A. 77-1037.)

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.

(Source: P.A. 77-1037.)

100/3. Every person to control noxious 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.

(Source: P.A. 77-1037.)

100/4. Enforcement of Act; determination of noxious weeds; methods for control; publication of rules and regulations.

§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.

(Source: P.A. 77-1037.)

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.

(Source: P.A. 77-1037.)

100/7. Duties and responsibilities of Control Authority.

§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.

(Source: P.A. 77-1037.)

100/8. Weed Control Superintendents.

§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.
(Source: P.A. 77-1037.)

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.
(Source: P.A. 77-1037.)

100/10. Proper control and eradication methods to be used on land of negligent owner; cost.

§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.
(Source: P.A. 77-1037.)

100/11. Quarantine.

§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.
(Source: P.A. 77-1037.)

100/12. Responsibility for cost.

§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.
(Source: P.A. 77-1037.)

100/13. Control and eradication 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.
(Source: P.A. 77-1037.)

100/14. Prevention of dissemination of noxious weeds; articles capable of dissemination; treatment; no removal without authorization.

§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.
(Source: P.A. 77-1037.)

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.
(Source: P.A. 77-1037.)

100/17. Purchase of needed materials, equipment, etc., for the control and eradication of noxious weeds; deposit of funds; records.

§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.
(Source: P.A. 77-1037.)

100/18. Protest of charge for work; 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.
(Source: P.A. 77-1037.)

100/19. Judicial review.

§19. All final administrative decisions of the Director or his representative are subject to judicial review under the Administrative Review Law [735 ILCS 5/3-101 et seq.]. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure [735 ILCS 5/3-101]. 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.
(Source: P.A. 82-783.)

100/20. Entry upon lands.

§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.
(Source: P.A. 77-1037.)

100/21. Notices; form and service.

§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.
(Source: P.A. 77-1037.)

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.
(Source: P.A. 78-255.)

100/23. Participation of Director in control programs; matching of federal 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.
(Source: P.A. 77-1037.)

100/24. Severability of invalid provisions.

§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.
(Source: P.A. 77-1037.)

CHAPTER 520
WILDLIFE
(Selected Act)

Act
10. Illinois Endangered Species Protection Act.

ACT 10. ILLINOIS ENDANGERED SPECIES PROTECTION ACT
(Complete Act)

Section
10/1. Title of Act.
10/2. Definitions.
10/3. Endangered species; unlawful acts.
10/4. Issuance of permit; revocation.
10/5. Endangered species; limited permit.
10/5.5. Incidental taking.
10/6. Endangered Species Protection Board; duties, composition, actions.
10/7. Listing and delisting; endangered species.
10/8. Authorization of search and seizure.
10/9. Violation.
10/10. Location of program; fine deposition.
10/11. Conservation program; public policy; rules.

10/1. Title of Act.

§1. This Act shall be known and may be cited as the "Illinois Endangered Species Protection Act".
(Source: P.A. 77-2186.)

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 [16 U.S.C. 1531 et seq.], 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.
(Source: P.A. 89-445.)

10/3. Endangered species; unlawful acts.

§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.
(Source: P.A. 91-357.)

10/4. Issuance of permit; 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. 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.
(Source: P.A. 84-1065.)

10/5. Endangered species; 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. 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.
(Source: P.A. 84-1065.)

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 [26 U.S.C. 1539], 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 [26 U.S.C. 1536], 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.
(Source: P.A. 91-556.)

10/6. Endangered Species Protection Board; duties, composition, actions.

§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 [5 ILCS 100/1-1 et seq.], 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 [20 ILCS 415/1 et seq.], 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.
(Source: P.A. 84-1065.)

10/7. Listing and delisting; endangered species.

§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 [16 U.S.C. 1531 et seq.], as amended, 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" [5 ILCS 100/1-1 et seq.], approved September 22, 1975, as amended.
(Source: P.A. 84-1065.)

10/8. Authorization of search and seizure.

§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.
(Source: P.A. 84-1065.)

10/9. Violation.

§9. Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor.
(Source: P.A. 77-2830.)

10/10. Location of program; fine deposition.

§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.
(Source: P.A. 84-1065.)

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", 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 [26 U.S.C. 1536]) 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.
(Source: P.A. 91-556.)

CHAPTER 605
ROADS AND BRIDGES
(Selected Acts)

Act
5. Illinois Highway Code.
15. Dirksen Memorial Highway Act.
20. Peerson Memorial Highway Act.
25. Jolliet–Marquette Trail Act.
30. Bikeway Act.
105. Bridge Construction Act.
110. Bridge Pier Protection Act.
120. Illinois Adopt-a-Highway Act.

ACT 5. ILLINOIS HIGHWAY CODE
(Complete Act)

Article
1. Short Title, Legislative Intent, and Application of Code.
2. Systems of Highways – Definitions.
3. Federal Aid.
4. State Administration of Highways.
5. County Administration of Highways.
6. Administration of Township and District Roads.
7. Municipal Administration of Streets.
8. Freeways.
9. General Highway Provisions.
10. Special Provisions Concerning Bridges, Ferries, Terminals, and Other Highway Structures.
11. Effect of Code, Repeal and Other Provisions.

ARTICLE 1. SHORT TITLE, LEGISLATIVE INTENT, AND APPLICATION OF CODE

Section
5/1-101. Short title.
5/1-102. Legislative intent and declaration.
5/1-103. Application.

5/1-101. Short title.

§1-101. This Act shall be known and may be cited as the Illinois Highway Code. *(Source: Laws 1959, p. 196.)*

5/1-102. Legislative intent and declaration.

§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 protection of at-grade highway and railroad crossings shall also be permissible. *(Source: P.A. 81-3, SpSessII.)*

5/1-103. Application.

§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. *(Source: P.A. 77-173.)*

ARTICLE 2. SYSTEMS OF HIGHWAYS – DEFINITIONS

Division 1
Systems of Highways

Section
5/2-101. Description of State highway system.
5/2-102. Description of county highway system.
5/2-103. Description of township and district road system.
5/2-104. Description of municipal street system.

Division 2
Definitions

5/2-201. Definition of terms.
5/2-202. "Highway" defined.

5/2-203. "State highway" defined.
5/2-204. "County highway" defined.
5/2-205. "Township road" defined.
5/2-206. "District road" defined.
5/2-207. "Street" defined.
5/2-208. "Federal aid highway" defined.
5/2-209. "Federal Aid Road Act".
5/2-210. "Construct-Construction" defined.
5/2-211. "Department" defined.
5/2-212. "Freeway" defined.
5/2-213. "Highway authority or highway authorities" defined.
5/2-214. "Maintain-Maintenance" defined.
5/2-215. "Municipality" defined.
5/2-216. "Person" defined.
5/2-217. "Right-of-way" defined.
5/2-218. "Rural highway or rural road" defined.
5/2-219. "State funds" defined.
5/2-220. Forestation of Department-controlled lands.

DIVISION 1. SYSTEMS OF HIGHWAYS

5/2-101. Description of 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, 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;

(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" [repealed], approved June 27, 1917, as amended.

(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, 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, and accepted by the Department for maintenance under the provisions of Section 32 of that Act;

(e) Highways constructed under the provisions of Section 9 of the "Motor Fuel Tax Law", approved March 25, 1929, as amended, 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.
(Source: Laws 1967, p. 3065.)

5/2-102. Description of 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, 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, Section 12 of "An Act in relation to State highways" [repealed], approved June 24, 1921, as amended, or Section 9 of the "Motor Fuel Tax Law" [repealed], approved March 25, 1929, as amended.

(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, 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 [105 ILCS 5/10-22.36A] and connecting school grounds with any highway described in the preceding paragraphs of this Section.
(Source: P.A. 76-1500.)

5/2-103. Description of 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 [105 ILCS 5/10-22.36A] 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.
(Source: P.A. 78-1252; 78-1274.)

5/2-104. Description of 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 [105 ILCS 5/10-22.36A] which connects school grounds with such a street or road.
(Source: P.A. 76-1500.)

DIVISION 2. DEFINITIONS

5/2-201. Definition of terms.

§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.
(Source: Laws 1959, p. 196.)

5/2-202. "Highway" defined.

§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".
(Source: Laws 1959, p. 196.)

5/2-203. "State highway" defined.

§2-203. State highway – Any highway that is part of the State highway system described in Section 2-101.
(Source: Laws 1959, p. 196.)

5/2-204. "County highway" defined.

§2-204. County highway – Any highway that is part of the county highway system described in Section 2-102.
(Source: Laws 1959, p. 196.)

5/2-205. "Township road" defined.

§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.
(Source: Laws 1959, p. 196.)

5/2-206. "District road" defined.

§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.
(Source: Laws 1959, p. 196.)

5/2-207. "Street" defined.

§2-207. Street – Any highway that is part of the municipal street system described in Section 2-104.
(Source: Laws 1959, p. 196.)

5/2-208. "Federal aid highway" defined.

§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 [23 U.S.C. 101 et seq.].
(Source: Laws 1959, p. 196.)

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" [23 U.S.C. 101 et seq.], as heretofore or hereafter amended by Congress and all Acts heretofore or hereafter enacted by Congress which are supplemental thereto.
(Source: Laws 1959, p. 196.)

5/2-210. "Construct-Construction" defined.

§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.
(Source: Laws 1959, p. 196.)

5/2-211. "Department" defined.

§2-211. Department – The Department of Transportation of this State and its predecessor.
(Source: P.A. 77-173.)

5/2-212. "Freeway" defined.

§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.
(Source: Laws 1959, p. 196.)

5/2-213. "Highway authority or highway authorities" defined.

§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.
(Source: Laws 1959, p. 196.)

5/2-214. "Maintain-Maintenance" defined.

§2-214. Maintain-Maintenance – The performance of all things necessary to keep a highway in serviceable condition for vehicular traffic.
(Source: Laws 1959, p. 196.)

5/2-215. "Municipality" defined.

§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.
(Source: Laws 1959, p. 196.)

5/2-216. "Person" defined.

§2-216. Person – Any person, firm, partnership, association, public or private corporation, organization or business or charitable trust.
(Source: Laws 1959, p. 196.)

5/2-217. "Right-of-way" defined.

§2-217. Right-of-way – The land, or interest therein, acquired for or devoted to a highway.
(Source: Laws 1959, p. 196.)

5/2-218. "Rural highway or rural road" defined.

§2-218. Rural highway or rural road – Any highway or road outside the corporate limits of any municipality.
(Source: Laws 1959, p. 196.)

5/2-219. "State funds" defined.

§2-219. State funds – Any funds appropriated for highway purposes by the General Assembly.
(Source: Laws 1959, p. 196.)

5/2-220. Forestation of Department-controlled lands.

§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.
(Source: P.A. 89-445.)

ARTICLE 3. FEDERAL AID

Section

5/3-101. Acceptance of federal aid.
5/3-102. Increase in network mileage; selection of highways; equitable distribution of federal aid projects.
5/3-103. Agreements with United States Government relating to selection, etc., of highways.
5/3-104. Network of federal aid secondary highways; selection and designation; joint construction; responsibilities of local authorities.
5/3-104.1. Federal aid urban system of streets and highways; selection and designation; joint construction; responsibilities of local authorities.
5/3-104.2. Public roads not on Federal-aid system.
5/3-104.3. Great River Road; work done as part of federal-aid project.
5/3-105. Federal money received for construction of highways to be placed in Road Fund; retirement of Expressway bonds.
5/3-105.1. Federal money received for implementation of Federal "Commercial Motor Vehicle Safety Act of 1986" to be placed in Road Fund.
5/3-106. Maintenance of federal aid highways.
5/3-107. Relocating utility facilities incident to project on National System of Interstate and Defense Highways.
5/3-107.1. Person displaced by highway project; payment of moving expenses, etc., and loss of personal property, generally.
5/3-107.1a. Optional allowance for moving expenses, etc., and loss of personal property.
5/3-107.1b. Optional fixed relocation payment for moving or discontinuing business.
5/3-107.1c. Additional payment for loss of dwelling or rental of dwelling.
5/3-107.1d. Reimbursement of fees, taxes, etc., and mortgage penalty costs.

5/3-107.1e. Rules and regulations for payments.
5/3-107.1f. Construction in relation to eminent domain.
5/3-108. Federal aid highway to be part of State or county highway system or municipal street system.

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 [23 U.S.C. 101 et seq.] 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), 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.
(Source: Laws 1959, p. 196.)

5/3-102. Increase in network mileage; selection of highways; equitable distribution of federal aid projects.

§3-102. In accordance with the provisions of such Federal Aid Road Act [23 U.S.C. 101 et seq.], 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.
(Source: Laws 1959, p. 196.)

5/3-103. Agreements with United States Government 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 [23 U.S.C. 101 et seq.], 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.
(Source: Laws 1959, p. 196.)

5/3-104. Network of federal aid secondary highways; selection and designation; joint construction; responsibilities of local authorities.

§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 [23 U.S.C. 101 et seq.], 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.
(Source: P.A. 79-511.)

5/3-104.1. Federal aid urban system of streets and highways; selection and designation; joint construction; responsibilities of local authorities.

§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 [23 U.S.C. 101 et seq.].

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 authorities 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.
(Source: P.A. 79-511.)

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 [23 U.S.C. 101 et seq.].

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.
(Source: P.A. 84-298.)

5/3-104.3. Great River Road; work done as part of federal-aid project.

§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.
(Source: P.A. 80-691.)

5/3-105. Federal money received for construction of highways to be placed in Road Fund; retirement of Expressway bonds.

§3-105. Except as otherwise provided in the Treasurer as Custodian of Funds Act [15 ILCS 515/0.01 et seq.], 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 [55 ILCS 5/5-34001 et seq.] 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 (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 [23 U.S.C. 101 et seq.] 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.
(Source: P.A. 86-1475.)

5/3-105.1. Federal money received for implementation of Federal "Commercial Motor Vehicle Safety Act of 1986" to be placed in Road Fund.

§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," [15 ILCS 515/0.01 et seq.] approved July 3, 1939, as heretofore or hereafter amended, 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," [49 App. U.S.C. 2701 et seq.] Title XII, Public Law 99-570, shall be placed in the "Road Fund" in the State Treasury.
(Source: P.A. 85-853.)

5/3-106. Maintenance of federal aid highways.

§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 [23 U.S.C. 101 et seq.].
(Source: Laws 1959, p. 196.)

5/3-107. Relocating utility facilities incident to project on National System of Interstate and Defense Highways.

§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" [30 ILCS 415/2], approved July 2, 1971, as now or hereafter amended, 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 [23 U.S.C. 101 et seq.], and any acts supplemental thereto or amendatory thereof.
(Source: P.A. 77-2752.)

5/3-107.1. Person displaced by highway project; payment of moving expenses, etc., and loss of personal property, generally.

§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.
(Source: P.A. 85-1407.)

5/3-107.1a. Optional allowance for moving expenses, etc., and loss of personal property.

§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.
(Source: P.A. 85-1407.)

5/3-107.1b. Optional fixed relocation payment for moving or discontinuing business.

§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.
(Source: P.A. 85-1407.)

5/3-107.1c. Additional payment for loss of dwelling or 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.
(Source: P.A. 85-1407.)

5/3-107.1d. Reimbursement of fees, taxes, etc., and mortgage penalty costs.

§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.
(Source: P.A. 77-1577.)

5/3-107.1e. Rules and regulations for payments.

§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.
(Source: P.A. 76-623.)

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.
(Source: P.A. 76-623.)

5/3-108. Federal aid highway to be part of State or county highway system or municipal street system.

§3-108. Any highway constructed as a federal aid highway under the provisions of the Federal Aid Road Act [23 U.S.C. 101 et seq.] 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.
(Source: P.A. 77-1409.)

ARTICLE 4. STATE ADMINISTRATION OF HIGHWAYS

Division 1
General Powers of Department

Section
5/4-101. Powers and duties of Department, generally.
5/4-101.1. Supervision over highways constructed or maintained with State funds.
5/4-101.2. Rules and regulations relating to selection of county superintendent of highways.
5/4-101.3. Department to aid county superintendents of highways.
5/4-101.4. Preparation of plans, specifications, etc., for bridges and culverts.
5/4-101.5. Investigation of best methods of highway work.
5/4-101.6. Collection and compilation of data.
5/4-101.7. Approval of final plans, specifications and estimates for highways on which State funds may be expended.
5/4-101.8. Letting of contracts, generally.
5/4-101.9. Prescription of system of auditing and accounting.
5/4-101.10. Consultation with other highway authorities.
5/4-101.11. Investigations to determine future highway needs.
5/4-101.12. Promotion of highway improvements.
5/4-101.13. Maps for use by the public.
5/4-101.14. Obtaining necessary employees; limitation on discharge of operators of snow removal equipment.
5/4-101.15. Liability insurance for highway employee.
5/4-101.16. Preparation and maintenance of schedule of needs in relation to railroad-highway grade crossings.
5/4-102. Federal aid highways; preparations, contracts, bonds, work, and purchases of materials.
5/4-103. Letting of contracts; successful bidder to furnish bond; partial payments for work in progress; retainage of contract may be deposited under trust agreement.
5/4-104. Subcontractors' trust agreements.

Division 2
State Highways

5/4-201. Additional powers of Department relating to State highways, generally.
5/4-201.1. Determination and adoption of rules, regulations and specifications.
5/4-201.2. Connection of highways.
5/4-201.3. Relocation of highway in State highway system.
5/4-201.4. Contracts relating to State highways.
5/4-201.5. Construction and maintenance of highways which connect to parks, forests, wildlife refuges, and scenic or historic places.
5/4-201.6. Division of State highway system into sections or districts for repair and maintenance.
5/4-201.7. Purchase, rent, acquire and maintain equipment and material.
5/4-201.8. Purchase and acquisition of natural deposits of road material; erection of buildings and purchase of related equipment.
5/4-201.9. Acquisition and operation of ferries without charge to the public.
5/4-201.10. Lighting of State highways.
5/4-201.11. Numbering of State highways.
5/4-201.12. Erection and maintenance of traffic control devices and signs; bikeways.
5/4-201.13. Interstate bridges in federal-aid highway network.
5/4-201.14. Rest areas.
5/4-201.15. Preservation of natural beauty; cooperation with Department of Natural Resources; forestation.
5/4-201.16. Rental of land, buildings or improvements; report to General Assembly.
5/4-201.17. Leasing of projects from Illinois Highway Trust Authority.
5/4-201.18. Publicly-owned parking facilities.
5/4-201.19. Telephone service on State Highway System.
5/4-201.20. Demonstration projects.
5/4-202. Additional mileage.
5/4-203. Additional highways.
5/4-204. Description of State highway; filing.
5/4-205. Route through municipality.

5/4-206. Relocation of route.
5/4-207. Mail boxes on highways.
5/4-208. Routes leading from business centers; guide signs.
5/4-209. Damaging highway; permit when necessary; bond; violation.
5/4-210. Ingress and egress for owners of property abutting upon State highway; rules, regulations and specifications.
5/4-211. Construction of entrance or exit; conformity to rules, specifications, etc.; judicial review.
5/4-212. Failure to comply with rules, specifications, etc.; penalty.
5/4-213. Motor passenger carriers; loading areas adjacent to highway.
5/4-214. Plats.
5/4-215. Territorial maps; proposed subdivisions.
5/4-216. Removal of snow from private access.
5/4-217. Standing row crops as snow breaks.
5/4-218. Pilot program to evaluate use of calcium magnesium acetate made from corn to clear roadways of snow and ice.
5/4-219. Context sensitivity.

Division 3
Planning and Programming

5/4-303. Investigations by Department of future highway needs, generally.

Division 4
Construction and Maintenance

5/4-401. Widths of State highways.
5/4-402. Construction performed on State highway route in municipality.
5/4-403. Construction of belt-line routes.
5/4-404. Width and type of extension; construction in excess of need as determined by Department.
5/4-405. Maintenance of State highways; edge lines.
5/4-406. Maintenance contracts with municipalities and counties.
5/4-406.1. Surrender of jurisdiction.
5/4-407. Temporary closure; detours.
5/4-408. Temporary closure; detours; permit issued to local government agency; liability.
5/4-409. Contracts between highway authorities.
5/4-410. Demonstration project.

Division 5
Property Acquisition and Disposal

5/4-501. Acquisition of land for highway construction; remnants.
5/4-502. Purchase of land for highway construction; acquisition by right of eminent domain; no bond required.
5/4-503. Entering upon lands or waters; responsibility for damages.
5/4-504. Acquisition of land under control and custody of other State agency.
5/4-505. Relocation of railroad tracks or public utility facilities.
5/4-508. Sale or exchange of land, rights or other properties; preference given to previous owner.
5/4-508.1. Federal-aid projects; cessation; conveyance.
5/4-509. Replacement of public property.
5/4-510. Rights of way for future additions.
5/4-511. Replacement or relocation of structure demolished or removed incident to highway construction.
5/4-512. Street closing or relocating.

DIVISION 1. GENERAL POWERS OF DEPARTMENT

5/4-101. Powers and duties of Department, generally.

§4-101. The Department shall have the powers and duties stated in Sections 4-101.1 to 4-101.16, inclusive.
(Source: P.A. 78-315.)

5/4-101.1. Supervision over highways constructed or maintained 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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/4-101.3. Department to aid 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.
(Source: Laws 1959, p. 196.)

5/4-101.4. Preparation of plans, specifications, etc., for bridges and culverts.

§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.
(Source: Laws 1959, p. 196.)

5/4-101.5. Investigation of best methods of highway work.

§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.
(Source: Laws 1959, p. 196.)

5/4-101.6. Collection and compilation of data.

§4-101.6. To compile statistics relating to highways throughout the State and collect such information in regard thereto as it shall deem expedient.
(Source: Laws 1959, p. 196.)

5/4-101.7. Approval of final plans, specifications and estimates for 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.
(Source: Laws 1959, p. 196.)

5/4-101.8. Letting of contracts, generally.

§4-101.8. To let contracts in accordance with law for the construction of highways.
(Source: Laws 1959, p. 196.)

5/4-101.9. Prescription of system of auditing and accounting.

§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.
(Source: Laws 1959, p. 196.)

5/4-101.10. Consultation with other highway authorities.

§4-101.10. To consult with other highway authorities relative to any question involving highways.
(Source: Laws 1959, p. 196.)

5/4-101.11. Investigations to determine future highway needs.

§4-101.11. To make investigations to determine reasonably anticipated future need for federal aid highways and State highways.
(Source: Laws 1959, p. 196.)

5/4-101.12. Promotion of highway improvements.

§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.
(Source: Laws 1959, p. 196.)

5/4-101.13. Maps for use by the public.

§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.
(Source: Laws 1959, p. 196.)

5/4-101.14. Obtaining necessary employees; limitation on discharge of operators of snow removal equipment.

§4-101.14. To obtain, subject to the provisions of the "Personnel Code" [20 ILCS 415/1 et seq.], approved July 18, 1955, as heretofore or hereafter amended, 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.
(Source: Laws 1961, p. 3226.)

5/4-101.15. Liability insurance for highway employee.

§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).
(Source: P.A. 91-239, §5-520.)

5/4-101.16. Preparation and maintenance of schedule of needs in relation to 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.
(Source: P.A. 78-315.)

5/4-102. Federal aid highways; preparations, contracts, bonds, work, and purchases of materials.

§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.
(Source: Laws 1959, p. 196.)

5/4-103. Letting of contracts; successful bidder to furnish bond; partial payments for work in progress; retainage of contract may be deposited under trust agreement.

§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.
(Source: P.A. 84-1263.)

DIVISION 2. STATE HIGHWAYS

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.
(Source: P.A. 92-270.)

5/4-201. Additional powers of Department relating to State highways, generally.

§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.
(Source: P.A. 83-957.)

5/4-201.1. Determination and adoption of rules, regulations and specifications.

§4-201.1. To determine and adopt rules, regulations and specifications for State highways not inconsistent with this Code.
(Source: Laws 1959, p. 196.)

5/4-201.2. Connection of 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.
(Source: Laws 1959, p. 196.)

5/4-201.3. Relocation of highway in State highway system.

§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.
(Source: Laws 1959, p. 196.)

5/4-201.4. Contracts relating to State highways.

§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.
(Source: Laws 1959, p. 196.)

5/4-201.5. Construction and maintenance of highways which connect to parks, forests, wildlife refuges, and scenic or historic places.

§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.
(Source: P.A. 89-445.)

5/4-201.6. Division of State highway system into sections or districts for repair and maintenance.

§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.
(Source: Laws 1959, p. 196.)

5/4-201.7. Purchase, rent, acquire and maintain 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.
(Source: Laws 1959, p. 196.)

5/4-201.8. Purchase and acquisition of natural deposits of road material; erection of buildings and purchase of related equipment.

§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.
(Source: Laws 1959, p. 196.)

5/4-201.9. Acquisition and operation of ferries without charge to the public.

§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.
(Source: Laws 1959, p. 196.)

5/4-201.10. Lighting of State highways.

§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.
(Source: Laws 1959, p. 196.)

5/4-201.11. Numbering of State highways.

§4-201.11. To number or renumber all State highways; and each State highway shall always be designated by a number.
(Source: Laws 1959, p. 196.)

5/4-201.12. Erection and maintenance of traffic control devices and signs; bikeways.

§4-201.12. Except as provided in the Illinois Adopt-a-Highway Act [605 ILCS 120/1 et seq.], 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 [625 ILCS 5/11-301 et seq.].

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 [605 ILCS 30/2].
(Source: P.A. 87-1118.)

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.
(Source: Laws 1959, p. 1569.)

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.
(Source: P.A. 80-691.)

5/4-201.15. Preservation of natural beauty; cooperation with Department of Natural Resources; forestation.

§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.
(Source: P.A. 89-445.)

5/4-201.16. Rental of land, buildings or improvements; report to General Assembly.

§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" [25 ILCS 5/3.1], approved February 25, 1874, as amended, 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 [15 ILCS 320/7].
(Source: P.A. 84-1438.)

5/4-201.17. Leasing of projects from Illinois Highway Trust Authority.

§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.
(Source: P.A. 76-375.)

5/4-201.18. Publicly-owned parking facilities.

§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 [23 U.S.C. 101 et seq.] 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.
(Source: P.A. 77-1410.)

5/4-201.19. Telephone service on State Highway System.

§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.
(Source: P.A. 78-377.)

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.
(Source: P.A. 83-957.)

5/4-202. Additional mileage.

§4-202. Additional mileage may be added to the State highway system in the manner provided by this Code.
(Source: Laws 1959, p. 196.)

5/4-203. Additional highways.

§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.
(Source: P.A. 90-6.)

5/4-204. Description of State highway; filing.

§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.
(Source: Laws 1959, p. 196.)

5/4-205. Route through municipality.

§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.
(Source: Laws 1959, p. 196.)

5/4-206. Relocation of route.

§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.
(Source: Laws 1959, p. 1189.)

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.
(Source: P.A. 77-2238.)

5/4-208. Routes leading from business centers; guide signs.

§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.
(Source: Laws 1959, p. 196.)

5/4-209. Damaging highway; permit when necessary; bond; violation.

§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.
(Source: P.A. 77-2238.)

5/4-210. Ingress and egress for owners 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.
(Source: Laws 1959, p. 196.)

5/4-211. Construction of entrance or exit; conformity to rules, specifications, etc.; judicial review.

§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 [735 ILCS 5/3-101 et seq.].
(Source: P.A. 85-559.)

5/4-212. Failure to comply with rules, specifications, etc.; penalty.

§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.
(Source: P.A. 77-2238.)

5/4-213. Motor passenger carriers; loading areas adjacent to highway.

§4-213. Any person or an 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.
(Source: P.A. 77-2238.)

5/4-214. 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" [765 ILCS 205/9], approved March 21, 1874, as amended.
(Source: P.A. 83-358.)

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.
(Source: Laws 1959, p. 786.)

5/4-216. Removal of snow from private access.

§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.
(Source: Laws 1961, p. 2720.)

5/4-217. Standing row 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.
(Source: P.A. 81-1156.)

5/4-218. Pilot program to evaluate use of calcium magnesium acetate made from corn to clear roadways of snow and ice.

§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.
(Source: P.A. 85-1209.)

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.
(Added by P.A. 93-545, §5, eff. 1/1/2004.)

DIVISION 3. PLANNING AND PROGRAMMING

5/4-303. Investigations by Department of future highway needs, generally.

§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.
(Source: Laws 1959, p. 196.)

DIVISION 4. CONSTRUCTION AND MAINTENANCE

5/4-401. Widths 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.
(Source: Laws 1959, p. 196.)

5/4-402. Construction performed on State highway route in municipality.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/4-404. Width and type of extension; construction in excess of need as determined by Department.

§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.
(Source: Laws 1959, p. 196.)

5/4-405. Maintenance of State highways; edge lines.

§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 1,000 vehicles. The Department may paint and maintain such lines on such other State highways as it deems desirable.
(Source: P.A. 78-283.)

5/4-406. Maintenance contracts with municipalities and counties.

§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.
(Source: Laws 1959, p. 196.)

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 [65 ILCS 5/11-91.2-1], as now or hereafter amended.
(Source: P.A. 85-1421.)

5/4-407. Temporary closure; 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.
(Source: P.A. 84-873.)

5/4-408. Temporary closure; detours; permit issued to local government agency; liability.

§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.
(Source: Laws 1959, p. 196.)

5/4-409. Contracts between highway authorities.

§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.
(Source: P.A. 79-417.)

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.
(Source: P.A. 91-37.)

DIVISION 5. PROPERTY ACQUISITION AND DISPOSAL

5/4-501. Acquisition of land for highway construction; remnants.

§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.
(Source: P.A. 81-536.)

5/4-502. Purchase of land for highway construction; acquisition by right of eminent domain; no bond required.

§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.
(Source: Laws 1959, p. 196.)

5/4-503. Entering upon lands or waters; responsibility for damages.

§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.
(Source: P.A. 84-713.)

5/4-504. Acquisition of land under control and custody of other State agency.

§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.
(Source: Laws 1959, p. 196.)

5/4-505. Relocation of railroad 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 of 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.
(Source: Laws 1965, p. 428.)

5/4-508. Sale or exchange of land, rights or other properties; preference given to previous owner.

§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 remanents 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 remanents, 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 [20 ILCS 830/1-1 et seq.], or the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420/1 et seq.], 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.
(Source: P.A. 91-357.)

5/4-508.1. Federal-aid projects; cessation; conveyance.

§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.
(Source: P.A. 83-1258.)

5/4-509. Replacement of public property.

§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.
(Source: Laws 1965, p. 2921.)

5/4-510. Rights of way for future additions.

§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.
(Source: P.A. 91-357.)

5/4-511. Replacement or relocation of structure demolished or removed incident to highway 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.
(Source: P.A. 77-1577.)

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.
(Source: P.A. 88-242.)

ARTICLE 5. COUNTY ADMINISTRATION OF HIGHWAYS

Division 1
General Powers of County – Designation of County Highways

Section
5/5-101. Powers and duties of county board, generally.
5/5-101.1. Supervision of county highways.
5/5-101.2. Levying taxes and expending funds.
5/5-101.3. Construction of county and State highways.
5/5-101.4. Appropriation of funds to aid in construction of township and district highways.
5/5-101.5. Employing the proceeds of bonds.
5/5-101.6. Appointment of county superintendent of highways.
5/5-101.7. Money turned over to the county; donations.
5/5-101.8. Plats.
5/5-101.9. Exercise of any other power and duty.
5/5-101.10. Erection and maintenance of traffic control devices and signs.
5/5-101.11. Purchase or lease of highway construction and maintenance equipment.
5/5-102. Description of county highways; additions and deletions.
5/5-103. Map of county highway system.
5/5-104. Total mileage.
5/5-105. Temporary closings; changes in county highway system; additions and deletions.
5/5-106. Municipal extension of county highway.
5/5-107. Relocations of county highways.
5/5-108. Numbering of county highways.
5/5-109. Vacation of county highway.
5/5-110. Recording of vacation; exceptions.

Division 2
County Superintendent of Highways

5/5-201. County superintendent of highways and county engineer; appointment; qualifications of candidates; preference given to residents of county; individual may hold office in more than one county.
5/5-201.1. County Division of Transportation.
5/5-202. Term and salary of county superintendent of highways; county board to provide resources and personnel.
5/5-202.1. County director of Division of Transportation is employee of county board.
5/5-203. Removal from office; Administrative Review Law to apply.
5/5-203.1. County director of Division of Transportation to serve at the pleasure of appointing authority.
5/5-204. Vacancy of office; acting superintendent.
5/5-204.1. Chairman may appoint acting director.
5/5-205. Functions generally.
5/5-205.1. Preparation of plans, etc., of bridges and culverts.
5/5-205.2. Supervision of highway work.

5/5-205.3. Advising highway commissioners.
5/5-205.4. Preparation of maps, plans, etc., for highways using motor fuel tax funds.
5/5-205.5. Supervision of work on county highways.
5/5-205.6. Recording of contract or purchase.
5/5-205.7. Acting for county on matters relating to county unit district roads.
5/5-205.8. Performance of other duties; deputy to Department.
5/5-205.9. Report to road district treasurer.

Division 3
Planning and Programming

5/5-301. County long-range plan.

Division 4
Construction and Maintenance

5/5-401. Control and supervision of county highways; State aid roads.
5/5-402. Department approval and supervision required when certain funds are used; agreement between Department and County Highway Superintendent's Office.
5/5-403. Procedure when work is to be performed under supervision and approval of Department; resolutions; bids and letting of contracts.
5/5-405. Highway work on county lines.
5/5-406. Connection with county or State highway situated within an adjoining county.
5/5-407. Highways leading to public ferries over river which is the boundary line between two counties.
5/5-408. County funds for highway located within municipal limits.
5/5-409. Partial payments for work in progress; final payment.
5/5-410. Agreement to maintain county highway within municipal corporation.
5/5-410.1. Surrender of jurisdiction to municipality by agreement.
5/5-411. All-weather surfaces at mail boxes.
5/5-412. Standing rows of crops as snow breaks.
5/5-413. Access roads and driveways.
5/5-414. Permit for temporary closing.

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. County aid for bridges, culverts, drainage structures or grade separations; "county bridge fund".
5/5-502. County may pay for work; joint work with other highway authority; contract.
5/5-503. Bridges, culverts and drainage structures on county line roads.
5/5-504. Joint bridge construction.
5/5-505. Concurrent resolution to abandon jointly built, repaired or maintained bridge or culvert.
5/5-506. Approaches to be maintained separately.
5/5-507. Suit on joint contract.

Division 6
Taxation

5/5-601. County highway tax; limitation on increase; election.
5/5-601.1. Referendum on tax to be in accordance with general election laws.
5/5-602. Additional annual tax.
5/5-603. Federal aid matching tax.
5/5-604. Special tax for county highways or to assist road districts; proposition.
5/5-604.1. Annual tax for highways in county not under township organization; notice; referendum.
5/5-605. Issuing county bonds or raising additional tax; referendum required.
5/5-605.1. No referendum required to issue county bonds if Department approves.
5/5-605.2. Bonds for county highways.
5/5-606. Road district may turn over money to county for county highways.
5/5-607. Tax in addition to other taxes.

Division 7
Use of Motor Fuel Tax Funds

5/5-701. County use of motor fuel tax.
5/5-701.1. Construction with money from Motor Fuel Tax Fund; priority.
5/5-701.2. State highways.
5/5-701.3. Maintenance of county or State highway.
5/5-701.4. Retirement of bonds.
5/5-701.5. Payment of bonds for superhighways; limitations.
5/5-701.6. Investigations of need for work; cooperation with other governmental units.
5/5-701.7. Payment of county's share of federal aid projects.
5/5-701.8. Money may be turned over to local transit authorities.
5/5-701.9. County garage or office space.
5/5-701.10. Circuit court or highway-related department.
5/5-701.11. Payment of bonds for county highway work.
5/5-701.12. Office space.
5/5-701.13. Motor fuel tax funds; counties over 500,000.
5/5-701.14. Grade separations and approaches.
5/5-701.15. Nondedicated subdivision roads.
5/5-701.16. Payment of bonds for county highways, roads or bridges.
5/5-701.17. Construction, maintenance, or improvement of county unit roads.
5/5-702. Compliance with Department of Transportation guidelines is continuing requirement for receipt of motor fuel tax money.

Division 8
Property Acquisition

5/5-801. Exercise of right of eminent domain; no bond required; remnants.
5/5-802. Work on ditch, drain or watercourse; no bond required in eminent domain proceeding.
5/5-803. Entry upon lands or waters; responsibility for damages.

Division 9
Road Improvement Impact Fees

5/5-901. Short title.
5/5-902. General purposes.
5/5-903. Definitions.
5/5-904. Authorization for the imposition of an impact fee.
5/5-905. Procedure for the imposition of impact fees.
5/5-906. Impact fee ordinance or resolution requirements.
5/5-907. Advisory Committee.
5/5-908. Duties of the Advisory Committee.
5/5-909. Unit of local government to cooperate with the Advisory Committee.
5/5-910. Comprehensive road improvement plan.
5/5-911. Assessment of impact fees.
5/5-912. Payment of impact fees.
5/5-913. Impact fees to be held in interest bearing accounts.
5/5-914. Expenditures of impact fees.
5/5-915. Comprehensive road improvement plan amendments and updates.
5/5-916. Refund of impact fees.
5/5-917. Appeals process.
5/5-918. Transition clauses.
5/5-919. Home rule preemption.

DIVISION 1. GENERAL POWERS OF COUNTY – DESIGNATION OF COUNTY HIGHWAYS

5/5-101. Powers and duties of county board, generally.

§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.
(Source: Laws 1965, p. 1000.)

5/5-101.1. 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.
(Source: P.A. 85-853.)

5/5-101.2. Levying taxes and expending funds.

§5-101.2. To levy taxes and expend funds, either general or special, in accordance with law for highway purposes.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/5-101.4. Appropriation of funds to aid in construction of 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.
(Source: Laws 1959, p. 196.)

5/5-101.5. Employing the proceeds of bonds.

§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.
(Source: Laws 1959, p. 196.)

5/5-101.6. Appointment of county superintendent of highways.

§5-101.6. To appoint a county superintendent of highways in the manner provided by Division 2 of this Article.
(Source: Laws 1959, p. 196.)

5/5-101.7. Money turned over to the county; donations.

§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.
(Source: Laws 1959, p. 196.)

5/5-101.8. 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" [765 ILCS 205/9], approved March 21, 1874, as amended.
(Source: P.A. 83-358.)

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.
(Source: Laws 1959, p. 196.)

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" [625 ILCS 5/1-100 et seq.], approved September 29, 1969, as amended.
(Source: P.A. 83-333.)

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 interest rate limitations set forth therein" [30 ILCS 305/0.01 et seq.], approved May 26, 1970, as amended.
(Source: P.A. 85-293.)

5/5-102. Description of county highways; additions and deletions.

§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.
(Source: Laws 1959, p. 196.)

5/5-103. Map of county highway system.

§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.
(Source: Laws 1967, p. 3388.)

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.
(Source: P.A. 85-784; 85-832; 85-854.)

5/5-105. Temporary closings; changes in county highway system; additions and deletions.

§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.
(Source: Laws 1967, p. 3388.)

5/5-106. Municipal extension of county highway.

§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.
(Source: Laws 1959, p. 196.)

5/5-107. Relocations 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 original location shall be considered abandoned as a county highway. 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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/5-109. Vacation of county highway.

§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.
(Source: Laws 1967, p. 3388.)

5/5-110. Recording of vacation; exceptions.

§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.
(Source: P.A. 83-358.)

DIVISION 2. COUNTY SUPERINTENDENT OF HIGHWAYS

5/5-201. County superintendent of highways and county engineer; appointment; qualifications of candidates; preference given to residents of county; individual may hold office in more than one county.

§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 [225 ILCS 325/1 et seq.], 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.
(Source: P.A. 87-217; 87-895.)

5/5-201.1. County Division of Transportation.

§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.
(Source: P.A. 84-756.)

5/5-202. Term and salary of county superintendent of highways; county board to provide resources 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.
(Source: P.A. 84-756.)

5/5-202.1. County director of Division of Transportation is employee of county board.

§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.
(Source: P.A. 84-756.)

5/5-203. Removal from office; Administrative Review Law to apply.

§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 [735 ILCS 5/3-101 et seq.] as now or hereafter amended.
(Source: P.A. 82-783.)

5/5-203.1. County director of Division of Transportation to serve at the pleasure of appointing authority.

§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.
(Source: P.A. 84-756.)

5/5-204. Vacancy of office; acting superintendent.

§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.
(Source: Laws 1959, p. 196.)

5/5-204.1. Chairman may appoint acting director.

§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.
(Source: P.A. 84-756.)

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.
(Source: P.A. 88-572.)

5/5-205.1. Preparation of plans, etc., of 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.
(Source: Laws 1965, p. 2719.)

5/5-205.2. Supervision of highway work.

§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.
(Source: Laws 1959, p. 196.)

5/5-205.3. Advising highway commissioners.

§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.
(Source: P.A. 80-1444.)

5/5-205.4. Preparation of maps, plans, etc., for highways 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.
(Source: Laws 1959, p. 196.)

5/5-205.5. Supervision of work on county highways.

§5-205.5. Supervising the construction or maintenance of all county highways within the county.
(Source: Laws 1959, p. 196.)

5/5-205.6. Recording of contract or purchase.

§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.
(Source: P.A. 81-693.)

5/5-205.7. Acting for county on matters relating to 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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 84-756.)

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.
(Source: P.A. 88-572.)

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.
(Source: P.A. 85-853.)

DIVISION 4. CONSTRUCTION AND MAINTENANCE

5/5-401. Control and supervision of county highways; State aid roads.

§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" [repealed; see now 605 ILCS 5/1-101 et seq.], approved June 27, 1913, as amended, and required to be maintained equally by the county and the Department under the provisions of Section 32 of that Act shall continue to be so maintained.
(Source: Laws 1959, p. 196.)

5/5-402. Department approval and supervision required when certain funds are used; agreement between Department and County Highway Superintendent's Office.

§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.
(Source: P.A. 76-1850.)

5/5-403. Procedure when work is to be performed under supervision and approval of Department; resolutions; bids and letting of contracts.

§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.
(Source: P.A. 77-632.)

5/5-405. Highway work on county lines.

§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.
(Source: Laws 1959, p. 196.)

5/5-406. Connection with county or State highway situated within an adjoining county.

§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.
(Source: P.A. 85-136.)

5/5-407. Highways leading to public ferries over river which is the boundary line between two counties.

§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.
(Source: P.A. 83-345.)

5/5-408. County funds for highway located within municipal limits.

§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.
(Source: Laws 1965, p. 1070.)

5/5-409. Partial payments for work in progress; final payment.

§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 "An Act to revise the law in relation to mechanics' liens" [770 ILCS 60/23], approved May 18, 1903, as heretofore or hereafter amended.
(Source: Laws 1963, p. 2796.)

5/5-410. Agreement to maintain county highway within municipal corporation.

§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.
(Source: Laws 1959, p. 196.)

5/5-410.1. Surrender of jurisdiction to municipality by agreement.

§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 [65 ILCS 5/11-91.2-1], as now or hereafter amended.
(Source: P.A. 85-1421.)

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. *(Source: Laws 1959, p. 1800.)*

5/5-412. Standing rows of 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. *(Source: P.A. 84-1272.)*

5/5-413. Access roads and driveways.

§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. *(Source: P.A. 85-808.)*

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. *(Source: P.A. 91-775.)*

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. County aid for bridges, culverts, drainage structures or grade separations; "county bridge fund".

§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 [35 ILCS 200/18-185 et seq.] 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.
(Source: P.A. 90-110.)

5/5-502. County may pay for work; joint work with other highway authority; contract.

§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.
(Source: P.A. 83-345.)

5/5-503. Bridges, culverts and 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.
(Source: P.A. 83-345.)

5/5-504. Joint bridge construction.

§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.
(Source: P.A. 86-528.)

5/5-505. Concurrent resolution to abandon jointly built, repaired or maintained bridge or culvert.

§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.
(Source: Laws 1959, p. 196.)

5/5-506. Approaches to be maintained separately.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

DIVISION 6. TAXATION

5/5-601. County highway tax; limitation on increase; 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 [55 ILCS 5/6-24001] 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	

(Source: P.A. 86-1475.)

5/5-601.1. Referendum on tax to be in accordance with general election laws.

§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.
(Source: P.A. 81-1489.)

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 [35 ILCS 200/18-120, 200/18-125, 200/18-130]. 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.
(Source: P.A. 88-670.)

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.
(Source: P.A. 86-616.)

5/5-604. Special tax for county highways or to assist road districts; 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.
(Source: P.A. 85-527.)

5/5-604.1. Annual tax for highways in county not under township organization; notice; referendum.

§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.
(Source: P.A. 87-767.)

5/5-605. Issuing county bonds or raising additional tax; referendum required.

§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.
(Source: P.A. 81-1489.)

5/5-605.1. No referendum required to issue county bonds if Department approves.

§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.
(Source: Laws 1967, p. 762.)

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 [55 ILCS 5/5-1012] or Section 5-605 of this Code with respect to the issuance of such bonds.
(Source: P.A. 86-1475.)

5/5-606. Road district may turn over money to county for county highways.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

DIVISION 7. USE OF MOTOR FUEL TAX FUNDS

5/5-701. County use 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" [35 ILCS 505/8], approved March 25, 1929, as now or hereafter amended, 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.
(Source: P.A. 85-962.)

5/5-701.1. Construction with money from Motor Fuel Tax Fund; 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.
(Source: P.A. 85-1407.)

5/5-701.2. 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.
(Source: Laws 1959, p. 196.)

5/5-701.3. Maintenance of county or State highway.

§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.
(Source: P.A. 85-1407.)

5/5-701.4. Retirement of bonds.

§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.
(Source: Laws 1959, p. 196.)

5/5-701.5. Payment of bonds for superhighways; limitations.

§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 [55 ILCS 5/5-33001 et seq.]. No moneys shall be paid from the Motor Fuel Tax Fund to any county which has issued bonds pursuant to the Counties Code [55 ILCS 5/1-1001 et seq.] 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 [55 ILCS 5/5-33002].
(Source: P.A. 86-1475.)

5/5-701.6. Investigations of need for work; cooperation with other governmental units.

§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.
(Source: Laws 1959, p. 196.)

5/5-701.7. Payment of county's share of federal aid projects.

§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 [23 U.S.C. 101 et seq.]. 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.
(Source: P.A. 91-315.)

5/5-701.8. Money may be turned over to local transit authorities.

§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" [70 ILCS 3610/1 et seq.], approved July 21, 1959, as now or hereafter amended;

(b) a local Transit Commission if such commission is created pursuant to Section 14-101 of The Public Utilities Act [220 ILCS 5/14-101]; or

(c) the Chicago Transit Authority established pursuant to the "Metropolitan Transit Authority Act" [70 ILCS 3605/1 et seq.], approved April 12, 1945, as now or hereafter amended.
(Source: P.A. 85-1209.)

5/5-701.9. County garage or 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 servicing, 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.
(Source: P.A. 76-808.)

5/5-701.10. Circuit court or highway-related 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.
(Source: P.A. 76-414.)

5/5-701.11. Payment of bonds for county highway work.

§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.
(Source: P.A. 85-962.)

5/5-701.12. 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.
(Source: P.A. 76-2256.)

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.
(Source: P.A. 88-502; 88-676.)

5/5-701.14. Grade separations and approaches.

§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.
(Source: P.A. 77-1849.)

5/5-701.15. Nondedicated subdivision roads.

§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" [35 ILCS 505/8], 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.
(Source: P.A. 83-957.)

5/5-701.16. Payment of bonds for county highways, roads or bridges.

§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.
(Source: P.A. 85-962.)

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 [35 ILCS 505/8], 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.
(Source: P.A. 87-1249.)

5/5-702. Compliance with Department of Transportation guidelines is continuing requirement for receipt of motor fuel tax money.

§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.
(Source: P.A. 77-173.)

DIVISION 8. PROPERTY ACQUISITION

5/5-801. Exercise of right of eminent domain; no bond required; remnants.

§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.
(Source: Laws 1967, p. 3206.)

5/5-802. Work on ditch, drain or watercourse; no bond required in eminent domain proceeding.

§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.
(Source: Laws 1959, p. 196.)

5/5-803. Entry upon lands or waters; responsibility for damages.

§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.
(Source: Laws 1959, p. 196.)

DIVISION 9. ROAD IMPROVEMENT IMPACT FEES

5/5-901. Short title.

§5-901. Short title.

This Division may be cited as the Road Improvement Impact Fee Law.
(Source: P.A. 86-97.)

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.
(Source: P.A. 86-97.)

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.
(Source: P.A. 90-356.)

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.
(Source: P.A. 88-470.)

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.

(Source: P.A. 86-97.)

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.

(Source: P.A. 86-97.)

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 [225 ILCS 454/1-1 et seq.] 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 non-public 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.

(Source: P.A. 91-245.)

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.

(Source: P.A. 86-97.)

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.

(Source: P.A. 86-97.)

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.
(Source: P.A. 86-97; 86-1158.)

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.
(Source: P.A. 86-97.)

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.
(Source: P.A. 86-97.)

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.
(Source: P.A. 86-97.)

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.
(Source: P.A. 86-97.)

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.
(Source: P.A. 88-470.)

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.
(Source: P.A. 87-187.)

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.
(Source: P.A. 86-97.)

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.

(Source: P.A. 86-97; 86-1158.)

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.

(Source: P.A. 86-97.)

ARTICLE 6. ADMINISTRATION OF TOWNSHIP AND DISTRICT ROADS

Division 1
District Organization and Powers

Section

5/6-101. Roads are under the jurisdiction of the several road districts in which they are located.

5/6-102. Road district in county under township organization; consolidated township district and county unit road district.

5/6-103. Road district in county not under township organization.

5/6-104. Organization of territory within municipality into road district; disconnection and annexation.

5/6-105. Alteration of road district boundaries in county not under township organization; petition for change in existing district or creation of new district; notice.

5/6-106. Name of road district.

5/6-107. Powers of road district in county not under township organization.

5/6-107.1. Road district may borrow money.

5/6-108. Consolidated township road district; petition for referendum; consideration by court and orders.

5/6-109. Form of proposition for consolidated township road district.

5/6-110. Several road districts organization; similarity.

5/6-111. Organization into county unit road district; referendum; district to be independent agency; taxation.

5/6-112. Highway commissioner.

5/6-113. Clerk.

5/6-114. Treasurer; bond required.

5/6-115. Eligibility requirements for offices of highway commissioner and clerk.

5/6-116. Election of highway commissioner and clerk, generally; time of taking office; exceptions.

5/6-117. Election of highway commissioner and clerk in county not under township organization.

5/6-118. Oath or affirmation of office.

5/6-119. Records and other property, etc., to go to successor; delivery upon oath.

5/6-120. Vacancies; county under township organization.

5/6-121. Vacancies; county not under township organization.

5/6-122. Highway commissioner of consolidated township road district; board of auditors to fill vacancy by appointment.

5/6-123. Highway board of auditors for consolidated township road district.

5/6-124. Delivery of property and funds to consolidated township road district; bonded indebtedness.

5/6-125. Responsibility of county superintendent of highways for work in county unit road district; succession to and assumption of obligations and contracts; bonded indebtedness; districts to be independent agencies.

5/6-126. Property and equipment delivered to county superintendent of highways.

5/6-127. Construction of county unit district roads; district to be administered as separate county agency; division of district into sub-units and hiring of personnel.

5/6-129. Annual budget; resume of work.

5/6-130. Minimum size of township road district.

5/6-131. Senior citizen transportation and mass transit programs; district road fund.

Division 2
Functions and Compensation of District Officials

5/6-201. Highway commissioner, generally.

5/6-201.1. Presence for conduct of official business; certification of tax levy.

5/6-201.2. Alteration of township or district roads.

5/6-201.3. Inclusion of roads in township or district road system.

5/6-201.4. Recording of roads in office of district clerk.

5/6-201.5. Determination of tax levy.

5/6-201.6. Expenditure of road moneys; warrants.

5/6-201.7. Responsibility for highway work; bidding and letting of contracts; limitations on contracts; emergency contracts.

5/6-201.8. General charge of roads of district; cooperation with the Department of Human Services or other authorities.
5/6-201.9. Possession and sheltering of machinery, equipment, etc.
5/6-201.10. Cooperation with other highway authorities in the use of machinery, equipment or tools.
5/6-201.10-1. Contracting with other governmental units for services or materials.
5/6-201.11. Erection and repair of signs.
5/6-201.12. Road lighting.
5/6-201.13. Furnishing list of warrants to county superintendent.
5/6-201.14. Building curbs and sidewalks in unincorporated communities.
5/6-201.15. Annual report.
5/6-201.16. Erection and maintenance of traffic-control devices and signs.
5/6-201.17. Purchasing or leasing or financing the purchase of highway construction and maintenance equipment under contracts providing for payment in installments.
5/6-201.18. Standing crops as snow breaks.
5/6-201.19. Hiring of legal counsel when conflict of interest.
5/6-201.20. Rules concerning employee benefits.
5/6-201.21. Special services; disaster relief.
5/6-202. Functions of district clerk, generally.
5/6-202.1. Custody of records, etc.; filing of certificates, etc., as required by law; administering oaths and taking affidavits.
5/6-202.2. Recording of orders of highway commissioner; public records.
5/6-202.3. Countersigning and recording of warrants.
5/6-202.4. Maintaining stationery supplies.
5/6-202.5. Reporting road district elections.
5/6-202.6. Calling for bids; presence when bids are opened.
5/6-203. Limitation on power and jurisdiction of highway commissioner over municipal streets and alleys.
5/6-204. Failure of highway commissioner to perform duty; penalties.
5/6-205. District treasurer to receive and have charge of moneys; exceptions; sworn statement.
5/6-206. Designation of financial institution for keeping of road funds and deposit therein; compliance with Public Funds Investment Act.
5/6-207. Compensation of highway commissioner and other officers.

Division 3
Laying out, Widening, Altering, or Vacating Township and District Roads

5/6-301. Minimum width of road; designation of arterial road; limitation on closing or vacating; exceptions.
5/6-302. Reduction of width of existing road; limitation.
5/6-303. Altering, vacating, or laying out of road; petition; certificate in case of State requirement; highway commissioner may file certificate to vacate road.
5/6-304. Road district may aid Department of Transportation; authorization for payments, warrants, taxes, and bonds.
5/6-305. Highway commissioner to examine route; hearing; notice; decision.
5/6-306. Appeal.
5/6-307. Survey; resurvey.
5/6-308. Fixing of damages.
5/6-309. Agreement on damages; entering of condemnation proceedings.
5/6-310. Road work inducements.
5/6-311. Final order of highway commissioner or county superintendent of highways.
5/6-312. Appeal from final order; judicial review.
5/6-313. Effect of final order.
5/6-314. Subsequent proceedings.
5/6-315. Records of district clerk are prima facie evidence.
5/6-315a. Review under Administrative Review Law.
5/6-316. Opening of roads.
5/6-317. Removal of fences.
5/6-318. Harvesting of crops prior to taking or damaging land.
5/6-319. Roads on district and county lines, etc.
5/6-320. Allotment of new road on county or district line; division of expenses and damages; arbitration.
5/6-321. Division, allotment, and repair of roads on district or county lines.
5/6-322. State line roads.
5/6-323. Notice to railroad company.
5/6-324. Relocation, etc., of township or district road at grade crossing; certification of Illinois Commerce Commission; apportionment of costs and damages.
5/6-325. Inclusion in township or district road system; exceptions.
5/6-326. Laying out, altering, or vacating road in county unit road district.
5/6-326.1. Temporary closure.
5/6-327. Roads for private and public use.
5/6-328. Recording of plat.
5/6-329. Recording of vacation.

Division 4
Construction and Maintenance of Township and District Roads

5/6-401. Compelling highway commissioner to repair road.
5/6-402. Bridge or culvert on district line; joint contract; judicial enforcement.
5/6-404. Approaches to bridges on or near district lines.
5/6-405. Duty to make appropriation for shared cost; judicial order to compel compliance; recovery of expense by suit.
5/6-406. Suit on joint contract.
5/6-407. *(Repealed.)*
5/6-408. Contracts for work on district lines.
5/6-409. Contractor to file bond.
5/6-410. Final payments; prerequisites.
5/6-411. Pecuniary interest in leases.
5/6-411.1. Pecuniary interest in contracts.
5/6-411.5. Contracts for public transportation.
5/6-412. All-weather surfaces at mail boxes.
5/6-412.1. Liability insurance.

Division 5
Taxation

5/6-501. Findings and purpose.
5/6-502. Copy of certificate; preservation; district clerk not to certify levy of tax to county clerk.
5/6-503. Damages for laying out road, etc.; tax levy.
5/6-504. Referendum on increase in district's rate limitation; notice; limitation on number of referenda.
5/6-505. Form of proposition; election results; multiple proposals.
5/6-506. Extension of tax when increase has been voted.
5/6-507. Extension and collection of taxes; disposition.
5/6-508. Tax for joint construction of bridges; separate fund; transfer of surplus to road fund.
5/6-508.1. Equipment and building tax.
5/6-509. Damages allowed for roads or ditches; anticipatory orders.
5/6-510. Referendum on bonds; form of proposition; issuance, content, registration.
5/6-511. Road district may turn over money from regular road taxes to municipality.
5/6-512. "County Unit Road District Road Tax"; limitations; money for roads to be separate from money for bridges and drainage works.
5/6-512.1. Increase of road tax; petition; referendum; notice.
5/6-513. County unit road district bonds; referendum.
5/6-514. Issuance of refunding bonds after township organization abandoned; interest.
5/6-515. Resolution authorizing issuance of refunding bonds; interest.
5/6-516. Resolution authorizing refunding bonds to prescribe details and provide for direct annual tax; filing.
5/6-517. Exchange of bonds; cancellation of bonds exchanged or paid.
5/6-518. Refunding bonds, generally.
5/6-519. Reduction of taxes after purchase and cancellation of refunding bonds.
5/6-520. Sinking fund account; investments.
5/6-521. Refunding plan; agreements.
5/6-522. Authority for issuing refunding bonds; application; additional powers.

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.
5/6-602. Levy of tax; donations.
5/6-603. Collection of tax.
5/6-604. Bond of treasurer.
5/6-605. Duty and commission of tax collector.
5/6-615. Extension of road through municipality.
5/6-616. Surplus to go to regular road fund.
5/6-617. Repeal of special tax once levied; referendum.

Division 7
Use of Motor Fuel Tax Funds

5/6-701. Uses of motor fuel tax funds allocated for road districts, generally.
5/6-701.1. Construction of roads and grades; procedure.
5/6-701.2. Maintenance of roads and grades; compliance with Department and county guidelines.
5/6-701.3. Administration and engineering costs.
5/6-701.4. Payment of indebtedness.
5/6-701.5. Township may turn over money to local Mass Transit District.
5/6-701.6. Payment of road or grade separation bonds.
5/6-701.7. Signs or markings indicating bicycle routes.
5/6-701.8. Use of formula allocation for distribution of motor fuel tax funds.
5/6-701.9. Township's share of Great River Road projects.
5/6-702. Payment of money to county contingent upon compliance with Department guidelines.

Division 8
Property Acquisition and Disposition

5/6-801. Acquisition of land and property for township or district roads; eminent domain; bond not required.
5/6-802. Acquisition of land for ditches and drainage; eminent domain; bond not required.
5/6-803. Entering upon lands or waters; responsibility for damages.
5/6-803.1. Surplus public real estate.
5/6-804. County unit road district; powers of county.
5/6-805. Township road districts.

Division 9
State Funding of Road District Bridges

5/6-901. Appropriation and apportionment for bridges.
5/6-902. Selection of bridges to be constructed; preparation of maps, plans and estimates.
5/6-903. Payment of indebtedness.
5/6-904. County to comply with expenditure guidelines of Department of Transportation.
5/6-905. Share of local funds to obtain grant.
5/6-906. Payment to county treasurer.

DIVISION 1. DISTRICT ORGANIZATION AND POWERS

5/6-101. Roads are under the jurisdiction of the several road districts in which they are located.

§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.
(Source: Laws 1959, p. 196.)

5/6-102. Road district in county under township organization; consolidated township district and county unit road district.

§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.
(Source: Laws 1959, p. 196.)

5/6-103. Road district in county 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.
(Source: Laws 1959, p. 196.)

5/6-104. Organization of territory within municipality into road district; disconnection and annexation.

§6-104. Whenever the territory of any municipality of a population of not less than 15,000 is a part of two or more road districts 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 construction, 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 [65 ILCS 5/8-3-1], as heretofore and hereafter amended.

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.
(Source: Laws 1961, p. 1415.)

5/6-105. Alteration of road district boundaries in county not under township organization; petition for change in existing district or creation of new district; notice.

§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.
(Source: P.A. 81-1490.)

5/6-106. Name of road district.

§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.
(Source: Laws 1959, p. 196.)

5/6-107. Powers of road district in county not under township organization.

§6-107. Road districts in counties not under township organization 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.
(Source: P.A. 83-388.)

5/6-107.1. Road district may borrow 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 [205 ILCS 5/1 et seq.], any savings and loan association subject to the Illinois Savings and Loan Act of 1985 [205 ILCS 105/1-1 et seq.], 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.
(Chgd. by P.A. 93-743, §10, eff. 7/15/2004.)

5/6-108. Consolidated township road district; petition for referendum; consideration by court and orders.

§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.
(Source: P.A. 81-1489.)

5/6-109. Form of proposition for consolidated township road district.

§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.
(Source: P.A. 81-1489.)

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.
(Source: Laws 1959, p. 196.)

5/6-111. Organization into county unit road district; referendum; district to be independent agency; taxation.

§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.
(Source: P.A. 81-1489.)

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.
(Source: Laws 1959, p. 196.)

5/6-113. 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.
(Source: Laws 1959, p. 196.)

5/6-114. Treasurer; bond required.

§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.
(Source: Laws 1959, p. 196.)

5/6-115. Eligibility requirements for offices of highway commissioner and clerk.

§6-115. Except as provided in Section 10-20 of the Township Code [60 ILCS 1/10-20], 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.
(Source: P.A. 88-670.)

5/6-116. Election of highway commissioner and clerk, generally; time of taking office; exceptions.

§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 first 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.
(Source: P.A. 83-108.)

5/6-117. Election of highway commissioner and clerk in county 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.
(Source: P.A. 81-1490.)

5/6-118. Oath or affirmation 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.
(Source: Laws 1967, p. 4041.)

5/6-119. Records and other property, etc., to go to successor; delivery upon 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.
(Source: Laws 1959, p. 196.)

5/6-120. Vacancies; county 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.
(Source: Laws 1967, p. 1726.)

5/6-121. Vacancies; county 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.
(Source: P.A. 84-550.)

5/6-122. Highway commissioner of consolidated township road district; board of auditors to fill vacancy by appointment.

§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.
(Source: P.A. 81-1490.)

5/6-123. Highway board of auditors for consolidated township road district.

§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.
(Source: Laws 1959, p. 196.)

5/6-124. Delivery of property and funds to consolidated township road district; bonded indebtedness.

§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.
(Source: Laws 1959, p. 196.)

5/6-125. Responsibility of county superintendent of highways for work in county unit road district; succession to and assumption of obligations and contracts; bonded indebtedness; districts to be independent agencies.

§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.
(Source: P.A. 78-543.)

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.
(Source: P.A. 76-174.)

5/6-127. Construction of county unit district roads; district to be administered as separate county agency; division of district into sub-units and hiring of personnel.

§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.
(Source: P.A. 78-1128.)

5/6-129. Annual 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.
(Source: P.A. 76-174.)

5/6-130. Minimum size of township road district.

§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. 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.
(Source: P.A. 92-800.)

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.
(Source: P.A. 90-183.)

DIVISION 2. FUNCTIONS AND COMPENSATION OF DISTRICT OFFICIALS

5/6-201. Highway commissioner, generally.

§6-201. The highway commissioner of each road district shall perform the functions stated in the following Sections preceding Section 6-202.
(Source: P.A. 87-818.)

5/6-201.1. Presence for conduct of official business; certification of 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.
(Source: P.A. 87-738; 87-1189.)

5/6-201.2. Alteration of township or district roads.

§6-201.2. Lay out, alter, widen or vacate township or district roads as provided in this Code.
(Source: Laws 1959, p. 196.)

5/6-201.3. Inclusion of roads 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.
(Source: Laws 1959, p. 196.)

5/6-201.4. Recording of roads 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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 86-1179.)

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.
(Chgd. by P.A. 93-109, §10, eff. 7/8/2003; 93-610, §10, eff. 11/18/2003.)

5/6-201.7. Responsibility for highway work; bidding and letting of contracts; limitations on contracts; emergency contracts.
(Multiple versions enacted. See other 605 ILCS 5/6-201.7 below.)

§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. No contract shall be let for the construction or repair of any road or part thereof in excess of the amount of $10,000, nor shall any material, machinery or other appliances to be used in road construction or maintenance of roads in excess of such amount be purchased, nor shall several contracts each for an amount of $10,000 or less be let for the construction or repair of any road or part thereof when such construction or repair is in reality part of one project costing more than $10,000, nor shall any material, machinery or other appliance to be used therein be purchased under several contracts each for an amount of $10,000 or less, if such purchases are essentially one transaction amounting to more than $10,000, without the written approval of the county superintendent of highways in the case of road districts other than consolidated township road districts or without the written approval of the highway board of auditors in the case of consolidated township road districts. 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 $10,000, the contract for such construction, materials, supplies, machinery or equipment shall be let, after the above written approval is obtained, 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 upon the approval of the County Superintendent of Highways expressing in writing the existence of such emergency and, in the case of consolidated township road districts, upon the approval of the highway board of auditors. 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.
(Source: P.A. 92-268. Chgd. by P.A. 93-109, §10, eff. 7/8/2003; 93-610, §10, eff. 11/18/2003.)

5/6-201.7. Responsibility for highway work; bidding and letting of contracts; limitations on contracts; emergency contracts.
(Multiple versions enacted. See other 605 ILCS 5/6-201.7 above.)

§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.

Except for professional services, when the cost of construction, materials, supplies, new machinery or equipment exceeds $10,000, 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.
(Source: P.A. 92-268. Chgd. by P.A. 93-164, §5, eff. 7/10/2003.)

5/6-201.8. General charge of roads of district; cooperation with the Department of Human Services or other authorities.

§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 [20 ILCS 1305/1-1 et seq.]) or other public assistance authorities.
(Source: P.A. 89-507.)

5/6-201.9. Possession and sheltering of machinery, equipment, etc.

§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.
(Source: Laws 1959, p. 196.)

5/6-201.10. Cooperation with other highway authorities in the 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.
(Source: Laws 1959, p. 196.)

5/6-201.10-1. Contracting with other governmental units for services or materials.

§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.
(Source: P.A. 81-22.)

5/6-201.11. Erection and repair of signs.

§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 or by the Illinois Vehicle Code [625 ILCS 5/1-100 et seq.].

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.
(Source: P.A. 88-661.)

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.
(Source: Laws 1959, p. 196.)

5/6-201.13. Furnishing 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.
(Source: Laws 1959, p. 196.)

5/6-201.14. Building curbs and sidewalks 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.
(Chgd. by P.A. 93-321, §5, eff. 7/23/2003.)

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.
(Source: P.A. 87-1208.)

5/6-201.16. Erection and maintenance of traffic-control devices and signs.

§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" [625 ILCS 5/1-100 et seq.], approved September 29, 1969, as amended.
(Source: P.A. 83-333.)

5/6-201.17. Purchasing or leasing or financing the purchase of highway construction and maintenance equipment under contracts providing for payment in installments.

§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 [60 ILCS 1/30-50]. 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.
(Source: P.A. 89-331.)

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.
(Source: P.A. 84-1272.)

5/6-201.19. Hiring of legal counsel when conflict 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.
(Source: P.A. 84-778.)

5/6-201.20. Rules concerning employee benefits.

§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.
(Source: P.A. 87-818.)

5/6-201.21. Special services; disaster relief.

§6-201.21. Special services; disaster relief.

Subject to Section 30-117 of the Township Code [60 ILCS 1/30-117], the highway commissioner has authority to provide for orderly collection 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 in those townships or counties that regulate by ordinance open burning of brush or leaves. Further, 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.
(Added by P.A. 93-109, §10, eff. 7/8/2003; 93-610, §10, eff. 11/18/2003.)

5/6-202. Functions of district clerk, generally.

§6-202. The district clerk of each road district shall perform the functions stated in Sections 6-202.1 to 6-202.6.
(Source: P.A. 83-791.)

5/6-202.1. Custody of records, etc.; filing of certificates, etc., as required by law; administering oaths and taking affidavits.

§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.
(Source: Laws 1959, p. 196.)

5/6-202.2. Recording of orders of highway commissioner; public records.

§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.
(Source: Laws 1959, p. 196.)

5/6-202.3. Countersigning and recording of warrants.

§6-202.3. Countersign and keep a complete record of all warrants issued by the highway commissioner.
(Source: Laws 1959, p. 196.)

5/6-202.4. Maintaining stationery supplies.

§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.
(Source: Laws 1959, p. 196.)

5/6-202.5. Reporting road 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.
(Source: P.A. 81-1490.)

5/6-202.6. Calling for bids; presence when bids are opened.

§6-202.6. Be responsible for placing the advertisement of bids and to be present when bids are opened.
(Source: P.A. 83-791.)

5/6-203. Limitation on power and jurisdiction of highway commissioner over municipal streets and alleys.

§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.
(Source: P.A. 86-1229.)

5/6-204. Failure of highway commissioner to perform duty; 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.
(Source: Laws 1963, p. 3031.)

5/6-205. District treasurer to receive and have charge of moneys; exceptions; sworn statement.

§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 [40 ILCS 5/21-101 et seq.], 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. In no case shall payment be made on several orders of $5,000 or less where such orders are in payment of a contract or contracts, constituting a single project or transaction, either for road construction or maintenance or for the purchase of material, machinery or other appliance to be used therein, if such plan or project costs more than $5,000, unless such orders are accompanied by the written approval of the county superintendent of highways or the highway board of auditors. 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.
(Source: P.A. 83-1362.)

5/6-206. Designation of financial institution for keeping of road funds and deposit therein; compliance with Public Funds Investment Act.

§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" [30 ILCS 235/6], approved July 23, 1943, as now or hereafter amended.
(Source: P.A. 83-541.)

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.
(Source: P.A. 90-81; 90-183; 90-655.)

DIVISION 3. LAYING OUT, WIDENING, ALTERING, OR VACATING TOWNSHIP AND DISTRICT ROADS

5/6-301. Minimum width of road; designation of arterial road; limitation on closing or vacating; exceptions.

§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 [65 ILCS 5/1-1-1 et seq.]. 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.
(Source: P.A. 86-1229.)

5/6-302. Reduction of width of existing road; limitation.

§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.
(Source: Laws 1959, p. 196.)

5/6-303. Altering, vacating, or laying out of road; petition; certificate in case of State requirement; highway commissioner may file certificate to vacate road.

§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.
(Source: P.A. 87-1121.)

5/6-304. Road district may aid Department of Transportation; authorization for payments, warrants, taxes, and bonds.

§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.
(Source: P.A. 81-1489.)

5/6-305. Highway commissioner to examine route; hearing; 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.
(Source: P.A. 85-1421.)

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.
(Source: Laws 1963, p. 3216.)

5/6-307. Survey; resurvey.

§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 superintendent, 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.
(Source: Laws 1959, p. 196.)

5/6-308. Fixing of damages.

§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.
(Source: Laws 1959, p. 196.)

5/6-309. Agreement on damages; entering of condemnation proceedings.

§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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.], as heretofore or hereafter amended.
(Source: P.A. 82-783.)

5/6-310. Road work 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.
(Source: P.A. 79-1366.)

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.
(Source: P.A. 83-1362.)

5/6-312. Appeal from final order; judicial review.

§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.
(Source: Laws 1963, p. 3216.)

5/6-313. Effect of final order.

§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.
(Source: Laws 1959, p. 196.)

5/6-314. 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.
(Source: Laws 1959, p. 196.)

5/6-315. Records of district clerk are prima facie evidence.

§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.
(Chgd. by P.A. 93-183, §5, eff. 7/11/2003.)

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 [735 ILCS 5/3-101 et seq.], and all amendments and modifications thereof, and any rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure [735 ILCS 5/3-101]. Such judicial review proceeding shall be given precedence over all other civil cases, except cases arising under the Workers' Compensation Act [820 ILCS 305/1 et seq.] and the Unemployment Insurance Act [820 ILCS 405/100 et seq.].
(Source: P.A. 91-357.)

5/6-316. Opening of roads.

§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.
(Source: Laws 1959, p. 196.)

5/6-317. Removal of fences.

§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.
(Source: Laws 1959, p. 196.)

5/6-318. Harvesting of crops prior to taking or damaging land.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 78-543.)

5/6-320. Allotment of new road on county or district line; division of expenses and damages; 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.
(Source: Laws 1959, p. 196.)

5/6-321. Division, allotment, and repair of roads on district or county 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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/6-323. Notice to railroad company.

§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.
(Source: Laws 1959, p. 196.)

5/6-324. Relocation, etc., of township or district road at grade crossing; certification of Illinois Commerce Commission; 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 [625 ILCS 5/18c-7401]. The Illinois Commerce Commission may apportion all costs and damages incident thereto as provided in said Section 18c-7401.
(Source: P.A. 85-1209.)

5/6-325. Inclusion in township or district road system; exceptions.

§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 alternative 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 if these alternative rules, specifications, and regulations shall be applicable in determining if these roads and street 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.
(Source: P.A. 91-775.)

5/6-326. Laying out, altering, or vacating road in county unit road district.

§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.
(Source: Laws 1959, p. 196.)

5/6-326.1. Temporary closure.

§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.
(Source: P.A. 79-510.)

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.
(Source: Laws 1963, p. 2045.)

5/6-328. Recording of plat.

§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" [765 ILCS 205/9], approved March 21, 1874, as amended.
(Source: P.A. 83-358.)

5/6-329. Recording of vacation.

§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.
(Source: P.A. 83-358.)

DIVISION 4. CONSTRUCTION AND MAINTENANCE OF TOWNSHIP AND DISTRICT ROADS

5/6-401. Compelling highway commissioner to repair road.

§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.
(Source: P.A. 79-1366.)

5/6-402. Bridge or culvert on district line; joint contract; judicial enforcement.

§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.
(Source: P.A. 83-345.)

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.
(Source: P.A. 84-962.)

5/6-405. Duty to make appropriation for shared cost; judicial order to compel compliance; recovery of expense by suit.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 84-962.)

5/6-407. *(Repealed by P.A. 93-704, §5, eff. 7/9/2004.)*

5/6-408. Contracts for work 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.
(Chgd. by P.A. 93-704, §5, eff. 7/9/2004.)

5/6-409. Contractor to file 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.
(Source: Laws 1959, p. 196.)

5/6-410. Final payments; prerequisites.

§6-410. All final payments on contracts for the construction or repair of roads, including the constructing or repairing [of] bridges or culverts, shall be made payable as soon as the work under such contract is completed and accepted by the highway commissioner and the county superintendent of highways. 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.
(Source: P.A. 83-791.)

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 $1,000 in the same fiscal year.
(Source: P.A. 89-305.)

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.

(Source: P.A. 89-305.)

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 [70 ILCS 3615/1.01 et seq.], 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.

(Source: P.A. 89-347.)

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.

(Source: Laws 1961, p. 473.)

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.

(Source: Laws 1961, p. 2724.)

DIVISION 5. TAXATION

5/6-501. Findings and purpose.

§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 [50 ILCS 330/1 et seq.] 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?"

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.

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.

(Source: P.A. 92-395; 92-656.)

5/6-502. Copy of certificate; preservation; district clerk not to certify levy of tax to county clerk.

§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.
(Source: P.A. 82-783.)

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.
(Source: P.A. 82-783.)

5/6-504. Referendum on increase in district's rate limitation; notice; limitation on number of referenda.

§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.
(Source: P.A. 87-768.)

5/6-505. Form of proposition; election results; 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 of (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.
(Source: P.A. 81-1509.)

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 provided 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.
(Source: P.A. 85-1178.)

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.
(Source: Laws 1959, p. 196.)

5/6-508. Tax for joint construction of bridges; separate fund; transfer of surplus to road fund.

§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 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.

(Source: P.A. 92-800. Chgd. by P.A. 93-164, §5, eff. 7/10/2003.)

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.
(Source: P.A. 87-768.)

5/6-509. Damages allowed for roads or ditches; 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.
(Source: Laws 1959, p. 196.)

5/6-510. Referendum on bonds; form of proposition; issuance, content, registration.

§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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/6-511. Road district may turn over money from regular road taxes to municipality.

§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.
(Source: P.A. 77-511.)

5/6-512. "County Unit Road District Road Tax"; limitations; money for roads to be separate from money for bridges and drainage works.

§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.
(Source: P.A. 90-655.)

5/6-512.1. Increase of road tax; petition; referendum; notice.

§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 of (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.
(Source: P.A. 81-1509.)

5/6-513. County unit road district bonds; referendum.

§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. 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" [30 ILCS 305/0.01 et seq.], approved May 26, 1970, as amended, 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.

(Source: P.A. 91-357.)

5/6-514. Issuance of refunding bonds after township organization abandoned; interest.

§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 [60 ILCS 1/25-25], 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.
(Source: P.A. 88-670.)

5/6-515. Resolution authorizing issuance of refunding bonds; 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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/6-516. Resolution authorizing refunding bonds to prescribe details and provide for direct annual tax; filing.

§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.
(Source: Laws 1959, p. 196.)

5/6-517. Exchange of bonds; 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.
(Source: Laws 1959, p. 196.)

5/6-518. Refunding bonds, generally.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/6-520. Sinking fund account; investments.

§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.
(Source: Laws 1959, p. 196.)

5/6-521. Refunding plan; agreements.

§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.
(Source: Laws 1959, p. 196.)

5/6-522. Authority for issuing refunding bonds; 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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 86-710.)

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. 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.
(Source: P.A. 82-783.)

5/6-603. 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.
(Source: P.A. 81-821.)

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.
(Source: Laws 1959, p. 196.)

5/6-605. Duty and commission of tax collector.

§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.
(Source: Laws 1959, p. 196.)

5/6-615. Extension of road through 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.
(Source: Laws 1959, p. 933.)

5/6-616. Surplus to go to regular road fund.

§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.
(Source: Laws 1959, p. 196.)

5/6-617. Repeal of special tax once levied; 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.
(Source: P.A. 82-11.)

DIVISION 7. USE OF MOTOR FUEL TAX FUNDS

5/6-701. Uses of motor fuel tax funds allocated for road districts, generally.

§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.
(Source: P.A. 80-691.)

5/6-701.1. Construction of roads and grades; 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.
(Source: P.A. 77-1628.)

5/6-701.2. Maintenance of roads and grades; compliance with Department and county guidelines.

§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 approval 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.
(Source: P.A. 78-819.)

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.
(Source: Laws 1959, p. 1189.)

5/6-701.4. Payment of indebtedness.

§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.
(Source: P.A. 77-1628.)

5/6-701.5. Township may turn over money to local Mass Transit District.

§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" [70 ILCS 3610/1 et seq.] enacted by the Seventy-first General Assembly.
(Source: Laws 1959, p. 1801.)

5/6-701.6. Payment of road or grade separation bonds.

§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.
(Source: P.A. 78-255.)

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.
(Source: P.A. 77-734.)

5/6-701.8. Use of formula allocation for distribution of motor fuel tax funds.

§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" [35 ILCS 505/8], 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 20% 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.
(Source: P.A. 83-957.)

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.
(Source: P.A. 80-691.)

5/6-702. Payment of money to county contingent upon compliance with Department guidelines.

§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.
(Source: P.A. 78-1252; 78-1274.)

DIVISION 8. PROPERTY ACQUISITION AND DISPOSITION

5/6-801. Acquisition of land and property for township or district roads; eminent domain; bond not required.

§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.
(Source: Laws 1959, p. 196.)

5/6-802. Acquisition of land for ditches and drainage; eminent domain; bond not required.

§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.
(Source: Laws 1959, p. 196.)

5/6-803. Entering upon lands or waters; responsibility for damages.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 87-1208.)

5/6-804. County unit road district; powers of county.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 90-439.)

DIVISION 9. STATE FUNDING OF ROAD DISTRICT BRIDGES

5/6-901. Appropriation and apportionment for 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" [35 ILCS 505/8], approved March 25, 1929, as amended, 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 [35 ILCS 200/18-185 et seq.] 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 24 months of the date when such apportionment is made lapses and shall not be paid to the county treasurer for distribution to road districts.
(Source: P.A. 90-110.)

5/6-902. Selection of bridges to be constructed; preparation of maps, plans and estimates.

§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.
(Source: P.A. 79-1491.)

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.
(Source: P.A. 79-1491.)

5/6-904. County to comply with expenditure guidelines of Department of Transportation.

§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.
(Source: P.A. 79-1491.)

5/6-905. Share of local funds to obtain grant.

§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.
(Source: P.A. 81-1509.)

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 two 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 24 months under Sections 6-902 through 6-904 shall revert to the Road Fund.
(Source: P.A. 84-1308.)

ARTICLE 7. MUNICIPAL ADMINISTRATION OF STREETS

Division 1
General Powers

Section
5/7-101. Streets and alleys; laying out; extensions.

Division 2
Use of Motor Fuel Tax Funds

5/7-202. Use by municipalities, generally.
5/7-202.1. State or federal highways.
5/7-202.1a. County highways and extensions.
5/7-202.1b. Federal aid primary or federal aid urban streets within municipality.
5/7-202.1c. Non-arterial residential streets.
5/7-202.2. Municipal streets and alleys.
5/7-202.3. Extensions of municipal streets outside corporate limits.
5/7-202.4. Extensions of municipal streets within park district.
5/7-202.5. Traffic control and school crossing signals.
5/7-202.6. Street lighting systems.
5/7-202.7. Storm sewers.
5/7-202.8. Pedestrian subways or over head crossings.
5/7-202.10. Payment of municipality's share of federal aid transportation project.
5/7-202.11. Investigations to determine the need for work.
5/7-202.12. Engineering costs.
5/7-202.13. Municipal indebtedness.
5/7-202.14. Local mass transit districts.
5/7-202.15. Sidewalks or other pedestrian paths.
5/7-202.16. Studies for construction of toll bridges.
5/7-202.17. Acquisition of property for off street parking.
5/7-202.18. Principal and interest on bonds.
5/7-202.19. Operation and maintenance of motor vehicle safety inspection lanes.
5/7-202.20. Bicycle routes and bicycle parking facilities.
5/7-202.21. Grade separations and approaches.
5/7-202.21a. Nondedicated subdivision roads.
5/7-202.22. Increase in allocation.
5/7-203. Ordinances specifying purposes of motor fuel tax funds; department approval for specifications and work; bidding and letting of contracts; inspection of work by Department.
5/7-203.1. Municipal motor fuel tax highway program; department approval; assessment.
5/7-203.2. Agreement with Department on work financed with State funds.
5/7-204. Expenditure of funds to comply with Department guidelines.

Division 3
Planning and Programming

5/7-301. Long-range highway transportation plan.

DIVISION 1. GENERAL POWERS

5/7-101. Streets and alleys; laying out; 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 [65 ILCS 5/1-1-1 et seq.], as heretofore or hereafter amended; 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.
(Source: Laws 1961, p. 1415.)

DIVISION 2. USE OF MOTOR FUEL TAX FUNDS

5/7-202. Use by municipalities, generally.

§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.
(Source: P.A. 85-1010.)

5/7-202.1. State or federal highways.

§7-202.1. The construction and maintenance of State highways in the municipality, or the maintenance of federal secondary highways.
(Source: Laws 1959, p. 196.)

5/7-202.1a. County highways and extensions.

§7-202.1a. The construction and maintenance of county highways and county highway extensions in the municipality.
(Source: Laws 1965, p. 427.)

5/7-202.1b. Federal aid primary or federal aid urban streets within municipality.

§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.
(Source: P.A. 85-1010.)

5/7-202.1c. Non-arterial residential streets.

§7-202.1c. Twenty-five percent of all funds received pursuant to the Motor Fuel Tax Law [35 ILCS 505/1 et seq.] by municipalities over 500,000 population shall be expended only for the reconstruction, maintenance, repair or improvement of non-arterial residential streets.
(Source: P.A. 83-1363.)

5/7-202.2. 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.
(Source: P.A. 78-1274.)

5/7-202.3. 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.
(Source: P.A. 78-1252; 78-1274.)

5/7-202.4. 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.
(Source: P.A. 76-371.)

5/7-202.5. Traffic control 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 [625 ILCS 5/11-301].
(Source: P.A. 76-2257.)

5/7-202.6. Street lighting systems.

§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 [65 ILCS 5/9-2-1 et seq.], as heretofore or hereafter amended, within the municipality, where such improvement has been authorized by the Department.
(Source: P.A. 79-418.)

5/7-202.7. Storm sewers.

§7-202.7. Construction or maintenance of storm sewers – Municipal streets – County highways – State highways. 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.
(Source: P.A. 79-539.)

5/7-202.8. Pedestrian subways or over head crossings.

§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.
(Source: P.A. 76-371.)

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.
(Source: P.A. 88-580.)

5/7-202.11. Investigations to determine the need for work.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: P.A. 77-1371.)

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.
(Source: Laws 1959, p. 196.)

5/7-202.14. 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" [70 ILCS 3610/1 et seq.], approved July 21, 1959, as now or hereafter amended;

(b) a local Transit Commission if the municipality established such commission pursuant to Section 14-101 of The Public Utilities Act [220 ILCS 5/14-101]; or

(c) the Chicago Transit Authority established pursuant to the "Metropolitan Transit Authority Act" [70 ILCS 3605/1 et seq.], approved April 12, 1945, as now or hereafter amended.
(Source: P.A. 85-1209.)

5/7-202.15. 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.
(Source: P.A. 88-580.)

5/7-202.16. Studies for construction of toll bridges.

§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.
(Source: Laws 1967, p. 393.)

5/7-202.17. Acquisition of property for off street parking.

§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.
(Source: Laws 1968, p. 408.)

5/7-202.18. Principal and interest on bonds.

§7-202.18. The payment of the principal and interest on bonds issued for construction or improvement of highways within the municipality.
(Source: P.A. 78-255.)

5/7-202.19. Operation and maintenance of 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.
(Source: P.A. 76-2258.)

5/7-202.20. Bicycle routes and bicycle parking facilities.

§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.
(Source: P.A. 88-580.)

5/7-202.21. 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.
(Source: P.A. 77-1849.)

5/7-202.21a. 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" [35 ILCS 505/8], 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.
(Source: P.A. 86-447.)

5/7-202.22. Increase in allocation.

§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" [35 ILCS 505/8], approved March 25, 1929, as amended, 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 nonarterial residential streets.
(Source: P.A. 78-1252)

5/7-203. Ordinances specifying purposes of motor fuel tax funds; department approval for specifications and work; bidding and letting of contracts; inspection of work by Department.

§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 [65 ILCS 5/9-2-1 et seq.], as now or hereafter amended; 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.
(Source: P.A. 77-1371.)

5/7-203.1. Municipal motor fuel tax highway program; department approval; assessment.

§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 [65 ILCS 5/9-2-1 et seq.], as now or hereafter amended. 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.
(Source: P.A. 77-1371.)

5/7-203.2. Agreement with Department on work financed with State funds.

§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.
(Source: P.A. 77-1371.)

5/7-204. Expenditure of funds to comply with Department guidelines.

§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.
(Source: P.A. 85-1010.)

DIVISION 3. PLANNING AND PROGRAMMING

5/7-301. Long-range highway transportation plan.

§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.
(Source: P.A. 77-173.)

ARTICLE 8. FREEWAYS

Section

5/8-101. Establishment and regulation of freeways.
5/8-102. Limitation on ingress and egress.
5/8-103. Acquisition of property.
5/8-104. Restricted easement permitting crossing of freeway.
5/8-105. Local service drives.
5/8-106. Relocation or elimination of crossing or junction.
5/8-107. Consent for new intersections or crossings.
5/8-107.1. Telephone service within rights-of-way of fully controlled access highways.

5/8-108. Continuation of existing freeways.
5/8-109. Provisions are cumulative and confer additional powers not limitations.

5/8-101. Establishment and regulation of freeways.

§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.
(Source: Laws 1965, p. 978.)

5/8-102. Limitation on ingress and egress.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/8-104. Restricted easement permitting crossing of freeway.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1965, p. 2825.)

5/8-106. Relocation or elimination of crossing or junction.

§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.

(Source: P.A. 76-181.)

5/8-107. Consent for new intersections or crossings.

§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.

(Source: Laws 1959, p. 196.)

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.

(Source: Laws 1959, p. 1799.)

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.

(Source: Laws 1959, p. 196.)

5/8-109. Provisions are cumulative and confer additional powers not limitations.

§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.

(Source: Laws 1959, p. 196.)

ARTICLE 9. GENERAL HIGHWAY PROVISIONS

Section

5/9-101. Cooperative agreements among governmental agencies, generally.
5/9-101.1. Drainage and stormwater detention.
5/9-102. Keeping vehicles off highway; erection of signs and barricades.
5/9-103. Removal or possession of control device or sign.
5/9-104. Prohibition on disturbing corner stones.
5/9-105. Entrance culverts or crossings.
5/9-106. Protection of intersecting highway from freshly applied road oil.
5/9-107. Tile drains.
5/9-108. Willow hedges; planting on margin of highway is public nuisance.
5/9-109. Bridge or culvert to comply with safety guidelines; failure to conform is prima facie evidence of incapacity.
5/9-110. Specifications to be drawn so as to provide for alternative methods, materials, etc.
5/9-111. Control of noxious weeds; failure to comply.
5/9-111.1. Inspection of bridges and culverts; removal of driftwood and other trash.
5/9-112. Removal of obstructions to view at grade crossings; offense.
5/9-112.1. Billboards and other advertising to comply with Code; placement; offense.
5/9-112.2. Billboards and other advertising to comply with Code; placement; offense; limitation on design; limitation on lights; offense.
5/9-112.3. Shelters for persons waiting for buses, etc.
5/9-112.4. Signs over sidewalks.
5/9-112.5. Signs, billboards, and advertising in commuter parking lots.
5/9-113. Consent for construction; rules, regulations and specifications; non-toll federal-aid fully access-controlled State highways; compensation.
5/9-113.01. Billing of utility for damage caused by utility.
5/9-113.02. Damage to State-owned roadway property.
5/9-113.1. Commercial establishment for serving motorists or highway users; courtesy rest stop; solicitation of donation; vending machines.
5/9-114. Crossings for domestic animals.
5/9-115. Excavation or removal of lateral support; deposit of spoil; offense.
5/9-115.1. Drainage detention facilities and earthen berms.
5/9-116. Owner of hedge fence to trim; windbreak for livestock; offense.
5/9-117. Injuring or obstructing highway; repair of damage or removal of obstruction.
5/9-118. Planting of trees, shrubs, etc., along highway.
5/9-119. Injury to tree, shrub, etc., planted or growing along highway.
5/9-121. Deposit of trash along highway.
5/9-122. Injuring or obstructing sidewalk, public bridge, culvert, etc.
5/9-123. Sewage not to be discharged along highway.
5/9-124. Camping on highway prohibited.
5/9-124.1. No tethering or loosing of animals on highway for feeding of same.
5/9-125. Suits for recovery of fines or penalties.
5/9-126. Disposition of fines and penalties.
5/9-127. Title to vacated land vests in owners of land abutting thereon.
5/9-128. Damaging sign or traffic control device.
5/9-129. Agricultural aircraft; use of roads; liability for personal injuries.
5/9-130. Prohibition against deposit of snow on highway.

5/9-101. Cooperative agreements among governmental agencies, generally.

§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.

(Source: Laws 1959, p. 196.)

5/9-101.1. Drainage and stormwater detention.

§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.
(Source: P.A. 88-79.)

5/9-102. Keeping vehicles off highway; erection of signs and barricades.

§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.
(Source: P.A. 90-513.)

5/9-103. Removal or possession of control device or sign.

§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.
(Source: P.A. 88-673.)

5/9-104. Prohibition on disturbing 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.
(Source: Laws 1959, p. 196.)

5/9-105. Entrance culverts or crossings.

§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.
(Source: Laws 1959, p. 196.)

5/9-106. Protection of intersecting highway from freshly applied road oil.

§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.
(Source: P.A. 80-528.)

5/9-107. Tile drains.

§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.

However, all such contracts on township or district roads for a sum in excess of $1,000.00 shall be made on behalf of any road district by the highway commissioner thereof, with the consent of the county superintendent of highways.
(Source: Laws 1961, p. 2815.)

5/9-108. Willow hedges; planting on margin of highway is 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.
(Source: Laws 1959, p. 196.)

5/9-109. Bridge or culvert to comply with safety guidelines; failure to conform is prima facie evidence of incapacity.

§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.
(Source: P.A. 77-2238.)

5/9-110. Specifications to be drawn so as to provide for alternative methods, materials, 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.
(Source: Laws 1959, p. 196.)

5/9-111. Control of noxious weeds; failure to comply.

§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" [505 ILCS 100/1 et seq.], approved August 17, 1971, as amended, 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.
(Source: P.A. 83-333.)

5/9-111.1. Inspection of bridges and culverts; removal of driftwood and other trash.

§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 highwater. 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.
(Source: Laws 1961, p. 2627.)

5/9-112. Removal of obstructions to view at grade crossings; offense.

§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 [repealed], approved July 9, 1935, as now or hereafter amended, 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.
(Source: P.A. 77-2238.)

5/9-112.1. Billboards and other advertising to comply with Code; placement; offense.

§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" [625 ILCS 5/1-100 et seq.], as now or hereafter amended. 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.
(Source: P.A. 81-840.)

5/9-112.2. Billboards and other advertising to comply with Code; placement; offense; limitation on design; limitation on lights; offense.

§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.
(Source: P.A. 78-255.)

5/9-112.3. Shelters for persons waiting for buses, etc.

§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.
(Source: P.A. 81-436.)

5/9-112.4. Signs over sidewalks.

§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.
(Source: P.A. 88-286.)

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.
(Source: P.A. 89-319.)

5/9-113. Consent for construction; rules, regulations and specifications; non-toll federal-aid fully access-controlled State highways; compensation.

§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.

(Source: P.A. 92-470. Chgd. by P.A. 93-357, §5, eff. 1/1/2004.)

5/9-113.01. Billing of utility for damage caused by utility.

§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.

(Source: P.A. 81-1377.)

5/9-113.02. Damage to State-owned roadway property.

§9-113.02. Damage to State-owned roadway property.

Any agency or instrumentality of the State of Illinois 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.

(Added by P.A. 93-793, §5, eff. 7/22/2004.)

5/9-113.1. Commercial establishment for serving motorists or highway users; courtesy rest stop; solicitation of donation; vending machines.

§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" [605 ILCS 10/1 et seq.], approved August 7, 1967, as amended, 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 [605 ILCS 5/4-210, 5/4-211], 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.

(Source: P.A. 89-507.)

5/9-114. Crossings for domestic animals.

§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.
(Source: Laws 1959, p. 196.)

5/9-115. Excavation or removal of lateral support; deposit of spoil; offense.

§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.
(Source: P.A. 83-345.)

5/9-115.1. Drainage detention facilities and 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.
(Source: P.A. 86-616.)

5/9-116. Owner of hedge fence to trim; windbreak for livestock; offense.

§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.
(Source: P.A. 77-2238.)

5/9-117. Injuring or obstructing highway; repair of damage or removal of obstruction.

§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 non-adherence 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.
(Chgd. by P.A. 93-177, §5, eff. 7/11/2003.)

5/9-118. Planting of trees, shrubs, etc., 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.
(Source: P.A. 91-775.)

5/9-119. Injury to tree, shrub, etc., planted or growing along highway.

§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.
(Source: P.A. 77-2238.)

5/9-121. Deposit of trash along highway.

§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.
(Source: P.A. 81-551.)

5/9-122. Injuring or obstructing sidewalk, public bridge, culvert, etc.

§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.
(Source: P.A. 77-2238.)

5/9-123. Sewage not to be discharged along 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.
(Source: P.A. 77-2238.)

5/9-124. Camping on highway prohibited.

§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.
(Source: P.A. 78-628.)

5/9-124.1. No tethering or loosing of animals on highway for feeding of same.

§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.
(Source: P.A. 78-628.)

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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/9-127. Title to vacated land vests in owners of land abutting thereon.

§9-127. (a) Except as provided in subsections (b) and (c) 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).
(Chgd. by P.A. 93-321, §5, eff. 7/23/2003.)

5/9-128. Damaging sign or traffic control device.

§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 [625 ILCS 5/11-301 et seq.], as now or hereafter amended, 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.
(Source: P.A. 83-672.)

5/9-129. Agricultural aircraft; use of 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.
(Source: P.A. 83-92.)

5/9-130. Prohibition against deposit of snow on highway.

§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.
(Source: P.A. 83-1362.)

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

Section
5/10-101. Gift to Department.
5/10-102. Conditions precedent.
5/10-102.1. Transfer of McKinley Bridge.
5/10-103. Joint control, maintenance and operation of bridge with adjoining state or political subdivision.

Division 2
County Construction and Maintenance of Free Bridges on State Boundaries

5/10-201. County share of expenses relating to bridge work.
5/10-202. Appropriation by county board; bonds.
5/10-203. Form of proposition.
5/10-204. Issuance of bonds; rate; registration; annual extension of tax.
5/10-205. County superintendent to approve plans and specifications; contract to be let by county board.
5/10-206. Payments of contractor.

Division 3
County Toll Bridges

5/10-301. Bridges over streams within county or forming boundary.
5/10-302. County may operate bridges and approaches; tolls.
5/10-302.5. Administrative adjudication of toll violations.

5/10-303. County board may borrow money and issue bonds for bridge.
5/10-304. Sinking fund to pay principal and interest.
5/10-305. County treasurer is legal custodian of funds; duties.
5/10-306. Accounts; audit.
5/10-307. Holder of bond may compel performance of duties.
5/10-308. Bonds payable only from revenue; letting of contracts.
5/10-309. Acquisition only in name of county.
5/10-310. County board to establish fiscal and budget year for operation of bridge.
5/10-311. Bridge commission.
5/10-312. Cumulative powers.

Division 5
Municipal Bridges and Approaches

5/10-501. Municipality may construct, acquire, and maintain bridges and approaches.
5/10-502. Toll bridges.
5/10-503. Bridge to be subject to municipal control and ordinances; county aid in construction.
5/10-504. Municipality may issue bonds for bridge.

Division 6
Municipal Bridges, Ferries, and Terminals

5/10-601. Municipality may acquire ferries, bridges, and approaches; tolls.
5/10-602. Acquisition by right of eminent domain; municipality may aid road districts and issue bonds; tolls.
5/10-603. Bridge or ferry to be subject to municipal control and ordinances; county may aid in construction.
5/10-604. Ownership and operation of terminal facilities.
5/10-605. Special tax for terminal facilities; proposition.
5/10-606. Bonds for terminal facilities.

Division 7
Municipal Toll Bridges – Additional Authorization To Acquire, Construct, Maintain, etc.

5/10-701. Definitions.
5/10-702. Powers of municipalities.
5/10-703. Municipal revenue bonds.
5/10-704. Ordinance authorizing bonds.
5/10-705. Municipality to fix rates of toll; record of costs; no toll after bonds paid.
5/10-706. Refunding revenue bonds.
5/10-707. Ordinance authorizing refunding revenue bonds; terms.
5/10-708. Ordinance authorizing refunding revenue bonds; publication.
5/10-709. Sale or exchange of refunding revenue bonds.
5/10-710. Sinking fund publicity; expenditures without prior appropriation.
5/10-711. Holder of bond may compel performance of duties; receivership.
5/10-712. Revenue bonds may be issued without voter approval.
5/10-713. Bridge Commission.
5/10-714. Projects involving two or more municipalities.
5/10-715. Bonds are legal investments.

Division 8
Municipal Bridges over River Forming State Boundary

5/10-801. Definitions.
5/10-802. Powers of municipality.
5/10-803. Municipality may issue revenue bonds.
5/10-804. Ordinance authorizing bonds; publication.
5/10-805. Municipality to fix rates of toll; record of costs.
5/10-806. Municipality may issue refunding revenue bonds; bonds to be payable solely from revenue of bridge.
5/10-807. Holder of bond may compel performance of duties; receivership.
5/10-808. Revenue bonds may be issued without voter approval.
5/10-809. Validation of proceedings and bond issues.

Division 9
Department Acquisition and Operation of Certain Ferries

5/10-901. Department may acquire ferries.
5/10-902. Department may maintain and operate ferry.
5/10-903. Use of funds.

Division 10
Department Maintenance and Control of Covered Bridges

5/10-1001. Department to maintain and operate covered bridges on boundaries.

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.
(Source: Laws 1959, p. 196.)

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 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.
(Source: Laws 1959, p. 196.)

5/10-102.1. 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.
(Source: P.A. 92-679.)

5/10-103. Joint control, maintenance and operation of bridge with adjoining state or political subdivision.

§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.

(Source: P.A. 81-456.)

DIVISION 2. COUNTY CONSTRUCTION AND MAINTENANCE OF FREE BRIDGES ON STATE BOUNDARIES

5/10-201. County share of expenses relating to bridge work.

§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.

(Source: Laws 1959, p. 196.)

5/10-202. Appropriation by county board; bonds.

§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.

(Source: P.A. 81-1489.)

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	

(Source: P.A. 81-1489.)

5/10-204. Issuance of bonds; rate; registration; annual extension of tax.

§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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/10-205. County superintendent to approve plans and specifications; contract to be let by county board.

§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.
(Source: Laws 1959, p. 196.)

5/10-206. Payments of contractor.

§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.
(Source: Laws 1959, p. 196.)

DIVISION 3. COUNTY TOLL BRIDGES

5/10-301. Bridges over streams within county or forming boundary.

§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.
(Source: Laws 1959, p. 196.)

5/10-302. County may operate bridges and approaches; tolls.

§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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.], as heretofore or hereafter amended. 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.
(Source: P.A. 89-120.)

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 [735 ILCS 5/3-101 et seq.].
(Source: P.A. 89-120.)

5/10-303. County board may borrow money and issue bonds for bridge.

§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" [30 ILCS 305/1 et seq.], approved May 26, 1970, as amended, 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 coupons 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.
(Source: P.A. 83-225.)

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.
(Source: Laws 1959, p. 196.)

5/10-305. County treasurer is legal custodian of funds; duties.

§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.
(Source: P.A. 83-541.)

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.
(Source: Laws 1959, p. 196.)

5/10-307. Holder of bond may compel 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.
(Source: P.A. 83-345.)

5/10-308. Bonds payable only from revenue; letting of 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.
(Source: Laws 1959, p. 196.)

5/10-309. Acquisition only in name of county.

§10-309. Title to all property acquired pursuant to this Division of this Article shall be taken in the name of the county.
(Source: Laws 1959, p. 196.)

5/10-310. County board to establish fiscal and budget year for operation of bridge.

§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" [repealed; see now 55 ILCS 5/6-1001 et seq.], approved July 10, 1933, as amended.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

DIVISION 5. MUNICIPAL BRIDGES AND APPROACHES

5/10-501. Municipality may construct, acquire, and maintain bridges and approaches.

§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.
(Source: Laws 1959, p. 196.)

5/10-502. Toll bridges.

§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.
(Source: Laws 1959, p. 196.)

5/10-503. Bridge to be subject to municipal control and ordinances; county aid in construction.

§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.
(Source: Laws 1959, p. 196.)

5/10-504. Municipality may issue bonds for bridge.

§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 municipality. 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.
(Source: P.A. 81-1489.)

DIVISION 6. MUNICIPAL BRIDGES, FERRIES, AND TERMINALS

5/10-601. Municipality may acquire ferries, bridges, and approaches; tolls.

§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.
(Source: Laws 1959, p. 196.)

5/10-602. Acquisition by right of eminent domain; municipality may aid road districts and issue 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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.], as heretofore or hereafter amended, 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 Article VII of the Code of Civil Procedure, as heretofore or hereafter amended, 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.
(Source: P.A. 82-783.)

5/10-603. Bridge or ferry to be subject to municipal control and ordinances; county may aid in construction.

§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.
(Source: Laws 1959, p. 196.)

5/10-604. Ownership and operation of terminal facilities.

§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.
(Source: Laws 1959, p. 196.)

5/10-605. Special tax for terminal facilities; proposition.

§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 [65 ILCS 5/8-3-1], as now or hereafter amended. 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.
(Source: P.A. 81-1509.)

5/10-606. Bonds for terminal facilities.

§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 [65 ILCS 5/8-5-1 et seq.], as heretofore or hereafter amended.
(Source: Laws 1961, p. 1415.)

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.

(Source: Laws 1959, p. 196.)

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 Article VII of the Code of Civil Procedure [735 ILCS 5/7-101 et seq.], as heretofore or hereafter amended.

(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;

(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;

(8) To do all things necessary to carry out the powers given in this Division of this Article.

(Source: P.A. 82-783.)

5/10-703. Municipal 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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/10-704. Ordinance authorizing bonds.

§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.
(Source: Laws 1959, p. 196.)

5/10-705. Municipality to fix rates of toll; record of costs; no toll after bonds paid.

§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.
(Source: P.A. 77-173.)

5/10-706. Refunding revenue bonds.

§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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/10-707. Ordinance authorizing refunding revenue bonds; 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 [810 ILCS 5/3-101 et seq.].
(Source: Laws 1959, p. 196.)

5/10-708. Ordinance authorizing refunding revenue bonds; 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.
(Source: P.A. 87-767.)

5/10-709. Sale or exchange of refunding revenue bonds.

§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.
(Source: Laws 1959, p. 196.)

5/10-710. Sinking fund publicity; 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.
(Source: Laws 1959, p. 196.)

5/10-711. Holder of bond may compel 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.
(Source: P.A. 79-1366.)

5/10-712. Revenue bonds may be issued without voter approval.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/10-715. Bonds are 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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1961, p. 2575.)

5/10-802. Powers of municipality.

§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;

(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; 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.
(Source: Laws 1961, p. 2575.)

5/10-803. Municipality may issue 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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/10-804. Ordinance authorizing bonds; 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.
(Source: Laws 1959, p. 196.)

5/10-805. Municipality to fix rates of toll; record of costs.

§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.
(Source: Laws 1959, p. 196.)

5/10-806. Municipality may issue refunding revenue bonds; bonds to be payable solely from revenue of bridge.

§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 [30 ILCS 305/0.01 et seq.], as amended 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 [see 5 ILCS 70/8] 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.
(Source: P.A. 86-4.)

5/10-807. Holder of bond may compel 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.
(Source: P.A. 84-1308.)

5/10-808. Revenue bonds may be issued without voter approval.

§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.
(Source: Laws 1959, p. 196.)

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, construction, 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.
(Source: Laws 1961, p. 2575.)

DIVISION 9. DEPARTMENT ACQUISITION AND OPERATION OF CERTAIN FERRIES

5/10-901. Department may acquire ferries.

§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.
(Source: Laws 1959, p. 1190.)

5/10-902. Department may maintain and operate ferry.

§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.
(Source: Laws 1959, p. 1190.)

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.
(Source: Laws 1959, p. 1190.)

DIVISION 10. DEPARTMENT MAINTENANCE AND CONTROL OF COVERED BRIDGES

5/10-1001. Department to maintain and operate covered bridges on boundaries.

§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.
(Source: Laws 1963, p. 3473.)

ARTICLE 11. EFFECT OF CODE, REPEAL AND OTHER PROVISIONS

Section
5/11-101. Effect of headings.
5/11-102. Cross references.
5/11-103. Partial invalidity.
5/11-104. Saving provisions; continuation of prior statutes.
5/11-105. Outstanding bonds.
5/11-106. Cumulative powers.

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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

5/11-105. Outstanding bonds.

§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.
(Source: Laws 1959, p. 196.)

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.
(Source: Laws 1959, p. 196.)

ACT 15. DIRKSEN MEMORIAL HIGHWAY ACT

(Complete Act)

Section
15/0.01. Short title.
15/1. Designation.

15/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Dirksen Memorial Highway Act.
(Source: P.A. 86-1324.)

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.
(Source: P.A. 81-840.)

ACT 20. PEERSON MEMORIAL HIGHWAY ACT

(Complete Act)

Section
20/0.01. Short title.
20/1. Designation.

20/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Peerson Memorial Highway Act.
(Source: P.A. 86-1324.)

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.
(Source: P.A. 79-369.)

ACT 25. JOLLIET–MARQUETTE TRAIL ACT

(Complete Act)

Section
25/0.01. Short title.
25/1. Designation.
25/2. Plaques.

25/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Jolliet-Marquette Trail Act.
(Source: P.A. 86-1324.)

25/1. Designation.

§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).
(Source: P.A. 79-820.)

25/2. Plaques.

§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.
(Source: P.A. 89-229.)

ACT 30. BIKEWAY ACT

(Complete Act)

Section	
30/0.01.	Short title.
30/1.	Legislative declarations and findings.
30/2.	Responsible agency; bikeways program; use of funds.
30/3.	Funds for bikeways.
30/4.	Cooperation with other governmental units and agencies.

30/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Bikeway Act.
(Source: P.A. 86-1324.)

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.
(Source: P.A. 88-676.)

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.

(Source: P.A. 88-502; 88-676.)

30/3. Funds for bikeways.

§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.

(Source: P.A. 78-850.)

30/4. Cooperation with other governmental units and agencies.

§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 Community Affairs, 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.

(Source: P.A. 89-337; 89-445.)

ACT 105. BRIDGE CONSTRUCTION ACT

(Complete Act)

Section
105/0.01. Short title.
105/1. Assent of State for construction of interstate bridges.

105/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Bridge Construction Act.

(Source: P.A. 86-1324.)

105/1. Assent of State for construction of interstate bridges.

§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.

(Source: Laws 1889, p. 62.)

ACT 110. BRIDGE PIER PROTECTION ACT

(Complete Act)

Section
110/1. Construction and maintenance of piers.
110/1.1. Short title.

110/1. Construction and maintenance of piers.

§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.

(Source: Laws 1941, vol. 1, p. 1091.)

110/1.1. Short title.

§1.1. Short title.

This Act may be cited as the Bridge Pier Protection Act.

(Source: P.A. 86-1324.)

ACT 120. ILLINOIS ADOPT-A-HIGHWAY ACT

(Complete Act)

Section
120/1. Short title.
120/5. Purpose.
120/10. Definitions.
120/15. Participation in Adopt-A-Highway Program.
120/20. Agreement.
120/25. Responsibilities of the group.
120/30. Responsibilities of the sponsoring jurisdiction.
120/35. Signs.
120/40. Safety training.
120/45. Other conditions.
120/100. Effective date of Act.

120/1. Short title.

§1. Short title.

This Act may be cited as the Illinois Adopt-A-Highway Act.

(Source: P.A. 87-1118.)

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.

(Source: P.A. 87-1118.)

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.

(Source: P.A. 89-229.)

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.

(Source: P.A. 87-1118.)

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.

(Source: P.A. 87-1118.)

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.

(Source: P.A. 87-1118.)

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.
(Source: P.A. 87-1118.)

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.
(Source: P.A. 87-1118.)

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.
(Source: P.A. 87-1118.)

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.
(Source: P.A. 87-1118.)

120/100. Effective date of Act.

§100. This Act takes effect upon becoming law.
(Source: P.A. 87-1118.)

CHAPTER 625
VEHICLES
(Selected Acts)

Act
5. Illinois Vehicle Code.
40. Snowmobile Registration and Safety Act.

ACT 5. ILLINOIS VEHICLE CODE
(Selected Chapters)

Chapter
11. Rules of the Road.
15. Size, Weight, and Load Permits.

CHAPTER 11. RULES OF THE ROAD
(Selected Articles)

Article III
Traffic Signs, Signals and Markings

Section
5/11-301. Department to adopt sign manual.
5/11-301.1. Person with disabilities sign.
5/11-302. Authority to designate through highway and stop and yield intersections.
5/11-303. The Department to place signs on all State highways.
5/11-304. Local traffic-control devices; tourist oriented businesses signs.
5/11-305. Obedience to and required traffic-control devices.
5/11-310. Display of unauthorized signs, signals or markings.
5/11-311. Interference with official traffic-control devices or railroad signs or signals.
5/11-312. Unlawful use or damage to highways, appurtenances and structures.
5/11-313. Unlawful possession of highway sign or marker.

Article VI
Speed Restrictions

5/11-601. General speed restrictions.
5/11-601.5. Driving 40 miles per hour or more in excess of applicable limit.
5/11-602. Alteration of limits by Department.
5/11-603. Alteration of limits by Toll Highway Authority.
5/11-604. Alteration of limits by local authorities.
5/11-605. Special speed limit while passing schools.
5/11-605.1. Special limit while traveling through a highway construction or maintenance speed zone.
5/11-605.2. Delegation of authority to set a special speed limit while traveling through highway construction or maintenance zones.

Article XIII
Stopping, Standing, and Parking

5/11-1304. Additional parking regulations.
5/11-1304.5. Parking of vehicle with expired registration.

Article XIV
Miscellaneous Laws

5/11-1426. Operation of all-terrain vehicles and off-highway motorcycles on streets, roads and highways.
5/11-1428. Operation of golf carts on streets, roads, and highways.

ARTICLE III. TRAFFIC SIGNS, SIGNALS AND MARKINGS
(Selected Sections)

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.
(Source: P.A. 89-533.)

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.
(Source: P.A. 88-685.)

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.

(Chgd. by P.A. 93-177, §10, eff. 7/11/2003.)

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 [605 ILCS 120/1 et seq.].

(Source: P.A. 87-1118.)

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.

(Chgd. by P.A. 93-177, §10, eff. 7/11/2003.)

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.
(Source: P.A. 84-873.)

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 [605 ILCS 120/1 et seq.].

(g) Any person failing to comply with this Section shall be guilty of a Class A misdemeanor.
(Source: P.A. 87-1118.)

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.
(Source: P.A. 83-672.)

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 willfully injure or damage any public highway or street or any bridge or culvert, or to willfully 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 willfully unusual, improper or unreasonable use thereof, or by willfully careless driving or use of any vehicle thereon, or by the willful 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.
(Source: P.A. 83-672.)

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.
(Source: P.A. 91-512.)

ARTICLE VI. SPEED RESTRICTIONS

(Selected Sections)

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 of the first division or a second division vehicle designed or used for the carrying of a gross weight of 8,000 pounds or less (including the weight of the vehicle and maximum load) is (1) 65 miles per hour (i) for all highways under the jurisdiction of the Illinois State Toll Highway Authority 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.

(e) 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.

(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; and

2. 60 miles per hour on any other highway, 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.

(g) Unless some other speed restriction is established under this Chapter, the maximum speed limit outside an urban district for a house car, camper, private living coach, vehicles licensed as recreational vehicles, and any vehicle towing any other vehicle is 55 miles per hour or the posted speed limit, whichever is less.

(Source: P.A. 89-444; 89-551.)

5/11-601.5. Driving 40 miles per hour or more in excess of applicable limit.

§11-601.5. Driving 40 miles per hour or more in excess of applicable limit.

A person who drives a vehicle upon any highway of this State at a speed that is 40 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.

(Source: P.A. 91-469.)

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 not exceed 65 miles per hour, or 55 miles per hour 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), on a highway or street which is especially designed for through traffic and to, from, or over which owners of or persons having an interest in abutting property or other persons have no right or easement, or only a limited right or easement, of access, crossing, light, air, or view, and shall not exceed 55 miles per hour on any other highway. 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.
(Chgd. by P.A. 93-624, §5, eff. 12/19/2003.)

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, not exceeding 65 miles per hour. 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.
(Source: P.A. 89-444.)

5/11-604. Alteration of limits by local authorities.

§11-604. Alteration of limits by local authorities.

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 [605 ILCS 5/1-101 et seq.], 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.

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. 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.

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 ordinance 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. 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.
(Source: P.A. 89-444.)

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 and the purchase, installation, and maintenance of caution lights which are mounted on school speed zone signs.

(g) *(Blank.)*

(h) *(Blank.)*

(Source: P.A. 91-531; 92-242; 92-619; 92-780. Chgd. by P.A. 93-955, §5, eff. 8/19/2004.)

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.

(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 determined 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 and has posted a lower speed limit with a highway construction or maintenance speed zone special speed limit sign.

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 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.

(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.

(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.

(Added by P.A. 93-955, §5, eff. 8/19/2004.)

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, under subsection (b) 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.

(Added by P.A. 93-947, §90, eff. 8/19/2004.)

ARTICLE XIII. STOPPING, STANDING, AND PARKING

(Selected Sections)

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.

(Source: P.A. 79-801; 79-1069; 79-1454.)

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.

(Source: P.A. 91-487.)

ARTICLE XIV. MISCELLANEOUS LAWS

(Selected Section)

5/11-1426. Operation of all-terrain vehicles and off-highway motorcycles on streets, roads and highways.

§11-1426. Operation of all-terrain vehicles and off-highway motorcycles on streets, roads and highways.

(a) Except as provided under this Section, it shall be unlawful for any person to drive or operate any all-terrain vehicle or off-highway motorcycle upon any street, highway or roadway in this State.

(b) Except as provided under subsection (c) of this Section, all-terrain vehicles and off-highway motorcycles may make 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; and

(2) The all-terrain vehicle or off-highway motorcycle is brought to a complete stop before attempting a crossing; and

(3) The operator of the all-terrain vehicle or off-highway motorcycle 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; and

(5) That when accessing township roadways in counties which contain a tract of the Shawnee National Forest, the accessing complies with rules promulgated by the Department of Natural Resources to govern the accessing.

(c) No person operating an all-terrain vehicle or off-highway motorcycle shall make a direct crossing upon or across any tollroad, interstate highway, or controlled access highway in this State.

(d) The corporate authorities of a county, road district, township, city, village, or incorporated town may adopt ordinances or resolutions allowing all-terrain vehicles and off-highway motorcycles to be operated on roadways under their jurisdiction, designated by signs as may be prescribed by the Department, 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 an all-terrain vehicle or off-highway motorcycle is to be operated. The crossing shall be made in the same direction as traffic.

(e) The corporate authorities of a county, road district, township, city, village, or incorporated town may adopt ordinances or resolutions designating one or more specific public highways or streets under their jurisdiction as egress and ingress routes for the use of all-terrain vehicles and off-highway motorcycles. Operation of all-terrain vehicles and off-highway motorcycles on the routes shall be in the same direction as traffic. Corporate authorities acting under the authority of this subsection (e) shall erect and maintain signs, as may be prescribed by the Department, giving proper notice of the designation.

(Source: P.A. 90-287.)

5/11-1428. Operation of golf carts on streets, roads, and highways.

§11-1428. Operation of golf carts on streets, roads and highways.

(a) Except as otherwise provided in this Section, it shall be unlawful for any person to drive or operate any golf cart upon any street, highway or roadway in this State.

(b) Except as provided under subsection (c) of this Section, golf carts may make a direct crossing over a street, highway or roadway that runs through a golf course provided:

(1) The crossing is made at an interchange approved by the local unit of government and at a place where no obstruction prevents a quick and safe crossing; and

(2) The golf cart is brought to a complete stop before attempting a crossing; and

(3) The operator of the golf cart yields the right of way to all pedestrian and vehicular traffic which constitutes a hazard; and

(4) There is no tunnel or overpass ramp provided for the golf cart to cross through the golf course.

(c) No person operating a golf cart shall make a direct crossing upon or across any highway under the jurisdiction of the State, tollroad, interstate highway, or controlled access highway in this State.

(d) For purposes of this Section, "golf cart" means a vehicle specifically designed and intended for the purposes of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

(e) Subject to subsection (b), a municipality, township, county, or other unit of local government may authorize, by ordinance or resolution, the operation of golf carts on roadways under their respective jurisdictions. The Department may authorize the operation of golf carts on the roadways under its jurisdiction.

Before permitting the operation of golf carts on its roadway, 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 golf carts may safely travel on or cross the roadway. Upon determining that golf carts 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, golf carts may not be operated on the roadway unless each unit of government agrees and takes action as provided in this subsection.

No golf cart 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) on the rear of the golf cart, 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 golf cart shall have its headlight and tail lamps lighted as required by Section 12-201.

(f) A person who drives or is in actual physical control of a golf cart on a roadway while under the influence is subject to Section 11-500 through 11-502.

(Source: P.A. 90-683.)

CHAPTER 15. SIZE, WEIGHT, AND LOAD PERMITS

(Selected Articles)

Section
5/15-100. *(Repealed.)*

Article I
Size, Weight, and Load

5/15-101. Scope and effect of Chapter 15.
5/15-102. Width of Vehicles.
5/15-103. Height of vehicles.
5/15-104. *(Repealed.)*
5/15-105. Projecting loads on passenger vehicles.
5/15-106. Protruding members of vehicles.
5/15-107. Length of vehicles.
5/15-108. Planking edge of a pavement.
5/15-109. Spilling loads on highways prohibited.
5/15-109.1. Covers or tarpaulins required for certain loads.
5/15-110. Towed vehicles.
5/15-111. Wheel and axle loads and gross weights.
5/15-112. Officers to weigh vehicles and require removal of excess loads.
5/15-113. Violations; Penalties.
5/15-113.1. Violations; Sentence of permit moves.
5/15-113.2. Violations; Sentence of permit moves exceeding axle weights.
5/15-113.3. Violations; Sentence of permit moves exceeding gross weight.
5/15-114. Pushing of disabled vehicles.
5/15-115. Report; operation of larger vehicles; consumption of diesel fuel by first and second division vehicles.

Article III
Permits

5/15-301. Permits for excess size and weight.
5/15-316. When the Department, local authority or road district highway commissioner may restrict right to use highways.
5/15-317. Special weight limitation on elevated structures.
5/15-318. Liability if highway or structure damaged.

5/15-100. *(Repealed by P.A. 90-89.)*

ARTICLE I. SIZE, WEIGHT, AND LOAD

(Selected Sections)

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 [625 ILCS 5/1-101 et seq.], 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.

(Source: P.A. 92-417.)

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.

(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 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) Exemptions are also granted to vehicles designed for the carrying of more than 10 persons under the following conditions:

(1)(Blank);

(2) When operated within any public transportation service with the approval of local authorities or an appropriate public body authorized by law to provide public transportation. Any vehicle so operated may be 8 feet 6 inches in width; or

(3) When a county engineer or superintendent of highways, after giving due consideration to the mass transportation needs of the area and to the width and condition of the road, has determined that the operation of buses wider than 8 feet will not pose an undue safety hazard on a particular county or township road segment, he or she may authorize buses not to exceed 8 feet 6 inches in width on any highway under that engineer's or superintendent's jurisdiction.

(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.

(e-1) A vehicle and load more than 8 feet wide but not exceeding 8 feet 6 inches in width is allowed access according to the following:

(1) A vehicle and load not exceeding 73,280 pounds in weight 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 loading and unloading, provided:

(A) The vehicle and load does not exceed 65 feet overall length.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(2) A vehicle and load not exceeding 73,280 pounds in weight is allowed access 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 and load does not exceed 65 feet overall length.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(3) A vehicle and load not exceeding 80,000 pounds in weight is allowed access 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.

(4) A vehicle and load not exceeding 80,000 pounds in weight is allowed access 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.

(5) A trailer or semi-trailer not exceeding 28 feet 6 inches in length, that was originally in combination with a truck tractor, shall have unlimited access to points of loading and unloading.

(6) All household goods carriers shall have unlimited access to points of loading and unloading.

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).

(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.

(Source: P.A. 91-780; 92-417. Chgd. by P.A. 93-177, §10, eff. 7/11/2003.)

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.

(Source: P.A. 92-417.)

5/15-104. *(Repealed.)*

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.

(Source: P.A. 76-1586.)

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. *(Source: P.A. 92-417.)*

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 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) 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.

(3) A truck tractor semitrailer may draw one vehicle that is defined in Chapter 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.

(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.

(3) The length of a semitrailer or trailer, unladen or with load, operated in a truck tractor-semitrailer-trailer 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 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.

(3) A truck tractor-semitrailer-trailer 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 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.

(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 73,280 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 73,280 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.

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).

(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 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.

(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).*

(Source: P.A. 92-417; 92-766; 92-883. Chgd. by P.A. 93-177, §10, eff. 7/11/2003; 93-1023, §5, eff. 8/25/2004.)

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.

(Source: P.A. 90-655.)

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.

(Source: P.A. 82-231.)

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 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.

(Source: P.A. 91-858.)

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.

(Source: P.A. 77-22.)

5/15-111. Wheel and axle loads and gross weights.

§15-111. Wheel and axle loads and gross weights.

(a) On non-designated highways, no vehicle or combination of vehicles equipped with pneumatic tires may be operated, unladen or with load, when the total weight transmitted to the road surface exceeds 18,000 pounds on a single axle or 32,000 pounds on a tandem axle with no axle within the tandem exceeding 18,000 pounds except:

(1) when 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;

(3) tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle;

(4) any single axle of a 2-axle truck weighing 36,000 pounds or less and not a part of a combination of vehicles, shall not exceed 20,000 pounds;

(5) any single axle of a 2-axle truck equipped with a personnel lift or digger derrick, weighing 36,000 pounds or less, owned and operated by a public utility, shall not exceed 20,000 pounds;

(6) any single axle of a 2-axle truck specially equipped with a front loading compactor used exclusively for garbage, refuse, or recycling may not exceed 20,000 pounds per axle, provided that the gross weight of the vehicle does not exceed 40,000 pounds;

(7) a truck, not in combination and specially equipped with a selfcompactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage or refuse operations may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;

(8) a truck, not in combination and used exclusively for the collection of rendering materials, may,

when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;

(9) tandem axles on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2004 and first registered in Illinois prior to January 1, 2005, 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 18,000 pounds. Any vehicle of this type manufactured after the model year of 2004 or first registered in Illinois after December 31, 2004 may not exceed a combined weight of 32,000 pounds through the series of 2 axles and neither axle of the series may exceed 18,000 pounds;

(10) tandem axles on a 4-axle truck mixer, whose fourth axle is a road surface engaging mixer trailing axle, registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete and manufactured prior to or in the model year of 2004 and first registered in Illinois prior to January 1, 2005, 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 18,000 pounds. Any vehicle of this type manufactured after the model year of 2004 or first registered in Illinois after December 31, 2004 may not exceed a combined weight of 32,000 pounds through the series of 2 axles and neither axle of the series may exceed 18,000 pounds;

(11) 4-axle vehicles or a 5 or more axle combination of vehicles: The weight transmitted upon the road surface through any series of 3 axles whose centers are more than 96 inches apart, measured between extreme axles in the series, may not exceed those allowed in the table contained in subsection (f) of this Section. No axle or tandem axle of the series may exceed the maximum weight permitted under this Section for a single or tandem axle.

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.

(b) On non-designated highways, the gross weight of vehicles and combination of vehicles including the weight of the vehicle or combination and its maximum load shall be subject to the foregoing limitations and further shall not exceed the following gross weights dependent upon the number of axles and distance between extreme axles of the vehicle or combination measured longitudinally to the nearest foot.

VEHICLES HAVING 2 AXLES . . . . . 36,000 pounds

VEHICLES OR COMBINATIONS HAVING 3 AXLES

With Tandem Axles		With or Without Tandem Axles	
Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)	Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)
10 feet	41,000	16 feet	46,000
11	42,000	17	47,000
12	43,000	18	47,500
13	44,000	19	48,000
14	44,500	20	49,000
15	45,000	21 feet or more	50,000

VEHICLES OR COMBINATIONS HAVING 4 AXLES

Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)	Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)
15 feet	50,000	26 feet	57,500
16	50,500	27	58,000
17	51,500	28	58,500
18	52,000	29	59,500
19	52,500	30	60,000
20	53,500	31	60,500
21	54,000	32	61,500
22	54,500	33	62,000
23	55,500	34	62,500
24	56,000	35	63,500
25	56,500	36 feet or more	64,000

A vehicle not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (b) for 4 axles measured between the extreme axles of the vehicle.

COMBINATIONS HAVING 5 OR MORE AXLES

Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)	Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)
42 feet or less	72,000	43	73,000
44 feet or more	73,280		

VEHICLES OPERATING ON CRAWLER TYPE TRACKS . . . . . 40,000 pounds

TRUCKS EQUIPPED WITH SELFCOMPACTORS OR ROLL-OFF HOISTS AND ROLL-OFF CONTAINERS FOR GARBAGE OR REFUSE HAULS ONLY AND TRUCKS USED FOR THE COLLECTION OF RENDERING MATERIALS

On Highway Not Part of National System of Interstate and Defense Highways

with 2 axles . . . . . 36,000 pounds
with 3 axles . . . . . 54,000 pounds

TWO AXLE TRUCKS EQUIPPED WITH A FRONT LOADING COMPACTOR USED EXCLUSIVELY FOR THE COLLECTION OF GARBAGE, REFUSE, OR RECYCLING

with 2 axles . . . . . 40,000 pounds

(c) 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.

(d) 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.

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:

(1) 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;

(2) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(3) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and

(4) 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 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.

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.

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, shall mean the value specified by the manufacturer as the loaded weight of the tow truck.

(e) 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.

(f) On designated Class I, II, or III highways and the National System of Interstate and Defense Highways, 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	74,500
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 (f) 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 (f) 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) 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.

(2) Vehicles for which a different limit is established and posted in accordance with Section 15-316 of this Code.

(3) 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.

(4) Tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle.

(5) A tandem axle on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2004, and registered in Illinois prior to January 1, 2005, with a distance between 2 axles in a series greater than 72 inches but not more than 96 inches may not exceed a total weight of 36,000 pounds and neither axle of the series may exceed 18,000 pounds.

(6) A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage or refuse 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; 36,000 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) Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2004, and registered in Illinois prior to January 1, 2005, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 18,000 pounds on a single axle; 32,000 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 this amendatory Act of the 92nd General Assembly, 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, 2004 may not exceed the weights allowed by the bridge formula.

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.

(f-1) A vehicle and load not exceeding 73,280 pounds is 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 and load does not exceed 8 feet 6 inches in width and 65 feet overall length.

(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 any municipal highway for a distance of one highway mile for the purpose of food, fuel, repairs, and rest, provided:

(A) The vehicle and load does not exceed 8 feet 6 inches in width and 65 feet overall length.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(f-2) A vehicle and load greater than 73,280 pounds in weight but not exceeding 80,000 pounds is 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, II, or III highway onto any State highway or any local designated highway for a distance of 5 highway miles for the purpose of loading, unloading, food, fuel, repairs, and rest.

Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] relating to procedures for rulemaking shall not apply to the designation of highways under this subsection.

(g) 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.

(h) 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.

(i) Upon the trial of any person charged with a violation of subsections (g) or (h) 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.

(Source: P.A. 92-417. Chgd. by P.A. 93-177, §10, eff. 7/11/2003; 93-186, §5, eff. 1/1/2004; 93-1023, §5, eff. 8/25/2004.)

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 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. 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) or (f) 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) or (f) 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 73,280 pounds or less exceeds the weight limits of paragraph (b) or (f) 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 of 73,281 pounds or more exceeds the weight limits of paragraph (b) or (f) 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.

(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.

(Source: P.A. 91-129; 92-417.)

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 (g) or (h) of Section 15-111, shall be fined according to the following schedule:

Up to and including 2000 pounds overweight	=	$50
from 2001 through 2500 pounds overweight	=	the fine is $135
from 2501 through 3000 pounds overweight	=	the fine is $165
from 3001 through 3500 pounds overweight	=	the fine is $260
from 3501 through 4000 pounds overweight	=	the fine is $300
from 4001 through 4500 pounds overweight	=	the fine is $425
from 4501 through 5000 pounds overweight	=	the fine is $475
from 5001 or more pounds overweight	=	the fine shall be computed by assessing $750 for the first 5000 pounds overweight and $75 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 $2500 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.

(Source: P.A. 89-117; 89-245.)

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.
(Source: P.A. 77-2830.)

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.
(Source: P.A. 81-199.)

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.
(Source: P.A. 77-2830.)

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.
(Source: P.A. 78-486.)

5/15-115. Report; operation of larger vehicles; consumption of diesel fuel by first and second division vehicles.

§15-115. By July 1, 1985, and every 3 years thereafter, the Department of Transportation shall publish and deliver to the Governor and the General Assembly a report which assesses the damage done to public highways in the State of Illinois by virtue of the increased lengths, widths and weight loads allowed under this amendatory Act of 1983 and which determines whether the proceeds of the taxes imposed by the addition of Section 2(c) to "The Motor Fuel Tax Law" in Section 2 of this amendatory Act of 1983 and the proceeds of the fees and taxes paid by the owners of vehicles classified in the "X", "Z", "MX" and "MZ" classifications under the amendments to Sections 3-815(a) and 3-818 in Section 1 of this amendatory Act of 1983 are sufficient to cover the costs of permitting the operation of such larger vehicles. The report shall also assess the consumption of diesel fuel by first and second division motor vehicles.
(Source: P.A. 83-12.)

ARTICLE III. PERMITS

(Selected Sections)

5/15-301. Permit 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 is composed of a single nondivisible object that cannot reasonably be dismantled or disassembled. 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 sweet corn, soybeans, corn, wheat, milo, other small grains and ensilage during the harvest season only 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 25 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 to a specified processing plant 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. All such vehicles shall be operated in the daytime except when weather or crop conditions require emergency operation at night, but with respect to such night operation, every such vehicle with load shall be equipped with flashing amber lights as specified under Section 12-215.

(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 permitee, 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 (d) 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 56,000 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 subsections (b) and (f) 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.

(Source: P.A. 91-569. Chgd. by P.A. 93-718, §5, eff. 1/1/2005; 93-971, §5, eff. 8/20/2004; 93-1023, §5, eff. 8/25/2004.)

5/15-316. When the Department, local authority or road district highway commissioner may restrict right to use highways.

§15-316. When the Department or local authority may restrict right to use highways.

(a) 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.

(Source: P.A. 92-417. Chgd. by P.A. 93-177, §10, eff. 7/11/2003.)

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.
(Source: P.A. 76-1586.)

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 beyond 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.
(Source: P.A. 81-199.)

ACT 40. SNOWMOBILE REGISTRATION AND SAFETY ACT

(Selected Article)

Article
V. Control Provisions.

ARTICLE V. CONTROL PROVISIONS

(Selected Section)

Section
40/5-2. Operation on highways.

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 [605 ILCS 5/2-205].
(Source: P.A. 91-357.)

RIGHTS AND REMEDIES

CHAPTER 720
CRIMINAL OFFENSES
(Selected Acts)

CRIMINAL CODE

Act
5. Criminal Code of 1961.

OFFENSES AGAINST THE PUBLIC

605. Excavation Fence Act.

CRIMINAL CODE

ACT 5. CRIMINAL CODE OF 1961
(Selected Titles)

Title
III. Specific Offenses.
V. Added Articles.

TITLE III. SPECIFIC OFFENSES
(Selected Parts)

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

Article 33E
Public Contracts

5/33E-1. Interference with public contracting.
5/33E-2. Definitions.
5/33E-3. Bid-rigging.
5/33E-4. Bid rotating.
5/33E-5. Acquisition or disclosure of bidding information by public official.
5/33E-6. Interference with contract submission and award by public official.
5/33E-7. Kickbacks.
5/33E-8. Bribery of inspector employed by contractor.
5/33E-9. Change orders.
5/33E-10. Rules of evidence.
5/33E-11. Certification.
5/33E-12. Exemptions of government officials.
5/33E-13. Local Government Professional Services Selection Act unaffected.
5/33E-14. False statements on vendor applications.
5/33E-15. False entries.
5/33E-16. Misapplication of funds.
5/33E-17. Unlawful participation.
5/33E-18. Unlawful stringing of bids.

PART C. OFFENSES DIRECTED AGAINST PROPERTY
(Selected Article)

ARTICLE 21. DAMAGE AND TRESPASS TO PROPERTY
(Selected Sections)

5/21-3. Criminal trespass to real property.

§21-3. Criminal trespass to real property.

(a) Whoever:

(1) knowingly and without lawful authority enters or remains within or on a building; or

(2) enters upon the land of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden; or

(3) remains upon the land of another, after receiving notice from the owner or occupant to depart; or

(4) enters upon one of the following areas in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle), after receiving prior to that 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:

(A) any field that is used for growing crops or which is capable of being used for growing crops; or

(B) an enclosed area containing livestock; or

(C) or an orchard; or

(D) a barn or other agricultural building containing livestock;

commits a Class B misdemeanor.

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 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 [725 ILCS 5/112A-3] granting remedy (2) of subsection (b) of Section 112A-14 of that Code [725 ILCS 5/112A-14], or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.

(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 agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on

such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is so living upon the land.

(d) A person shall be exempt from prosecution under this Section if he 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.

(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.
(Source: P.A. 90-419.)

5/21-5. Criminal trespass to State supported land.

§21-5. Criminal trespass to State supported land.

(a) Whoever 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 such land, after receiving, prior to such entry, notice from the State or its representative that such entry is forbidden, or remains upon such land or in such 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 such building or land, commits a Class A misdemeanor.

(b) A person has received notice from the State within the meaning of subsection (1)* if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry to him or a group of which he is a part, has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.
**So in original. Probably should be "subsection (a)".*
(Source: P.A. 84-1041.)

PART F. CERTAIN AGGRAVATED OFFENSES

(Selected Article)

ARTICLE 33E. PUBLIC CONTRACTS

(Complete Article)

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.
(Source: P.A. 85-1295.)

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.

(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.
(Source: P.A. 92-16.)

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.
(Source: P.A. 86-150.)

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.
(Source: P.A. 86-150.)

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.
(Source: P.A. 86-150.)

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 by federal, State or local minority or female owned business enterprise programs.

(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.
(Source: P.A. 86-150.)

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.
(Source: P.A. 85-1295.)

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.
(Source: P.A. 85-1295.)

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.
(Source: P.A. 87-618.)

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.
(Source: P.A. 85-1295.)

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 makes a false statement, material to the certification, commits a Class 3 felony.
(Source: P.A. 86-150.)

5/33E-12. Exemptions of government officials.

§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.
(Source: P.A. 86-150.)

5/33E-13. Local Government Professional Services Selection Act unaffected.

§33E-13. Contract negotiations under the Local Government Professional Services Selection Act [50 ILCS 510/0.01 et seq.] shall not be subject to the provisions of this Article.
(Source: P.A. 87-855.)

5/33E-14. False statements on vendor applications.

§33E-14. False statements on vendor applications.

Whoever knowingly makes any false statement or report, for the purpose of influencing in any way the action of any unit of local government or school district in considering a vendor application, is guilty of a Class 3 felony.
(Source: P.A. 90-800.)

5/33E-15. False entries.

§33E-15. False entries.

Any officer, agent, or employee of, or anyone who is affiliated in any capacity with any unit of local government or school district and 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, is guilty of a Class 3 felony.
(Source: P.A. 90-800.)

5/33E-16. Misapplication of funds.

§33E-16. Misapplication of funds.

Whoever, being an officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district, willfully misapplies any of the moneys, funds, or credits of the unit of local government or school district is guilty of a Class 3 felony.
(Source: P.A. 90-800.)

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.
(Source: P.A. 90-800.)

5/33E-18. Unlawful stringing of bids.

§33E-18. Unlawful stringing of bids.

(a) No person for the purpose of evading the bidding requirements of any unit of local government or school district shall knowingly string or assist in stringing, or attempt to string, any contract or job order with the unit of local government or school district.

(b) Sentence. A person who violates this Section is guilty of a Class 4 felony.
(Source: P.A. 90-800.)

TITLE V. ADDED ARTICLES

(Selected Article)

Article 47
Nuisance

Section
5/47-5. Public nuisance.
5/47-25. Penalties.

ARTICLE 47. NUISANCE

(Selected Sections)

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 [210 ILCS 145/1 et seq.].

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.
(Source: P.A. 89-234.)

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.
(Source: P.A. 89-234.)

OFFENSES AGAINST THE PUBLIC

ACT 605. EXCAVATION FENCE ACT

(Complete Act)

Section
605/0.01. Short title.
605/1. Protective covering or fencing required.

605/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Excavation Fence Act.
(Source: P.A. 86-1324.)

605/1. Protective covering or fencing required.

§1. Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a Class C misdemeanor. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location.
(Source: P.A. 81-992.)

CHAPTER 730
CORRECTIONS
(Selected Act)

Act
5. Unified Code of Corrections.

ACT 5. UNIFIED CODE OF CORRECTIONS
(Selected Chapter)

Chapter
III. Department of Corrections.

CHAPTER III. DEPARTMENT OF CORRECTIONS
(Selected Article)

Article 2
Organization of Department

Section
5/3-2-2. Powers and duties of the Department.

ARTICLE 2. ORGANIZATION OF DEPARTMENT
(Selected Section)

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 [50 ILCS 445/1 et seq.] 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 [705 ILCS 405/1-1 et seq.] to prosecutions under the criminal laws of this State in accordance with Section 5-805 of the Juvenile Court Act of 1987

[705 ILCS 405/5-805], 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.

(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.

(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) In a confidential annual report to the Governor, the Department shall identify all inmate gangs by specifying each current gang's name, population and allied gangs. The Department shall further specify the number of top leaders identified by the Department for each gang during the past year, and the measures taken by the Department to segregate each leader from his or her gang and allied gangs. The Department shall further report the current status of leaders identified and segregated in previous years. All leaders described in the report shall be identified by inmate number or other designation to enable tracking, auditing, and verification without revealing the names of the leaders. Because this report contains law enforcement intelligence information collected by the Department, the report is confidential and not subject to public disclosure.

(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 good conduct 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 [55 ILCS 5/4-2001].

(p) To exchange information with the Department of Human Services and the Illinois Department of Public Aid 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 [305 ILCS 5/1-1 et seq.].

(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 [55 ILCS 5/3-6038, 5/3-15003.5].

(r-5) To enter into intergovernmental cooperation agreements under which minors adjudicated delinquent and committed to the Department of Corrections, Juvenile Division, may participate in a county juvenile impact incarceration program established under Section 3-6039 of the Counties Code [55 ILCS 5/3-6039].

(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 [740 ILCS 147/10].

(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.

(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 are rated AAA 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 are rated AAA by a bond rating organization.

(Source: P.A. 91-239; 91-357; 92-444; 92-712. Chgd. by P.A. 93-839, §10-170, eff. 7/30/2004.)

CHAPTER 735
CIVIL PROCEDURE
(Selected Act)

Act
5. Code of Civil Procedure.

ACT 5. CODE OF CIVIL PROCEDURE
(Selected Article)

Article
VII. Eminent Domain.

ARTICLE VII. EMINENT DOMAIN
(Selected Sections)

Section
5/7-101. Compensation; jury.
5/7-102. Parties.
5/7-102.1. State agency proceedings; information.
5/7-103. "Quick-take".
5/7-103.1. Quick-take; highway purposes.
5/7-104. Preliminary finding of compensation.
5/7-105. Deposit in court; possession.
5/7-106. Withdrawal by persons having an interest.
5/7-107. Persons contesting not to be prejudiced.
5/7-108. Interest payments.
5/7-109. Refund of excess of deposit.
5/7-110. Dismissal; abandonment.
5/7-111. Payment of costs.
5/7-112. Construction of Article.
5/7-113. Construction easement.
5/7-114. Service; notice.
5/7-115. Hearing.
5/7-116. Challenge of jurors.
5/7-117. Oath of jury.
5/7-118. View of premises.
5/7-119. Admissibility of evidence.
5/7-120. Special benefits.
5/7-121. Value.
5/7-122. Reimbursement.
5/7-123. Judgments.
5/7-124. Intervening petition.
5/7-125. Bond; use of premises.
5/7-126. Payment to county treasurer.
5/7-127. Distribution of compensation.
5/7-128. Verdict and judgment to be filed of record.
5/7-129. Lands of State institutions not taken.

5/7-101. Compensation; jury.

§7-101. Compensation; Jury.

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 state in its corporate capacity, or a political subdivision of the state, or municipality in its respective corporate capacity, such compensation shall be ascertained by a jury, as hereinafter prescribed. Where compensation is so made by the state, a political subdivision of the state, or municipality, any party upon application may have a trial by jury to ascertain the just compensation to be paid. Such demand on the part of the state, a political subdivision of the state, or municipality, shall be filed with the complaint for condemnation of the state, a political subdivision of the state, or municipality. Where the state, a political subdivision of the state, or municipality is plaintiff, a defendant desirous of a trial by jury must file a demand therefor on or before the return date of the summons served on him or her or fixed in the publication in case of defendants served by publication. In the event 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. The right to just compensation as provided in this Article 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 Article 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 Article applies to property subject to a conservation right under the Real Property Conservation Rights Act [765 ILCS 120/0.01 et seq.]. 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.
(Source: P.A. 91-497.)

5/7-102. Parties.

§7-102. Parties.

Where the right to take private property for public use, without the owner's consent or the right to construct or maintain any public road, railroad, plankroad, turnpike road, canal or other public work or improvement, or which may damage property not actually taken has been heretofore or shall hereafter be conferred by general law or special charter upon any corporate or municipal authority, public body, officer or agent, person, commissioner or corporation and 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, or in case the owner of the property is incapable of consenting, or the owner's name or residence is unknown, or the owner is a nonresident of the state, 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 thereof is situated, by filing with the clerk a complaint, setting forth, by reference, his, her or their authority in the premises, the purpose for which the property is sought to be taken or damaged, a description of the property, the names of all persons interested therein as owners or otherwise as appearing of record, if known, or if not known stating that fact and praying such court to cause the compensation to be paid to the owner to be assessed. 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 such interest in the proceeding and to defend the proceeding on behalf of the person not in being, and 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. If the proceeding seeks to affect the property of persons under guardianship, the guardians shall be made parties defendant. Persons interested, whose names are unknown, may be made parties defendant by the same descriptions and in the same manner as provided in other civil cases. Where 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 [765 ILCS 605/1 et seq.] 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" shall have the same meaning as set forth in subsection (c) of Section 9-102 of the Code of Civil Procedure [735 ILCS 5/9-102]. "Unit owners' association" or "association" shall refer to both the definition contained in Section 2 of the Condominium Property Act [765 ILCS 605/2] and subsection (c) of Section 9-102 of the Code of Civil Procedure. Where 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 such other person as he or she shall direct, or as is provided by law. No property, except property described in either Section 3 of the Sports Stadium Act [65 ILCS 100/3] or Article 11, Division 139, of the Illinois Municipal Code [65 ILCS 5/11-139-1 et seq.] and property described as Site B in Section 2 of the Metropolitan Pier and Exposition Authority Act [70 ILCS 210/2], 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 Article VII of this Act, without the prior approval of the Illinois Commerce Commission. This amendatory Act of 1991 (Public Act 87-760) is declaratory of existing law and is intended to remove possible ambiguities, thereby confirming the existing meaning of the Code of Civil Procedure [735 ILCS 5/1-101 et seq.] and of the Illinois Municipal Code [65 ILCS 5/1-1-1 et seq.] in effect before January 1, 1992 (the effective date of Public Act 87-760).
(Source: P.A. 90-6.)

5/7-102.1. State agency proceedings; information.

§7-102.1. 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 Article, 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 owner's 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 Article, 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 Article.

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.
(Source: P.A. 87-785.)

5/7-103. "Quick-take".

§7-103. "Quick-take".

(a) This Section applies only to proceedings under this Article that are authorized in the Sections following this Section and preceding Section 7-104 [735 ILCS 5/7-104].

(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 be vested with the fee simple title (or such lesser estate, interest or easement, as may be required) to the real property, or specified portion thereof, which is the subject of the proceeding, and be authorized to take possession of and use such property; or only be authorized to take possession of and to use such property, if such 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; however, no land or interests therein 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 hereunder 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 such Commission.

Except as hereinafter stated, 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 therein; (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 such property in the manner requested in the motion; and (5) if the property (except property described in Section 3 of the Sports Stadium Act [65 ILCS 100/3], or property described as Site B in Section 2 of the Metropolitan Pier and Exposition Authority Act [70 ILCS 210/2) 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 such proposed taking has been secured from such Commission, and attaching to such motion a certified copy of the order of such Commission granting such approval. If the schedule or plan of operation is not set forth fully in the motion, a copy of such schedule or plan shall be attached to the motion.
(Source: P.A. 91-357; 91-367; 92-16.)

5/7-103.1. Quick-take; highway purposes.

Sec. 7-103.1. Quick-take; highway purposes.

Quick-take proceedings under Section 7-103 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.
(Source: P.A. 91-357.)

5/7-104. Preliminary finding of compensation.

§7-104. Preliminary finding of compensation.

(a) The court shall fix a date, not less than 5 days after the filing of such motion, for the hearing thereon, 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 such right, and that such right is not being improperly exercised in the particular proceeding, then the court shall first hear and determine such matters. The court's order thereon is appealable, and an appeal may be taken therefrom by either party within 30 days after the entry of such order, but not thereafter unless the court, on good cause shown, extends the time for taking such appeal. However, no appeal shall stay the further proceedings herein prescribed unless the appeal is taken by the plaintiff, or unless on order staying such further proceedings is entered either by the trial court or by the court to which such 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, then the court 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, the court then shall hear such evidence as it may consider necessary and proper for a preliminary finding of just compensation; and, 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) Such preliminary finding of just compensation, and any deposit made or security provided pursuant thereto, 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 such proceedings; and if appraisers have been appointed as herein authorized, their report shall not be evidence in such further proceedings, but the appraisers may be called as witnesses by the parties to the proceedings.
(Source: P.A. 82-280.)

5/7-105. Deposit in court; possession.

§7-105. 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 such date as 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 such vesting of title, or more than 15 days after the entry of such order when the order does not vest title in the plaintiff, then such party shall pay to the plaintiff a reasonable rental for such property, the amount thereof to be 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 such possession, and to prevent any unauthorized interference with such 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, which is in excess of the amount preliminarily found by the court to be just compensation.

(c) Where 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 [65 ILCS 5/11-117-2], as now or hereafter amended, and the unit of local government intends to sell or lease such property to a non-governmental entity, the defendants holding title before the order which transferred title shall be allowed first opportunity to repurchase such property for a fair market value or first opportunity to lease such property for a fair market value.
(Source: P.A. 86-974.)

5/7-106. Withdrawal by persons having an interest.

§7-106. 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 7-104 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 7-105 of this Act, as such share shall have been determined by the court. The court shall then fix a date for a hearing on such application, and shall require due notice of such application to be given to each party whose interests would be affected by such withdrawal. After the hearing, the court may authorize the withdrawal requested, or such part thereof as is proper, but upon the condition that the party making such withdrawal shall refund to the clerk of the court, upon the entry of a proper court order, any portion of the amount so withdrawn which exceeds the amount finally ascertained in the proceeding to be just compensation (or damages, costs, expenses, or attorney fees) owing to such party.
(Source: P.A. 83-707.)

5/7-107. Persons contesting not to be prejudiced.

§7-107. Persons contesting not to be prejudiced.

Neither the plaintiff nor any party interested in the property, by taking any action authorized by Sections 7-103 to 7-106, inclusive, 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.
(Source: P.A. 82-280.)

5/7-108. Interest payments.

§7-108. 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 so finally adjudged, over the amount preliminarily found by the court to be just compensation in accordance with Section 7-104 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 such 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 such interested party applied for authority to withdraw such portion in accordance with Section 7-106 of this

Act, and upon objection by the plaintiff (other than on grounds that an appeal under subsection (b) of Section 7-104 of this Act is pending or contemplated, such authority was denied; interest shall be paid to such party from the date of the plaintiff's deposit to the date of payment to such party.

When interest is allowable as provided in subparagraph (1) of this Section, no further interest shall be allowed under the provisions of Section 2-1303 of this Act or any other law.
(Source: P.A. 83-707.)

5/7-109. Refund of excess of deposit.

§7-109. Refund of excess of deposit.

If the amount withdrawn from deposit by any interested party under the provision of Section 7-106 of this Act exceeds the amount finally adjudged to be just compensation (or damages, costs, expenses, and attorney fees) due to such party, the court shall order such party to refund such 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 such excess in favor of the plaintiff and against such party.
(Source: P.A. 82-280.)

5/7-110. Dismissal; abandonment.

§7-110. 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 such dismissal or abandonment.
(Source: P.A. 83-707.)

5/7-111. Payment of costs.

§7-111. Payment of costs.

If, on an appeal taken under the provisions of Section 7-104 of this Act, the plaintiff is determined not to have the authority to maintain the proceeding as to any property, which is the subject thereof, 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 such property, the trial court then shall enter an order revesting the title to such property in the parties entitled thereto, if the order of taking vested title in the plaintiff; requiring the plaintiff to deliver possession of such property to the parties entitled to the possession thereof; and making such provision as is just, for the payment of damages arising out of the plaintiff's taking and use of such property, and also for costs, expenses, and attorney fees as provided in Section 7-123 of this Act; and the court may order the clerk of the court to pay such sums to the parties entitled thereto, out of the money deposited by the plaintiff in accordance with the provisions of subsection (a) of Section 7-105 of this Act.
(Source: P.A. 82-280.)

5/7-112. Construction of Article.

§7-112. Construction of Article.

The right to take possession and title prior to the final judgment as prescribed in Sections 7-103 to 7-111 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 such other right, power, or authority.
(Source: P.A. 82-280.)

5/7-113. Construction easement.

§7-113. Construction easement.

In any case where a taking is for a construction easement only, any structure which 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.
(Source: P.A. 82-280.)

5/7-114. Service; notice.

§7-114. Service; Notice.

Service of summons and publication of notice shall be made as in other civil cases.
(Source: P.A. 82-280.)

5/7-115. Hearing.

§7-115. Hearing.

Except as provided in Sections 7-104, 7-105, 7-106 and 7-111 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 make such rule or order in relation thereto as may be deemed reasonable and proper and has the power to make all necessary rules and orders for notice to parties of the pendency of the proceedings, and to issue all process necessary to the enforcement of orders and judgments.
(Source: P.A. 83-707.)

5/7-116. Challenge of jurors.

§7-116. 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.
(Source: P.A. 82-280.)

5/7-117. Oath of jury.

§7-117. 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.

(Source: P.A. 82-280.)

5/7-118. View of premises.

§7-118. View of premises.

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, and after hearing the proof offered make its report in writing, and the same 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.

(Source: P.A. 82-280.)

5/7-119. Admissibility of evidence.

§7-119. 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 such illegal condition, use or occupancy.

(Source: P.A. 90-393.)

5/7-120. Special benefits.

§7-120. Special benefits.

In assessing damages or compensation for any taking or property acquisition under this Article, due consideration shall be given to any special benefit that will result to the property owner from any public improvement to be erected on such property. This Section shall be applicable to all private property taken or acquired for public use, and shall apply whether damages or compensation are fixed by negotiation, by a court, or by a jury.

(Source: P.A. 82-280.)

5/7-121. Value.

§7-121. 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 which 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, which amount of money shall be determined and ascertained as of the date of filing the complaint to condemn. In the condemnation of property for a public improvement there shall be excluded from such amount of money any appreciation in value proximately caused by such improvement, and any depreciation in value proximately caused by such improvement. However, such appreciation or depreciation shall not be excluded where property is condemned for a separate project conceived independently of and subsequent to the original project.

(Source: P.A. 82-280.)

5/7-122. Reimbursement.

§7-122. Reimbursement.

Where the State of Illinois, a political subdivision of the State or a municipality 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 such taking shall determine and award or allow to such property owner, as part of such judgment or award, such further sums, as will in the opinion of the court, reimburse such 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 such proceedings.

(Source: P.A. 82-280.)

5/7-123. Judgments.

§7-123. Judgments.

(a) If the plaintiff is not in possession pursuant to an order entered under the provisions of Section 7-105 of this Act the court, upon such report, or upon the court's ascertainment and finding of the just compensation where 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 such property and the use of the same upon payment of full compensation as ascertained, within a reasonable time to be fixed by the court, and such order, with evidence of such payment, shall constitute complete justification of the taking of such property. Thereupon, the court in the same eminent domain proceeding in which such orders have been made, shall have exclusive authority to hear and determine all rights in and to such just compensation and

shall make findings as to the rights of the parties therein, which shall be paid by the county treasurer out of the respective awards deposited with him or her as provided in Section 7-126 of this Act, except where 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 such compensation paid to the county treasurer as in other civil cases. If in such case 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 such 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 such order in such action for the payment by the plaintiff of all costs, expenses and reasonable attorney fees of such defendant or defendants paid or incurred by such defendant or defendants in defense of the complaint, as upon the hearing of such application shall be right and just, and also for the payment of the taxable costs.

(b) In case the plaintiff is in possession pursuant to an order entered under the provisions of Section 7-105 of this Act and if Section 7-111 of this Act is inapplicable, then the court, upon the jury's report, 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 thereof 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, as the case may be.
(Source: P.A. 83-707.)

5/7-124. Intervening petition.

§7-124. Intervening petition.

Any person not made a party may become such by filing an intervening petition, setting forth that the petitioner is the owner or has an interest in property, and which will be taken or damaged by the proposed work; and the rights of such petitioner shall thereupon be fully considered and determined.
(Source: P.A. 82-280.)

5/7-125. Bond – use of premises.

§7-125. Bond – Use of premises.

In cases in which compensation is ascertained as hereinabove stated, if the party in whose favor the same is ascertained appeals such order or judgment, 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 such compensation, conditioned for the payment of such compensation as may be 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 wherein such proceeding is had, and executed and filed within such time as shall be fixed by the court. However, if the plaintiff is the State of Illinois no bond shall be required.
(Source: P.A. 82-280.)

5/7-126. Payment to county treasurer.

§7-126. 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 7-105 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 same subject to order of court as provided in subsection (a) of Section 7-123 of this Act, or payment may be made to the party entitled, his, her or their guardian.
(Source: P.A. 83-707.)

5/7-127. Distribution of compensation.

§7-127. 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 such contract, and shall then be entitled to the amount of just compensation paid by the condemnor either through negotiation or awarded in judicial proceedings.
(Source: P.A. 82-280.)

5/7-128. Verdict and judgment to be filed of record.

§7-128. 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.
(Source: P.A. 82-280.)

5/7-129. Lands of State institutions not taken.

§7-129. Lands of State institutions not taken.

No part of any land heretofore or hereafter conveyed 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; and 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 above, without such previous consent.

(Source: P.A. 83-707.)

CHAPTER 740
CIVIL LIABILITIES
(Selected Acts)

Act
35. Construction Contract Indemnification for Negligence Act.
55. *(Repealed.)*
85. Highway Contractor Liability Act.

ACT 35. CONSTRUCTION CONTRACT INDEMNIFICATION FOR NEGLIGENCE ACT
(Complete Act)

Section
35/0.01. Short title.
35/1. Negligence.
35/2. Application of Act; effective date.
35/3. Application of Act; exclusions.

35/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Construction Contract Indemnification for Negligence Act.
(Source: P.A. 86-1324.)

35/1. Negligence.

§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.
(Source: P.A. 77-1629.)

35/2. Application of Act; effective date.

§2. This Act applies only to contracts or agreements entered into after its effective date.
(Source: P.A. 77-1629.)

35/3. Application of Act; exclusions.

§3. This Act does not apply to construction bonds or insurance contracts or agreements.
(Source: P.A. 77-1629.)

ACT 55. CRIMINAL JURISPRUDENCE ACT (HEALTH AND SAFETY PUBLIC NUISANCE)
(Repealed.)

ACT 85. HIGHWAY CONTRACTOR LIABILITY ACT
(Complete Act)

Section
85/0.01. Short title.
85/1. Contractor liability.

85/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Highway Contractor Liability Act.
(Source: P.A. 86-1324.)

85/1. Contractor liability.

§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.
(Source: P.A. 77-172.)

CHAPTER 745
CIVIL IMMUNITIES
(Selected Acts)

Act
10. Local Governmental and Governmental Employees Tort Immunity Act.
15. County Engineer and Highway Superintendent Liability Act.

ACT 10. LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT
(Selected Articles)

Article
III. Immunity from Liability for Injury Occurring in the Use of Public Property.
VII. Tort Liability Under Agreements Between Local Public Entities.
VIII. Actions Against Local Public Entities and Public Employees – Limitations, Notice.
IX. Payment of Claims and Judgment.

ARTICLE III. IMMUNITY FROM LIABILITY FOR INJURY OCCURRING IN THE USE OF PUBLIC PROPERTY
(Complete Article)

Section
10/3-101. Definitions.
10/3-102. Duty to maintain property in safe condition; liability.
10/3-103. No liability when higher authority approves plan or design.
10/3-104. Failure to provide traffic signals and signs.
10/3-105. No liability for injury caused by the effect of weather conditions; no liability for failure to upgrade road or signs, etc., without limitation.
10/3-106. Liability for public recreational property.
10/3-107. No liability for certain access roads and trails.
10/3-108. Liability relating to supervision of use of public property.
10/3-109. No liability to person who participates in hazardous recreational activity.
10/3-110. No liability when waterway not owned, supervised, etc., by local public entity.

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.
(Source: Laws 1965, p. 2983.)

10/3-102. Duty to maintain property in safe condition; liability.

§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.
(Source: P.A. 84-1431.)

10/3-103. No liability when higher authority approves plan or design.

§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.
(Source: Laws 1965, p. 2983.)

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.
(Source: P.A. 84-1431.)

10/3-105. No liability for injury caused by the effect of weather conditions; no liability for failure to upgrade road or signs, etc., without limitation.

§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.

(Source: P.A. 84-1431.)

10/3-106. Liability for public recreational property.

§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.

(Source: P.A. 84-1431.)

10/3-107. No liability for certain access roads and 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.

(Source: Laws 1965, p. 2983.)

10/3-108. Liability relating to supervision of use of public 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.

(Source: P.A. 90-805.)

10/3-109. No liability to person who participates in 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 [745 ILCS 47/1 et seq.], 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.
(Source: P.A. 89-111; 89-502.)

10/3-110. No liability when waterway not owned, supervised, etc., by local public entity.

§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.
(Source: P.A. 84-1431.)

ARTICLE VII. TORT LIABILITY UNDER AGREEMENTS BETWEEN LOCAL PUBLIC ENTITIES

(Complete Article)

Section
10/7-101. Agreement to share liability.
10/7-102. Contribution or indemnification.
10/7-103. Application and construction of Article.

10/7-101. Agreement to share liability.

§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.
(Source: Laws 1965, p. 2983.)

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.
(Source: Laws 1965, p. 2983.)

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.
(Source: Laws 1965, p. 2983.)

ARTICLE VIII. ACTIONS AGAINST LOCAL PUBLIC ENTITIES AND PUBLIC EMPLOYEES – LIMITATIONS, NOTICE

(Complete Article)

Section
10/8-101. Limitation of actions.
10/8-103. Failure to serve notice.

10/8-101. Limitation of actions.

§8-101. No civil action 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. 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.
(Source: P.A. 84-1431.)

10/8-103. 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.
(Source: Laws 1965, p. 2983.)

ARTICLE IX. PAYMENT OF CLAIMS AND JUDGMENT

(Complete Article)

Section
10/9-101. Definitions.
10/9-102. Payment of tort judgment or settlement for compensatory damages.
10/9-103. Insurance contracts.
10/9-104. Payment of tort judgment in installments; settlement agreements.
10/9-105. Issuance of bonds.
10/9-106. Funds to pay judgments and settlements.
10/9-107. Policy; tax levy.

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.
(Source: P.A. 80-1341.)

10/9-102. Payment of tort judgment or settlement for compensatory damages.

§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.
(Source: P.A. 92-810.)

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 [820 ILCS 305/1 et seq.], the Workers' Occupational Diseases Act [820 ILCS 310/1 et seq.], or the Unemployment Insurance Act [820 ILCS 405/100 et seq.] 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 [215 ILCS 5/72, 5/76, 5/81]. 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 [215 ILCS 5/56]. 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.
(Source: P.A. 91-628. Chgd. by P.A. 93-721, §55, eff. 1/1/2005.)

10/9-104. Payment of tort judgment in installments; settlement agreements.

§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.
(Source: P.A. 84-1431.)

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 [30 ILCS 350/3] shall comply with the requirements of the Bond Issue Notification Act [30 ILCS 352/1 et seq.].
(Source: P.A. 89-655.)

10/9-106. 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 [820 ILCS 305/1 et seq.], the Workers' Occupational Diseases Act [820 ILCS 310/1 et seq.] and the Unemployment Insurance Act [820 ILCS 405/100 et seq.].
(Source: P.A. 82-783.)

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 tort liability, insurance, and 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 [215 ILCS 5/72, 5/76, 5/81], 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; and (iv) discharge obligations under Section 34-18.1 of The School Code [105 ILCS 5/34-18.1], as now or hereafter amended, and to 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 [820 ILCS 305/1 et seq.], the Workers' Occupational Diseases Act [820 ILCS 310/1 et seq.] and the Unemployment Insurance Act [820 ILCS 405/100 et seq.]. 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 [30 ILCS 235/2]. 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 [60 ILCS 1/170-5 et seq., 1/175-5 et seq.], under the Town Hospital Act [repealed], or under the Township Non-Sectarian Hospital Act [repealed] 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. *(Source: P.A. 91-628; 92-735.)*

ACT 15. COUNTY ENGINEER AND HIGHWAY SUPERINTENDENT LIABILITY ACT

(Complete Act)

Section

15/0.01. Short title.
15/1. Declaration of policy.
15/2. Time limitation on commencement of action for injury to person or property.
15/3. Notice of injury; filing.
15/4. Failure to file notice.
15/5. Amount of damages.
15/6. County to indemnify engineer or superintendent of highways for judgment and cost.
15/7. Application of Act.

15/0.01. Short title.

§0.01. Short title.

This Act may be cited as the County Engineer and Highway Superintendent Liability Act. *(Source: P.A. 87-217.)*

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.
(Source: P.A. 87-217.)

15/2. Time limitation on commencement of action for injury to person or property.

§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.
(Source: P.A. 87-217.)

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.
(Source: P.A. 87-217.)

15/4. Failure to file notice.

§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.
(Source: P.A. 87-217.)

15/5. Amount of damages.

§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.
(Source: Laws 1961, p. 3188.)

15/6. County to indemnify engineer or superintendent of highways for judgment and cost.

§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.
(Source: P.A. 87-217.)

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.
(Source: Laws 1961, p. 3188.)

CHAPTER 765
PROPERTY
(Selected Act)

PLATS AND SURVEYS

Act
205. Plat Act.

PLATS AND SURVEYS

ACT 205. PLAT ACT
(Selected Sections)

General Provisions

Section
205/2. Acknowledgment of plat; approval by city authorities or county board; notice and hearing; recording.
205/6. Vacation of plat; instruments; reservations.

Vacation of Plats

205/7. Vacation not to abridge or destroy rights or privileges of other proprietors; no authorization for closure or obstruction of public highway.
205/8. Canceling plat of record.

Plats To Be Recorded, etc.

205/9. Plat of highway, reservoir, etc.; recording; registration of titles.
205/9.1. Extension or widening of highway.

General Provisions

205/2. Acknowledgment of plat; approval by city authorities or county board; notice and hearing; 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 [765 ILCS 35/1 et seq.], 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.
(Source: P.A. 87-705.)

205/6. Vacation of plat; instruments; reservations.

§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.
(Source: P.A. 87-217.)

Vacation of Plats

205/7. Vacation not to abridge or destroy rights or privileges of other proprietors; no authorization for closure or obstruction of public highway.

§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.
(Source: Laws 1874, p. 771.)

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.
(Source: Laws 1921, p. 677.)

Plats To Be Recorded, etc.

205/9. Plat of highway, reservoir, etc.; recording; 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 concerning land titles" [765 ILCS 35/0.01 et seq.], approved May 1, 1897, as amended, 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.
(Source: P.A. 88-81.)

205/9.1. Extension or widening of highway.

§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.
(Source: P.A. 87-217.)

CHAPTER 775
HUMAN RIGHTS
(Selected Act)

Act
10. Public Works Employment Discrimination Act.

ACT 10. PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT
(Complete Act)

Section
10/0.01. Short title.
10/1. Discrimination in employment prohibited; compliance with Illinois Human Rights Act.
10/2. Incorporation of provisions in State contracts.
10/3. Application to contracts entered into by contractors, associations, etc.
10/4. Contractors not to discriminate; deduction from compensation.
10/5. Recovery.
10/6. Violations; punishment.
10/7. Provisions of Act to be printed on contract.
10/8. Partial invalidity; construction.

10/0.01. Short title.

§0.01. Short title. This Act may be cited as the Public Works Employment Discrimination Act.
(Source: P.A. 86-1324.)

10/1. Discrimination in employment prohibited; compliance with Illinois Human Rights Act.

§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 [775 ILCS 5/1-101 et seq.], 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).
(Source: P.A. 81-1216.)

10/2. Incorporation of provisions in State contracts.

§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.
(Source: Laws 1933, p. 296.)

10/3. Application to contracts entered into by contractors, associations, 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, associations 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.
(Source: Laws 1933, p. 296.)

10/4. Contractors not to discriminate; 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.
(Source: P.A. 80-336.)

10/5. Recovery.

§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.
(Source: P.A. 79-1360.)

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.
(Source: P.A. 77-2365.)

10/7. Provisions of Act to be printed on 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.
(Source: Laws 1933, p. 296.)

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.
(Source: P.A. 80-336.)

BUSINESS

CHAPTER 815
BUSINESS TRANSACTIONS
(Selected Act)

CONTRACTS

Act
660. Non-resident Contractor Bond Act.

CONTRACTS

ACT 660. NON-RESIDENT CONTRACTOR BOND ACT
(Repealed by P.A. 92-323.)

Section
660/1. to 660/49. *(Repealed.)*

660/1 to 660/49. *(Repealed by P.A. 92-323.)*

CHAPTER 820
EMPLOYMENT
(Selected Act)

Act
130. Prevailing Wage Act.

ACT 130. PREVAILING WAGE ACT
(Complete 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 wages; call for bids to specify prevailing wages; contracts; bonds.
130/5. Records of employees and wages paid.
130/6. Violations of Act; enforcement.
130/7. Finding as to prevailing wage final unless reviewed; higher wages; hours.
130/8. Prevailing wages not ascertainable; contract.
130/9. Posting prevailing rates; filing publication; objections; hearing; review; appeal.
130/10. Witnesses; subpoena.
130/10a. *(Repealed.)*
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.
130/11b. Discharge or discipline of "whistle blowers" prohibited.
130/12. Partial invalidity.

130/0.01. Short title.

§0.01. Short title.

This Act may be cited as the Prevailing Wage Act.

(Source: P.A. 86-1324.)

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.

(Source: P.A. 83-443.)

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.

As used in this Act, unless the context indicates otherwise:

"Public works" means all fixed works constructed by any public body, other than 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" as defined herein includes all projects financed in whole or in part with bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code [65 ILCS 5/11-74-1 et seq.]), the Industrial Building Revenue Bond Act [50 ILCS 445/1 et seq.], the Illinois Finance Authority Act [20 ILCS 3505/1 et seq.], the Illinois Sports Facilities Authority Act [70 ILCS 3205], or the Build Illinois Bond Act [30 ILCS 425/1 et seq.], and all projects financed in whole or in part with loans or other funds made available pursuant to The Build Illinois Act [30 ILCS 750/1-1 et seq.]. "Public works" also includes all projects financed in whole or in part with funds from the Department of Commerce and Community Affairs under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement. "Public works" also includes all projects financed in whole or in part with funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act.

"Construction" means all work on public works involving laborers, workers or mechanics.

"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 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.
(Source: P.A. 91-105; 91-935; 92-16. Chgd. by P.A. 93-15, §905; eff. 6/11/2003; 93-16, §5, 93-205, §890-28, eff. 1/1/2004.)

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 of public works. 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.
(Chgd. by P.A. 93-15, §905, eff. 6/11/2003; 93-16, §5, eff. 1/1/2004.)

130/4. Ascertaining prevailing wages; call for bids to specify prevailing wages; contracts; bonds.

§ 4. (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. The public body 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.

(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.

(c) It shall also require in all such contractor's bonds that the contractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract. 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, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor and each subcontractor, of the revised rate.

(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.
(Chgd. by P.A. 93-15, §905, eff. 6/11/2003; 93-16, §5, eff. 1/1/2004; 93-38, §5, eff. 6/1/2004.)

130/5. Records of employees and wages paid.

§5. The contractor and each subcontractor or the officer of the public body in charge of the project shall make and keep, for a period of not less than 3 years, true and accurate records of the name, address, telephone number when available, social security number, and occupation of all laborers, workers and mechanics employed by them, in connection with said public work. The records shall also show the actual hourly wages paid in each pay period to each employee and the hours worked each day in each work week by each employee. While participating on public works, each contractor's payroll records shall include the starting and ending times of work for each employee. The record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Director of Labor and his deputies and agents. Any contractor or subcontractor that maintains its principal place of business outside of this State shall make the required records or accurate copies of those records available within this State at all reasonable hours for inspection.
(Chgd. by P.A. 93-38, §5, eff. 6/1/2004.)

130/6. Violations of Act; enforcement.

§6. Any officer, agent or representative of any public body who wilfully violates, or omits to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who neglects to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, worker and mechanic employed by him, in connection with the public work or who refuses to allow access to same at any reasonable hour to any person authorized to inspect same under this Act, is guilty of a Class B 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.
(Source: P.A. 81-992.)

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.
(Source: P.A. 81-992.)

130/8. Prevailing wages 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.
(Source: Laws 1957, p. 2662.)

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 Secretary of State at Springfield and 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 Secretary of State, 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 the Secretary of State, 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, and all amendments and modifications thereof [735 ILCS 5/3-101 et seq.], 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 [735 ILCS 5/3-101].

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.
(Chgd. by P.A. 93-38, §5, eff. 6/1/2004.)

130/10. Witnesses; subpoenas.

§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.
(Chgd. by P.A. 93-38,§5, eff. 6/1/2004.)

130/10a. *(Repealed.)*

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. 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. 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.
(Source: P.A. 86-799.)

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, 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 2 years have elapsed from the date of publication of the list containing the name of such contractor or subcontractor.
(Chgd. by P.A. 93-38, §5, 6/1/2004.)

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. 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 [735 ILCS 5/3-101 et seq.].

(c) The Director shall adopt rules implementing this Section in accordance with the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

(Source: P.A. 88-359.)

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.

(Source: Laws 1941, vol. 1, p. 703.)

ILLINOIS ROADS AND BRIDGES HANDBOOK—INDEX

(References are to Chapter, Act, and Sections of the Illinois Compiled Statutes.)

Advertising along highway *(See Highway Advertising Control Act)*
Agriculture
Control Authority for noxious weeds – 505 ILCS 100/7
farmland preservation
acquisition of land – 505 ILCS 75/5
administration – 505 ILCS 75/6
agreements – 505 ILCS 75/4
conversion to nonagricultural uses – 505 ILCS 75/5
exempt projects – 505 ILCS 75/7
Inter-Agency Committee on Farmland Preservation – 505 ILCS 75/3, 505 ILCS 75/4
legislative findings and intent – 505 ILCS 75/2
policy – 505 ILCS 75/4
property acquisition – 505 ILCS 75/5
reports – 505 ILCS 75/6
rules and regulations – 505 ILCS 75/6
study of agricultural impacts – 505 ILCS 75/5
Inter-Agency Committee on Farmland Preservation – 505 ILCS 75/3, 505 ILCS 75/4
Noxious Weed Control Fund – 505 ILCS 100/15
noxious weeds
authority for control – 505 ILCS 100/5
authorization to remove – 505 ILCS 100/14
control
authority of Director – 505 ILCS 100/5
cost – 505 ILCS 100/10, 505 ILCS 100/12, 505 ILCS 100/13
Control Authority – 505 ILCS 100/7
enforcement of provisions – 505 ILCS 100/4
entry upon lands – 505 ILCS 100/20
generally – 505 ILCS 100/3, 505 ILCS 100/4, 505 ILCS 100/9, 505 ILCS 100/10
investigations – 505 ILCS 100/5
negligent land owner – 505 ILCS 100/10
notices – 505 ILCS 100/9, 505 ILCS 100/21
Noxious Weed Control Fund – 505 ILCS 100/15
prevention of dissemination – 505 ILCS 100/14
quarantine – 505 ILCS 100/11
removal – 505 ILCS 100/14
rules and regulations – 505 ILCS 100/4
violations and penalties – 505 ILCS 100/22
Weed Control Superintendent – 505 ILCS 100/8
without cost to owner – 505 ILCS 100/13
Control Authority – 505 ILCS 100/7
definitions – 505 ILCS 100/2
deposit of funds – 505 ILCS 100/17
determination – 505 ILCS 100/4
enforcement of provisions – 505 ILCS 100/4
entry upon lands – 505 ILCS 100/20
federal funds – 505 ILCS 100/23
invalid provisions – 505 ILCS 100/24
investigation – 505 ILCS 100/5
judicial review of charge for work – 505 ILCS 100/19
matching of federal funds – 505 ILCS 100/23
negligent land owner – 505 ILCS 100/10
notices – 505 ILCS 100/9, 505 ILCS 100/21
Noxious Weed Control Fund – 505 ILCS 100/15
participation of Director – 505 ILCS 100/23
prevention of dissemination – 505 ILCS 100/14
protest of charge for work
judicial review – 505 ILCS 100/19
review by director – 505 ILCS 100/18
purchase of materials and equipment – 505 ILCS 100/17
quarantine – 505 ILCS 100/11
records – 505 ILCS 100/17
removal – 505 ILCS 100/14
review by director of charge for work – 505 ILCS 100/18
rules and regulations – 505 ILCS 100/4
severability of invalid provisions – 505 ILCS 100/24
violations and penalties – 505 ILCS 100/22
Weed Control Superintendent – 505 ILCS 100/8
quarantine – 505 ILCS 100/11
study of agricultural impacts – 505 ILCS 75/5
Weed Control Superintendent – 505 ILCS 100/8
Air pollution *(See Environmental protection - air pollution)*
Annexation of territory in municipality *(See Municipal Code - annexation of territory)*
Archaeological and Paleontological Resources Preservation Act
damages – 20 ILCS 3435/5
deed reserving right of State – 20 ILCS 3435/2
definitions – 20 ILCS 3435/.02
exploration or excavation – 20 ILCS 3435/6, 20 ILCS 3435/8, 20 ILCS 3435/9
files on known sites – 20 ILCS 3435/10
materials management – 20 ILCS 3435/7
O'Hare modernization – 20 ILCS 3435/1.5
penalties – 20 ILCS 3435/5

permits – 20 ILCS 3435/6, 20 ILCS 3435/8, 20 ILCS 3435/9
records management – 20 ILCS 3435/7
regulations – 20 ILCS 3435/11
request for action – 20 ILCS 3435/3.1
reward – 20 ILCS 3435/3.2
right of State – 20 ILCS 3435/1, 20 ILCS 3435/2
violations – 20 ILCS 3435/3, 20 ILCS 3435/3.1, 20 ILCS 3435/3.2, 20 ILCS 3435/5
Belt-line routes – 605 ILCS 5/4-403
Bidding and proposals *(See Procurement Code)*
Bikeway Act – 605 ILCS 30/0.01 et seq.
Bills for goods or services generally *(See Local government - bills for goods or services)*
Bond Authorization Act
application and construction – 30 ILCS 305/3, 30 ILCS 305/5, 30 ILCS 305/6
definitions – 30 ILCS 305/1
exemptions – 30 ILCS 305/5, 30 ILCS 305/6
interest – 30 ILCS 305/2, 30 ILCS 305/7
rate swaps – 30 ILCS 305/7
Bond Highway Fund – 30 ILCS 385/4
Bonds *(See Bond Authorization Act)*
Bonds for public works *(See Public Construction Bond Act)*
Boundaries of cities and villages – 65 ILCS 5/2-2-15, 65 ILCS 5/2-3-19
Bribery *(See Ethics and disclosure)*
Bridge Construction Act – 605 ILCS 105/0.01 et seq.
Bridge Pier Protection Act – 605 ILCS 110/1 et seq.
Bridges
conditions precedent before acquiring bridge – 605 ILCS 5/10-102
gift to Department – 605 ILCS 5/10-101
joint control and maintenance with adjoining state – 605 ILCS 5/10-103
transfer of McKinley Bridge – 605 ILCS 5/10-102.1
Build Illinois Bond Fund
expenditures for R&D – 20 ILCS 2705/2705-255
grants for airport facilities – 20 ILCS 2705/2705-275
grants for mass transportation – 20 ILCS 2705/2705-305
Build Illinois Purposes Fund
expenditures for R&D – 20 ILCS 2705/2705-255
grants for airport facilities – 20 ILCS 2705/2705-275
grants for mass transportation – 20 ILCS 2705/2705-305
Business transactions
wages
application of provisions – 820 ILCS 130/2
contractor records – 820 ILCS 130/5
contracts
costs and attorney fees – 820 ILCS 130/11
hearing – 820 ILCS 130/11a
notice to violators – 820 ILCS 130/11a
records of contractor – 820 ILCS 130/5
recovery of wage difference – 820 ILCS 130/11
statement of prevailing rate – 820 ILCS 130/7
wages greater than prevailing rate – 820 ILCS 130/7
definitions – 820 ILCS 130/2
discrimination against whistle blower – 820 ILCS 130/11b
evidence – 820 ILCS 130/10
exclusions – 820 ILCS 130/3
invalidity of provisions – 820 ILCS 130/12
investigations and hearings – 820 ILCS 130/10, 820 ILCS 130/11b
oaths and subpoenas – 820 ILCS 130/10
partial invalidity of provisions – 820 ILCS 130/12
penalties and violations – 820 ILCS 130/6
policy – 820 ILCS 130/1
prerequisites to work – 820 ILCS 130/11
prevailing rate
determination
appeal – 820 ILCS 130/9
generally – 820 ILCS 130/4
not ascertainable – 820 ILCS 130/8
objection hearing – 820 ILCS 130/9
public notice – 820 ILCS 130/9
generally – 820 ILCS 130/3
notification – 820 ILCS 130/4
not ascertainable – 820 ILCS 130/8
records of contractor – 820 ILCS 130/5
violations and penalties – 820 ILCS 130/6
whistle blowers
discrimination prohibited – 820 ILCS 130/11b
investigation – 820 ILCS 130/11b
Central Management Services *(See Dept. of Central Management Services)*
Civil Administrative Code
acquisition of land – 20 ILCS 5/5-675
depts. of State government
department defined – 20 ILCS 5/5-5
acquisition of land – 20 ILCS 5/5-675
administrative officers
acting – 20 ILCS 5/5-605
appointment – 20 ILCS 5/5-605
bond – 20 ILCS 5/5-620
created – 20 ILCS 5/5-100
duties – 20 ILCS 5/5-600
heads – 20 ILCS 5/5-10, 20 ILCS 5/5-20
oath of office – 20 ILCS 5/5-615
qualifications – 20 ILCS 5/5-300
salaries – 20 ILCS 5/5-300, 20 ILCS 5/5-415

supervision of – 20 ILCS 5/5-105, 20 ILCS 5/5-185
terms of office – 20 ILCS 5/5-610
boards – 20 ILCS 5/5-100, 20 ILCS 5/5-515
commissions – 20 ILCS 5/5-100
cooperation by directors – 20 ILCS 5/5-655
created – 20 ILCS 5/5-15
duties of officers – 20 ILCS 5/5-600
employees – 20 ILCS 5/5-645
heads – 20 ILCS 5/5-10, 20 ILCS 5/5-20
interdepartmental cooperation – 20 ILCS 5/5-655
offices
hours – 20 ILCS 5/5-635
locations – 20 ILCS 5/5-630
property acquisition – 20 ILCS 5/5-675
regulations – 20 ILCS 5/5-625
reports – 20 ILCS 5/5-650
seals – 20 ILCS 5/5-640
interdepartmental cooperation – 20 ILCS 5/5-655
investigation of health professional – 20 ILCS 5/5-655
property acquisition – 20 ILCS 5/5-675

Civil immunities
agreement to share liability – 745 ILCS 10/7-101
civil actions
failure to serve notice – 745 ILCS 10/8-103
time limitation – 745 ILCS 10/8-101
engineer and superintendent liability
application of provisions – 745 ILCS 15/7
actionable negligence – 745 ILCS 15/5
compensation – 745 ILCS 15/5
contributory negligence – 745 ILCS 15/5
failure to file – 745 ILCS 15/4
filing – 745 ILCS 15/3, 745 ILCS 15/4
indemnification – 745 ILCS 15/6
negligence – 745 ILCS 15/5
notice of injury – 745 ILCS 15/3
policy – 745 ILCS 15/1
time limitation – 745 ILCS 15/2
payment of claims and judgment
bonds – 745 ILCS 10/9-105
compensatory damages – 745 ILCS 10/9-102
definitions – 745 ILCS 10/9-101
hospitals – 745 ILCS 10/9-107
installments – 745 ILCS 10/9-104
insurance contracts – 745 ILCS 10/9-103
intergovernmental contracts – 745 ILCS 10/9-107
revenue allocation – 745 ILCS 10/9-106
settlement agreements – 745 ILCS 10/9-104
tax levy – 745 ILCS 10/9-107
public property
definitions – 745 ILCS 10/3-101
liability
continuance of unsafe conditions – 745 ILCS 10/3-103
generally – 745 ILCS 10/3-102
hazardous conditions – 745 ILCS 10/3-109
hazardous recreational activity – 745 ILCS 10/3-109
nonlocal property or waterway – 745 ILCS 10/3-110
plan and design – 745 ILCS 10/3-103
recreational areas – 745 ILCS 10/3-106
road and structure upgrades – 745 ILCS 10/3-105
supervision of public property – 745 ILCS 10/3-108
tort liability
agreement – 745 ILCS 10/7-101
application of provisions – 745 ILCS 10/7-103
contribution and indemnification – 745 ILCS 10/7-102
traffic control devices – 745 ILCS 10/3-104
trails and recreational access roads – 745 ILCS 10/3-107
weather conditions – 745 ILCS 10/3-105
maintenance – 745 ILCS 10/3-102
tort liability
agreement – 745 ILCS 10/7-101
application of provisions – 745 ILCS 10/7-103
contribution and indemnification – 745 ILCS 10/7-102

Civil liability in construction
application of provisions – 740 ILCS 35/2
contractor liability – 740 ILCS 85/0.01, 740 ILCS 85/1
exclusions – 740 ILCS 35/3
responsibility – 740 ILCS 35/1

Civil Procedure Relating to Eminent Domain
admissibility of evidence – 735 ILCS 5/7-119
appeals – 735 ILCS 5/7-123
assessment of value – 735 ILCS 5/7-121
bond – 735 ILCS 5/7-125
challenges to jurors – 735 ILCS 5/7-116
compensation
distribution – 735 ILCS 5/7-127
generally – 735 ILCS 5/7-104
payment to county treasurer – 735 ILCS 5/7-126
reimbursement of costs – 735 ILCS 5/7-122
special benefits – 735 ILCS 5/7-120
construction easement – 735 ILCS 5/7-113
contesting – 735 ILCS 5/7-107
court deposit – 735 ILCS 5/7-105
dismissal of complaint – 735 ILCS 5/7-110
distribution of compensation – 735 ILCS 5/7-106

evidence – 735 ILCS 5/7-119
guidelines – 735 ILCS 5/7-102
hearing – 735 ILCS 5/7-115
information required in State agency proceedings – 735 ILCS 5/7-102.1
interest payments – 735 ILCS 5/7-108
intervening petition – 735 ILCS 5/7-124
judgments – 735 ILCS 5/7-123, 735 ILCS 5/7-128
jurors
challenges – 735 ILCS 5/7-116
compensation – 735 ILCS 5/7-101
oath – 735 ILCS 5/7-117
view of premises – 735 ILCS 5/7-118
parties – 735 ILCS 5/7-102
payment of costs – 735 ILCS 5/7-111
possession and title rights – 735 ILCS 5/7-112
prejudice prohibited in contesting – 735 ILCS 5/7-107
quick-take – 735 ILCS 5/7-103
for highway purposes – 735 ILCS 5/7-103.1
refund of overdeposit – 735 ILCS 5/7-109
repurchase – 735 ILCS 5/7-105
State agency proceedings – 735 ILCS 5/7-102.1
State benevolent institutions protected – 735 ILCS 5/7-129
summons and notice – 735 ILCS 5/7-114
value assessed – 735 ILCS 5/7-121
verdict and judgment filed of record – 735 ILCS 5/7-128
view of premises – 735 ILCS 5/7-118

Coal combustion by-products – 20 ILCS 2705/2705-265

Comprehensive road improvement plan – 605 ILCS 5/5-910, 605 ILCS 5/5-915

Conflicts of interest *(See Ethics and disclosure)*

Construction bonds *(See Public Construction Bond Act)*

Construction contracts *(See Public Construction Contract Act)*

Construction design generally *(See Design and construction)*

Continuation of existing freeways – 605 ILCS 5/8-108

Contracts for procurement *(See Procurement Code - contracts)*

Control and supervision of State aid roads in county – 605 ILCS 5/5-401

Control of advertising along highway *(See Highway Advertising Control Act)*

Correctional Code – 730 ILCS 5/3-2-2

Counties Code
application relating to waterways management – 55 ILCS 5/5-1104.1
competitive bids – 55 ILCS 5/5-1022
(See also Procurement Code - competition in - bidding)
County Motor Fuel Tax Law – 55 ILCS 5/5-1035.1
(See also Motor Fuel Tax Law)
economic development tax – 55 ILCS 5/5-1035.2
funds held until work finished – 55 ILCS 5/5-1020
(See also Procurement Code - retention of payment)
liability insurance – 55 ILCS 5/5-1079
maintenance of waterways – 55 ILCS 5/5-1104
naming and numbering – 55 ILCS 5/5-1067
powers of county board generally – 55 ILCS 5/5-1014
removal of obstruction from waterway – 55 ILCS 5/5-1104
retention of payment – 55 ILCS 5/5-1020
(See also Procurement Code - retention of payment)
set-back lines
amendments to regulations – 55 ILCS 5/5-13003
enforcing officer – 55 ILCS 5/5-13002
generally – 55 ILCS 5/5-13001
proceedings to restrain – 55 ILCS 5/5-13004
Storm Water Management Plan – 55 ILCS 5/5-1104
stream maintenance – 55 ILCS 5/5-1104
trust agreement – 55 ILCS 5/5-1020
(See also Procurement Code - trust agreement)
waterway maintenance – 55 ILCS 5/5-1104
waterways management – 55 ILCS 5/5-1104.1

County economic development tax – 55 ILCS 5/5-1035.2

County Unit Road District Road Tax – 605 ILCS 5/6-512

County Motor Fuel Tax Law – 55 ILCS 5/5-1035.1

Criminal Code
Excavation Fence Act – 720 ILCS 605/0.01 et seq.
property damage and trespass
real property – 720 ILCS 5/21-3
State supported land – 720 ILCS 5/21-5
public contracts
bids
exemptions – 720 ILCS 5/33E-12
public officials – 720 ILCS 5/33E-5
rotating – 720 ILCS 5/33E-4
rigging – 720 ILCS 5/33E-3
rules of evidence – 720 ILCS 5/33E-10
sealed bidding – 720 ILCS 5/33E-5
bribery of inspector – 720 ILCS 5/33E-8
certification – 720 ILCS 5/33E-11
change orders – 720 ILCS 5/33E-9
contracting interference – 720 ILCS 5/33E-1
definitions – 720 ILCS 5/33E-2
false entries – 720 ILCS 5/33E-15
false statements – 720 ILCS 5/33E-11, 720 ILCS 5/33E-14

government officials
fraud – 720 ILCS 5/33E-17
generally – 720 ILCS 5/33E-12
interfering with public contracting – 720 ILCS 5/33E-1
kickbacks – 720 ILCS 5/33E-7
Local Government Professional Services Selection Act – 720 ILCS 5/33E-13
(See also Procurement Code)
misapplication of funds – 720 ILCS 5/33E-16
public officials and contract submission – 720 ILCS 5/33E-6
public officials and sealed bidding – 720 ILCS 5/33E-5
rules of evidence for bidding – 720 ILCS 5/33E-10
stringing of bids by governmental official – 720 ILCS 5/33E-18
vendor applications – 720 ILCS 5/33E-14
public nuisance
offenses – 720 ILCS 5/47-5
penalties – 720 ILCS 5/47-25
Criminal history record information – 20 ILCS 2705/2705-90
Crops as snow breaks – 605 ILCS 5/4-217, 605 ILCS 5/6-201.18
Damage to underground utilities *(See Utilities - Underground Utility Facilities Damage Prevention Act)*
Damaging highway – 605 ILCS 5/4-209, 605 ILCS 5/4-212
Debt *(See Bond Authorization Act)*
delinquency – 30 ILCS 500/50-11
Demonstration projects – 605 ILCS 5/4-201.20, 605 ILCS 5/4-410
Demonstrations *(See Public safety - public demonstrations)*
Dept. of Central Management Services – 20 ILCS 5/5-675
Dept. of Natural Resources
acquisition of land – 20 ILCS 5/5-675
Interagency Wetlands Committee – 20 ILCS 830/2-1
Interagency Wetlands Policy Act – 20 ILCS 830/1-1
Dept. of State Police
criminal history record information – 20 ILCS 2705/2705-90
enforcement of Highway and Vehicle Codes – 20 ILCS 2610/16
toll highways – 20 ILCS 2610/21
Dept. of Transportation – 20 ILCS 2705/2705-1
acquisition of land – 20 ILCS 5/5-675, 20 ILCS 2705/2705-550
administrative organization – 20 ILCS 2705/2705-15
air transport for State employees – 20 ILCS 2705/2705-225
assistant secretary
qualifications – 20 ILCS 5/5-300
salary – 20 ILCS 5/5-300, 20 ILCS 5/5-415
supervision of – 20 ILCS 5/5-105, 20 ILCS 5/5-185
Build Illinois Bond Fund
appropriations and capital improvements – 20 ILCS 2705/2705-255
grants for airports – 20 ILCS 2705/2705-275
grants for mass transportation – 20 ILCS 2705/2705-305
Build Illinois Purposes Fund
appropriations and capital improvement – 20 ILCS 2705/2705-255
grants for airports – 20 ILCS 2705/2705-275
grants for mass transportation – 20 ILCS 2705/2705-305
child abduction message signs – 20 ILCS 2705/2705-505.5
coal combustion by-products – 20 ILCS 2705/2705-265
context sensitivity – 605 ILCS 5/4-219
cooperation with other departments – 20 ILCS 5/5-655
cooperation with nongovernmental entities – 20 ILCS 2705/2705-215
created – 20 ILCS 5/5-15
criminal history record information – 20 ILCS 2705/2705-90
definitions – 20 ILCS 2705/2705-5
displaced person – 20 ILCS 5/5-675
Div. of Aeronautics
office locations – 20 ILCS 5/5-630
powers – 20 ILCS 2705/2705-100
transporting State employees – 20 ILCS 2705/2705-225
duties of officers – 20 ILCS 5/5-600
employees
effect of transfer to Dept. – 20 ILCS 2705/2705-175
generally – 20 ILCS 5/5-645
extra-governmental cooperation – 20 ILCS 2705/2705-215
federal rail assistance
access to information – 20 ILCS 2705/2705-410
freight services
abandonment of line or discontinuation – 20 ILCS 2705/2705-430, 20 ILCS 2705/2705-435
loans – 20 ILCS 2705/2705-425
generally – 20 ILCS 2705/2705-400
intercity rail service – 20 ILCS 2705/2705-440
prior agreements – 20 ILCS 2705/2705-445
Rail Freight Loan Repayment Fund – 20 ILCS 2705/2705-425
State Rail Plan
access to information – 20 ILCS 2705/2705-410
other agencies – 20 ILCS 2705/2705-415

preparation – 20 ILCS 2705/2705-405
report to General Assembly – 20 ILCS 2705/2705-420
grants
airport facilities – 20 ILCS 2705/2705-275
capital assistance
generally – 20 ILCS 2705/2705-240
inspections – 20 ILCS 2705/2705-245
handicapped persons – 20 ILCS 2705/2705-310
mass transportation – 20 ILCS 2705/2705-305
passenger security – 20 ILCS 2705/2705-315
high-speed rail development – 20 ILCS 2705/2705-450
Illinois Transit Ridership and Economic Development (TRED) Pilot Project Program – 20 ILCS 2705/2705-321
interagency cooperation – 20 ILCS 2705/2705-215
Interagency Wetland Policy Act
action plan – 20 ILCS 830/2-2
Wetland Compensation Account – 20 ILCS 830/3-3
Wetland Mitigation Policy – 20 ILCS 830/3-1
Wetlands Committee – 20 ILCS 830/2-1
intercity bus service – 20 ILCS 2705/2705-350
intercity rail service – 20 ILCS 2705/2705-440
lease of property – 20 ILCS 2705/2705-555
magnetic levitation development – 20 ILCS 2705/2705-450
mass transportation – 20 ILCS 2705/2705-300
master plan – 20 ILCS 2705/2705-200
Meigs Users Advisory Committee – 20 ILCS 2705/2705-375
offices
hours – 20 ILCS 5/5-635
locations – 20 ILCS 5/5-630
organization of Dept. – 20 ILCS 2705/2705-15
ports and waterways – 20 ILCS 2705/2705-285
powers
administrative organization – 20 ILCS 2705/2705-15
aeronautics – 20 ILCS 2705/2705-100
bridge and ferry operation – 20 ILCS 2705/2705-105
generally – 20 ILCS 2705/2705-10
mass transportation – 20 ILCS 2705/2705-300
motor vehicles
generally – 20 ILCS 2705/2705-110
safety inspection – 20 ILCS 2705/2705-125
ports and waterways – 20 ILCS 2705/2705-285
roads and bridges – 20 ILCS 2705/2705-115
transfer from Dept. of Public Works and Buildings – 20 ILCS 2705/2705-120
preservation of wetlands – 20 ILCS 830/2-1, 20 ILCS 830/2-2, 20 ILCS 830/3-1
prevention of accidents – 20 ILCS 2705/2705-210
property acquisition – 20 ILCS 5/5-675, 20 ILCS 2705/2705-550
relocation program – 20 ILCS 5/5-675
Rail Freight Loan Repayment Fund – 20 ILCS 2705/2705-425
rail freight services
abandonment of line or discontinuation – 20 ILCS 2705/2705-430, 20 ILCS 2705/2705-435
loans – 20 ILCS 2705/2705-425
regulations – 20 ILCS 5/5-625
relocation of displaced person – 20 ILCS 5/5-675
(See also Human needs)
reports to Governor and Legislature – 20 ILCS 5/5-650, 20 ILCS 2705/2705-200, 20 ILCS 2705/2705-420
route connecting Mississippi and Ohio Rivers – 20 ILCS 2705/2705-500
safety inspection of motor vehicle – 20 ILCS 2705/2705-125
sale of used vehicles – 20 ILCS 2705/2705-575
seal – 20 ILCS 5/5-640
secretary
bond – 20 ILCS 5/5-620
oath of office – 20 ILCS 5/5-615
secretary
acting – 20 ILCS 5/5-605
also director – 20 ILCS 5/5-10
appointment – 20 ILCS 5/5-605
created – 20 ILCS 5/5-20
duties – 20 ILCS 5/5-600
qualifications – 20 ILCS 5/5-300
salary – 20 ILCS 5/5-300, 20 ILCS 5/5-415
term of office – 20 ILCS 5/5-610
study of need for transportation – 20 ILCS 2705/2705-205
traffic control – 20 ILCS 2705/2705-210
transfer of realty to other agency – 20 ILCS 2705/2705-550
travel-related signs or tourist-oriented businesses – 20 ILCS 2705/2705-505
use of equipment and services – 20 ILCS 2705/2705-215
use of prisoners – 20 ILCS 2705/2705-510

Design and construction
construction without engineer – 225 ILCS 325/41
political subdivisions – 225 ILCS 325/41
rules of professional conduct; disciplinary or administrative action – 225 ILCS 325/24

seal or license of engineer – 225 ILCS 325/14, 225 ILCS 340/12
technical submissions – 225 ILCS 325/15
violation – 225 ILCS 325/41
Detours – 605 ILCS 5/4-407, 605 ILCS 5/4-408
Dirksen Memorial Highway – 605 ILCS 15/0.01, 605 ILCS 15/1
Disclosure *(See Ethics and disclosure)*
Discrimination in employment *(See Public works - employment practices - discrimination)*
Displaced person *(See Human needs)*
Donation to State agency – 30 ILCS 500/20-95
Economic development tax in county – 55 ILCS 5/5-1035.2
Emergency procurements – 30 ILCS 500/20-30, 30 ILCS 550/1
Eminent Domain *(See Civil Procedure Relating to Eminent Domain)*
acquirement of property for useful purposes – 65 ILCS 5/11-61-1
acquiring property by gift, legacy, or grant – 65 ILCS 5/11-61-1.5
Establishment, improvement and vacation of streets, sidewalks, wharves, and parks – 65 ILCS 5/11-61-2
purchase or lease of property – 65 ILCS 5/11-61-3
quick-take procedures – 65 ILCS 5/11-61-1a
Employees of local government *(See Local government - officers and employees)*
Endangered Species Protection Act – 520 ILCS 10/1
authorization for search and seizure – 520 ILCS 10/8
conservation program – 520 ILCS 10/11
definitions – 520 ILCS 10/2
Endangered and Threatened Species Program – 520 ILCS 10/10
Endangered Species Protection Board – 520 ILCS 10/6
fines – 520 ILCS 10/10
incidental taking – 520 ILCS 10/5.5
listing of species – 520 ILCS 10/7
Nongame Wildlife Conservation Fund – 520 ILCS 10/10
permit
issuance and revocation – 520 ILCS 10/4
limited – 520 ILCS 10/5
public policy – 520 ILCS 10/11
rules – 520 ILCS 10/11
search and seizure – 520 ILCS 10/8
unlawful acts – 520 ILCS 10/3
violation – 520 ILCS 10/9
Engineer *(See Design and construction)*
Entering upon lands or waters – 605 ILCS 5/4-503, 605 ILCS 5/6-803
Environmental protection
air pollution
Best Available Control Technology – 415 ILCS 5/9.4
acts prohibited – 415 ILCS 5/9
alternative control strategies – 415 ILCS 5/9.3
asbestos fees – 415 ILCS 5/9.13
chlorofluorocarbons (CFCs) – 415 ILCS 5/9.7
coal – 415 ILCS 5/9.2
construction permit fees for air pollution sources – 415 ILCS 5/9.12
control strategies – 415 ILCS 5/9.3
cooperation with federal government – 415 ILCS 5/9.1
economic incentives – 415 ILCS 5/9.8
emissions
Best Available Control Technology – 415 ILCS 5/9.4
chlorofluorocarbons (CFCs) – 415 ILCS 5/9.7
coal – 415 ILCS 5/9.2
control strategies – 415 ILCS 5/9.3
emissions market system – 415 ILCS 5/9.8
fossil fuel-fired electric generating plants – 415 ILCS 5/9-10
incineration – 415 ILCS 5/9.4
list – 415 ILCS 5/9.5
market system – 415 ILCS 5/9.8
nitrogen oxide – 415 ILCS 5/9.9
sulfur dioxide – 415 ILCS 5/9.2
legislative findings and purpose – 415 ILCS 5/8
mercury emissions; Great Lakes Areas of Concern – 415 ILCS 5/9.11
municipal waste incineration – 415 ILCS 5/9.4
nitrogen oxides trading system – 415 ILCS 5/9.9
ozone – 415 ILCS 5/9.1, 415 ILCS 5/9.8, 415 ILCS 5/9.9, 415 ILCS 5/10
permits – 415 ILCS 5/9.1, 415 ILCS 5/9.4, 415 ILCS 5/9.6
preference for Illinois coal – 415 ILCS 5/9.2
prohibited acts – 415 ILCS 5/9
reduction in emissions – 415 ILCS 5/9.8
regulations – 415 ILCS 5/9.1
requirements – 415 ILCS 5/9.3
rules and regulations – 415 ILCS 5/9.3, 415 ILCS 5/9.5, 415 ILCS 5/10
standards generally – 415 ILCS 5/10
State and federal cooperation – 415 ILCS 5/9.1
sulfur dioxide – 415 ILCS 5/9.2
use of Illinois coal – 415 ILCS 5/9.2
waste incineration – 415 ILCS 5/9.4
Brownfields redevelopment program – 415 ILCS 5/58.3, 415 ILCS 5/58.13, 415 ILCS 5/58.15
construction debris – 415 ILCS 5/3.160
construction of school – 415 ILCS 5/58.15
coordination with State Fire Marshal – 415 ILCS 5/22.12
demolition debris – 415 ILCS 5/3.160

economic incentives – 415 ILCS 5/9.8, 415 ILCS 5/13.4
Environmental Protection Act violations – 30 ILCS 500/50-14
Environmental Remediation Tax Credit review – 415 ILCS 5/58.14
Federal Water Pollution Control Act – 415 ILCS 5/13.3
groundwater
appropriations – 415 ILCS 55/7
cooperation between agencies – 415 ILCS 55/6
data collection program – 415 ILCS 55/7
definitions – 415 ILCS 55/3
education program – 415 ILCS 55/6
grants – 415 ILCS 55/7
Groundwater Advisory Council – 415 ILCS 55/5
interagency cooperation – 415 ILCS 55/6
Interagency Coordinating Committee on Groundwater – 415 ILCS 55/4
investigation – 415 ILCS 5/57.7
legislative findings – 415 ILCS 55/2
monitoring network – 415 ILCS 5/13.1
non-community water systems – 415 ILCS 55/9
notification of actual or potential contamination – 415 ILCS 55/9.1
plan – 415 ILCS 5/13.1
private water systems – 415 ILCS 55/9
regulations – 415 ILCS 55/8
research – 415 ILCS 55/7
Southern Illinois University – 415 ILCS 55/7
standards – 415 ILCS 55/8
Groundwater Advisory Council – 415 ILCS 55/5
Interagency Coordinating Committee on Groundwater – 415 ILCS 55/4
junkyards
acquisition – 415 ILCS 95/6
action to force compliance – 415 ILCS 95/7
agreements with federal government – 415 ILCS 95/8
canals – 415 ILCS 95/4.5
compliance with provisions – 415 ILCS 95/7
definitions – 415 ILCS 95/2
federal government – 415 ILCS 95/8
inspection by EPA – 415 ILCS 95/4.5
legislative declaration – 415 ILCS 95/1
limitations on facility – 415 ILCS 95/3.
location near canals – 415 ILCS 95/4.5
offense – 415 ILCS 95/7
relocation – 415 ILCS 95/6
screening – 415 ILCS 95/4, 415 ILCS 95/5, 415 ILCS 95/6
land pollution – 415 ILCS 5/21, 415 ILCS 5/22.12
land use control – 415 ILCS 5/58.17
leaking underground storage tanks – 415 ILCS 5/22.12, 415 ILCS 5/57.7
monitoring network for groundwater – 415 ILCS 5/13.1
municipal waste incineration – 415 ILCS 5/9.4
No Further Remediation Letter – 415 ILCS 5/57.10, 415 ILCS 5/58.7
non-community water systems – 415 ILCS 55/9
ozone – 415 ILCS 5/9.1, 415 ILCS 5/9.8, 415 ILCS 5/9.9, 415 ILCS 5/10
private water systems – 415 ILCS 55/9
protection plan for groundwater – 415 ILCS 5/13.1
refuse disposal – 415 ILCS 5/21
Regulations and Site Remediation Advisory Committee – 415 ILCS 5/58.11
septic system sludge – 415 ILCS 5/12.3
Site Investigation and Remedial Activities Program – 415 ILCS 5/58.3
site remediation
applicability of provisions – 415 ILCS 5/58.1
approvals – 415 ILCS 5/58.7
Brownfields Redevelopment Program – 415 ILCS 5/58.3, 415 ILCS 5/58.13, 415 ILCS 5/58.15
completed remediation – 415 ILCS 5/58.10
construction of school – 415 ILCS 5/58.15
definitions – 415 ILCS 5/58.2
Environmental Remediation Tax Credit review – 415 ILCS 5/58.14
investigations and reports – 415 ILCS 5/58.6
legislative intent – 415 ILCS 5/58
liability – 415 ILCS 5/58.9, 415 ILCS 5/58.10
No Further Remediation Letter – 415 ILCS 5/58.7, 415 ILCS 5/58.8
objectives – 415 ILCS 5/58.5
permit waiver – 415 ILCS 5/58.4
Regulations and Site Remediation Advisory Committee – 415 ILCS 5/58.11
reports – 415 ILCS 5/58.6
review and approvals – 415 ILCS 5/58.7
risk-based objectives – 415 ILCS 5/58.5
severability of provisions – 415 ILCS 5/58.12
Site Investigation and Remedial Activities Program – 415 ILCS 5/58.3
waiver – 415 ILCS 5/58.4
Southern Illinois University – 415 ILCS 55/7
testing of water from private well – 415 ILCS 5/13.2
Underground Storage Tank Program – 415 ILCS 5/57.3
underground storage tanks
abandonment – 415 ILCS 5/57.5
administration – 415 ILCS 5/57.4

applicability of provisions – 415 ILCS 5/57.1
audits – 415 ILCS 5/57.15
certification – 415 ILCS 5/57.10
corrective action – 415 ILCS 5/57.7
definitions – 415 ILCS 5/57.2
early action – 415 ILCS 5/57.6
enforcement of provisions – 415 ILCS 5/57.12
engineer's certification – 415 ILCS 5/57.10
falsification – 415 ILCS 5/57.17
groundwater investigation – 415 ILCS 5/57.7
leaking – 415 ILCS 5/22.12, 415 ILCS 5/57.7
legislative intent – 415 ILCS 5/57
lender liability – 415 ILCS 5/57.12A
liability
generally – 415 ILCS 5/57.12
of engineer – 415 ILCS 5/57.10
of lender – 415 ILCS 5/57.12A
No Further Remediation Letter – 415 ILCS 5/57.10
physical soil classification – 415 ILCS 5/57.7
registration – 415 ILCS 5/22.12
removal or repair – 415 ILCS 5/57.5
severability of provisions – 415 ILCS 5/57.16
State agencies – 415 ILCS 5/57.4
State Fire Marshal – 415 ILCS 5/57.4
Underground Storage Tank Fund – 415 ILCS 5/57.8, 415 ILCS 5/57.9, 415 ILCS 5/57.11
Underground Storage Tank Program – 415 ILCS 5/57.3, 415 ILCS 5/57.13
rules – 415 ILCS 5/57.14A
vegetable by-products – 415 ILCS 5/12.4
water pollution
certification fees – 415 ILCS 5/12.6
economic incentives – 415 ILCS 5/13.4
Federal Water Pollution Control Act – 415 ILCS 5/13.3
fees – 415 ILCS 5/12.2
groundwater study – 415 ILCS 5/13.1
hazardous waste – 415 ILCS 5/12.1
legislative intent – 415 ILCS 5/11
limitations on provisions – 415 ILCS 5/11
market system – 415 ILCS 5/13.4
monitoring network – 415 ILCS 5/13.1
NPDES discharge fees; sludge permit fees – 415 ILCS 5/12.5
pretreatment market system – 415 ILCS 5/13.4
private well – 415 ILCS 5/13.2
prohibited acts – 415 ILCS 5/12
protection plan – 415 ILCS 5/13.1
regulations – 415 ILCS 5/11, 415 ILCS 5/13, 415 ILCS 5/13.3
septic system sludge – 415 ILCS 5/12.3
sewage works; operator certification – 415 ILCS 5/13.5
sewer construction fees – 415 ILCS 5/12.2
standards – 415 ILCS 5/13
testing private well – 415 ILCS 5/13.2
underground injection of hazardous waste – 415 ILCS 5/12.1
vegetable by-product – 415 ILCS 5/12.4

Ethics and disclosure
anticompetitive practices – 30 ILCS 500/50-40
bribery or inducement – 30 ILCS 500/50-5, 30 ILCS 500/50-25
confidentiality
generally – 30 ILCS 500/50-50
in procurement – 30 ILCS 500/50-45
conflicts of interest
in contracts – 50 ILCS 105/3, 50 ILCS 105/3.2
in procurement – 30 ILCS 500/50-13, 30 ILCS 500/50-20, 30 ILCS 500/50-35
doing business with felons – 30 ILCS 500/50-5, 30 ILCS 500/50-10
false verification – 50 ILCS 105/4.5
in contracts
conflicts of interest – 50 ILCS 105/3, 50 ILCS 105/3.2
pecuniary interest allowed – 50 ILCS 105/3.2
real estate – 50 ILCS 105/3.1
in procurement
anticompetitive practices – 30 ILCS 500/50-40
bribery or inducement – 30 ILCS 500/50-5, 30 ILCS 500/50-25
confidentiality – 30 ILCS 500/50-45
conflicts of interest – 30 ILCS 500/50-13, 30 ILCS 500/50-20, 30 ILCS 500/50-35
generally – 30 ILCS 500/50-1, 30 ILCS 500/50-15
negotiations – 30 ILCS 500/50-15
reporting anticompetitive practices – 30 ILCS 500/50-40
revolving door prohibition – 30 ILCS 500/50-30, 30 ILCS 500/50-50
insider information – 30 ILCS 500/50-50
negotiations generally – 30 ILCS 500/50-15
perjury – 50 ILCS 105/4.5
real estate disclosure in contracts – 50 ILCS 105/3.1
reporting anticompetitive practices – 30 ILCS 500/50-40
revolving door prohibition – 30 ILCS 500/50-30, 30 ILCS 500/50-50
truth in property taxation
adopted levy exceeds proposed – 35 ILCS 200/18-85
defective publication – 35 ILCS 200/18-100
definitions – 35 ILCS 200/18-55
estimate of tax to be levied – 35 ILCS 200/18-60
extension limitation – 35 ILCS 200/18-90, 35 ILCS 200/18-95

legislative intent – 35 ILCS 200/18-56
more than 5% increase – 35 ILCS 200/18-70
notice and hearing – 35 ILCS 200/18-70, 35 ILCS 200/18-72, 35 ILCS 200/18-75, 35 ILCS 200/18-80, 35 ILCS 200/18-85
restriction on extension – 35 ILCS 200/18-65
Truth in Taxation Law – 35 ILCS 200/18-95
(See also Municipal Code - local improvements)
waiver of competition in professional services selection – 50 ILCS 510/8
Exploration or excavation of archaeological and paleontological resources *(See Archaeological and Paleontological Resources Preservation Act)*
Farmland preservation *(See Agriculture - farmland preservation)*
Federal rail assistance *(See Dept. of Transportation - federal rail assistance)*
Federal Water Pollution Control Act – 415 ILCS 5/13.3
Federal-aid funds – 30 ILCS 500/20-85
Fire Safety Regulations
lumber and coal yards – 65 ILCS 5/11-8-5
Fuel tax *(See Motor Fuel Tax Law)*
General Revenue Fund transfer to Road Fund – 30 ILCS 105/5g
Gift to Dept. of Transportation; bridges – 605 ILCS 5/10-101
Groundwater *(See Environmental protection - groundwater)*
Health and safety relating to environmental protection *(See Environmental protection)*
Highway Advertising Control Act – 225 ILCS 440/2
acceptance of federal funds – 225 ILCS 440/12
advertising
activities on property – 225 ILCS 440/4.03
automotive facilities – 225 ILCS 440/4.07
food or lodging or recreational facilities – 225 ILCS 440/4.07
sale or lease of property – 225 ILCS 440/4.02
agreement with federal government – 225 ILCS 440/11
business area defined – 225 ILCS 440/3.12
commercial or industrial activities defined – 225 ILCS 440/3.10
compensation for removal of sign – 225 ILCS 440/9
compliance with federal government – 225 ILCS 440/11
definitions
business area – 225 ILCS 440/3.12
commercial or industrial activities – 225 ILCS 440/3.10
department – 225 ILCS 440/3.01
erect – 225 ILCS 440/3.08
expressway – 225 ILCS 440/3.04
generally – 225 ILCS 440/3
interstate highway – 225 ILCS 440/3.02
main-traveled way – 225 ILCS 440/3.05
maintain – 225 ILCS 440/3.06
municipality – 225 ILCS 440/3.09
national highway system – 225 ILCS 440/3.15
primary highway – 225 ILCS 440/3.03
scenic byway – 225 ILCS 440/3.16
sign – 225 ILCS 440/3.07
unzoned commercial or industrial area – 225 ILCS 440/3.11
urban area – 225 ILCS 440/3.14
visible – 225 ILCS 440/3.13
department defined – 225 ILCS 440/3.01
directional and other official signs – 225 ILCS 440/4.01
enforcement of Act – 225 ILCS 440/9
erect defined – 225 ILCS 440/3.08
erection of signs generally – 225 ILCS 440/4
expressway defined – 225 ILCS 440/3.04
federal funds – 225 ILCS 440/12
gas station signs – 225 ILCS 440/4.07
giving specific information in the interest of the traveling public – 225 ILCS 440/4.08
interstate highway defined – 225 ILCS 440/3.02
invalid provision – 225 ILCS 440/13
legislative findings and declarations – 225 ILCS 440/1
limitation on signs – 225 ILCS 440/4
main-traveled way defined – 225 ILCS 440/3.05
maintain defined – 225 ILCS 440/3.06
municipality defined – 225 ILCS 440/3.09
national highway system defined – 225 ILCS 440/3.15
nuisance – 225 ILCS 440/10
permit for sign – 225 ILCS 440/8
preservation of natural beauty – 225 ILCS 440/14
primary highway defined – 225 ILCS 440/3.03
prohibited signs – 225 ILCS 440/5, 225 ILCS 440/10
public nuisance – 225 ILCS 440/10
public utilities may affix signs – 225 ILCS 440/4.06
registration of sign – 225 ILCS 440/8
removal of sign – 225 ILCS 440/9
rules and regulations – 225 ILCS 440/14.01
scenic byway defined – 225 ILCS 440/3.16
scenic byways – 225 ILCS 440/14.02
severability of invalid provision – 225 ILCS 440/13
sign defined – 225 ILCS 440/3.07
signs
advertising
activities on property – 225 ILCS 440/4.03

automotive facilities – 225 ILCS 440/4.07
food or lodging or recreational facilities – 225 ILCS 440/4.07
sale or lease of property – 225 ILCS 440/4.02
affixed by public utilities – 225 ILCS 440/4.06
application in business area – 225 ILCS 440/6.04, 225 ILCS 440/7
compensation for removal – 225 ILCS 440/9
directional – 225 ILCS 440/4.01
enforcement of Act – 225 ILCS 440/9
erection generally – 225 ILCS 440/4
for the traveling public – 225 ILCS 440/4.08
gas stations – 225 ILCS 440/4.07
generally – 225 ILCS 440/4
in business area
application of provisions – 225 ILCS 440/6.04, 225 ILCS 440/7
effects of similar provisions – 225 ILCS 440/7
erection generally – 225 ILCS 440/4.04, 225 ILCS 440/4.05
lighting – 225 ILCS 440/6.02
limitations – 225 ILCS 440/6
previously existing – 225 ILCS 440/4.05
size – 225 ILCS 440/6.01
spacing – 225 ILCS 440/6.03
lighting in business area – 225 ILCS 440/6.02
limitations – 225 ILCS 440/4, 225 ILCS 440/6
nuisance – 225 ILCS 440/10
official – 225 ILCS 440/4.01
permit – 225 ILCS 440/8
previously existing signs – 225 ILCS 440/4.05
prohibited signs – 225 ILCS 440/5, 225 ILCS 440/10
public nuisance – 225 ILCS 440/10
public utilities may affix – 225 ILCS 440/4.06
registration – 225 ILCS 440/8
relative to food or lodging – 225 ILCS 440/4.07
removal – 225 ILCS 440/9
size in business area – 225 ILCS 440/6.01
spacing in business area – 225 ILCS 440/6.03
tag – 225 ILCS 440/8
unlawful signs – 225 ILCS 440/10
tag for sign – 225 ILCS 440/8
unlawful signs – 225 ILCS 440/10
unzoned commercial or industrial area defined – 225 ILCS 440/3.11
urban area defined – 225 ILCS 440/3.14
visible defined – 225 ILCS 440/3.13

Highway Code
acceptance of federal aid – 605 ILCS 5/3-101
access roads and driveways – 605 ILCS 5/5-413
accounts – 605 ILCS 5/10-306
acquisition of land – 605 ILCS 5/4-501, 605 ILCS 5/4-502, 605 ILCS 5/4-504, 605 ILCS 5/4-508, 605 ILCS 5/4-508.1, 605 ILCS 5/5-801, 605 ILCS 5/5-802, 605 ILCS 5/10-309, 605 ILCS 5/10-602
additional county tax – 605 ILCS 5/5-602, 605 ILCS 5/5-605, 605 ILCS 5/5-607
additional highways – 605 ILCS 5/4-203
additional mileage – 605 ILCS 5/4-202
additional powers of Department
bikeways – 605 ILCS 5/4-201.12
connection of highways – 605 ILCS 5/4-201.2
contracts – 605 ILCS 5/4-201.4
demonstration projects – 605 ILCS 5/4-201.20
division of State highway system into sections or districts – 605 ILCS 5/4-201.6
equipment and material – 605 ILCS 5/4-201.7, 605 ILCS 5/4-201.8
erection of buildings – 605 ILCS 5/4-201.8
ferries – 605 ILCS 5/4-201.9
forestation – 605 ILCS 5/4-201.15
generally – 605 ILCS 5/4-201
interstate bridges – 605 ILCS 5/4-201.13
leasing of projects from Illinois Highway Trust Authority – 605 ILCS 5/4-201.17
lighting – 605 ILCS 5/4-201.10
natural deposits of road material – 605 ILCS 5/4-201.8
numbering of State highways – 605 ILCS 5/4-201.11
parking facilities – 605 ILCS 5/4-201.18
preservation of natural beauty – 605 ILCS 5/4-201.15
publicly-owned parking facilities – 605 ILCS 5/4-201.18
refuges and historic places – 605 ILCS 5/4-201.5
relocation of highway – 605 ILCS 5/4-201.3
rental of property – 605 ILCS 5/4-201.16
rest areas – 605 ILCS 5/4-201.14
rules and regulations – 605 ILCS 5/4-201.1
specifications – 605 ILCS 5/4-201.1
telephone service – 605 ILCS 5/4-201.19
traffic control devices and signs – 605 ILCS 5/4-201.12
additions and deletions to county roads – 605 ILCS 5/5-102, 605 ILCS 5/5-105

adjudication of toll violations – 605 ILCS 5/10-302.5
agreement between Department and county – 605 ILCS 5/5-402
agreements with federal government – 605 ILCS 5/3-103
agricultural aircraft – 605 ILCS 5/9-129
allocation of motor fuel tax funds – 605 ILCS 5/7-202.22
alternative methods and materials – 605 ILCS 5/9-110
animals on highway – 605 ILCS 5/9-114, 605 ILCS 5/9-124.1
application of provisions – 605 ILCS 5/1-103
appropriation by county board – 605 ILCS 5/10-202
approval and supervision of Department – 605 ILCS 5/5-402, 605 ILCS 5/5-403
approval of plans and specifications for bridge work – 605 ILCS 5/10-205
asphalt – 605 ILCS 5/9-106
audits – 605 ILCS 5/10-306
authority for county bridges – 605 ILCS 5/10-301, 605 ILCS 5/10-302
belt-line routes – 605 ILCS 5/4-403
berms – 605 ILCS 5/9-115.1
billboards and other advertising – 605 ILCS 5/9-112.1, 605 ILCS 5/9-112.2, 605 ILCS 5/9-112.5
(See also Highway Advertising Control Act)
billing utility for damage caused by utility – 605 ILCS 5/9-113.01
bonds
bonds are legal investments – 605 ILCS 5/10-715
for county bridge – 605 ILCS 5/10-303
for municipal terminal facilities – 605 ILCS 5/10-606
payable only from revenue – 605 ILCS 5/10-308
borrowing money for county bridge – 605 ILCS 5/10-303
Bridge Commission – 605 ILCS 5/10-311, 605 ILCS 5/10-713
bridge or ferry subject to municipal control – 605 ILCS 5/10-503, 605 ILCS 5/10-603
budget year for operation of bridge – 605 ILCS 5/10-310
camping on highway prohibited – 605 ILCS 5/9-124
changes in county system – 605 ILCS 5/5-105
closing or relocating street – 605 ILCS 5/4-512
commercial establishment for serving motorists or highway users – 605 ILCS 5/9-113.1
compelling performance of duties – 605 ILCS 5/10-307, 605 ILCS 5/10-711
comprehensive road improvement plan – 605 ILCS 5/5-910, 605 ILCS 5/5-915
conditions precedent for acquiring structure – 605 ILCS 5/10-102
consent for construction – 605 ILCS 5/9-113
construct-construction defined – 605 ILCS 5/2-210
construction and maintenance
belt-line routes – 605 ILCS 5/4-403
construction in excess of need – 605 ILCS 5/4-404
consent for construction – 605 ILCS 5/9-113
contracts between highway authorities – 605 ILCS 5/4-406, 605 ILCS 5/4-409
demonstration project – 605 ILCS 5/4-410
detours – 605 ILCS 5/4-407, 605 ILCS 5/4-408
edge lines – 605 ILCS 5/4-405
extensions – 605 ILCS 5/4-404
highway widths – 605 ILCS 5/4-401, 605 ILCS 5/4-404
jurisdiction – 605 ILCS 5/4-406.1
maintenance contracts – 605 ILCS 5/4-406
State highway in municipality – 605 ILCS 5/4-402
temporary closure – 605 ILCS 5/4-407, 605 ILCS 5/4-408
widths of highways – 605 ILCS 5/4-401, 605 ILCS 5/4-404
continuation of existing freeways – 605 ILCS 5/8-108
contracts
between highway authorities – 605 ILCS 5/4-406, 605 ILCS 5/4-409
for bridge work in county – 605 ILCS 5/10-205
partial payments for work in progress – 605 ILCS 5/4-103, 605 ILCS 5/5-409
relating to State highways – 605 ILCS 5/4-201.4
successful bidder to furnish bond – 605 ILCS 5/4-103
trust agreement – 605 ILCS 5/4-103
(See also Procurement Code - trust agreement)
contracts between highway authorities – 605 ILCS 5/4-406, 605 ILCS 5/4-409
control device or sign – 605 ILCS 5/9-103
control of noxious weeds – 605 ILCS 5/9-111
cooperation between governmental units – 605 ILCS 5/5-701.6, 605 ILCS 5/9-101
corner stones – 605 ILCS 5/9-104
county aid in construction of bridge – 605 ILCS 5/10-503
county bids and letting of contracts – 605 ILCS 5/5-403
county bonds
for bridge – 605 ILCS 5/10-202, 605 ILCS 5/10-203, 605 ILCS 5/10-204, 605 ILCS 5/10-303

generally – 605 ILCS 5/5-605, 605 ILCS 5/5-605.1, 605 ILCS 5/5-605.2
county connection with road in other county – 605 ILCS 5/5-406
county contract for bridge work – 605 ILCS 5/10-205
county director of Div. of Transportation
appointment – 605 ILCS 5/5-201.1
deputy to Department – 605 ILCS 5/5-205.8
employee of county board – 605 ILCS 5/5-202.1
serves at pleasure of appointing authority – 605 ILCS 5/5-203.1
county highway
abandoning joint work – 605 ILCS 5/5-505
aid for structures generally – 605 ILCS 5/5-501
approach to bridge or culvert – 605 ILCS 5/5-506
bridge fund – 605 ILCS 5/5-501
defined – 605 ILCS 5/2-204
extension – 605 ILCS 5/5-106
joint work – 605 ILCS 5/5-502, 605 ILCS 5/5-504, 605 ILCS 5/5-505, 605 ILCS 5/5-507
numbering of – 605 ILCS 5/5-108
paying for work – 605 ILCS 5/5-502
relocation – 605 ILCS 5/5-107
structure on county line – 605 ILCS 5/5-503
suit on joint contract – 605 ILCS 5/5-507
taxes – 605 ILCS 5/5-601, 605 ILCS 5/5-601.1, 605 ILCS 5/5-602, 605 ILCS 5/5-604, 605 ILCS 5/5-604.1
work at county line – 605 ILCS 5/5-503
county long-range plan – 605 ILCS 5/5-301
county may aid in construction of municipal bridge or ferry – 605 ILCS 5/10-603
county receipt of motor fuel tax money – 605 ILCS 5/5-702
county road additions and deletions – 605 ILCS 5/5-102, 605 ILCS 5/5-105
county road within municipality – 605 ILCS 5/5-408, 605 ILCS 5/5-410
county share of expenses relating to bridge – 605 ILCS 5/10-201
county superintendent of highways
acting superintendent – 605 ILCS 5/5-204, 605 ILCS 5/5-204.1
advising highway commissioners – 605 ILCS 5/5-205.3
appointment – 605 ILCS 5/5-101.6, 605 ILCS 5/5-201
bridges and culverts – 605 ILCS 5/5-205.1
contracts – 605 ILCS 5/5-205.6
county unit district roads – 605 ILCS 5/5-205.7
deputy to Department – 605 ILCS 5/5-205.8
functions generally – 605 ILCS 5/5-205
holding multiple offices – 605 ILCS 5/5-201, 605 ILCS 5/5-205.8
long-range plan – 605 ILCS 5/5-301
other duties – 605 ILCS 5/5-205.8
performance of other duties – 605 ILCS 5/5-205.8
plans and specifications – 605 ILCS 5/5-205.1, 605 ILCS 5/5-205.4
plans and specifications – 605 ILCS 5/5-301
purchases – 605 ILCS 5/5-205.6
qualifications – 605 ILCS 5/5-201
recording of contract or purchase – 605 ILCS 5/5-205.6
removal from office – 605 ILCS 5/5-203
report to road district treasurer – 605 ILCS 5/5-205.9
resources and personnel – 605 ILCS 5/5-202
supervision of work – 605 ILCS 5/5-205.2, 605 ILCS 5/5-205.5, 605 ILCS 5/5-205.7
term and salary – 605 ILCS 5/5-202
vacancy of office – 605 ILCS 5/5-204, 605 ILCS 5/5-204.1
county superintendent of highways to approve plans and specifications for bridge work – 605 ILCS 5/10-205
county system map – 605 ILCS 5/5-103
county system total mileage – 605 ILCS 5/5-104
county treasurer is legal custodian of funds – 605 ILCS 5/10-305
County Unit Road District Road Tax – 605 ILCS 5/6-512
county use of motor fuel tax
bikeways – 605 ILCS 5/5-701.13
bonds – 605 ILCS 5/5-701.4, 605 ILCS 5/5-701.5, 605 ILCS 5/5-701.11, 605 ILCS 5/5-701.16
circuit court – 605 ILCS 5/5-701.10
compliance with guidelines – 605 ILCS 5/5-702
county highways – 605 ILCS 5/5-701.1
county unit roads – 605 ILCS 5/5-701.17
county's share of federal aid projects – 605 ILCS 5/5-701.7
federal aid projects – 605 ILCS 5/5-701.7
garage – 605 ILCS 5/5-701.9
generally – 605 ILCS 5/5-701
grade separations and approaches – 605 ILCS 5/5-701.14
highway-related department – 605 ILCS 5/5-701.10
investigations of need for work – 605 ILCS 5/5-701.6

maintenance of highways – 605 ILCS 5/5-701.3
money may be turned over to local transit authorities – 605 ILCS 5/5-701.8
nondedicated subdivision roads – 605 ILCS 5/5-701.15
office space – 605 ILCS 5/5-701.9, 605 ILCS 5/5-701.12
payment of bonds for county bridge – 605 ILCS 5/5-701.16
payment of bonds for county road – 605 ILCS 5/5-701.11, 605 ILCS 5/5-701.16
payment of bonds for superhighway – 605 ILCS 5/5-701.5
retirement of bonds – 605 ILCS 5/5-701.4
share of federal aid projects – 605 ILCS 5/5-701.7
State highways – 605 ILCS 5/5-701.2
superhighways – 605 ILCS 5/5-701.5
courtesy rest stop – 605 ILCS 5/9-113.1
crops as snow breaks – 605 ILCS 5/4-217, 605 ILCS 5/5-412, 605 ILCS 5/6-201.18
crossings for domestic animals – 605 ILCS 5/9-114
culverts or crossings – 605 ILCS 5/9-105
cumulative powers – 605 ILCS 5/10-312
custodian of county funds – 605 ILCS 5/10-305
damage caused by utility – 605 ILCS 5/9-113.01
damage to State-owned roadway property – 605 ILCS 5/9-113.02
damaging highway – 605 ILCS 5/4-209, 605 ILCS 5/4-212, 605 ILCS 5/9-117
damaging sign or traffic control device – 605 ILCS 5/9-128
definitions
construct-construction – 605 ILCS 5/2-210
county highway – 605 ILCS 5/2-204
department – 605 ILCS 5/2-211
district road – 605 ILCS 5/2-206
federal aid highway – 605 ILCS 5/2-208
freeway – 605 ILCS 5/2-212
generally – 605 ILCS 5/2-201
highway – 605 ILCS 5/2-202
highway authority or highway authorities – 605 ILCS 5/2-213
maintain-maintenance – 605 ILCS 5/2-214
municipality – 605 ILCS 5/2-215
person – 605 ILCS 5/2-216
right-of-way – 605 ILCS 5/2-217
rural highway or rural road – 605 ILCS 5/2-218
State funds – 605 ILCS 5/2-219
State highway – 605 ILCS 5/2-203
street – 605 ILCS 5/2-207
township road – 605 ILCS 5/2-205
demonstration projects – 605 ILCS 5/4-201.20
department defined – 605 ILCS 5/2-211
Dept. of Transportation
acquisition of ferry – 605 ILCS 5/10-901
approval and supervision required – 605 ILCS 5/5-402, 605 ILCS 5/5-403
consultation with other highway authorities – 605 ILCS 5/4-101.10
maintenance and operation of covered bridge – 605 ILCS 5/10-1001
maintenance and operation of ferry – 605 ILCS 5/10-902
use of funds for ferry – 605 ILCS 5/10-903
deposit of
sewage on highway – 605 ILCS 5/9-123
snow on highway – 605 ILCS 5/9-130
spoil – 605 ILCS 5/9-115
trash along highway – 605 ILCS 5/9-121
description of
county highway system – 605 ILCS 5/2-102
municipal street system – 605 ILCS 5/2-104
State highway system – 605 ILCS 5/2-101
township and district road system – 605 ILCS 5/2-103
design and lighting of billboards and other advertising – 605 ILCS 5/9-112.2
(See also Highway Advertising Control Act)
detention facilities – 605 ILCS 5/9-115.1
determining future needs – 605 ILCS 5/4-101.11, 605 ILCS 5/4-303
detours – 605 ILCS 5/4-407, 605 ILCS 5/4-408
discharge of operators of snow removal equipment – 605 ILCS 5/4-101.14
displaced person
additional payment for loss of dwelling – 605 ILCS 5/3-107.1c
discontinuing business – 605 ILCS 5/3-107.1b
eminent domain – 605 ILCS 5/3-107.1f
fees and taxes – 605 ILCS 5/3-107.1d
generally – 605 ILCS 5/3-107.1
loss of dwelling – 605 ILCS 5/3-107.1c
mortgage penalties – 605 ILCS 5/3-107.1d
optional allowance – 605 ILCS 5/3-107.1a
optional fixed payment – 605 ILCS 5/3-107.1b
reimbursements – 605 ILCS 5/3-107.1d
rules and regulations – 605 ILCS 5/3-107.1e
(See also Human needs - displaced person)
disposition of fines and penalties – 605 ILCS 5/9-126
distribution of federal aid projects – 605 ILCS 5/3-102
district road defined – 605 ILCS 5/2-206

disturbing corner stones – 605 ILCS 5/9-104
domestic animals on highway – 605 ILCS 5/9-114, 605 ILCS 5/9-124.1
drains and drainage – 605 ILCS 5/9-101.1, 605 ILCS 5/9-107, 605 ILCS 5/9-115.1
earthen berms – 605 ILCS 5/9-115.1
effect of Code and other provisions
bonds outstanding – 605 ILCS 5/11-105
cross references – 605 ILCS 5/11-102
cumulative powers – 605 ILCS 5/11-106
headings – 605 ILCS 5/11-101
partial invalidity – 605 ILCS 5/11-103
prior statutes – 605 ILCS 5/11-104
saving provisions – 605 ILCS 5/11-104
eminent domain – 605 ILCS 5/3-107.1f, 605 ILCS 5/4-502, 605 ILCS 5/5-801, 605 ILCS 5/5-802, 605 ILCS 5/10-602
enforcement by State Police – 20 ILCS 2610/16
entering upon lands or waters – 605 ILCS 5/4-503, 605 ILCS 5/5-803
entrance culverts or crossings – 605 ILCS 5/9-105
entrance or exit – 605 ILCS 5/4-209, 605 ILCS 5/4-210, 605 ILCS 5/4-211, 605 ILCS 5/4-212, 605 ILCS 5/5-413
erection of signs and barricades – 605 ILCS 5/9-102
excavation or removal of lateral support – 605 ILCS 5/9-115
expenses relating to bridge – 605 ILCS 5/10-201
Expressway bonds – 605 ILCS 5/3-105
extensions – 605 ILCS 5/5-106
federal aid highway
defined – 605 ILCS 5/2-208
generally – 605 ILCS 5/4-102
federal aid matching tax – 605 ILCS 5/5-603
Federal Aid Road Act – 605 ILCS 5/2-209
federal aid secondary highways – 605 ILCS 5/3-104
federal aid urban system of streets and highways – 605 ILCS 5/3-104.1
federal money to go to Road Fund – 605 ILCS 5/3-105, 605 ILCS 5/3-105.1
ferry at county line – 605 ILCS 5/5-407
filing of description of State highway – 605 ILCS 5/4-204
final payment for county work – 605 ILCS 5/5-409
fiscal year for operation of bridge – 605 ILCS 5/10-310
forestation – 605 ILCS 5/2-220, 605 ILCS 5/4-201.15
freeway
acquisition of land – 605 ILCS 5/8-103
continuation of existing freeways – 605 ILCS 5/8-108
crossing – 605 ILCS 5/8-104, 605 ILCS 5/8-106, 605 ILCS 5/8-107
cumulative provisions – 605 ILCS 5/8-109
defined – 605 ILCS 5/2-212
easement permitting crossing – 605 ILCS 5/8-104
establishment and regulation – 605 ILCS 5/8-101
existing freeways – 605 ILCS 5/8-108
generally – 605 ILCS 5/8-101
ingress and egress – 605 ILCS 5/8-102
local service drives – 605 ILCS 5/8-105
property acquisition – 605 ILCS 5/8-103
regulation – 605 ILCS 5/8-101
service drives – 605 ILCS 5/8-105
telephone service – 605 ILCS 5/8-107.1
freshly applied asphalt or road oil – 605 ILCS 5/9-106
future additions – 605 ILCS 5/4-510
future needs – 605 ILCS 5/4-101.11, 605 ILCS 5/4-303
general election laws – 605 ILCS 5/5-601.1
gift to Department – 605 ILCS 5/10-101
Great River Road – 605 ILCS 5/3-104.3
guide signs around business area – 605 ILCS 5/4-208
hedge fence – 605 ILCS 5/9-116
highway authority or highway authorities defined – 605 ILCS 5/2-213
highway
defined – 605 ILCS 5/2-202
entrance or exit – 605 ILCS 5/4-209, 605 ILCS 5/4-210, 605 ILCS 5/4-211, 605 ILCS 5/4-212, 605 ILCS 5/5-413
in municipality – 605 ILCS 5/4-402
impact fees
Advisory Committee – 605 ILCS 5/5-907, 605 ILCS 5/5-908, 605 ILCS 5/5-909
appeals process – 605 ILCS 5/5-917
assessment – 605 ILCS 5/5-911
authorization – 605 ILCS 5/5-904
comprehensive plan – 605 ILCS 5/5-910, 605 ILCS 5/5-915
definitions – 605 ILCS 5/5-903
expenditures – 605 ILCS 5/5-914
general purposes – 605 ILCS 5/5-902
home rule preemption – 605 ILCS 5/5-919
interest bearing accounts – 605 ILCS 5/5-913
ordinance – 605 ILCS 5/5-906
payment of – 605 ILCS 5/5-912
procedure – 605 ILCS 5/5-905
refund – 605 ILCS 5/5-916
resolution – 605 ILCS 5/5-906
transition clauses – 605 ILCS 5/5-918
incapacity of structure – 605 ILCS 5/9-109
inclusion in township or district road system – 605 ILCS 5/6-325
increase in allocation of motor fuel tax funds – 605 ILCS 5/7-202.22
increase in network mileage – 605 ILCS 5/3-102, 605 ILCS 5/4-202
ingress and egress – 605 ILCS 5/4-209, 605 ILCS 5/4-210, 605 ILCS 5/4-211, 605 ILCS 5/4-212, 605 ILCS 5/5-413

injuring or obstructing highway – 605 ILCS 5/9-117
injuring or obstructing sidewalk or bridge – 605 ILCS 5/9-122
injuring tree or shrub – 605 ILCS 5/9-119.
inspection of bridges and culverts – 605 ILCS 5/9-111.1
integration of federal aid highway – 605 ILCS 5/3-108
investigations
of the need for work – 605 ILCS 5/5-701.6
to determine future needs – 605 ILCS 5/4-101.11, 605 ILCS 5/4-303
issuing bonds
for county bridge – 605 ILCS 5/10-303
revenue bonds – 605 ILCS 5/10-712
joint control of bridge – 605 ILCS 5/10-103
joint work between municipalities – 605 ILCS 5/10-714
jurisdiction – 605 ILCS 5/4-406.1, 605 ILCS 5/5-410.1
keeping vehicles off highway – 605 ILCS 5/9-102
lateral support – 605 ILCS 5/9-115
legal custodian of county funds – 605 ILCS 5/10-305
legislative intent and declaration – 605 ILCS 5/1-102
letting of contract
county contract for bridge work – 605 ILCS 5/10-205
generally – 605 ILCS 5/10-308
liability of agricultural aircraft – 605 ILCS 5/9-129
limitation on discharge of operators of snow removal equipment – 605 ILCS 5/4-101.14
littering – 605 ILCS 5/9-121
loading areas for passenger carriers – 605 ILCS 5/4-213
loosing of animals on highway – 605 ILCS 5/9-124.1
mail boxes on highways – 605 ILCS 5/4-207, 605 ILCS 5/5-411, 605 ILCS 5/6-412
maintain-maintenance defined – 605 ILCS 5/2-214
maintenance of federal aid highways – 605 ILCS 5/3-106
maps
for public use – 605 ILCS 5/4-101.13
of county system – 605 ILCS 5/5-103
methods and materials – 605 ILCS 5/9-110
mileage of county system – 605 ILCS 5/5-104
money turned over to county – 605 ILCS 5/5-101.7
municipal terminal facilities – 605 ILCS 5/10-604
municipal toll bridges
bonds – 605 ILCS 5/10-703
definitions – 605 ILCS 5/10-701
powers of municipalities – 605 ILCS 5/10-702
revenue bonds – 605 ILCS 5/10-703
municipal administration
context sensitivity – 605 ILCS 5/4-219
highway transportation plan – 605 ILCS 5/7-301
long-range highway transportation plan – 605 ILCS 5/7-301
plan – 605 ILCS 5/7-301
streets and alleys – 605 ILCS 5/7-101
transportation plan – 605 ILCS 5/7-301
use of motor fuel tax funds
acquisition of land – 605 ILCS 5/7-202.17
agreement with Department on work financed with State funds – 605 ILCS 5/7-203.2
allocation – 605 ILCS 5/7-202.22
approaches to grades – 605 ILCS 5/7-202.21
assessment – 605 ILCS 5/7-203.1
bikeways and parking facilities – 605 ILCS 5/7-202.20
bonds – 605 ILCS 5/7-202.18
compliance with Department guidelines – 605 ILCS 5/7-204
costs – 605 ILCS 5/7-202.12
county highways and extensions – 605 ILCS 5/7-202.1a
department approval and guidelines – 605 ILCS 5/7-203, 605 ILCS 5/7-203.1, 605 ILCS 5/7-204
engineering costs – 605 ILCS 5/7-202.12
extensions – 605 ILCS 5/7-202.1a, 605 ILCS 5/7-202.3, 605 ILCS 5/7-202.4
federal aid primary or federal aid urban streets – 605 ILCS 5/7-202.1b
federal aid transportation project – 605 ILCS 5/7-202.10
generally – 605 ILCS 5/7-202
grade separations and approaches – 605 ILCS 5/7-202.21
increase in allocation – 605 ILCS 5/7-202.22
indebtedness – 605 ILCS 5/7-202.13
inspection of work by Department – 605 ILCS 5/7-203
investigations to determine the need for work – 605 ILCS 5/7-202.11
lighting – 605 ILCS 5/7-202.6
local mass transit districts – 605 ILCS 5/7-202.14
motor vehicle safety inspection lanes – 605 ILCS 5/7-202.19
municipal
indebtedness – 605 ILCS 5/7-202.13
motor fuel tax highway program – 605 ILCS 5/7-203.1

streets and alleys – 605 ILCS 5/7-202.2
share of federal aid transportation project – 605 ILCS 5/7-202.10
non-arterial residential streets – 605 ILCS 5/7-202.1c
nondedicated subdivision roads – 605 ILCS 5/7-202.21a
off street parking – 605 ILCS 5/7-202.17
ordinances specifying purposes – 605 ILCS 5/7-203
pedestrian paths or sidewalks – 605 ILCS 5/7-202.15
pedestrian subways or over head crossings – 605 ILCS 5/7-202.8
principal and interest on bonds – 605 ILCS 5/7-202.18
property acquisition – 605 ILCS 5/7-202.17
safety inspection lanes – 605 ILCS 5/7-202.19
school crossing signals – 605 ILCS 5/7-202.5
sewers – 605 ILCS 5/7-202.7
share of federal aid transportation project – 605 ILCS 5/7-202.10
sidewalks or other pedestrian paths – 605 ILCS 5/7-202.15
State funds – 605 ILCS 5/7-203.2
State or federal highways – 605 ILCS 5/7-202.1
storm sewers – 605 ILCS 5/7-202.7
street lighting systems – 605 ILCS 5/7-202.6
studies for construction of toll bridges – 605 ILCS 5/7-202.16
traffic control and school crossing signals – 605 ILCS 5/7-202.5
work financed with State funds – 605 ILCS 5/7-203.2
municipal bridge at State boundary
bonds – 605 ILCS 5/10-803, 605 ILCS 5/10-804, 605 ILCS 5/10-806, 605 ILCS 5/10-807, 605 ILCS 5/10-808
compelling performance of duties – 605 ILCS 5/10-807
definitions – 605 ILCS 5/10-801
powers of municipality – 605 ILCS 5/10-802
receivership – 605 ILCS 5/10-807
record of costs – 605 ILCS 5/10-805
refunding bonds – 605 ILCS 5/10-806
revenue bonds – 605 ILCS 5/10-803, 605 ILCS 5/10-804, 605 ILCS 5/10-808
setting tolls – 605 ILCS 5/10-805
validation of proceedings and bond issues – 605 ILCS 5/10-809
municipal extension of county road – 605 ILCS 5/5-106
municipal terminal facilities – 605 ILCS 5/10-605, 605 ILCS 5/10-606
municipal toll bridges – 605 ILCS 5/10-502
bonds – 605 ILCS 5/10-704, 605 ILCS 5/10-706, 605 ILCS 5/10-707, 605 ILCS 5/10-708, 605 ILCS 5/10-709
end of toll – 605 ILCS 5/10-705
record of costs – 605 ILCS 5/10-705
setting toll – 605 ILCS 5/10-705
municipality defined – 605 ILCS 5/2-215
municipality may
acquire ferries and bridges – 605 ILCS 5/10-601
aid road districts – 605 ILCS 5/10-602
may construct and maintain bridges and approaches – 605 ILCS 5/10-501
issue bonds – 605 ILCS 5/10-504, 605 ILCS 5/10-602
set tolls – 605 ILCS 5/10-601, 605 ILCS 5/10-602
network mileage – 605 ILCS 5/3-102, 605 ILCS 5/4-202
non-toll federal-aid fully access-controlled State highways – 605 ILCS 5/9-113
noxious weeds – 605 ILCS 5/9-111
numbering of county highways – 605 ILCS 5/5-108
obstructing highway – 605 ILCS 5/9-117
obstructing sidewalk or bridge – 605 ILCS 5/9-122
operation of municipal terminal facilities – 605 ILCS 5/10-604
operators of snow removal equipment – 605 ILCS 5/4-101.14
partial payments for work in progress – 605 ILCS 5/4-103, 605 ILCS 5/5-409
passenger carrier loading area – 605 ILCS 5/4-213
payments to contractor for bridge work – 605 ILCS 5/10-206
permits
for temporary closing – 605 ILCS 5/5-414
to damage highway – 605 ILCS 5/4-209
person defined – 605 ILCS 5/2-216
pilot program to evaluate use of calcium magnesium acetate made from corn to clear roadways of snow and ice – 605 ILCS 5/4-218
placement of billboards and other advertising – 605 ILCS 5/9-112.1, 605 ILCS 5/9-112.2
(See also Highway Advertising Control Act)
plans and specifications for bridge work – 605 ILCS 5/10-205
planting trees or shrubs – 605 ILCS 5/9-108, 605 ILCS 5/9-118
plats – 605 ILCS 5/4-214, 605 ILCS 5/5-101.8
possession of control device or sign – 605 ILCS 5/9-103
powers of county
appropriations – 605 ILCS 5/5-101.4
bond proceeds – 605 ILCS 5/5-101.5

construction of highways – 605 ILCS 5/5-101.3, 605 ILCS 5/5-101.4
donations – 605 ILCS 5/5-101.7
employing the proceeds of bonds – 605 ILCS 5/5-101.5
equipment – 605 ILCS 5/5-101.11
exercise of other powers – 605 ILCS 5/5-101.9
expending funds – 605 ILCS 5/5-101.2
generally – 605 ILCS 5/5-101
levying taxes – 605 ILCS 5/5-101.2
money turned over to county – 605 ILCS 5/5-101.7
other powers – 605 ILCS 5/5-101.9
plats – 605 ILCS 5/5-101.8
proceeds of bonds – 605 ILCS 5/5-101.5
State highway construction – 605 ILCS 5/5-101.3
superintendent of highways – 605 ILCS 5/5-101.6
supervision of highways – 605 ILCS 5/5-101.1
township and district highways – 605 ILCS 5/5-101.4
traffic control devices and signs – 605 ILCS 5/5-101.10
powers of Department
auditing and accounting – 605 ILCS 5/4-101.9
best methods of highway work – 605 ILCS 5/4-101.5
bidding and letting of contracts – 605 ILCS 5/4-101.8
bridges and culverts – 605 ILCS 5/4-101.4
collection and compilation of data – 605 ILCS 5/4-101.6
consultation with other highway authorities – 605 ILCS 5/4-101.10
county superintendent of highways – 605 ILCS 5/4-101.2, 605 ILCS 5/4-101.3
data collection and compilation – 605 ILCS 5/4-101.6
determining future needs – 605 ILCS 5/4-101.11
discharge of operators of snow removal equipment – 605 ILCS 5/4-101.14
estimates – 605 ILCS 5/4-101.7
generally – 605 ILCS 5/4-101
insurance for highway employee – 605 ILCS 5/4-101.15
investigations
of best methods of highway work – 605 ILCS 5/4-101.5
to determine future needs – 605 ILCS 5/4-101.11
liability insurance for highway employee – 605 ILCS 5/4-101.15
limitation on discharge of operators of snow removal equipment – 605 ILCS 5/4-101.14
maps for public use – 605 ILCS 5/4-101.13
methods of highway work – 605 ILCS 5/4-101.5
obtaining employees – 605 ILCS 5/4-101.14
plans and specifications – 605 ILCS 5/4-101.4, 605 ILCS 5/4-101.7
promotion of highway improvements – 605 ILCS 5/4-101.12
railroad-highway grade crossings – 605 ILCS 5/4-101.16
subcontractors' trust agreement – 605 ILCS 5/4-104
supervision over highways – 605 ILCS 5/4-101.1
preservation of natural beauty – 605 ILCS 5/4-201.15
previous owner's right to acquire land – 605 ILCS 5/4-508
projects involving two or more municipalities – 605 ILCS 5/10-714
promotion of highway improvements – 605 ILCS 5/4-101.12
property acquisition – 605 ILCS 5/4-501, 605 ILCS 5/4-502, 605 ILCS 5/4-504, 605 ILCS 5/4-508, 605 ILCS 5/4-508.1, 605 ILCS 5/5-801, 605 ILCS 5/5-802, 605 ILCS 5/10-309, 605 ILCS 5/10-602
property remnants – 605 ILCS 5/4-501, 605 ILCS 5/5-801, 605 ILCS 5/5-802
proposed subdivisions – 605 ILCS 5/4-215
protection of intersecting road from asphalt or road oil – 605 ILCS 5/9-106
public property replacement – 605 ILCS 5/4-509
public roads not on Federal-aid system – 605 ILCS 5/3-104.2
receipt of motor fuel tax money by county – 605 ILCS 5/5-702
receivership – 605 ILCS 5/10-711
recovery of fines or penalties – 605 ILCS 5/9-125
relocation of
county highway – 605 ILCS 5/5-107
freeway crossing – 605 ILCS 5/8-106
railroad tracks – 605 ILCS 5/4-505
route – 605 ILCS 5/4-206
street – 605 ILCS 5/4-512
structure – 605 ILCS 5/4-511
utility facilities – 605 ILCS 5/3-107, 605 ILCS 5/4-505
remnants – 605 ILCS 5/4-501, 605 ILCS 5/5-801, 605 ILCS 5/5-802
removal of
control device or sign – 605 ILCS 5/9-103
driftwood and other trash – 605 ILCS 5/9-111.1
lateral support – 605 ILCS 5/9-115
obstruction – 605 ILCS 5/9-112, 605 ILCS 5/9-117
snow – 605 ILCS 5/4-216, 605 ILCS 5/4-218, 605 ILCS 5/9-130

rental of property – 605 ILCS 5/4-201.16
repair of damage to highway – 605 ILCS 5/9-117
replacement of structure – 605 ILCS 5/4-511
replacement of public property – 605 ILCS 5/4-509
report to General Assembly on rental of property – 605 ILCS 5/4-201.16
retirement of Expressway bonds – 605 ILCS 5/3-105
revenue bonds – 605 ILCS 5/10-712
right of eminent domain – 605 ILCS 5/4-502, 605 ILCS 5/5-801, 605 ILCS 5/5-802
right-of-way defined – 605 ILCS 5/2-217
rights of way for future additions – 605 ILCS 5/4-510
road district may turn over money to county – 605 ILCS 5/5-606
road district tax – 605 ILCS 5/5-604
Road Fund – 605 ILCS 5/3-105, 605 ILCS 5/3-105.1
road leading to ferry at county line – 605 ILCS 5/5-407
road oil – 605 ILCS 5/9-106
route through municipality – 605 ILCS 5/4-205
routes leading from business area – 605 ILCS 5/4-208
rural highway or rural road defined – 605 ILCS 5/2-218
safety guidelines for construction of bridge or culvert – 605 ILCS 5/9-109
sale or exchange of land – 605 ILCS 5/4-508
sewage on highway – 605 ILCS 5/9-123
share of expenses relating to bridge – 605 ILCS 5/10-201
shelters for persons waiting for buses – 605 ILCS 5/9-112.3
signs and advertising in commuter parking lots – 605 ILCS 5/9-112.5
signs over sidewalks – 605 ILCS 5/9-112.4
sinking fund
  account – 605 ILCS 5/6-520
  expenditure without prior appropriation – 605 ILCS 5/10-710
  payment of bonds – 605 ILCS 5/10-304
  publicity – 605 ILCS 5/10-710
snow
  breaks – 605 ILCS 5/4-217, 605 ILCS 5/6-201.18
  removal – 605 ILCS 5/4-216, 605 ILCS 5/4-218, 605 ILCS 5/9-130
solicitation of donation – 605 ILCS 5/9-113.1
special tax for county or road district – 605 ILCS 5/5-604
special tax for municipal terminal facilities – 605 ILCS 5/10-605
specifications to provide for alternative methods and materials – 605 ILCS 5/9-110
spoil – 605 ILCS 5/9-115
standing crops as snow breaks – 605 ILCS 5/4-217, 605 ILCS 5/5-412, 605 ILCS 5/6-201.18
State funding of road district bridges
  appropriation and apportionment – 605 ILCS 5/6-901
  definition of State funds – 605 ILCS 5/2-219
  Department guidelines – 605 ILCS 5/6-904
  indebtedness – 605 ILCS 5/6-903
  maps – 605 ILCS 5/6-902
  payment to county treasurer – 605 ILCS 5/6-906
  plans and estimates – 605 ILCS 5/6-902
  selection of bridges – 605 ILCS 5/6-902
  share of local funds to obtain grant – 605 ILCS 5/6-905
State funds defined – 605 ILCS 5/2-219
State highway
  defined – 605 ILCS 5/2-203
  in municipality – 605 ILCS 5/4-402
stormwater detention – 605 ILCS 5/9-101.1, 605 ILCS 5/9-115.1
street closing or relocating – 605 ILCS 5/4-512
street defined – 605 ILCS 5/2-207
suits for recovery of fines or penalties – 605 ILCS 5/9-125
surrender of jurisdiction – 605 ILCS 5/4-406.1, 605 ILCS 5/5-410.1
telephone service on State highway system – 605 ILCS 5/4-201.19, 605 ILCS 5/8-107.1
temporary closure – 605 ILCS 5/4-407, 605 ILCS 5/4-408, 605 ILCS 5/5-105
territorial maps – 605 ILCS 5/4-215
tethering of animals on highway – 605 ILCS 5/9-124.1
throwing trash along highway – 605 ILCS 5/9-121
tile drains – 605 ILCS 5/9-107
title to vacated public way – 605 ILCS 5/9-127
toll
  violations – 605 ILCS 5/10-302.5
  at county bridge – 605 ILCS 5/10-302
total mileage of county system – 605 ILCS 5/5-104
township and district roads
  County Unit Road District Road Tax – 605 ILCS 5/6-512
  acquisition of land – 605 ILCS 5/6-801, 605 ILCS 5/6-802, 605 ILCS 5/6-804, 605 ILCS 5/6-805
  additional powers relating to refunding bonds – 605 ILCS 5/6-522
  Administrative Review Law – 605 ILCS 5/6-315a
  agreement on
    damages – 605 ILCS 5/6-309
    refunding plan – 605 ILCS 5/6-521

allotment of road on county or district line – 605 ILCS 5/6-320, 605 ILCS 5/6-321
alteration of boundaries – 605 ILCS 5/6-105
altering – 605 ILCS 5/6-303, 605 ILCS 5/6-326
annexation to and disconnection from district – 605 ILCS 5/6-104
annual summary of work – 605 ILCS 5/6-129
anticipatory orders – 605 ILCS 5/6-509
appeal – 605 ILCS 5/6-306, 605 ILCS 5/6-312
application of provisions relating to refunding bonds – 605 ILCS 5/6-522
arbitration relating to road on county or district line – 605 ILCS 5/6-320, 605 ILCS 5/6-321
arterial road – 605 ILCS 5/6-301
authority relating to State or federal aid roads – 605 ILCS 5/6-304
board of auditors – 605 ILCS 5/6-123
bond of treasurer – 605 ILCS 5/6-114, 605 ILCS 5/6-604
bonded indebtedness – 605 ILCS 5/6-124, 605 ILCS 5/6-125
bonds – 605 ILCS 5/6-409, 605 ILCS 5/6-510, 605 ILCS 5/6-513, 605 ILCS 5/6-516, 605 ILCS 5/6-517, 605 ILCS 5/6-519
borrowing money – 605 ILCS 5/6-107.1
bridge or culvert at district line – 605 ILCS 5/6-402, 605 ILCS 5/6-404
budget – 605 ILCS 5/6-129
building and equipment tax – 605 ILCS 5/6-508.1
cancellation of bonds – 605 ILCS 5/6-517, 605 ILCS 5/6-519
certification of Illinois Commerce Commission – 605 ILCS 5/6-324
clerk
  administering oaths – 605 ILCS 5/6-202.1
  affidavits and certificates – 605 ILCS 5/6-202.1
  bids – 605 ILCS 5/6-202.6
  delivery of records and other property – 605 ILCS 5/6-119, 605 ILCS 5/6-124
  election of – 605 ILCS 5/6-116, 605 ILCS 5/6-117
  elections – 605 ILCS 5/6-202.5
  filing of certificates – 605 ILCS 5/6-202.1
  generally – 605 ILCS 5/6-113, 605 ILCS 5/6-202
  oath of office – 605 ILCS 5/6-118
  oaths – 605 ILCS 5/6-202.1
  orders of highway commissioner – 605 ILCS 5/6-202.2
  qualifications – 605 ILCS 5/6-115
  records – 605 ILCS 5/6-202.1, 605 ILCS 5/6-202.2
  selection – 605 ILCS 5/6-113
  stationery supplies – 605 ILCS 5/6-202.4
  taking affidavits – 605 ILCS 5/6-202.1
  warrants – 605 ILCS 5/6-202.3
closing – 605 ILCS 5/6-301, 605 ILCS 5/6-326.1
collection of special tax – 605 ILCS 5/6-603
commission of special tax collector – 605 ILCS 5/6-605
compelling highway commissioner to repair road – 605 ILCS 5/6-401
compensation of officers – 605 ILCS 5/6-207
condemnation proceedings – 605 ILCS 5/6-309
consolidated district – 605 ILCS 5/6-102, 605 ILCS 5/6-108, 605 ILCS 5/6-109
content of bonds – 605 ILCS 5/6-510
contractor to file bond – 605 ILCS 5/6-409
contracts for
  public transportation – 605 ILCS 5/6-411.5
  work at district line – 605 ILCS 5/6-408
county not under township organization generally – 605 ILCS 5/6-103
county superintendent of highways
  annual summary of work – 605 ILCS 5/6-129
  budget – 605 ILCS 5/6-129
  delivery of records and other property to successor – 605 ILCS 5/6-126
  order – 605 ILCS 5/6-311, 605 ILCS 5/6-313
county under township organization generally – 605 ILCS 5/6-102
county unit road district
  bonds – 605 ILCS 5/6-513
  generally – 605 ILCS 5/6-111
creation of new district – 605 ILCS 5/6-105
damages – 605 ILCS 5/6-308, 605 ILCS 5/6-309, 605 ILCS 5/6-320, 605 ILCS 5/6-321, 605 ILCS 5/6-503, 605 ILCS 5/6-509
delivery of records and other property to successor – 605 ILCS 5/6-119, 605 ILCS 5/6-124, 605 ILCS 5/6-126
designation of arterial road – 605 ILCS 5/6-301
direct annual tax – 605 ILCS 5/6-516
disconnection from and annexation to district – 605 ILCS 5/6-104
district clerk not to certify levy of tax to county clerk – 605 ILCS 5/6-502
district may
  aid Department – 605 ILCS 5/6-304
  borrow money – 605 ILCS 5/6-107.1
  turn over money from regular road taxes to municipality – 605 ILCS 5/6-511

district road fund – 605 ILCS 5/6-131
division of district into sub-units – 605 ILCS 5/6-127
division of expenses and damages of road on county or district line – 605 ILCS 5/6-320, 605 ILCS 5/6-321
donations – 605 ILCS 5/6-602
duty of special tax collector – 605 ILCS 5/6-605
eminent domain – 605 ILCS 5/6-801, 605 ILCS 5/6-802
enforcement – 605 ILCS 5/6-402
entering of condemnation proceedings – 605 ILCS 5/6-309
entering upon lands or waters – 605 ILCS 5/6-803
equipment and building tax – 605 ILCS 5/6-508.1
examination of route – 605 ILCS 5/6-305
exchange of bonds – 605 ILCS 5/6-517
existing road – 605 ILCS 5/6-302
extension and collection of tax – 605 ILCS 5/6-506, 605 ILCS 5/6-507
extension of road through municipality – 605 ILCS 5/6-615
filing of refunding bonds – 605 ILCS 5/6-516
final order of highway commissioner or county superintendent of highways – 605 ILCS 5/6-311
final payment – 605 ILCS 5/6-410
financial institutions – 605 ILCS 5/6-206
fixing of damages – 605 ILCS 5/6-308
form of proposition for bonds – 605 ILCS 5/6-510
funding – 605 ILCS 5/6-501, 605 ILCS 5/6-502
general authority relating to State or federal aid roads – 605 ILCS 5/6-304
generally – 605 ILCS 5/6-101, 605 ILCS 5/6-102, 605 ILCS 5/6-103
harvesting of crops prior to taking or damaging land – 605 ILCS 5/6-318
highway commissioner
  alteration of roads – 605 ILCS 5/6-201.2
  annual report – 605 ILCS 5/6-201.15
  certification of tax levy – 605 ILCS 5/6-201.1
  compensation – 605 ILCS 5/6-207
  conflict of interest – 605 ILCS 5/6-201.19
  contracts
    emergency – 605 ILCS 5/6-201.7
    generally – 605 ILCS 5/6-201.7, 605 ILCS 5/6-201.17
    with other governmental units – 605 ILCS 5/6-201.10-1
  cooperation with other authorities – 605 ILCS 5/6-201.8, 605 ILCS 5/6-201.10
crops as snow breaks – 605 ILCS 5/6-201.18
curbs and sidewalks – 605 ILCS 5/6-201.14
delivery of records and other property – 605 ILCS 5/6-119, 605 ILCS 5/6-124
determination of tax levy – 605 ILCS 5/6-201.5
election – 605 ILCS 5/6-112, 605 ILCS 5/6-116, 605 ILCS 5/6-117, 605 ILCS 5/6-122
emergency contracts – 605 ILCS 5/6-201.7
employee benefits – 605 ILCS 5/6-201.20
examination of route – 605 ILCS 5/6-305
expenditure of moneys – 605 ILCS 5/6-201.6
failure to perform duty – 605 ILCS 5/6-204
final order – 605 ILCS 5/6-311, 605 ILCS 5/6-313
general charge – 605 ILCS 5/6-201.8
generally – 605 ILCS 5/6-112, 605 ILCS 5/6-201
hearing and decision – 605 ILCS 5/6-305
hiring of legal counsel – 605 ILCS 5/6-201.19
inclusion of roads in system – 605 ILCS 5/6-201.3
installment payments – 605 ILCS 5/6-201.17
legal counsel – 605 ILCS 5/6-201.19
lighting – 605 ILCS 5/6-201.12
machinery and equipment – 605 ILCS 5/6-201.9, 605 ILCS 5/6-201.10
municipal streets and alleys – 605 ILCS 5/6-203
oath of office – 605 ILCS 5/6-118
order – 605 ILCS 5/6-311, 605 ILCS 5/6-313
qualifications – 605 ILCS 5/6-115
recording of roads in office of district clerk – 605 ILCS 5/6-201.4
report – 605 ILCS 5/6-201.15
responsibility for work – 605 ILCS 5/6-201.7
resurvey – 605 ILCS 5/6-307
road lighting – 605 ILCS 5/6-201.12
rules concerning employee benefits – 605 ILCS 5/6-201.20
signs – 605 ILCS 5/6-201.11, 605 ILCS 5/6-201.16
snow breaks – 605 ILCS 5/6-201.18
special services; disaster relief – 605 ILCS 5/6-201.21
survey – 605 ILCS 5/6-307
traffic-control devices and signs – 605 ILCS 5/6-201.16

unincorporated communities – 605 ILCS 5/6-201.14
warrants – 605 ILCS 5/6-201.6, 605 ILCS 5/6-201.13
hiring of personnel – 605 ILCS 5/6-127
in county not under township organization generally – 605 ILCS 5/6-103
in county under township organization generally – 605 ILCS 5/6-102
inclusion in system – 605 ILCS 5/6-325
increase in rate limitation – 605 ILCS 5/6-504, 605 ILCS 5/6-505, 605 ILCS 5/6-506
increase of road tax – 605 ILCS 5/6-512.1
independent agency – 605 ILCS 5/6-111, 605 ILCS 5/6-125, 605 ILCS 5/6-127
inducements – 605 ILCS 5/6-310
insurance – 605 ILCS 5/6-412.1
interest on refunding bonds – 605 ILCS 5/6-514, 605 ILCS 5/6-515
investments – 605 ILCS 5/6-520
issuance of bonds – 605 ILCS 5/6-510, 605 ILCS 5/6-514, 605 ILCS 5/6-515, 605 ILCS 5/6-522
joint work – 605 ILCS 5/6-402, 605 ILCS 5/6-405, 605 ILCS 5/6-406, 605 ILCS 5/6-508
judicial review – 605 ILCS 5/6-312
jurisdiction – 605 ILCS 5/6-101
keeping of road funds – 605 ILCS 5/6-206
laying out of roads – 605 ILCS 5/6-303, 605 ILCS 5/6-326, 605 ILCS 5/6-327
levy of special tax – 605 ILCS 5/6-602
liability insurance – 605 ILCS 5/6-412.1
mass transit programs – 605 ILCS 5/6-131
minimum size of district – 605 ILCS 5/6-130
minimum width – 605 ILCS 5/6-301
money for roads to be separate from money for bridges and drainage works – 605 ILCS 5/6-512
name of district – 605 ILCS 5/6-106
notice to railroad company – 605 ILCS 5/6-323
opening of roads – 605 ILCS 5/6-316
orders – 605 ILCS 5/6-311, 605 ILCS 5/6-509
organization of territory – 605 ILCS 5/6-104
pecuniary interest in contracts and leases – 605 ILCS 5/6-411, 605 ILCS 5/6-411.1
petition for work to be paid by special tax – 605 ILCS 5/6-601
plat – 605 ILCS 5/6-328
powers of district in county not under township organization – 605 ILCS 5/6-107
property acquisition – 605 ILCS 5/6-801, 605 ILCS 5/6-802, 605 ILCS 5/6-804, 605 ILCS 5/6-805
Public Funds Investment Act – 605 ILCS 5/6-206
public transportation contracts – 605 ILCS 5/6-411.5
purchase of refunding bonds – 605 ILCS 5/6-519
rate limitation – 605 ILCS 5/6-504, 605 ILCS 5/6-505, 605 ILCS 5/6-506
recording of plat – 605 ILCS 5/6-328
recording of vacation – 605 ILCS 5/6-329
records and other property to go to successor – 605 ILCS 5/6-119, 605 ILCS 5/6-124, 605 ILCS 5/6-126
records of clerk are prima facie evidence – 605 ILCS 5/6-315
reduction of tax – 605 ILCS 5/6-519
reduction of width of road – 605 ILCS 5/6-302
referendum on bonds – 605 ILCS 5/6-510
refunding bonds – 605 ILCS 5/6-514, 605 ILCS 5/6-515, 605 ILCS 5/6-516, 605 ILCS 5/6-517, 605 ILCS 5/6-518, 605 ILCS 5/6-519, 605 ILCS 5/6-522
refunding plan – 605 ILCS 5/6-521
registration of bonds – 605 ILCS 5/6-510
relocation of road at grade crossing – 605 ILCS 5/6-324
removal of fences – 605 ILCS 5/6-317
repeal of special tax – 605 ILCS 5/6-617
road work inducements – 605 ILCS 5/6-310
roads on district and county lines – 605 ILCS 5/6-319
senior citizen transportation – 605 ILCS 5/6-131
shared cost – 605 ILCS 5/6-405, 605 ILCS 5/6-406
similarity of districts – 605 ILCS 5/6-110
sinking fund account – 605 ILCS 5/6-520
special tax – 605 ILCS 5/6-601, 605 ILCS 5/6-603, 605 ILCS 5/6-604, 605 ILCS 5/6-605, 605 ILCS 5/6-615, 605 ILCS 5/6-616
State line roads – 605 ILCS 5/6-322
subsequent proceedings – 605 ILCS 5/6-314
succession to and assumption of obligations and contracts – 605 ILCS 5/6-125
suit on joint contract – 605 ILCS 5/6-406
summary of work – 605 ILCS 5/6-129
surplus money – 605 ILCS 5/6-508, 605 ILCS 5/6-616
surplus public real estate – 605 ILCS 5/6-803.1
tax
collector – 605 ILCS 5/6-605
for joint work – 605 ILCS 5/6-508
levy – 605 ILCS 5/6-503

taxation – 605 ILCS 5/6-111
temporary closure – 605 ILCS 5/6-326.1, 605 ILCS 5/5-414
transfer of surplus to road fund – 605 ILCS 5/6-508
treasurer
bond – 605 ILCS 5/6-114
delivery of records and other property – 605 ILCS 5/6-124
moneys – 605 ILCS 5/6-205
sworn statement – 605 ILCS 5/6-205
use of motor fuel tax funds
administration and engineering costs – 605 ILCS 5/6-701.3
bikeways – 605 ILCS 5/6-701.7
compliance with Department and county guidelines – 605 ILCS 5/6-701.2, 605 ILCS 5/6-702
costs – 605 ILCS 5/6-701.3
distribution of funds – 605 ILCS 5/6-701.8
generally – 605 ILCS 5/6-701
Great River Road projects – 605 ILCS 5/6-701.9
indebtedness – 605 ILCS 5/6-701.4
local mass transit district – 605 ILCS 5/6-701.5
markings or signs indicating bikeway – 605 ILCS 5/6-701.7
roads and grade separations – 605 ILCS 5/6-701.1, 605 ILCS 5/6-701.2, 605 ILCS 5/6-701.6
vacancy in office – 605 ILCS 5/6-120, 605 ILCS 5/6-121, 605 ILCS 5/6-122
vacation of public way – 605 ILCS 5/6-301, 605 ILCS 5/6-303, 605 ILCS 5/6-326, 605 ILCS 5/6-329
width of road – 605 ILCS 5/6-301, 605 ILCS 5/6-302
work
at district line – 605 ILCS 5/6-402, 605 ILCS 5/6-408
inducements – 605 ILCS 5/6-310
township road defined – 605 ILCS 5/2-205
traffic control devices and signs – 605 ILCS 5/4-201.12, 605 ILCS 5/5-101.10, 605 ILCS 5/9-128
trash – 605 ILCS 5/9-121
treasurer is legal custodian of county funds – 605 ILCS 5/10-305
trees and shrubs – 605 ILCS 5/9-108, 605 ILCS 5/9-118, 605 ILCS 5/9-119
vacation of county highway – 605 ILCS 5/5-109, 605 ILCS 5/5-110
vending machines – 605 ILCS 5/9-113.1
violation for damaging highway – 605 ILCS 5/4-209, 605 ILCS 5/4-212
weeds – 605 ILCS 5/9-111
willow hedges – 605 ILCS 5/9-108
windbreak for livestock – 605 ILCS 5/9-116
work at county line – 605 ILCS 5/5-405, 605 ILCS 5/5-407

Highway in municipality – 605 ILCS 5/4-402
Historic Resources Preservation Act – 20 ILCS 3420/2
definitions – 20 ILCS 3420/3
Historic Preservation Agency
definitions – 20 ILCS 3420/3
participation in Interagency Wetlands Committee – 20 ILCS 830/2-1
responsibilities generally – 20 ILCS 3420/5
review of private undertakings – 20 ILCS 3420/6
undertakings by other agencies – 20 ILCS 3420/4
legislative intent – 20 ILCS 3420/1
list of historic resources – 20 ILCS 3420/5
review of private undertakings – 20 ILCS 3420/6
State agency undertakings – 20 ILCS 3420/4
House relocation or rehabilitation *(See Human needs - house relocation or rehabilitation)*
Human needs
additional provisions for assistance – 310 ILCS 40/3
application of Administrative Review Law – 310 ILCS 40/5
direct financial assistance – 310 ILCS 40/2, 310 ILCS 40/3
displaced person
additional provisions for assistance – 310 ILCS 40/3
application of Administrative Review Law – 310 ILCS 40/5
defined – 310 ILCS 40/1a
direct financial assistance – 310 ILCS 40/2, 310 ILCS 40/3
federal funds – 310 ILCS 40/2, 310 ILCS 40/2a, 310 ILCS 40/3
fees and taxes – 310 ILCS 40/2a
judicial review – 310 ILCS 40/5
limitation on financial assistance – 310 ILCS 40/3
mortgage penalties – 310 ILCS 40/2a
reimbursing owner – 310 ILCS 40/2a
rules and regulations – 310 ILCS 40/4
State agency defined – 310 ILCS 40/1
when federal funds not available – 310 ILCS 40/3
federal funds – 310 ILCS 40/2, 310 ILCS 40/2a, 310 ILCS 40/3
fees and taxes – 310 ILCS 40/2a
house relocation or rehabilitation
generally – 310 ILCS 35/2
legislative declaration – 310 ILCS 35/1
sale of property – 310 ILCS 35/4
work and materials – 310 ILCS 35/3
(See also Highway Code - displaced person)
judicial review – 310 ILCS 40/5
limitation on financial assistance – 310 ILCS 40/3
mortgage penalties – 310 ILCS 40/2a
reimbursing owner – 310 ILCS 40/2a

State agency defined – 310 ILCS 40/1
when federal funds not available – 310 ILCS 40/3
Illinois Adopt-a-Highway Act – 605 ILCS 120/1 et seq.
Illinois Public Labor Relations Act – 5 ILCS 315/1
prohibitions –5 ILCS 315/20
Illinois Underground Utility Facilities Damage Prevention Fund – 220 ILCS 50/11
Impact fees for road improvements *(See Highway Code - impact fees)*
Indebtedness *(See Bond Authorization Act)*
Inducement *(See Ethics and disclosure)*
Inmate control and rehabilitation – 730 ILCS 5/3-2-2
Inter-Agency Committee on Farmland Preservation – 505 ILCS 75/3, 505 ILCS 75/4
Interagency Coordinating Committee on Groundwater – 415 ILCS 55/4
Interagency Wetland Policy Act – 20 ILCS 830/1-1
administration – 20 ILCS 830/4-1
agency coordination
action plans – 20 ILCS 830/2-2
Wetlands Committee – 20 ILCS 830/2-1
application – 20 ILCS 830/1-3
definitions – 20 ILCS 830/1-6
Interagency Wetlands Committee – 20 ILCS 830/2-1
legislative declaration – 20 ILCS 830/1-2
management of wetlands – 20 ILCS 830/3-2
rules and regulations – 20 ILCS 830/4-1
State goal – 20 ILCS 830/1-4, 20 ILCS 830/1-5
Wetland Mitigation Policy
compensation plan value – 20 ILCS 830/3-5
compensation ratios – 20 ILCS 830/3-6
generally – 20 ILCS 830/3-1
impact evaluation – 20 ILCS 830/3-4
ownership and management – 20 ILCS 830/3-2
Wetland Compensation Account – 20 ILCS 830/3-3
Intercity rail service *(See Dept. of Transportation - intercity rail service)*
Intergovernmental Cooperation Act – 5 ILCS 220/1
agreements – 5 ILCS 220/3
appropriations, furnishing of property, personnel and services – 5 ILCS 220/4
construction with Constitution Article 7, §10 – 5 ILCS 220/7
contracts – 5 ILCS 220/5
county participation – 5 ILCS 220/9
definitions – 5 ILCS 220/2
expenditure of funds – 5 ILCS 220/3.5
floodwater management – 5 ILCS 220/3.8
investment policy – 5 ILCS 220/16
investments; authorized – 5 ILCS 220/15
joint self-insurance – 5 ILCS 220/6
Local Economic Development Commissions – 5 ILCS 220/3.3
merger of special districts into townships – 5 ILCS 220/3.6
Municipal Joint Action Agency – 5 ILCS 220/3.2
municipal joint action water agencies – 5 ILCS 220/3.1
Municipal Joint Sewage Treatment Agency – 5 ILCS 220/3.4
personnel rules; assignment of employees – 5 ILCS 220/5.1
prohibited agreements and contracts – 5 ILCS 220/4.5
Regional Juvenile Detention Authority – 5 ILCS 220/3.7
separability of Act – 5 ILCS 220/8
waste disposal; municipal lead agencies – 5 ILCS 220/3.2a
Investment of public funds *(See Public Funds Investment Act)*
Jolliet-Marquette Trail – 605 ILCS 25/0.01, 605 ILCS 25/1, 605 ILCS 25/2
Land pollution – 415 ILCS 5/21, 415 ILCS 5/22.12
Lease of real estate *(See Local government - Property Transfer Act)*
Liability insurance for county – 55 ILCS 5/5-1079
List of historic resources – 20 ILCS 3420/5
Local government
bill for goods or services
approval of bill – 50 ILCS 505/3
failure to approve or disapprove – 50 ILCS 505/5
failure to make timely payments – 50 ILCS 505/9
interest penalty – 50 ILCS 505/4
payment of bill – 50 ILCS 505/4, 50 ILCS 505/9
subcontractors and suppliers – 50 ILCS 505/9
time periods for payment – 50 ILCS 505/6
disclosure relating to real estate – 50 ILCS 105/3.1
failure to make timely payments – 50 ILCS 505/9
investment of municipal funds
surplus funds – 50 ILCS 340/1
tax anticipation warrants – 50 ILCS 340/1, 50 ILCS 340/2
lease of real property – 50 ILCS 605/3.1
officers and employees
disclosure relating to real estate – 50 ILCS 105/3.1
false verification – 50 ILCS 105/4.5
holding multiple offices
board of local improvements – 65 ILCS 5/9-2-7
county board member – 50 ILCS 105/1, 50 ILCS 105/1.1, 50 ILCS 105/1.2, 50 ILCS 110/2

county superintendent of highways – 605 ILCS 5/5-201, 605 ILCS 5/5-205.8
in cities and villages – 50 ILCS 105/2
in townships – 50 ILCS 105/2a
municipal board member – 50 ILCS 105/1.3
town clerk – 50 ILCS 110/2
township assessor – 50 ILCS 110/2
township supervisor – 50 ILCS 110/2
township trustee – 50 ILCS 110/2
volunteer firemen – 50 ILCS 105/2, 50 ILCS 105/2a
interest in contracts – 50 ILCS 105/3, 50 ILCS 105/3.2
perjury – 50 ILCS 105/4.5
prohibited interest in contracts – 50 ILCS 105/3, 50 ILCS 105/3.2
violations – 50 ILCS 105/4
pecuniary interest allowed – 50 ILCS 105/3.2
professional services selection
contract negotiation – 50 ILCS 510/7
definitions – 50 ILCS 510/3
federal requirements – 50 ILCS 510/2
policy – 50 ILCS 510/1
procedure – 50 ILCS 510/5, 50 ILCS 510/6
public notice – 50 ILCS 510/4
waiver of competition – 50 ILCS 510/8
(See also Procurement Code)
Prompt Payment Act
application – 50 ILCS 505/2
approval of bill – 50 ILCS 505/3
certification of need for funds – 50 ILCS 505/7
failure to approve or disapprove bill – 50 ILCS 505/5
failure to make timely payments – 50 ILCS 505/9
interest penalty – 50 ILCS 505/4
need for State funds – 50 ILCS 505/7
payment of bill – 50 ILCS 505/4
State funds – 50 ILCS 505/7
subcontractors and suppliers – 50 ILCS 505/9
time periods for payment – 50 ILCS 505/6
Property Transfer Act
definitions – 50 ILCS 605/1
lease of real property – 50 ILCS 605/3.1
transfer of real estate
between municipalities generally – 50 ILCS 605/2
between municipality and State – 50 ILCS 605/4
two or more parcels – 50 ILCS 605/3
volunteer firemen holding multiple offices – 50 ILCS 105/2, 50 ILCS 105/2a

Local improvements *(See Municipal Code - local improvements)*

Loss of dwelling *(See Human needs)*

Mail boxes on highways – 605 ILCS 5/4-207, 605 ILCS 5/5-411, 605 ILCS 5/6-412

Maintenance of waterways in county – 55 ILCS 5/5-1104

Maywood Public Library District Tax Levy Validation (2002) Law – 35 ILCS 200/18-92

Motor Fuel Tax Fund Bond Act
Bond Highway Fund – 30 ILCS 385/4
definitions – 30 ILCS 385/1
issuance of bonds – 30 ILCS 385/2
terms of bonds – 30 ILCS 385/3
use of proceeds – 30 ILCS 385/4
(See also Bond Authorization Act)

Motor Fuel Tax Law
definitions
fuel – 35 ILCS 505/1.19
generally – 35 ILCS 505/1
motor fuel – 35 ILCS 505/1.1
motor vehicles – 35 ILCS 505/1.3
municipality – 35 ILCS 505/1.4
receiver – 35 ILCS 505/1.20
special fuel – 35 ILCS 505/1.13
Motor Fuel Tax Fund – 35 ILCS 505/8
receiving fuel for sale or use – 35 ILCS 505/2a, 35 ILCS 505/2b
tax on vehicles and watercraft – 35 ILCS 505/2
Underground Storage Tank Fund – 35 ILCS 505/8a
use of fuel by commercial vehicles – 35 ILCS 505/13a

Municipal Code
access for persons using wheelchairs – 65 ILCS 5/11-80-11
annexation of territory
generally – 65 ILCS 5/7-1-1
ordinance or petition for – 65 ILCS 5/7-1-2
restrictions – 65 ILCS 5/7-1-2
street or highway purposes – 65 ILCS 5/7-1-10
application of provisions relating to local improvements – 65 ILCS 5/9-1-1, 65 ILCS 5/9-2-1
board of local improvements
acceptance of work – 65 ILCS 5/9-2-112, 65 ILCS 5/9-2-116
certificate of cost – 65 ILCS 5/9-2-114, 65 ILCS 5/9-2-115
control over work – 65 ILCS 5/9-2-72
costs – 65 ILCS 5/9-2-114, 65 ILCS 5/9-2-115, 65 ILCS 5/9-2-139
creation and composition – 65 ILCS 5/9-2-7
execution of work – 65 ILCS 5/9-2-112, 65 ILCS 5/9-2-116
generally – 65 ILCS 5/9-2-7
hearings
generally – 65 ILCS 5/9-2-107
interested person – 65 ILCS 5/9-2-107
on assessment – 65 ILCS 5/9-2-107
on improvement – 65 ILCS 5/9-2-10, 65 ILCS 5/9-2-107

inspection of work and materials – 65 ILCS 5/9-2-118
interested person – 65 ILCS 5/9-2-107
member holding multiple offices – 65 ILCS 5/9-2-7
recommendations – 65 ILCS 5/9-2-6, 65 ILCS 5/9-2-11
remonstrance petition – 65 ILCS 5/9-2-10
bonds
issuance and authorization in municipalities of less than 500,000 – 65 ILCS 5/8-5-16
boundaries
of cities – 65 ILCS 5/2-2-15
of villages – 65 ILCS 5/2-3-19
census taking; powers of municipalities – 65 ILCS 5/1-7-1
population determination; Secretary of State – 65 ILCS 5/1-7-2
collection of tax for particular purpose – 65 ILCS 5/8-3-4
contractual liabilities; limitation – 65 ILCS 5/8-1-7
curbs and gutters – 65 ILCS 5/11-80-11
definitions – 65 ILCS 5/1-1-2
delinquency – 65 ILCS 5/9-2-75, 65 ILCS 5/11-42.1-1
distribution of unclaimed money – 65 ILCS 5/9-1-11
federal or other aid project – 65 ILCS 5/9-2-3
form of address – 65 ILCS 5/1-1-2.1
gas and water infrastructure – 65 ILCS 5/11-80-7
house of correction or farm colony
acquisition of land – 65 ILCS 5/11-4-1
appropriations – 65 ILCS 5/11-4-3
board of inspectors – 65 ILCS 5/11-4-2, 65 ILCS 5/11-4-3, 65 ILCS 5/11-4-4
contracts – 65 ILCS 5/11-4-2
establishment – 65 ILCS 5/11-4-1
inspections – 65 ILCS 5/11-4-4
rules – 65 ILCS 5/11-4-3
joint construction with township
contracts – 65 ILCS 5/11-85-2
defense to assessment – 65 ILCS 5/11-85-3
generally – 65 ILCS 5/11-85-1
jurisdiction over improvement – 65 ILCS 5/11-85-4
plans and specifications – 65 ILCS 5/11-85-2
prior work – 65 ILCS 5/11-85-3
jurisdiction over roads – 65 ILCS 5/11-91.2-1
letting of contracts – 65 ILCS 5/8-9-1
(See also Procurement - contracts)
(See also Public Construction Contract Act)
levy of tax for particular purpose – 65 ILCS 5/8-3-4
local improvements
abandonment of improvement – 65 ILCS 5/9-2-6, 65 ILCS 5/9-2-61
abatement – 65 ILCS 5/9-2-114
acceptance and execution of work – 65 ILCS 5/9-2-112, 65 ILCS 5/9-2-116
acceptance of bid – 65 ILCS 5/9-2-105
appeal – 65 ILCS 5/9-2-76, 65 ILCS 5/9-2-78, 65 ILCS 5/9-2-140, 65 ILCS 5/9-2-141
application of provisions – 65 ILCS 5/9-1-1, 65 ILCS 5/9-2-1, 65 ILCS 5/9-2-142, 65 ILCS 5/9-2-143, 65 ILCS 5/9-2-144
apportionment of cost – 65 ILCS 5/9-2-45
assessments
adjustment by court – 65 ILCS 5/9-2-61
assessment roll – 65 ILCS 5/9-2-47, 65 ILCS 5/9-2-50, 65 ILCS 5/9-2-64, 65 ILCS 5/9-2-76
confirmation – 65 ILCS 5/9-2-53, 65 ILCS 5/9-2-54
delinquency – 65 ILCS 5/9-2-75, 65 ILCS 5/11-42.1-1
distribution – 65 ILCS 5/9-2-59
enforcement of assessment – 65 ILCS 5/9-2-51
generally – 65 ILCS 5/9-2-44
hearing – 65 ILCS 5/9-2-56, 65 ILCS 5/9-2-60
judgment – 65 ILCS 5/9-2-78
new assessment – 65 ILCS 5/9-2-75
not to exceed benefits – 65 ILCS 5/9-2-41
notices – 65 ILCS 5/9-2-53, 65 ILCS 5/9-2-54, 65 ILCS 5/9-2-59, 65 ILCS 5/9-2-79
payment in bonds – 65 ILCS 5/9-2-132
objection – 65 ILCS 5/9-2-54, 65 ILCS 5/9-2-55
rebates – 65 ILCS 5/9-2-74
redistribution – 65 ILCS 5/9-2-59
review by court – 65 ILCS 5/9-2-41, 65 ILCS 5/9-2-56, 65 ILCS 5/9-2-60
roll – 65 ILCS 5/9-2-47, 65 ILCS 5/9-2-50, 65 ILCS 5/9-2-64, 65 ILCS 5/9-2-76
supplemental – 65 ILCS 5/9-2-74
assignment of lien – 65 ILCS 5/9-2-66, 65 ILCS 5/9-2-67, 65 ILCS 5/9-2-68
award for waterworks is provisional – 65 ILCS 5/9-2-106
bond
anticipating later installments – 65 ILCS 5/9-2-119
exchanged for vouchers
calling and paying for – 65 ILCS 5/9-2-129
costs to be paid first – 65 ILCS 5/9-2-131
form – 65 ILCS 5/9-2-128
generally – 65 ILCS 5/9-2-127
use of bond to pay assessment – 65 ILCS 5/9-2-132

generally – 65 ILCS 5/9-2-51, 65 ILCS 5/9-2-52
held by contractor – 65 ILCS 5/9-2-116
of contracting owners – 65 ILCS 5/9-2-111
of contractor – 65 ILCS 5/9-2-111
required of successful bidder – 65 ILCS 5/9-2-104
surplus to pay debts – 65 ILCS 5/9-2-119
to accompany bid – 65 ILCS 5/9-2-103
bridge – 65 ILCS 5/9-2-19
call for bids – 65 ILCS 5/9-2-103, 65 ILCS 5/9-2-105, 65 ILCS 5/9-2-110
certificate of cost – 65 ILCS 5/9-2-114, 65 ILCS 5/9-2-115
claim limited to funds collected – 65 ILCS 5/9-2-99, 65 ILCS 5/9-2-135
completion of improvement – 65 ILCS 5/9-2-116
contents of bids – 65 ILCS 5/9-2-103
contracting owners' bond – 65 ILCS 5/9-2-111
contractor's bond – 65 ILCS 5/9-2-111
contracts payable from assessment – 65 ILCS 5/9-2-99
control over work – 65 ILCS 5/9-2-72
cost estimate of work – 65 ILCS 5/9-2-12
costs of board – 65 ILCS 5/9-2-139
court may extend time of payment – 65 ILCS 5/9-2-120
credit – 65 ILCS 5/9-2-77
default on bid – 65 ILCS 5/9-2-110
definitions – 65 ILCS 5/9-2-2
delinquent property
application for judgment – 65 ILCS 5/9-2-82, 65 ILCS 5/9-2-83, 65 ILCS 5/9-2-84, 65 ILCS 5/9-2-86, 65 ILCS 5/9-2-87, 65 ILCS 5/9-2-88
application of general revenue laws – 65 ILCS 5/9-2-97
collection of amount due – 65 ILCS 5/9-2-94
collector
compensation – 65 ILCS 5/9-2-96
duties – 65 ILCS 5/9-2-96
liability – 65 ILCS 5/9-2-95
report – 65 ILCS 5/9-2-86
to pay over money – 65 ILCS 5/9-2-96
costs and penalties – 65 ILCS 5/9-2-93
costs of foreclosure – 65 ILCS 5/9-2-98
defenses – 65 ILCS 5/9-2-86
Deposit for Redemption – 65 ILCS 5/9-2-94
duties of collector – 65 ILCS 5/9-2-96
foreclosure – 65 ILCS 5/9-2-98
forfeited or withdrawn – 65 ILCS 5/9-2-91, 65 ILCS 5/9-2-92, 65 ILCS 5/9-2-93
general revenue laws – 65 ILCS 5/9-2-97
generally – 65 ILCS 5/9-2-75, 65 ILCS 5/11-42.1-1
interest on installments – 65 ILCS 5/9-2-86
judgment – 65 ILCS 5/9-2-86, 65 ILCS 5/9-2-87
liability of collector – 65 ILCS 5/9-2-95
list – 65 ILCS 5/9-2-85
municipality may purchase – 65 ILCS 5/9-2-98
notice – 65 ILCS 5/9-2-88
obtaining judgment – 65 ILCS 5/9-2-87
payment on – 65 ILCS 5/9-2-89, 65 ILCS 5/9-2-91, 65 ILCS 5/9-2-92, 65 ILCS 5/9-2-93
purchase by municipality – 65 ILCS 5/9-2-98
receipt of Deposit for Redemption – 65 ILCS 5/9-2-94
redemption – 65 ILCS 5/9-2-90
report of collector – 65 ILCS 5/9-2-86
sale where assessment paid – 65 ILCS 5/9-2-95
suit to foreclose lien – 65 ILCS 5/9-2-98
waiver of right to object – 65 ILCS 5/9-2-86
withdrawn from collection – 65 ILCS 5/9-2-91, 65 ILCS 5/9-2-92, 65 ILCS 5/9-2-93
description of assessed property – 65 ILCS 5/9-2-46
disposition of unclaimed money – 65 ILCS 5/9-1-11
duplicate bonds – 65 ILCS 5/9-2-126
engineer and other personnel – 65 ILCS 5/9-2-112
execution of work – 65 ILCS 5/9-2-112, 65 ILCS 5/9-2-116
extension of time to pay assessment
authority of court – 65 ILCS 5/9-2-120
continuation as lien – 65 ILCS 5/9-2-124
hearing and order – 65 ILCS 5/9-2-123, 65 ILCS 5/9-2-124
information accompanying petition – 65 ILCS 5/9-2-123
notice – 65 ILCS 5/9-2-123
ordinance – 65 ILCS 5/9-2-121
payments – 65 ILCS 5/9-2-123
petition – 65 ILCS 5/9-2-121, 65 ILCS 5/9-2-122, 65 ILCS 5/9-2-123
proceeding – 65 ILCS 5/9-2-122, 65 ILCS 5/9-2-123
property sold to municipality – 65 ILCS 5/9-2-125
refund of securities – 65 ILCS 5/9-2-124

federal or other aid – 65 ILCS 5/9-2-113, 65 ILCS 5/9-2-117, 65 ILCS 5/9-2-3
finding against board – 65 ILCS 5/9-2-116
first installment – 65 ILCS 5/9-2-49, 65 ILCS 5/9-2-50
foreclosure of lien – 65 ILCS 5/9-2-70
forfeiture of bond accompanying bid – 65 ILCS 5/9-2-105
hearing on assessment or improvement – 65 ILCS 5/9-2-10, 65 ILCS 5/9-2-56, 65 ILCS 5/9-2-57, 65 ILCS 5/9-2-58, 65 ILCS 5/9-2-60, 65 ILCS 5/9-2-107, 65 ILCS 5/9-2-115
highest estimate – 65 ILCS 5/9-2-101
improvement may be paid in bonds – 65 ILCS 5/9-2-131
in support of defense project – 65 ILCS 5/9-2-4
inspection of work and materials – 65 ILCS 5/9-2-118
installment payments – 65 ILCS 5/9-2-48, 65 ILCS 5/9-2-49, 65 ILCS 5/9-2-50, 65 ILCS 5/9-2-51, 65 ILCS 5/9-2-64, 65 ILCS 5/9-2-77, 65 ILCS 5/9-2-114, 65 ILCS 5/9-2-115
interest on
  assessment – 65 ILCS 5/9-2-48
  bonds – 65 ILCS 5/9-2-137
  lien – 65 ILCS 5/9-2-69
interested person – 65 ILCS 5/9-2-107
joint construction with township – 65 ILCS 5/11-85-3
judgment on assessment – 65 ILCS 5/9-2-50, 65 ILCS 5/9-2-65, 65 ILCS 5/9-2-76, 65 ILCS 5/9-2-78
jurisdiction of courts – 65 ILCS 5/9-2-43
late appeal – 65 ILCS 5/9-2-141
letting of contract – 65 ILCS 5/9-2-100, 65 ILCS 5/9-2-102
  (See also Procurement - contracts; Public Construction Contract Act)
levy against municipality – 65 ILCS 5/9-2-77, 65 ILCS 5/9-2-134
liens
  against municipality – 65 ILCS 5/9-2-113
  assignment – 65 ILCS 5/9-2-67, 65 ILCS 5/9-2-68
  costs – 65 ILCS 5/9-2-71
  costs of lien – 65 ILCS 5/9-2-71
  foreclosure – 65 ILCS 5/9-2-70, 65 ILCS 5/9-2-98
  generally – 65 ILCS 5/9-2-66
  interest – 65 ILCS 5/9-2-69
  on waterworks – 65 ILCS 5/9-2-133
  outstanding obligation – 65 ILCS 5/9-2-71
  payment of costs – 65 ILCS 5/9-2-71
  property not within municipality – 65 ILCS 5/9-4-3
  redemption – 65 ILCS 5/9-2-69
  sale and assignment – 65 ILCS 5/9-2-67, 65 ILCS 5/9-2-68
  suit to foreclose – 65 ILCS 5/9-2-98
limitation on
  assessment – 65 ILCS 5/9-2-41
  claims – 65 ILCS 5/9-2-99, 65 ILCS 5/9-2-135
  lien against municipality – 65 ILCS 5/9-2-113
made by general taxation – 65 ILCS 5/9-1-2
mall and parking facilities – 65 ILCS 5/9-2-48, 65 ILCS 5/9-2-48(1)
new assessment – 65 ILCS 5/9-2-72, 65 ILCS 5/9-2-75
no levy before obtaining land – 65 ILCS 5/9-2-62
no objection for prior work – 65 ILCS 5/9-2-63, 65 ILCS 5/9-2-73, 65 ILCS 5/11-85-3
no provision for condemnation – 65 ILCS 5/9-2-42
no unclaimed rebate fund – 65 ILCS 5/9-1-13
notice of assessment – 65 ILCS 5/9-2-47, 65 ILCS 5/9-2-53, 65 ILCS 5/9-2-54, 65 ILCS 5/9-2-59, 65 ILCS 5/9-2-79, 65 ILCS 5/9-2-80
notice of awarding of contract – 65 ILCS 5/9-2-108
objection to assessment or improvement – 65 ILCS 5/9-2-54, 65 ILCS 5/9-2-55, 65 ILCS 5/9-2-57, 65 ILCS 5/9-2-58, 65 ILCS 5/9-2-63, 65 ILCS 5/9-2-73, 65 ILCS 5/11-85-3
offset for donated land – 65 ILCS 5/9-2-21
order – 65 ILCS 5/9-2-115
ordinance ordering work – 65 ILCS 5/9-1-3
outstanding obligation secured by lien – 65 ILCS 5/9-2-71
owners may take work – 65 ILCS 5/9-2-109
payment of bonds – 65 ILCS 5/9-2-52
payment of costs of lien – 65 ILCS 5/9-2-71
payments made as work progresses – 65 ILCS 5/9-2-136
performance of work by municipality – 65 ILCS 5/9-2-100
performance of work by owners – 65 ILCS 5/9-2-109
petition to levy assessment – 65 ILCS 5/9-2-43
precedence of hearing – 65 ILCS 5/9-2-60
preliminary procedure – 65 ILCS 5/9-2-9
prior work no objection – 65 ILCS 5/9-2-63, 65 ILCS 5/9-2-73, 65 ILCS 5/11-85-3
pro rata reduction in installments – 65 ILCS 5/9-2-114

property not within municipality – 65 ILCS 5/9-4-1, 65 ILCS 5/9-4-2, 65 ILCS 5/9-4-3
property owners' petition – 65 ILCS 5/9-2-40
provisional award for waterworks – 65 ILCS 5/9-2-106
public benefit tax – 65 ILCS 5/9-2-38, 65 ILCS 5/9-2-39
publication of ordinance – 65 ILCS 5/9-2-13
readvertising for bidders – 65 ILCS 5/9-2-110
rebates – 65 ILCS 5/9-2-74, 65 ILCS 5/9-2-138
recall of warrant – 65 ILCS 5/9-2-76
recommendation of board – 65 ILCS 5/9-2-6
recording of warrant – 65 ILCS 5/9-2-81
recourse on municipality – 65 ILCS 5/9-2-112
redemption of lien – 65 ILCS 5/9-2-69
redistribution of assessment – 65 ILCS 5/9-2-59
redivision of installments – 65 ILCS 5/9-2-120
reduction in installment payments – 65 ILCS 5/9-2-114
referral of ordinance to committee – 65 ILCS 5/9-2-13
refunding bonds – 65 ILCS 5/9-2-120
rejection of bid – 65 ILCS 5/9-2-110
reletting of work – 65 ILCS 5/9-2-111
(See also Procurement - contracts; Public Construction Contract Act)
remonstrance petition – 65 ILCS 5/9-2-10
repeal of ordinance – 65 ILCS 5/9-1-3
report on completed work – 65 ILCS 5/9-1-4
resolution to proceed with work – 65 ILCS 5/9-2-113
revenue source specified – 65 ILCS 5/9-2-5
review by court – 65 ILCS 5/9-2-41, 65 ILCS 5/9-2-56, 65 ILCS 5/9-2-57, 65 ILCS 5/9-2-58, 65 ILCS 5/9-2-60
sale and assignment of lien – 65 ILCS 5/9-2-66, 65 ILCS 5/9-2-67, 65 ILCS 5/9-2-68
second installment – 65 ILCS 5/9-2-50
selling or paying bonds to contractor – 65 ILCS 5/9-2-130
special assessment for payment of costs associated with certain ordinance violations – 65 ILCS 5/9-2-4.5
sidewalks – 65 ILCS 5/9-2-40
signature of engineer – 65 ILCS 5/9-2-12
special assessment installments – 65 ILCS 5/9-2-19
substitution of superintendent of special assessments – 65 ILCS 5/9-2-8
suit on bond of successful bidder – 65 ILCS 5/9-2-104
supplemental applications – 65 ILCS 5/9-2-116
supplemental assessment – 65 ILCS 5/9-2-74
surplus of bonds to pay debts – 65 ILCS 5/9-2-119
taking or damaging property
  affidavit of ownership – 65 ILCS 5/9-2-23
  change of title – 65 ILCS 5/9-2-31
  compensation
    commissioners
      appointment – 65 ILCS 5/9-2-16
      certificate – 65 ILCS 5/9-2-22
      report – 65 ILCS 5/9-2-18, 65 ILCS 5/9-2-22
    hearing – 65 ILCS 5/9-2-27
    net damage or benefit – 65 ILCS 5/9-2-20
    petition – 65 ILCS 5/9-2-15, 65 ILCS 5/9-2-16, 65 ILCS 5/9-2-17
    report of commissioners – 65 ILCS 5/9-2-18, 65 ILCS 5/9-2-22
    revised assessment roll – 65 ILCS 5/9-2-37
  final judgment – 65 ILCS 5/9-2-34
  generally – 65 ILCS 5/9-2-14
  guardian ad litem – 65 ILCS 5/9-2-33
  hearing
    adverse claimants – 65 ILCS 5/9-2-32
    continuation – 65 ILCS 5/9-2-30
    final judgment – 65 ILCS 5/9-2-34
    guardian ad litem – 65 ILCS 5/9-2-33
    impaneling jury – 65 ILCS 5/9-2-27
    judgment – 65 ILCS 5/9-2-30
    separate juries – 65 ILCS 5/9-2-28
    verdict – 65 ILCS 5/9-2-30
    viewing by jury – 65 ILCS 5/9-2-29
  net damage or benefit – 65 ILCS 5/9-2-20
  notice of special assessment – 65 ILCS 5/9-2-24, 65 ILCS 5/9-2-25, 65 ILCS 5/9-2-26
  offset for donated land – 65 ILCS 5/9-2-21
  order of possession – 65 ILCS 5/9-2-35
  parties defendant – 65 ILCS 5/9-2-24
  proceedings pending appeal – 65 ILCS 5/9-2-36
  revised assessment roll – 65 ILCS 5/9-2-37

tax for particular purpose – 65 ILCS 5/8-3-4
transfer of unclaimed money to general fund – 65 ILCS 5/9-1-13
trial and disposition – 65 ILCS 5/9-2-58
trust agreement – 65 ILCS 5/8-2-9.11
(See also Procurement Code - trust agreement)
unclaimed moneys – 65 ILCS 5/9-1-5, 65 ILCS 5/9-1-6, 65 ILCS 5/9-1-7, 65 ILCS 5/9-1-8, 65 ILCS 5/9-1-9, 65 ILCS 5/9-1-10, 65 ILCS 5/9-1-11, 65 ILCS 5/9-1-12, 65 ILCS 5/9-1-14
use of bond to pay assessment – 65 ILCS 5/9-2-132
vacation of assessment – 65 ILCS 5/9-2-72
viaduct – 65 ILCS 5/9-2-19
waiver of right to object – 65 ILCS 5/9-2-57
warrant – 65 ILCS 5/9-2-50, 65 ILCS 5/9-2-76, 65 ILCS 5/9-2-77, 65 ILCS 5/9-2-78, 65 ILCS 5/9-2-81, 65 ILCS 5/9-2-113
waterworks – 65 ILCS 5/9-2-19, 65 ILCS 5/9-2-38, 65 ILCS 5/9-2-106, 65 ILCS 5/9-2-134
when unclaimed rebate fund does not exist – 65 ILCS 5/9-1-13
when work not completed on time – 65 ILCS 5/9-2-111
work done by municipality – 65 ILCS 5/9-2-100
work done by owners – 65 ILCS 5/9-2-109
(See also Property Taxes)
moving expenses for displaced person
displaced or discontinued business – 65 ILCS 5/11-91.1-3
displacement from dwelling – 65 ILCS 5/11-91.1-2, 65 ILCS 5/11-91.1-4
eminent domain – 65 ILCS 5/11-91.1-6
exception – 65 ILCS 5/11-91.1-1
generally – 65 ILCS 5/11-91.1-1
reimbursements – 65 ILCS 5/11-91.1-5
rules and regulations – 65 ILCS 5/11-91.1-1
naming of streets, changing names – 65 ILCS 5/11-80-19
ordinance ordering local improvement – 65 ILCS 5/9-1-3
parking for residents – 65 ILCS 5/11-80-2a
persons using wheelchairs – 65 ILCS 5/11-80-11
powers relating to local improvements – 65 ILCS 5/9-2-1
public benefit tax – 65 ILCS 5/9-2-38, 65 ILCS 5/9-2-39
purchasing and public works contracts in cities of more than 500,000 – 65 ILCS 5/8-10-1 - 5/8-10-26
removal of encroachments or obstructions upon the streets and other municipal property – 65 ILCS 5/11-80-3
repeal of ordinance ordering work – 65 ILCS 5/9-1-3
report on completed work – 65 ILCS 5/9-1-4
residents parking – 65 ILCS 5/11-80-2a
retention of payment – 65 ILCS 5/8-2-9.11
(See also Procurement Code - retention of payment)
special assessment installments – 65 ILCS 5/9-2-19
street lighting tax – 65 ILCS 5/11-80-5
streets and sewers across or under railroad – 65 ILCS 5/11-80-21
surrender of jurisdiction – 65 ILCS 5/11-91.2-1
unclaimed moneys – 65 ILCS 5/9-1-7, 65 ILCS 5/9-1-8, 65 ILCS 5/9-1-10, 65 ILCS 5/9-1-14
use of municipal property and streets – 65 ILCS 5/11-80-2
vacating street or alley
damages – 65 ILCS 5/11-91-1
notice and hearing – 65 ILCS 5/11-91-1
title upon vacation – 65 ILCS 5/11-91-2
water and gas infrastructure – 65 ILCS 5/11-80-7
wheelchairs – 65 ILCS 5/11-80-11
Names of streets and highways in county – 55 ILCS 5/5-1067
Natural Resources *(See Dept. of Natural Resources)*
Noxious weeds *(See Agriculture - noxious weeds)*
Numbers of buildings and lots in county – 55 ILCS 5/5-1067
Open Meetings Act
application – 5 ILCS 120/5
civil action for noncompliance – 5 ILCS 120/3
definitions – 5 ILCS 120/1.02
home rule unit – 5 ILCS 120/6
invalid provision or application – 5 ILCS 120/5
meetings
closed session – 5 ILCS 120/2a
failure to receive notice – 5 ILCS 120/2.04
minutes – 5 ILCS 120/2.06
notice
failure to receive – 5 ILCS 120/2.04
other notices – 5 ILCS 120/2.04
public notice – 5 ILCS 120/2.02, 5 ILCS 120/2.03
openness required – 5 ILCS 120/2, 5 ILCS 120/2a
recording – 5 ILCS 120/2.05, 5 ILCS 120/2.06
schedule – 5 ILCS 120/2.03
times and places – 5 ILCS 120/2.01, 5 ILCS 120/2.03
noncompliance – 5 ILCS 120/3
violations – 5 ILCS 120/4
Paleontological and archaeological resources *(See Archaeological and Paleontological Resources Act)*

Payment for goods or services generally *(See Local government - Prompt Payment Act)*
Peerson Memorial Highway – 605 ILCS 20/0.01, 605 ILCS 20/1
Pilot program to evaluate use of calcium magnesium acetate made from corn to clear roadways of snow and ice – 605 ILCS 5/4-218
Plats – 605 ILCS 5/4-214, 605 ILCS 5/5-101.8, 605 ILCS 5/6-328, 765 ILCS 205/6, 765 ILCS 205/7, 765 ILCS 205/8
Preservation of archaeological and paleontological resources *(See Archaeological and Paleontological Resources Preservation Act)*
Preservation of farmland *(See Agriculture - farmland preservation)*
Preservation of historic resources *(See Historic Resources Preservation Act)*
Preservation of natural beauty along highway – 225 ILCS 440/14, 605 ILCS 5/4-201.15
Printing of materials – 30 ILCS 500/20-105, 30 ILCS 500/20-110
Procurement Code – 30 ILCS 500/1-1
- anticompetitive practices – 30 ILCS 500/50-40
- application – 30 ILCS 500/1-10, 30 ILCS 500/1-30
- associate procurement officer – 30 ILCS 500/1-15.03, 30 ILCS 500/10-15
- audit of records – 30 ILCS 500/20-65
- authority – 30 ILCS 500/10-5, 30 ILCS 500/10-10
- bribery or inducement – 30 ILCS 500/50-5, 30 ILCS 500/50-25
- chief procurement officer
  - authority – 30 ILCS 500/10-10
  - defined – 30 ILCS 500/1-15.15
  - ethics and disclosure – 30 ILCS 500/50-1
- competition in
  - bidding – 30 ILCS 500/1-5, 30 ILCS 500/20-10, 30 ILCS 500/50-40
  - proposals – 30 ILCS 500/20-15, 30 ILCS 500/20-40, 30 ILCS 500/50-40
  - selection procedures – 30 ILCS 500/20-35
- confidentiality – 30 ILCS 500/50-45, 30 ILCS 500/50-50
- conflicts of interest – 30 ILCS 500/50-13, 30 ILCS 500/50-15, 30 ILCS 500/50-20, 30 ILCS 500/50-35
- construction above $250,000 – 30 ILCS 500/30-30
- construction expenditure above price – 30 ILCS 500/30-35
- contractor suspension – 30 ILCS 500/50-65
- contracts
  - construction above $250,000 – 30 ILCS 500/30-30
  - construction expenditure above price – 30 ILCS 500/30-35
  - contractor suspension – 30 ILCS 500/50-65
  - duration – 30 ILCS 500/20-60
  - files – 30 ILCS 500/20-80
  - records – 30 ILCS 500/20-65
  - types – 30 ILCS 500/20-55
  - voidable – 30 ILCS 500/50-60
- debt delinquency – 30 ILCS 500/50-11
- definitions
  - associate procurement officer – 30 ILCS 500/1-15.03
  - Board – 30 ILCS 500/1-15.05
  - business – 30 ILCS 500/1-15.10
  - chief procurement officer – 30 ILCS 500/1-15.15
  - construction agency – 30 ILCS 500/1-15.25
  - construction and construction-related services – 30 ILCS 500/1-15.20
  - contract – 30 ILCS 500/1-15.30
  - cost-reimbursement contract – 30 ILCS 500/1-15.35
  - generally – 30 ILCS 500/1-15
  - grant – 30 ILCS 500/1-15.42
  - invitation for bids – 30 ILCS 500/1-15.45
  - negotiation – 30 ILCS 500/1-15.50
  - person – 30 ILCS 500/1-15.55
  - Procurement Policy Board – 30 ILCS 500/1-15.05
  - professional and artistic services – 30 ILCS 500/1-15.60
  - purchase description – 30 ILCS 500/1-15.65
  - purchase of care – 30 ILCS 500/1-15.68
  - purchasing agency – 30 ILCS 500/1-15.70
  - request for proposals – 30 ILCS 500/1-15.75
  - responsible bidder or offeror – 30 ILCS 500/1-15.80
  - responsive bidder – 30 ILCS 500/1-15.85
  - services – 30 ILCS 500/1-15.90
  - specifications – 30 ILCS 500/1-15.95
  - State agency – 30 ILCS 500/1-15.100
  - State purchasing officer – 30 ILCS 500/1-15.105
  - supplies – 30 ILCS 500/1-15.110
  - using agency – 30 ILCS 500/1-15.11
- determination of purchasing agency – 30 ILCS 500/20-70
- disputes and protests – 30 ILCS 500/20-75
- doing business with felons – 30 ILCS 500/50-5, 30 ILCS 500/50-10
- duration of contracts – 30 ILCS 500/20-60
- emergency procurements – 30 ILCS 500/20-30
- ethics and disclosure
  - anticompetitive practices – 30 ILCS 500/50-40
  - bribery or inducement – 30 ILCS 500/50-5, 30 ILCS 500/50-25

confidentiality – 30 ILCS 500/50-45, 30 ILCS 500/50-50
conflicts of interest – 30 ILCS 500/50-13, 30 ILCS 500/50-15, 30 ILCS 500/50-20, 30 ILCS 500/50-35
doing business with felons – 30 ILCS 500/50-5, 30 ILCS 500/50-10
generally – 30 ILCS 500/50-1
insider information – 30 ILCS 500/50-50
other Acts – 30 ILCS 500/50-70
reporting anticompetitive practices – 30 ILCS 500/50-40
revolving door prohibition – 30 ILCS 500/50-30, 30 ILCS 500/50-50
violations – 30 ILCS 500/50-75
exercise of procurement authority – 30 ILCS 500/10-5, 30 ILCS 500/10-10
expenditure above contract price – 30 ILCS 500/30-35
federal requirements – 30 ILCS 500/20-85
finality of determination – 30 ILCS 500/20-70
foreign country procurements – 30 ILCS 500/20-90
general appointments – 30 ILCS 500/10-10
Illinois Administrative Procedure Act – 30 ILCS 500/5-25
insider information – 30 ILCS 500/50-50
invitation for bids
cancellation – 30 ILCS 500/20-40
contents – 30 ILCS 500/20-10
defined – 30 ILCS 500/1-15.45
publication – 30 ILCS 500/15-25
method of source selection – 30 ILCS 500/20-5
other Acts – 30 ILCS 500/30-45, 30 ILCS 500/50-70
prequalification of suppliers – 30 ILCS 500/20-45
printing of materials – 30 ILCS 500/20-105, 30 ILCS 500/20-110
procurement bulletin
contents – 30 ILCS 500/15-10, 30 ILCS 500/15-25
publication – 30 ILCS 500/15-1, 30 ILCS 500/15-15
Procurement Policy Board
defined – 30 ILCS 500/1-15.05
generally – 30 ILCS 500/5-5
interests of members – 30 ILCS 500/5-23
rulemaking authority – 30 ILCS 500/5-25
property rights – 30 ILCS 500/1-25
proposed contracts; procurement Policy Board – 30 ILCS 500/5-30
public policy – 30 ILCS 500/1-5
purchase description – 30 ILCS 500/1-15.65
purchase of care – 30 ILCS 500/1-15.68
purchasing agency defined – 30 ILCS 500/1-15.70
purchasing agency's determination – 30 ILCS 500/20-70
qualified bidder – 30 ILCS 500/15-20
receiving donation – 30 ILCS 500/20-95
records – 30 ILCS 500/20-65
reporting anticompetitive practices – 30 ILCS 500/50-40
responsible bidder or offeror – 30 ILCS 500/1-15.80, 30 ILCS 500/15-20
responsive bidder – 30 ILCS 500/1-15.85, 30 ILCS 500/15-20
retention of payment – 30 ILCS 500/30-25
revolving door prohibition – 30 ILCS 500/50-30, 30 ILCS 500/50-50
right to audit records – 30 ILCS 500/20-65
rules generally – 30 ILCS 500/5-25
services
construction-related
above $250,000 – 30 ILCS 500/30-30
expenditure above price – 30 ILCS 500/30-35
generally – 30 ILCS 500/30-5, 30 ILCS 500/30-10, 30 ILCS 500/30-45
list of providers – 30 ILCS 500/30-20
other Acts – 30 ILCS 500/30-45
prequalification – 30 ILCS 500/30-20
retention of payment – 30 ILCS 500/30-25
source selection – 30 ILCS 500/30-15
trust agreement – 30 ILCS 500/30-25
defined – 30 ILCS 500/1-15.90
furnished to recipient of State aid program – 30 ILCS 500/1-15.68
other Acts – 30 ILCS 500/30-45
purchase of care – 30 ILCS 500/1-15.68
retention of payment – 30 ILCS 500/30-25
trust agreement – 30 ILCS 500/30-25
small purchases – 30 ILCS 500/20-20
sole source procurements – 30 ILCS 500/20-25
specifications
construction above $250,000 – 30 ILCS 500/30-30
generally – 30 ILCS 500/20-50
State agency
defined – 30 ILCS 500/1-15.100
federal requirements – 30 ILCS 500/20-85
receiving donation – 30 ILCS 500/20-95
rulemaking authority – 30 ILCS 500/5-25
State purchasing officer
appointment and approval – 30 ILCS 500/10-5, 30 ILCS 500/10-10
authority – 30 ILCS 500/10-5
defined – 30 ILCS 500/1-15.105
ethics and disclosure – 30 ILCS 500/50-1
supply inventory – 30 ILCS 500/50-55
trust agreement – 30 ILCS 500/30-25
types of contracts – 30 ILCS 500/20-55
using agency defined – 30 ILCS 500/1-15.115
violations – 30 ILCS 500/50-75
voidable contracts – 30 ILCS 500/50-60

Procurement contracts *(See Procurement Code - contracts)*
Procurement Policy Board
defined – 30 ILCS 500/1-15.05
generally – 30 ILCS 500/5-5
interests of members – 30 ILCS 500/5-23
rules generally – 30 ILCS 500/5-25
Professional engineer *(See Design and construction)*
Professional services selection *(See Local government - professional services selection)*
Prohibited signs – 225 ILCS 440/5
Prompt Payment Act
application – 50 ILCS 505/2
approval of bill – 50 ILCS 505/3
certification of need for funds – 50 ILCS 505/7
failure to approve or disapprove bill – 50 ILCS 505/5
failure to make timely payments – 50 ILCS 505/9
interest penalty – 50 ILCS 505/4
need for State funds – 50 ILCS 505/7
payment of bill – 50 ILCS 505/4
State funds – 50 ILCS 505/7
subcontractors and suppliers – 50 ILCS 505/9
time periods for payment – 50 ILCS 505/6
Property plats and surveys
acknowledgment – 765 ILCS 205/2
approval – 765 ILCS 205/2
government operated and maintained roads and monuments – 765 ILCS 205/9
highways – 765 ILCS 205/9.1
instruments – 765 ILCS 205/6
notice and hearing – 765 ILCS 205/2
recording – 765 ILCS 205/2, 765 ILCS 205/9
registration of titles – 765 ILCS 205/9
reservations – 765 ILCS 205/6
vacation
plat – 765 ILCS 205/6
public highways – 765 ILCS 205/7
record – 765 ILCS 205/8
rights or privileges of other proprietors – 765 ILCS 205/7
Property Tax Extension Limitation Law – 35 ILCS 200/18-185
Property taxes
annexed or disconnected property – 35 ILCS 200/18-225
certification of new property – 35 ILCS 200/18-240
consolidating districts – 35 ILCS 200/18-215
defective publication – 35 ILCS 200/18-100
disconnected property – 35 ILCS 200/18-225
establishing a new levy – 35 ILCS 200/18-210
extension limitation
additional limitations – 35 ILCS 200/18-195
annexed or disconnected property – 35 ILCS 200/18-225
applicability of provisions – 35 ILCS 200/18-213, 35 ILCS 200/18-214
certification of new property – 35 ILCS 200/18-240
consolidating districts – 35 ILCS 200/18-215
county clerk – 35 ILCS 200/18-90
definitions – 35 ILCS 200/18-185
disconnected property – 35 ILCS 200/18-225
merging districts – 35 ILCS 200/18-215
rate increase or decrease factor – 35 ILCS 200/18-230
referenda on provisions – 35 ILCS 200/18-213, 35 ILCS 200/18-214
referendum
debt service base – 35 ILCS 200/18-212
new levy – 35 ILCS 200/18-210
new or increased rate – 35 ILCS 200/18-190, 35 ILCS 200/18-205
rules – 35 ILCS 200/18-245
school districts – 35 ILCS 200/18-190.5
School Finance Authority – 35 ILCS 200/18-241
severability of provisions – 35 ILCS 200/18-243
State aid to schools – 35 ILCS 200/18-200
tax increment financing districts – 35 ILCS 200/18-235
transfer of service – 35 ILCS 200/18-215
Truth in Taxation Law – 35 ILCS 200/18-95
merging districts – 35 ILCS 200/18-215
rate increase or decrease factor – 35 ILCS 200/18-230
rules on extension limitation – 35 ILCS 200/18-245
State aid to schools – 35 ILCS 200/18-200
tax increment financing districts – 35 ILCS 200/18-235
transfer of service – 35 ILCS 200/18-215
truth in taxation
adopted levy exceeds proposed – 35 ILCS 200/18-85
defective publication – 35 ILCS 200/18-100
definitions – 35 ILCS 200/18-55
estimate of tax to be levied – 35 ILCS 200/18-60
extension limitation – 35 ILCS 200/18-90, 35 ILCS 200/18-95 *(See also Municipal Code - local improvements)*
legislative intent – 35 ILCS 200/18-56
Maywood Public Library District Tax Levy Validation (2002) Law – 35 ILCS 200/18-92

more than 5% increase – 35 ILCS 200/18-70
notice and hearing – 35 ILCS 200/18-70, 35 ILCS 200/18-75, 35 ILCS 200/18-80, 35 ILCS 200/18-85
restriction on extension – 35 ILCS 200/18-65
Truth in Taxation Law – 35 ILCS 200/18-95
Property Transfer Act *(See Local government - Property Transfer Act)*
Protection of the environment *(See Environmental protection)*
Public benefit tax – 65 ILCS 5/9-2-38, 65 ILCS 5/9-2-39
Public Construction Bond Act
bond required of contractor – 30 ILCS 550/1
builder or developer bond – 30 ILCS 550/1, 30 ILCS 550/3
cash bond – 30 ILCS 550/3
contractor bond – 30 ILCS 550/1, 30 ILCS 550/3
no bond required in emergency – 30 ILCS 550/1
recovery on bond – 30 ILCS 550/2
Public Construction Contract Act
arbitration – 30 ILCS 557/15
contract requirements – 30 ILCS 557/10, 30 ILCS 557/20
definitions – 30 ILCS 557/5
limitation – 30 ILCS 557/25
Public Contract Fraud Act – 30 ILCS 545/0.01
increasing costs and expenses of authorized public work or improvement; punishment – 30 ILCS 545/1
prosecution; complaint – 30 ILCS 545/3
spending money on public work or improvement without obtaining title û 30 ILCS 545/2
State's attorney – 30 ILCS 545/4
Public demonstrations *(See Public safety - public demonstrations)*
Public employees of local government *(See Local Government - officers and employees)*
Public Funds Investment Act
authorized investments – 30 ILCS 235/2
consideration of financial institution's commitment to its community – 30 ILCS 235/8
construction – 30 ILCS 235/5
definitions – 30 ILCS 235/1
Federally insured deposits at Illinois financial institutions – 30 ILCS 235/6.5
investment policy – 30 ILCS 235/2.5
minority-owned financial institutions – 30 ILCS 235/7
report of financial institutions – 30 ILCS 235/6
securities
designation of payee and fund – 30 ILCS 235/3
disposition of – 30 ILCS 235/4
registration of securities – 30 ILCS 235/3
safekeeping – 30 ILCS 235/4
unit of local government; deposit at reduced rate of interest – 30 ILCS 235/2.10
Public safety
public demonstrations
conflict with municipal ordinance – 430 ILCS 70/7
legislative intent – 430 ILCS 70/2
parade permit – 430 ILCS 70/3
sentence – 430 ILCS 70/8
time of holding – 430 ILCS 70/6
unlawful acts – 430 ILCS 70/3
Road Worker Safety Act
accrual of action – 430 ILCS 105/6
applicability – 430 ILCS 105/8
compliance – 430 ILCS 105/7
enforcement – 430 ILCS 105/7
flagmen – 430 ILCS 105/2, 430 ILCS 105/3
marking of closed highway or bridge – 430 ILCS 105/4
traffic during construction – 430 ILCS 105/1
violation – 430 ILCS 105/5
Public works
bonds
bond required of contractor – 30 ILCS 550/1
builder or developer bond – 30 ILCS 550/1, 30 ILCS 550/3
cash bond – 30 ILCS 550/3
contractor bond – 30 ILCS 550/1, 30 ILCS 550/3
no bond required in emergency – 30 ILCS 550/1
recovery on bond – 30 ILCS 550/2
contracts
arbitration – 30 ILCS 557/15
contract requirements – 30 ILCS 557/10, 30 ILCS 557/20
definitions – 30 ILCS 557/5
limitation – 30 ILCS 557/25
employment practices
application of provisions – 30 ILCS 570/2
definitions – 30 ILCS 570/1
discrimination
classification of offenses – 775 ILCS 10/6
contractors – 775 ILCS 10/3, 775 ILCS 10/4
contracts – 775 ILCS 10/1, 775 ILCS 10/7
employment – 775 ILCS 10/1
partial invalidity of provisions – 775 ILCS 10/8
recovery – 775 ILCS 10/5
Statewide governmental provisions – 775 ILCS 10/2
traits protected – 775 ILCS 10/4, 775 ILCS 10/8

enforcement – 30 ILCS 570/7
federal aid funds – 30 ILCS 570/5
injunctive relief – 30 ILCS 570/7
legislative findings and intent – 30 ILCS 570/1.1
no conflict with federal law – 30 ILCS 570/5
non-resident experts – 30 ILCS 570/4
preference for Illinois workers – 30 ILCS 570/3
violation and penalty – 30 ILCS 570/6
Purchases *(See Procurement Code)*
Rail assistance Funds *(See Dept. of Transportation - federal rail assistance)*
Receiving donation – 30 ILCS 500/20-95
Refuse disposal – 415 ILCS 5/21
Regulations and Site Remediation Advisory Committee – 415 ILCS 5/58.11
Relocation of person or house *(See Human needs)*
Removal of obstruction from waterway in county – 55 ILCS 5/5-1104
Removal of snow – 605 ILCS 5/4-216, 605 ILCS 5/4-218
Retailers' Occupation Tax – 35 ILCS 120/3
Road Fund
fees and other money received – 30 ILCS 105/6c, 30 ILCS 105/6r
transfer from General Revenue Fund – 30 ILCS 105/5g
transfer to State Construction Account Fund – 30 ILCS 105/5e
use – 30 ILCS 105/8.3
Road Worker Safety Act *(See Public safety - Road Worker Safety Act)*
Securities
designation of payee and fund – 30 ILCS 235/3
disposition of – 30 ILCS 235/4, 30 ILCS 235/7
registration – 30 ILCS 235/3
safekeeping – 30 ILCS 235/4, 30 ILCS 235/7
Service Occupation Tax – 35 ILCS 115/9
Service Use Tax – 35 ILCS 110/9
Services
construction-related
contracts above $250,000 – 30 ILCS 500/30-30
expenditure above price – 30 ILCS 500/30-35
list of prequalified providers – 30 ILCS 500/30-20
procurement generally – 30 ILCS 500/30-5, 30 ILCS 500/30-10, 30 ILCS 500/30-45
retention of payment – 30 ILCS 500/30-25, 55 ILCS 5/5-1020, 60 ILCS 1/85-35, 65 ILCS 5/8-2-9.11
source selection – 30 ILCS 500/30-15
trust agreement – 30 ILCS 500/30-25, 55 ILCS 5/5-1020, 60 ILCS 1/85-35, 65 ILCS 5/8-2-9.11
defined – 30 ILCS 500/1-15.90
furnished to recipient of State aid program – 30 ILCS 500/1-15.68
purchase of care – 30 ILCS 500/1-15.68
selection in local government
contract negotiation – 50 ILCS 510/7
definitions – 50 ILCS 510/3
federal requirements – 50 ILCS 510/2
policy – 50 ILCS 510/1
procedure – 50 ILCS 510/5, 50 ILCS 510/6
public notice – 50 ILCS 510/4
waiver of competition – 50 ILCS 510/8
(See also Procurement Code)
Set-back lines in county
amendments to regulations – 55 ILCS 5/5-13003
enforcing officer – 55 ILCS 5/5-13002
generally – 55 ILCS 5/5-13001
proceedings to restrain – 55 ILCS 5/5-13004
Signs generally *(See Highway Advertising Control Act)*
Signs indicating travel-related facilities or tourist-oriented businesses – 20 ILCS 2705/2705-505
Snow breaks – 605 ILCS 5/4-217, 605 ILCS 5/5-412, 605 ILCS 5/6-201.18
Snow removal generally – 605 ILCS 5/4-216, 605 ILCS 5/4-218
Snow removal equipment operators *(See Highway Code - powers of Department)*
Specifications to provide for alternative methods and materials – 605 ILCS 5/9-110
State agency receiving donation – 30 ILCS 500/20-95
State Construction Account Fund
transfer from Road Fund – 30 ILCS 105/5e
use – 30 ILCS 105/5d
State Finance Act
General Revenue Fund transfer to Road Fund – 30 ILCS 105/5g
Road Fund
fees and other money received – 30 ILCS 105/6c, 30 ILCS 105/6r
transfer from General Revenue Fund – 30 ILCS 105/5g
transfer to State Construction Account Fund – 30 ILCS 105/5e
use – 30 ILCS 105/8.3
State Construction Account Fund
transfer from Road Fund – 30 ILCS 105/5e
use – 30 ILCS 105/5d
transfers between funds
from General Revenue Fund to Road Fund – 30 ILCS 105/5g
from Road Fund to State Construction Account Fund – 30 ILCS 105/5e
report by Comptroller – 30 ILCS 105/5f
State highway in municipality – 605 ILCS 5/4-402
State Police *(See Dept. of State Police)*

State Prompt Payment Act – 30 ILCS 540/1
payment to subcontractors and material suppliers – 30 ILCS 540/7
vendor's waiver of penalty for late payment – 30 ILCS 540/6
State Rail Plan *(See Dept. of Transportation - federal rail assistance - State Rail Plan)*
State-Wide One-Call Notice System – 220 ILCS 50/3
Steel Products Procurement Act – 30 ILCS 565/1
application of Act to contracts – 30 ILCS 565/6
contract in violation of Act prohibited; penalty – 30 ILCS 565/5
definitions – 30 ILCS 565/3
Federal law or treaty not contravened – 30 ILCS 656/7
legislative findings; use of United States steel in all state contracts – 30 ILCS 565/2
exceptions – 30 ILCS 565/4
Storm Water Management Plan in county – 55 ILCS 5/5-1104
Street Light District Act – 70 ILCS 3305/0.01
Street lighting district
addition of territory – 70 ILCS 3305/2a
board of trustees – 70 ILCS 3305/3, 70 ILCS 3305/4, 70 ILCS 3305/5
collection of direct annual tax – 70 ILCS 3305/9
contracting for service – 70 ILCS 3305/8
disconnection from district
annexation – 70 ILCS 3305/2c
liability for debt – 70 ILCS 3305/2c
operation of law – 70 ILCS 3305/2c
procedure for owners – 70 ILCS 3305/2b
higher taxes – 70 ILCS 3305/10.1
incorporation – 70 ILCS 3305/1
judicial notice – 70 ILCS 3305/2
notice of penalty or appropriation – 70 ILCS 3305/6
other taxes – 70 ILCS 3305/10
prompt payment – 70 ILCS 3305/5.1
proof of passage and legal publication – 70 ILCS 3305/7
suits – 70 ILCS 3305/2
voter approval for higher taxes – 70 ILCS 3305/10.1
Taking or damaging property *(See Municipal Code - local improvements - taking or damaging property)*
Tax on fuel *(See Motor Fuel Tax Law)*
motor fuel tax; referendum; liability – 65 ILCS 5/8-11-15
Telephone and telegraph services *(See Utilities - telephone and telegraph services)*
Telephone service on State highway system – 605 ILCS 5/4-201.19, 605 ILCS 5/8-107.1
Temporary closure of highway – 605 ILCS 5/4-407, 605 ILCS 5/4-408, 605 ILCS 5/5-105
Township Code
bids – 60 ILCS 1/85-30
(See also Procurement Code)
borrowing money – 60 ILCS 1/240-5
property use – 60 ILCS 1/30-50
purchases – 60 ILCS 1/85-30
retention of payment – 60 ILCS 1/85-35
trust agreement – 60 ILCS 1/85-35
use of property – 60 ILCS 1/30-50
vacancies
township board – 60 ILCS 1/35-35
township offices – 60 ILCS 1/60-5
Transfer of property *(See Local government - Property Transfer Act)*
Transfers between funds
from General Revenue Fund to Road Fund – 30 ILCS 105/5g
from Road Fund to State Construction Account Fund – 30 ILCS 105/5e
report by Comptroller – 30 ILCS 105/5f
Transportation Bond Act
appropriation for bonds – 30 ILCS 415/7
authorization to issue bonds – 30 ILCS 415/2
bond funds – 30 ILCS 415/7
bonds
amounts – 30 ILCS 415/2
appropriation for bonds – 30 ILCS 415/7
authorization – 30 ILCS 415/2
bond funds – 30 ILCS 415/7
certification – 30 ILCS 415/9
creation of bond funds – 30 ILCS 415/7
denominations – 30 ILCS 415/3
form – 30 ILCS 415/3
funds obtained by bonds – 30 ILCS 415/6
interest – 30 ILCS 415/3
investment of funds obtained – 30 ILCS 415/6
obligations of State – 30 ILCS 415/7
purposes – 30 ILCS 415/2
refunding bonds – 30 ILCS 415/10
sale – 30 ILCS 415/4
signatures – 30 ILCS 415/3
transfers and disbursements – 30 ILCS 415/7, 30 ILCS 415/9
use of proceeds – 30 ILCS 415/5, 30 ILCS 415/5.1
compelling payment by State – 30 ILCS 415/8
funds obtained by bonds – 30 ILCS 415/6
General Obligation Bond Act – 30 ILCS 415/11.1
invalid provisions – 30 ILCS 415/11
investment of funds – 30 ILCS 415/6
limitations on use of proceeds – 30 ILCS 415/5.1
prior obligations – 30 ILCS 415/5.1
purposes of bonds – 30 ILCS 415/2

refunding bonds – 30 ILCS 415/10
sale of bonds – 30 ILCS 415/4
severability of invalid provisions – 30 ILCS 415/11
transfers and disbursements – 30 ILCS 415/7
use of proceeds – 30 ILCS 415/5, 30 ILCS 415/5.1
(See also Bond Authorization Act)
Transportation generally *(See Dept. of Transportation)*
Travel-related or tourist-oriented signs – 20 ILCS 2705/2705-505
Underground Storage Tank Fund – 35 ILCS 505/8a
Underground storage tanks *(See Environment protection - underground storage tanks)*
Underground utilities damage *(See Utilities - Underground Utility Facilities Damage Prevention Act)*
Use of prisoners for highway cleanup – 20 ILCS 2705/2705-510
Use Tax Act – 35 ILCS 105/9
Utilities
Illinois Underground Utility Facilities Damage Prevention Fund – 220 ILCS 50/11
State-Wide One-Call Notice System – 220 ILCS 50/3
telephone and telegraph services
alteration of structures – 220 ILCS 55/4
application of provisions – 220 ILCS 55/1, 220 ILCS 65/1
condemnation of property – 220 ILCS 65/4
erection of structures – 220 ILCS 55/4
taking or damaging property – 220 ILCS 65/4
Underground Utility Facilities Damage Prevention Act – 220 ILCS 50/1
approximate location – 220 ILCS 50/2.8
damage or dislocation to utility facilities – 220 ILCS 50/7
damage prevention fund – 220 ILCS 50/11
definitions
damage – 220 ILCS 50/2.5
demolition – 220 ILCS 50/2.4
excavation – 220 ILCS 50/2.3
generally – 220 ILCS 50/2
person – 220 ILCS 50/2.1
underground utility facilities – 220 ILCS 50/2.2
demolition – 220 ILCS 50/4, 220 ILCS 50/6, 220 ILCS 50/7
emergency locate request – 220 ILCS 50/2.6
emergency telephone system outages; reimbursement – 220 ILCS 50/11.3
evacuation – 220 ILCS 50/4, 220 ILCS 50/6, 220 ILCS 50/7
financial responsibility or liability – 220 ILCS 50/8
fines – 220 ILCS 50/11
home rule – 220 ILCS 50/14
Illinois Underground Utility Facilities Damage Prevention Fund – 220 ILCS 50/11
injunction – 220 ILCS 50/13
liability – 220 ILCS 50/8, 220 ILCS 50/11, 220 ILCS 50/11.5, 220 ILCS 50/12
limitation for action – 220 ILCS 50/12
limitation on liability – 220 ILCS 50/11.5
mandamus – 220 ILCS 50/13
marking of facilities – 220 ILCS 50/10
negligence – 220 ILCS 50/9, 220 ILCS 50/13
nonemergency excavation or demolition – 220 ILCS 50/4, 220 ILCS 50/7
notice of preconstruction conference – 220 ILCS 50/5
notification to owner when facility damaged – 220 ILCS 50/7
owner to mark facilities – 220 ILCS 50/10
person defined – 220 ILCS 50/2.1
preconstruction conference – 220 ILCS 50/5
preservation of service – 220 ILCS 50/13
public safety – 220 ILCS 50/13
required activities – 220 ILCS 50/4
State-Wide One-Call Notice System – 220 ILCS 50/3
time limitation for action – 220 ILCS 50/12
tolerance zone – 220 ILCS 50/2.7
underground utility facilities defined – 220 ILCS 50/2.2
Vacation of public way – 65 ILCS 5/11-91-1, 65 ILCS 5/11-91-2, 605 ILCS 5/5-109, 605 ILCS 5/5-110, 605 ILCS 5/6-301, 605 ILCS 5/6-303, 605 ILCS 5/6-326, 605 ILCS 5/6-329, 605 ILCS 5/9-127, 765 ILCS 205/6, 765 ILCS 205/7, 765 ILCS 205/8
Vehicle Code
all-terrain vehicles and off-highway motorcycles on streets, roads and highways – 625 ILCS 5/11-1426
covers or tarpaulins on loads – 625 ILCS 5/15-109.1
enforcement by State Police – 20 ILCS 2610/16
golf carts on streets, roads and highways – 625 ILCS 5/11-1428
highway operation of snowmobile – 625 ILCS 40/5-2
permits
for excess size and weight – 625 ILCS 5/15-301
liability for damage of highway or structure – 625 ILCS 5/15-318

restriction of highway use – 625 ILCS 5/15-316
weight limitation on elevated structures – 625 ILCS 5/15-317
planking edge of a pavement – 625 ILCS 5/15-108
signs and markings
adoption of sign manual – 625 ILCS 5/11-301
disabilities sign – 625 ILCS 5/11-301.1
highways – 625 ILCS 5/11-302
interference with traffic-control devices – 625 ILCS 5/11-311
person with disabilities sign – 625 ILCS 5/11-301.1
placement of signs on highways – 625 ILCS 5/11-303
sign manual – 625 ILCS 5/11-301
stop and yield intersections – 625 ILCS 5/11-302
tourist-oriented business signs – 625 ILCS 5/11-304
traffic-control devices – 625 ILCS 5/11-304, 625 ILCS 5/11-305, 625 ILCS 5/11-311
unauthorized signs and signals – 625 ILCS 5/11-310
unlawful possession of highway sign or marker – 625 ILCS 5/11-313
unlawful use or damage to appurtenances – 625 ILCS 5/11-312
unlawful use or damage to highways – 625 ILCS 5/11-312
size, weight and load – 625 ILCS– 5/15/101
covers or tarpaulins – 625 ILCS 5/15-109.1
height of vehicles – 625 ILCS 5/15-103
length of vehicles – 625 ILCS 5/15-107
officers to weigh vehicles and require removal of excess loads – 625 ILCS 5/15-112
planking edge of a pavement – 625 ILCS 5/15-108
projecting loads on passenger vehicles – 625 ILCS 5/15-105
protruding members of vehicles must be secured – 625 ILCS 5/15-106
pushing of disabled vehicles – 625 ILCS 5/15-114
report; operation of larger vehicles and damage to public highways – 625 ILCS 5/15-115
spilling loads on highways – 625 ILCS 5/15-109
towed vehicles – 625 ILCS 5/15-110
violations; penalties – 625 ILCS 5/15-113, 625 ILCS 5/15-113.1, 625 ILCS 5/15-113.2, 625 ILCS 5/15-113.3
wheel and axle loads and gross weights – 625 ILCS 5/15-111
width of vehicles – 625 ILCS 5/15-102
snowmobiles – 625 ILCS 40/5-2
speed restrictions
alteration of limits on highways – 625 ILCS 5/11-602
alteration of limits on local roads – 625 ILCS 5/11-604
alteration of limits on toll highway – 625 ILCS 5/11-603
Class A misdemeanor – 625 ILCS 5/11-601.5
generally – 625 ILCS 5/11-601
speed limit through construction and maintenance zone – 625 ILCS 5/11-605
special limit while traveling through a highway construction or maintenance speed zone – 625 ILCS 5/11-605.1
delegation of authority to set a special speed limit while traveling through highway construction or maintenance zones – 625 ILCS 5/11-605.2
speed limit through school zone – 625 ILCS 5/11-605
spilling loads on highways – 625 ILCS 5/15-109
stopping and parking – 625 ILCS 5/11-1304, 625 ILCS 5/11-1304.5
vehicle with expired registration – 625 ILCS 5/11-1304.5
Volunteer firemen holding multiple offices – 50 ILCS 105/2, 50 ILCS 105/2a
Water pollution *(See Environmental protection - water pollution)*
Waterway maintenance in county – 55 ILCS 5/5-1104
Waiver of competition in professional services selection – 50 ILCS 510/8
Weeds *(See Agriculture - noxious weeds)*
Wetlands *(See Interagency Wetland Policy Act)*
Wildlife *(See Endangered Species Protection Act)*

DISPOSITION TABLE

This table shows where existing paragraphs of Illinois Revised Statutes 1991 (Illinois Revised Statute 1991) were allocated in Illinois Compiled Statutes 1992 (ILCS 1992), authorized by P.A. 87–1005, effective January 1, 1993.

Illinois Revised Statute 1991, ch. 5

Paragraph	ILCS 1992
951	505 ILCS 100/1
952	505 ILCS 100/2
953	505 ILCS 100/3
954	505 ILCS 100/4
955	505 ILCS 100/5
957	505 ILCS 100/7
958	505 ILCS 100/8
959	505 ILCS 100/9
960	505 ILCS 100/10
961	505 ILCS 100/11
962	505 ILCS 100/12
963	505 ILCS 100/13
964	505 ILCS 100/14
965	505 ILCS 100/15
967	505 ILCS 100/17
968	505 ILCS 100/18
969	505 ILCS 100/19
970	505 ILCS 100/20
971	505 ILCS 100/21
972	505 ILCS 100/22
973	505 ILCS 100/23
974	505 ILCS 100/24
1301	505 ILCS 75/1
1302	505 ILCS 75/2
1303	505 ILCS 75/3
1304	505 ILCS 75/4
1305	505 ILCS 75/5
1306	505 ILCS 75/6
1307	505 ILCS 75/7
1308	505 ILCS 75/8

Illinois Revised Statute 1991, ch. 8

Paragraph	ILCS 1992
331	520 ILCS 10/1
332	520 ILCS 10/2
333	520 ILCS 10/3
334	520 ILCS 10/4
335	520 ILCS 10/5
336	520 ILCS 10/6
337	520 ILCS 10/7
338	520 ILCS 10/8
339	520 ILCS 10/9
340	520 ILCS 10/10
341	520 ILCS 10/11

Illinois Revised Statute 1991, ch. 17

Paragraph	ILCS 1992
6600	30 ILCS 305/0.01
6601	30 ILCS 305/1
6602	30 ILCS 305/2
6603	30 ILCS 305/3
6605	30 ILCS 305/5
6606	30 ILCS 305/6
6607	30 ILCS 305/7

Illinois Revised Statute 1991, ch. 24

Paragraph	ILCS 1992
1–1–1	65 ILCS 5/1–1–1
1–1–2	65 ILCS 5/1–1–2
1–1–2.1	65 ILCS 5/1–1–2.1

Illinois Revised Statute 1991, ch. 24 *(continued)*

Paragraph	ILCS 1992
2–2–15	65 ILCS 5/2–2–15
2–3–19	65 ILCS 5/2–3–19
7–1–1	65 ILCS 5/7–1–1
7–1–2	65 ILCS 5/7–1–2
7–1–10	65 ILCS 5/7–1–10
8–2–9.11	65 ILCS 5/8–2–9.11
8–3–4	65 ILCS 5/8–3–4
8–9–1	65 ILCS 5/8–9–1
9–1–1	65 ILCS 5/9–1–1
9–1–2	65 ILCS 5/9–1–2
9–1–3	65 ILCS 5/9–1–3
9–1–4	65 ILCS 5/9–1–4
9–1–5	65 ILCS 5/9–1–5
9–1–6	65 ILCS 5/9–1–6
9–1–7	65 ILCS 5/9–1–7
9–1–8	65 ILCS 5/9–1–8
9–1–9	65 ILCS 5/9–1–9
9–1–10	65 ILCS 5/9–1–10
9–1–11	65 ILCS 5/9–1–11
9–1–12	65 ILCS 5/9–1–12
9–1–13	65 ILCS 5/9–1–13
9–1–14	65 ILCS 5/9–1–14
9–2–1	65 ILCS 5/9–2–1
9–2–2	65 ILCS 5/9–2–2
9–2–3	65 ILCS 5/9–2–3
9–2–4	65 ILCS 5/9–2–4
9–2–5	65 ILCS 5/9–2–5
9–2–6	65 ILCS 5/9–2–6
9–2–7	65 ILCS 5/9–2–7
9–2–8	65 ILCS 5/9–2–8
9–2–9	65 ILCS 5/9–2–9
9–2–10	65 ILCS 5/9–2–10
9–2–11	65 ILCS 5/9–2–11
9–2–12	65 ILCS 5/9–2–12
9–2–13	65 ILCS 5/9–2–13
9–2–14	65 ILCS 5/9–2–14
9–2–15	65 ILCS 5/9–2–15
9–2–16	65 ILCS 5/9–2–16
9–2–17	65 ILCS 5/9–2–17
9–2–18	65 ILCS 5/9–2–18
9–2–19	65 ILCS 5/9–2–19
9–2–20	65 ILCS 5/9–2–20
9–2–21	65 ILCS 5/9–2–21
9–2–22	65 ILCS 5/9–2–22
9–2–23	65 ILCS 5/9–72–23
9–2–24	65 ILCS 5/9–2–24
9–2–25	65 ILCS 5/9–2–25
9–2–26	65 ILCS 5/9–2–26
9–2–27	65 ILCS 5/9–2–27
9–2–28	65 ILCS 5/9–2–28
9–2–29	65 ILCS 5/9–2–29
9–2–30	65 ILCS 5/9–2–30
9–2–31	65 ILCS 5/9–2–31
9–2–32	65 ILCS 5/9–2–32
9–2–33	65 ILCS 5/9–2–33
9–2–34	65 ILCS 5/9–2–34
9–2–35	65 ILCS 5/9–2–35
9–2–36	65 ILCS 5/9–2–36
9–2–37	65 ILCS 5/9–2–37
9–2–38	65 ILCS 5/9–2–38
9–2–39	65 ILCS 5/9–2–39
9–2–40	65 ILCS 5/9–2–40
9–2–41	65 ILCS 5/9–2–41

Illinois Revised Statute 1991, ch. 24 *(continued)* Paragraph	ILCS 1992
9–2–42	65 ILCS 5/9–2–42
9–2–43	65–ILCS 5/9–2–43
9–2–44	65 ILCS 5/9–2–44
9–2–45	65 ILCS 5/9–2–45
9–2–46	65 ILCS 5/9–2–46
9–2–47	65 ILCS 5/9–2–47
9–2–48	65 ILCS 5/9–2–48
9–2–48(1)	65 ILCS 5/9–2–48(1)
9–2–49	65 ILCS 5/9–2–49
9–2–50	65 ILCS 5/9–2–50
9–2–51	65 ILCS 5/9–2–51
9–2–52	65 ILCS 5/9–2–52
9–2–53	65 ILCS 5/9–2–53
9–2–54	65 ILCS 5/9–2–54
9–2–55	65 ILCS 5/9–2–55
9–2–56	65 ILCS 5/9–2–56
9–2–57	65 ILCS 5/9–2–57
9–2–58	65 ILCS 5/9–2–58
9–2–59	65 ILCS 5/9–2–59
9–2–60	65 ILCS 5/9–2–60
9–2–61	65 ILCS 5/9–2–61
9–2–62	65 ILCS 5/9–2–62
9–2–63	65 ILCS 5/9–2–63
9–2–64	65 ILCS 5/9–2–64
9–2–65.1	65 ILCS 5/9–2–65
9–2–66	65 ILCS 5/9–2–66
9–2–67	65 ILCS 5/9–2–67
9–2–68	65 ILCS 5/9–2–68
9–2–69	65 ILCS 5/9–2–69
9–2–70	65 ILCS 5/9–2–70
9–2–71	65 ILCS 5/9–2–71
9–2–72	65 ILCS 5/9–2–72
9–2–73	65 ILCS 5/9–2–73
9–2–74	65 ILCS 5/9–2–74
9–2–75	65 ILCS 5/9–2–75
9–2–76	65 ILCS 5/9–2–76
9–2–77	65 ILCS 5/9–2–77
9–2–78	65 ILCS 5/9–2–78
9–2–79	65 ILCS 5/9–2–79
9–2–80	65 ILCS 5/9–2–80
9–2–81	65 ILCS 5/9–2–81
9–2–82	65 ILCS 5/9–2–82
9–2–83	65 ILCS 5/9–2–83
9–2–84	65 ILCS 5/9–2–84
9–2–85	65 ILCS 5/9–2–85
9–2–86	65 ILCS 5/9–2–86
9–2–87	65 ILCS 5/9–2–87
9–2–88	65 ILCS 5/9–2–88
9–2–89	65 ILCS 5/9–2–89
9–2–90	65 ILCS 5/9–2–90
9–2–91	65 ILCS 5/9–2–91
9–2–92	65 ILCS 5/9–2–92
9–2–93	65 ILCS 5/9–2–93
9–2–94	65 ILCS 5/9–2–94
9–2–95	65 ILCS 5/9–2–95
9–2–96	65 ILCS 5/9–2–96
9–2–97	65 ILCS 5/9–2–97
9–2–98	65 ILCS 5/9–2–98
9–2–99	65 ILCS 5/9–2–99
9–2–100	65 ILCS 5/9–2–100
9–2–101	65 ILCS 5/9–2–101
9–2–102	65 ILCS 5/9–2–102
9–2–103	65 ILCS 5/9–2–103
9–2–104	65 ILCS 5/9–2–104
9–2–105	65 ILCS 5/9–2–105
9–2–106	65 ILCS 5/9–2–106
9–2–107	65 ILCS 5/9–2–107
9–2–108	65 ILCS 5/9–2–108
9–2–109	65 ILCS 5/9–2–109
9–2–110	65 ILCS 5/9–2–110
9–2–111	65 ILCS 5/9–2–111
9–2–112	65 ILCS 5/9–2–112
9–2–113	65 ILCS 5/9–2–113
9–2–114	65 ILCS 5/9–2–114
9–2–115	65 ILCS 5/9–2–115
9–2–116	65 ILCS 5/9–2–116
9–2–117	65 ILCS 5/9–2–117
9–2–118	65 ILCS 5/9–2–118
9–2–119	65 ILCS 5/9–2–119
9–2–120	65 ILCS 5/9–2–120
9–2–121	65 ILCS 5/9–2–121
9–2–122	65 ILCS 5/9–2–122
9–2–123	65 ILCS 5/9–2–123
9–2–124	65 ILCS 5/9–2–124
9–2–125	65 ILCS 5/9–2–125
9–2–126	65 ILCS 5/9–2–126
9–2–127	65 ILCS 5/9–2–127
9–2–128	65 ILCS 5/9–2–128
9–2–129	65 ILCS 5/9–2–129
9–2–130	65 ILCS 5/9–2–130
9–2–131	65 ILCS 5/9–2–181
9–2–132	65 ILCS 5/9–2–132
9–2–133	65 ILCS 5/9–2–133
9–2–134	65 ILCS 5/9–2–134
9–2–135	65 ILCS 5/9–2–135
9–2–136	65 ILCS 5/9–2–136
9–2–137	65 ILCS 5/9–2–137
9–2–138	65 ILCS 5/9–2–138
9–2–139	65 ILCS 5/9–2–139
9–2–140	65 ILCS 5/9–2–140
9–2–141	65 ILCS 5/9–2–141
9–2–142	65 ILCS 5/9–2–142
9–2–143	65 ILCS 5/9–2–143
9–2–144	65 ILCS 5/9–2–144
9–4–1	65 ILCS 5/9–4–1
9–4–2	65 ILCS 5/9–4–2
9–4–3	65 ILCS 5/9–4–3
11–4–1	65 ILCS 5/11–4–1
11–4–2	65 ILCS 5/11–4–2
11–4–3	65 ILCS 5/11–4–3
11–4–4	65 ILCS 5/11–4–4
11–42.1–1	65 ILCS 5/11–42.1–1
11–80–2	65 ILCS 5/11–80–2
11–80–2a	65 ILCS 5/11–80–2a
11–80–7	65 ILCS 5/11–80–7
11–80–11	65 ILCS 5/11–80–11
11–85–1	65 ILCS 5/11–85–1
11–85–2	65 ILCS 5/11–85–2
11–85–3	65 ILCS 5/11–85–3
11–85–4	65 ILCS 5/11–85–4
11–91–1	65 ILCS 5/11–91–1
11–91–2	65 ILCS 5/11–91–2
11–91.1–1	65 ILCS 5/11–91.1–1
11–91.1–2	65 ILCS 5/11–91.1–2
11–91.1–3	66 ILCS 5/11–91.1–3
11–91.1–4	65 ILCS 5/11–91.1–4
11–91.1–5	65 ILCS 5/11–91.1–5
11–91.1–6	65 ILCS 5/11–91.1–6
11–91.2–1	65 ILCS 5/11–91.2–1

Illinois Revised Statute 1991, ch. 29

Paragraph	ILCS 1992
14.9	30 ILCS 550/0.01
15	30 ILCS 550/1
16	30 ILCS 550/2
16.9	775 ILCS 10/0.01
17	775 ILCS 10/1
18	775 ILCS 10/2
19	775 ILCS 10/3
20	775 ILCS 10/4
21	775 ILCS 10/5
22	775 ILCS 10/6
23	775 ILCS 10/7
24	775 ILCS 10/8
60.90	740 ILCS 35/0.01
61	740 ILCS 35/1
62	740 ILCS 35/2
63	740 ILCS 35/3
1101	815 ILCS 660/1
1105	815 ILCS 660/5
1110	815 ILCS 660/10
1115	815 ILCS 660/15
1120	815 ILCS 660/20
1125	815 ILCS 660/25
1149	815 ILCS 660/49

Illinois Revised Statute 1991, ch. 34

Paragraph	ILCS 1992
5–1014	55 ILCS 5/5–1014
5–1020	55 ILCS 5/5–1020
5–1022	55 ILCS 5/5–1022
5–1035.1	55 ILCS 5/5–1035.1
5–1035.2	55 ILCS 5/5–1035.2
5–1067	55 ILCS 5/5–1067
5–1079	55 ILCS 5/5–1079
5–1104	55 ILCS 5/5–1104
5–1104.1	55 ILCS 5/5–1104.1
5–13001	55 ILCS 5/5–13001
5–13002	55 ILCS 5/5–13002
5–13003	55 ILCS 5/5–13003
5–13004	55 ILCS 5/5–13004

Illinois Revised Statute 1991, ch. 38

Paragraph	ILCS 1992
33E–1	720 ILCS 5/33E–1
33E–2	720 ILCS 5/38E–2
33E–3	720 ILCS 5/33E–3
33E–4	720 ILCS 5/33E–4
33E–5	720 ILCS 5/33E–5
33E–6	720 ILCS 5/33E–6
33E–7	720 ILCS 5/33E–7
33E–8	720 ILCS 5/33E–8
33E–9	720 ILCS 5/33E–9
33E–10	720 ILCS 5/33E–10
33E–11	720 ILCS 5/33E–11
33E–12	720 ILCS 5/33E–12
33E–13	720 ILCS 5/33E–13
1003–2–2	730 ILCS 5/3–2–2

Illinois Revised Statute 1991, ch. 48

Paragraph	ILCS 1992
39s–0.01	820 ILCS 130/0.01
39s–1	820 ILCS 130/1
39s–2	820 ILCS 130/2
39s–3	820 ILCS 130/3
39s–4	820 ILCS 130/4

Illinois Revised Statute 1991, ch. 48 *(continued)*

Paragraph	ILCS 1992
39s–5	820 ILCS 130/5
39s–6	820 ILCS 130/6
39s–7	820 ILCS 130/7
39s–8	820 ILCS 130/8
39s–9	820 ILCS 130/9
39s–10	820 ILCS 130/10
39s–11	820 ILCS 130/11
39s–11a	820 ILCS 130/11a
39s–12	820 ILCS 130/12
2200	30 ILCS 570/0.01
2201	30 ILCS 570/1
2201.1	30 ILCS 570/1.1
2202	30 ILCS 570/2
2203	30 ILCS 570/3
2204	30 ILCS 570/4
2205	30 ILCS 570/5
2206	30 ILCS 570/6
2207	30 ILCS 570/7

Illinois Revised Statute 1991, ch. 54

Paragraph	ILCS 1992
25.9	720 ILCS 605/0.01
26	720 ILCS 605/1

Illinois Revised Statute 1991, ch. 67 1/2

Paragraph	ILCS 1992
102.9	310 ILCS 35/0.01
103	310 ILCS 35/1
104	310 ILCS 35/2
105	310 ILCS 35/3
106	310 ILCS 35/4
107	310 ILCS 40/0.01
107.1.	310 ILCS 40/1
107.1a	310 ILCS 40/1a
107.2.	310 ILCS 40/2
107.2a	310 ILCS 40/2a
107.3.	310 ILCS 40/3
107.4.	310 ILCS 40/4
107.5.	310 ILCS 40/5

Illinois Revised Statute 1991, ch. 85

Paragraph	ILCS 1992
3–101	745 ILCS 10/3–101
3–102	745 ILCS 10/3–102
3–103	745 ILCS 10/3–103
3–104	745 ILCS 10/3–104
3–105	745 ILCS 10/3–105
3–106	745 ILCS 10/3–106
3–107	745 ILCS 10/3–107
3–108	745 ILCS 10/3–108
3–109	745 ILCS 10/3–109
3–110	745 ILCS 10/3–110
7–101	745 ILCS 10/7–101
7–102	745 ILCS 10/7–102
7–103	745 ILCS 10/7–103
8–101	745 ILCS 10/8–101
8–103	745 ILCS 10/8–103
9–101	745 ILCS 10/9–101
9–102	745 ILCS 10/9–102
9–103	745 ILCS 10/9–103
9–104	745 ILCS 10/9–104
9–105	745 ILCS 10/9–105
9–106	745 ILCS 10/9–106
9–107	745 ILCS 10/9–107

Illinois Revised Statute
1991, ch. 85 *(continued)*

Paragraph	ILCS 1992
900	30 ILCS 235/0.01
901	30 ILCS 235/1
902	30 ILCS 235/2
903	30 ILCS 235/3
904	30 ILCS 235/4
905	30 ILCS 235/5
906	30 ILCS 235/6
907	30 ILCS 235/7
5601	50 ILCS 505/1
5602	50 ILCS 505/2
5603	50 ILCS 505/3
5604	50 ILCS 505/4
5605	50 ILCS 505/5
5606	50 ILCS 505/6
5607	50 ILCS 505/7
5609	50 ILCS 505/9

Illinois Revised Statute
1991, ch. 95 1/2

Paragraph	ILCS 1992
11–301	625 ILCS 5/11–301
11–301.1	625 ILCS 5/11–301.1
11–302	625 ILCS 5/11–302
11–303	625 ILCS 5/11–303
11–304	625 ILCS 5/11–304
11–305	625 ILCS 5/11–305
11–310	625 ILCS 5/11–310
11–311	625 ILCS 5/11–311
11–312	625 ILCS 5/11–312
11–313	625 ILCS 5/11–313
11–601	625 ILCS 5/11–601
11–602	625 ILCS 5/11–602
11–603	625 ILCS 5/11–603
11–604	625 ILCS 5/11–604
15–100	625 ILCS 5/15–100
15–108	625 ILCS 5/15–108
15–109	625 ILCS 5/15–109
15–109.1	625 ILCS 5/15–109.1
15–316	625 ILCS 5/15–316
15–317	625 ILCS 5/15–317
15–318	625 ILCS 5/15–318
605–2	625 ILCS 40/5–2

Illinois Revised Statute
1991, ch. 96 1/2

Paragraph	ILCS 1992
9701–1	20 ILCS 830/1–1
9701–2	20 ILCS 830/1–2
9701–3	20 ILCS 830/1–3
9701–4	20 ILCS 830/1–4
9701–5	20 ILCS 830/1–5
9701–6	20 ILCS 830/1–6
9702–1	20 ILCS 830/2–1
9702–2	20 ILCS 830/2–2
9703–1	20 ILCS 830/3–1
9703–2	20 ILCS 830/3–2
9703–3	20 ILCS 830/3–3
9703–4	20 ILCS 830/3–4
9703–5	20 ILCS 830/3–5
9703–6	20 ILCS 830/3–6
9704–1	20 ILCS 830/4–1

Illinois Revised Statute
1991, ch. 100 1/2

Paragraph	ILCS 1992
26	740 ILCS 55/221
29	740 ILCS 55/222

Illinois Revised Statute
1991, ch. 102

Paragraph	ILCS 1992
0.01	50 ILCS 105/0.01
1	50 ILCS 105/1
1.1	50 ILCS 105/1.1
2	50 ILCS 105/2
2a	50 ILCS 105/2a
3	50 ILCS 105/3
3.1	50 ILCS 105/3.1
3.2	50 ILCS 105/3.2
4	50 ILCS 105/4
41	5 ILCS 120/1
41.01	5 ILCS 120/1.01
41.02	5 ILCS 120/1.02
42	5 ILCS 120/2
42.01	5 ILCS 1120/2.01
42.02	5 ILCS 120/2.02
42.03	5 ILCS 120/2.03
42.04	5 ILCS 120/2.04
42.05	5 ILCS 120/2.05
42.06	5 ILCS 120/2.06
42a	5 ILCS 120/2a
42b	5 ILCS 120/2b
43	5 ILCS 120/3
44	5 ILCS 120/4
45	5 ILCS 120/5
46	5 ILCS 120/6

Illinois Revised Statute
1991, ch. 109

Paragraph	ILCS 1992
2	765 ILCS 205/2
6	765 ILCS 205/6
7	765 ILCS 205/7
8	765 ILCS 205/8
9	765 ILCS 205/9
9.1	765 ILCS 205/9.1

Illinois Revised Statute
1991, ch. 110

Paragraph	ILCS 1992
7–101	735 ILCS 5/7–101
7–102	735 ILCS 5/7–102
7–102.1	735 ILCS 5/7–102.1
7–103	735 ILCS 5/7–103
7–104	735 ILCS 5/7–104
7–105	735 ILCS 5/7–105
7–106	735 ILCS 5/7–106
7–107	735 ILCS 5/7–107
7–108	735 ILCS 5/7–108
7–109	735 ILCS 5/7–109
7–110	735 ILCS 5/7–110
7–111	735 ILCS 5/7–111
7–112	735 ILCS 5/7–112
7–113	735 ILCS 5/7–113
7–114	735 ILCS 5/7–114
7–115	735 ILCS 5/7–115
7–116	735 ILCS 5/7–116
7–117	735 ILCS 5/7–117
7–118	735 ILCS 5/7–118
7–119	735 ILCS 5/7–119
7–120	735 ILCS 5/7–120
7–121	735 ILCS 5/7–121
7–122	735 ILCS 5/7–122
7–123	735 ILCS 5/7–123
7–124	735 ILCS 5/7–124
7–125	735 ILCS 5/7–125
7–126	735 ILCS 5/7–126
7–127	735 ILCS 5/7–127

Illinois Revised Statute 1991, ch. 110 *(continued)*

Paragraph	ILCS 1992
7–128	735 ILCS 5/7–128
7–129	735 ILCS 5/7–129

Illinois Revised Statute 1991, ch. 111

Paragraph	ILCS 1992
5214	225 ILCS 325/14
5215	225 ILCS 325/15
5241	225 ILCS 325/41
6612	225 ILCS 340/12

Illinois Revised Statute 1991, ch. 111 1/2

Paragraph	ILCS 1992
1008	415 ILCS 5/8
1009	415 ILCS 5/9
1009.1	416 ILCS 5/9.1
1009.2	415 ILCS 5/9.2
1009.3	415 ILCS 5/9.3
1009.4	415 ILCS 5/9.4
1009.5	415 ILCS 5/9.5
1009.6	415 ILCS 5/9.6
1009.7	415 ILCS 5/9.7
1010	415 ILCS 5/10
1011	415 ILCS 5/11
1012	415 ILCS 5/12
1012.1	415 ILCS 5/12.1
1012.2	415 ILCS 5/12.2
1012.3	415 ILCS 5/12.8
1013	415 ILCS 5/13
1013.1	415 ILCS 5/13.1
1013.2	415 ILCS 5/13.2
1013.3	415 ILCS 5/13.3
1022.12	415 ILCS 5/22.12
7451	415 ILCS 55/1
7452	415 ILCS 55/2
7453	415 ILCS 55/3
7454	415 ILCS 55/4
7455	415 ILCS 55/5
7456	415 ILCS 55/6
7457	415 ILCS 55/7
7458	415 ILCS 55/8
7459	415 ILCS 55/9

Illinois Revised Statute 1991, ch. 111 2/3

Paragraph	ILCS 1992
1661	220 ILCS 50/1
1602	220 ILCS 50/2
1602.1	220 ILCS 50/2.1
1602.2	220 ILCS 50/2.2
1602.3	220 ILCS 50/2.3
1602.4	220 ILCS 50/2.4
1602.5	220 ILCS 50/2.5
1603	220 ILCS 50/3
1604	220 ILCS 50/4
1605	220 ILCS 50/5
1606	220 ILCS 50/6
1607	220 ILCS 50/7
1608	220 ILCS 50/8
1609	220 ILCS 50/9
1610	220 ILCS 50/10
1611	220 ILCS 50/11
1612	220 ILCS 50/12
1613	220 ILCS 50/13
1614	220 ILCS 50/14

Illinois Revised Statute 1991, ch. 120

Paragraph	ILCS 1992
417	35 ILCS 505/1
417.1	35 ILCS 505/1.1
417.3	35 ILCS 505/1.3
417.4	35 ILCS 505/1.4
417.13	35 ILCS 505/1.13
417.19	35 ILCS 505/1.19
417.20	35 ILCS 505/1.20
418	35 ILCS 505/2
418a	35 ILCS 505/2a
418b	35 ILCS 505/2b
424	35 ILCS 505/8
424a	35 ILCS 505/8a
429a	35 ILCS 505/13a
439.9.	35 ILCS 105/9
439.39	35 ILCS 110/9
439.109	35 ILCS 115/9
442	35 ILCS 120/3

Illinois Revised Statute 1991, ch. 121

Paragraph	ILCS 1992
1–101	605 ILCS 5/1–101
1–102	605 ILCS 5/1–102
1–103	605 ILCS 5/1–103
2–101	605 ILCS 5/2–101
2–102	605 ILCS 5/2–102
2–103	605 ILCS 5/2–103
2–104	605 ILCS 5/2–104
2–201	605 ILCS 5/2–201
2–202	605 ILCS 5/2–202
2–203	605 ILCS 5/2–203
2–204	605 ILCS 5/2–204
2–205	605 ILCS 5/2–205
2–206	605 ILCS 5/2–206
2–207	605 ILCS 5/2–207
2–208	605 ILCS 5/2–208
2–209	605 ILCS 5/2–209
2–210	605 ILCS 5/2–210
2–211	605 ILCS 5/2–211
2–212	605 ILCS 5/2–212
2–213	605 ILCS 5/2–213
2–214	605 ILCS 5/2–214
2–215	605 ILCS 5/2–215
2–216	605 ILCS 5/2–216
2–217	605 ILCS 5/2–217
2–218	605 ILCS 5/2–218
2–219	605 ILCS 5/2–219
2–220	605 ILCS 5/2–220
3–101	605 ILCS 5/3–101
3–102	605 ILCS 5/3–102
3–103	605 ILCS 5/3–103
3–104	605 ILCS 5/3–104
3–104.1	605 ILCS 5/3–104.1
3–104.2	605 ILCS 5/3–104.2
3–104.3	605 ILCS 5/3–104.3
3–105	605 ILCS 5/3–105
3–105.1	605 ILCS 5/3–105.1
3–106	605 ILCS 5/3–106
3–107	605 ILCS 5/3–107
3–107.1	605 ILCS 5/3–107.1
3–107.la	605 ILCS 5/3–107.1a
3–107.lb	605 ILCS 5/3–107.1b
3–107.1c	605 ILCS 5/3–107.1c
3–107.1d	605 ILCS 5/3–107.1d
3–107.1e	605 ILCS 5/3–107.1e
3–107.1f.	605 ILCS 5/3–107.1f
3–108	605 ILCS 5/3–108

Illinois Revised Statute 1991, ch. 121 *(continued)* Paragraph	ILCS 1992
4–101	605 ILCS 5/4–101
4–101.1	605 ILCS 5/4–101.1
4–101.2	605 ILCS 5/4–101.2
4–101.3	605 ILCS 5/4–101.3
4–101.4	605 ILCS 5/4–101.4
4–101.5	605 ILCS 5/4–101.5
4–101.6	605 ILCS 5/4–101.6
4–101.7	605 ILCS 5/4–101.7
4–101.8	605 ILCS 5/4–101.8
4–101.9	605 ILCS 5/4–101.9
4–101.10	605 ILCS 5/4–101.10
4–101.11	605 ILCS 5/4–101.11
4–101.12	605 ILCS 5/4–101.12
4–101.13	605 ILCS 5/4–101.13
4–101.14	605 ILCS 5/4–101.14
4–101.15	605 ILCS 5/4–101.15
4–101.16	605 ILCS 5/4–101.16
4–102	605 ILCS 5/4–102
4–103	605 ILCS 5/4–103
4–201	605 ILCS 5/4–201
4–201.1	605 ILCS 5/4–201.1
4–201.2	605 ILCS 5/4–201.2
4–201.3	605 ILCS 5/4–201.3
4–201.4	605 ILCS 5/4–201.4
4–201.5	605 ILCS 5/4–201.5
4–201.6	605 ILCS 5/4–201.6
4–201.7	605 ILCS 5/4–201.7
4–201.8	605 ILCS 5/4–201.8
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4–201.15	605 ILCS 5/4–201.15
4–201.16	605 ILCS 5/4–201.16
4–201.17	605 ILCS 5/4–201.17
4–201.18	605 ILCS 5/4–201.18
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4–213	605 ILCS 5/4–213
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4–215	605 ILCS 5/4–215
4–216	605 ILCS 5/4–216
4–217	605 ILCS 5/4–217
4–218	605 ILCS 5/4–218
4–303	605 ILCS 5/4–303
4–401	605 ILCS 5/4–401
4–402	605 ILCS 5/4–402
4–403	6.05 ILCS 5/4–403
4–404	605 ILCS 5/4–404
4–405	605 ILCS 5/4–405
4–406	605 ILCS 5/4–406
4–406.1	605 ILCS 5/4–406.1
4–407	605 ILCS 5/4–407
4–408	605 ILCS 5/4–408
4–409	605 ILCS 5/4–409
4–501	605 ILCS 5/4–501
4–502	605 ILCS 5/4–502
4–503	605 ILCS 5/4–503
4–504	605 ILCS 5/4–504
4–505	605 ILCS 5/4–505
4–508	605 ILCS 5/4–508
4–508.1	605 ILCS 5/4–508.1
4–509	605 ILCS 5/4–509
4–510	605 ILCS 5/4–510
4–511	605 ILCS 5/4–511
5–101	605 ILCS 5/5–101
5–101.1	605 ILCS 5/5–101.1
5–101.2	605 ILCS 5/5–101.2
5–101.3	605 ILCS 5/5–101.3
5–101.4	605 ILCS 5/5–101.4
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5–101.6	605 ILCS 5/5–101.6
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5–101.8	605 ILCS 5/5–101.8
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5–101.10	605 ILCS 5/5–101.10
5–101.11	605 ILCS 5/5–101.11
5–102	605 ILCS 5/5–102
5–103	605 ILCS 5/5–103
5–104	605 ILCS 515–104
5–105	605 ILCS 5/5–105
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5–410.1	605 ILCS 5/5–410.1
5–411	605 ILCS 5/5–411
5–412	605 ILCS 5/5–412
5–413	605 ILCS 5/5–413
5–701	605 ILCS 5/5–701
5–701.1	605 ILCS 5/5–701.1
5–701.2	605 ILCS 5/5–701.2
5–701.3	605 ILCS 5/5–701.3

Illinois Revised Statute 1991, ch. 121 *(continued)* Paragraph	ILCS 1992
5–701.4	605 ILCS 5/5–701.4
5–701.5	605 ILCS 5/5–701.5
5–701.6	605 ILCS 5/5–701.6
5–701.7	605 ILCS 5/5–701.7
5–701.8	605 ILCS 5/5–701.8
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5–701.16	605 ILCS 5/5–701.16
5–701.17	605 ILCS 5/5–701.17
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5–919	605 ILCS 5/5–919
6–101	605 ILCS 5/6–101
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6–103	605 ILCS 5/6–103
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6–126	605 ILCS 5/6–126
6–127	605 ILCS 5/6–127
6–129	605 ILCS 5/6–129
6–130	605 ILCS 5/6–130

Illinois Revised Statute 1991, ch. 121 *(continued)* Paragraph	ILCS 1992
6–201	605 ILCS 5/6–201
6–201.1	605 ILCS 5/6–201.1
6–201.2	605 ILCS 5/6–201.2
6–201.3	605 ILCS 5/6–201.3
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6–201.10–1	605 ILCS 5/6–201.10–1
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6–315a	605 ILCS 5/6–315a
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6–317	605 ILCS 5/6–317
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6–326	605 ILCS 5/6–326
6–326.1	605 ILCS 5/6–326.1
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6–328	605 ILCS 5/6–328
6–329	605 ILCS 5/6–329
6–401	605 ILCS 5/6–401
6–402	605 ILCS 5/6–402

Illinois Revised Statute 1991, ch. 121 *(continued)* Paragraph	ILCS 1992
6–404	605 ILCS 5/6–404
6–405	605 ILCS 5/6–405
6–406	605 ILCS 5/6–406
6–407	605 ILCS 5/6–407
6–408	605 ILCS 5/6–408
6–409	605 ILCS 5/6–409
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6–604	605 ILCS 5/6–604
6–605	605 ILCS 5/6–605
6–615	605 ILCS 5/6–615
6–616	605 ILCS 5/6–616
6–617	605 ILCS 5/6–617
6–701	605 ILCS 5/6–701
6–701.1	605 ILCS 5/6–701.1
6–701.2	605 ILCS 5/6–701.2
6–701.3	605 ILCS 5/6–701.3
6–701.4	605 ILCS 5/6–701.4
6–701.5	605 ILCS 5/6–701.5
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6–804	605 ILCS 5/6–804
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6–904	605 ILCS 5/6–904
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6–906	605 ILCS 5/6–906
7–101	605 ILCS 5/7–101
7–202	605 ILCS 5/7–202
7–202.1	605 ILCS 5/7–202.1
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7–202.1b	605 ILCS 5/7–202.1b
7–202.1c	605 ILCS 5/7–202.1c
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7–202.7	605 ILCS 5/7–202.7
7–202.8	605 ILCS 5/7–202.8
7–202.10	605 ILCS 5/7–202.10
7–202.11	605 ILCS 5/7–202.11
7–202.12	605 ILCS 5/7–202.12
7–202.13	605 ILCS 5/7–202.13
7–202.14	605 ILCS 5/7–202.14
7–202.15	605 ILCS 5/7–202.15
7–202.16	605 ILCS 5/7–202.16
7–202.17	605 ILCS 5/7–202.17
7–202.17	60.5 ILCS 5/7–202.17
7–202.18	605 ILCS 5/7–202.18
7–202.19	605 ILCS 5/7–202.19
7–202.20	605 ILCS 5/7–202.20

Illinois Revised Statute 1991, ch. 121 *(continued)* Paragraph	ILCS 1992
7–202.21	605 ILCS 5/7–202.21
7–202.21a	605 ILCS 5/7–202.21a
7–202.22	605 ILCS 5/7–202.22
7–203	605 ILCS 5/7–203
7–203.1	605 ILCS 5/7–203.1
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9–112.3	605 ILCS 5/9–112.3
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9–115	605 ILCS 5/9–115
9–115.1	605 ILCS 5/9–115.1
9–116	605 ILCS 5/9–116
9–117	605 ILCS 5/9–117
9–118	605 ILCS 5/9–118
9–119	605 ILCS 5/9–119
9–121	605 ILCS 5/9–121
9–122	605 ILCS 5/9–122
9–123	605 ILCS 5/9–123
9–124	605 ILCS 5/9–124
9–124.1	605 ILCS 5/9–124.1
9–125	605 ILCS 5/9–125
9–126	605 ILCS 5/9–126
9–127	605 ILCS 5/9–127
9–128	605 ILCS 5/9–128
9–129	605 ILCS 5/9–129
9–130	605 ILCS 5/9–130
10–101	605 ILCS 5/10–101
10–102	605 ILCS 5/10-102
10–103	605 ILCS 5/10–103
10–201	605 ILCS 5/10–201
10–202	605 ILCS 5/10–202
10–203	605 ILCS 5/10–203
10–204	605 ILCS 5/10–204
10–205	605 ILCS 5/10–205
10–206	605 ILCS 5/10–206
10–206	605 ILCS 5/10–206
10–301	605 ILCS 5/10–301

Illinois Revised Statute 1991, ch. 121 *(continued)* Paragraph	ILCS 1992
10–302	605 ILCS 5/10–302
10–303	605 ILCS 5/10–303
10–304	605 ILCS 5/10–304
10–305	605 ILCS 5/10–305
10–306	605 ILCS 5/10–306
10–307	605 ILCS 5/10–307
10–308	605 ILCS 5/10–308
10–309	605 ILCS 5/10–309
10–310	605 ILCS 5/10–310
10–311	605 ILCS 5/10–311
10–312	605 ILCS 5/10–312
10–501	605 ILCS 5/10–501
10–502	605 ILCS 5/10–502
10–503	605 ILCS 5/10–503
10–504	605 ILCS 5/10–504
10–601	605 ILCS 5/10–601
10–602	605 ILCS 5/10–602
10–603	605 ILCS 5/10–603
10–604	605 ILCS 5/10–604
10–605	605 ILCS 5/10–605
10–606	605 ILCS 5/10–606
10–701	605 ILCS 5/10–701
10–702	605 ILCS 5/10–702
10–703	605 ILCS 5/10–703
10–704	605 ILCS 5/10–704
10–705	605 ILCS 5/10–705
10–706	605 ILCS 5/10–706
10–707	605 ILCS 5/10–707
10–708	605 ILCS 5/10–708
10–709	605 ILCS 5/10–709
10–710	605 ILCS 5/10–710
10–711	605 ILCS 5/10–711
10–712	605 ILCS 5/10–712
10–713	605 ILCS 5/10–713
10–714	605 ILCS 5/10–714
10–715	605 ILCS 5/10–715
10–801	605 ILCS 5/10–801
10–802	605 ILCS 5/10–802
10–803	605 ILCS 5/10–803
10–804	605 ILCS 5/10–804
10–805	605 ILCS 5/10–805
10–806	605 ILCS 5/10–806
10–807	605 ILCS 5/10–807
10–808	605 ILCS 5/10–808
10–809	605 ILCS 5/10–809
10–901	605 ILCS 5/10–901
10–902	605 ILCS 5/10–902
10–903	605 ILCS 5/10–903
10–1001	605 ILCS 5/10–1001
11–101	605 ILCS 5/11–101
11–102	605 ILCS 5/11–102
11–103	605 ILCS 5/11–103
11–104	605 ILCS 5/11–104
11–105	605 ILCS 5/11–105
11–106	605 ILCS 5/11–106
101–90	30 ILCS 385/0.01
102–1	30 ILCS 385/1
102–2	30 ILCS 385/2
102–3	30 ILCS 385/3
102–4	30 ILCS 385/4
191	605 ILCS 105/0.01
192	605 ILCS 105/1
193a	605 ILCS 110/1
193a.1	605 ILCS 110/1.1
314.01	430 ILCS 105/0.01
314.1	430 ILCS 105/1
314.2	430 ILCS 105/2
314.3	430 ILCS 105/3
314.4	430 ILCS 105/4
314.5	430 ILCS 105/5
314.6	430 ILCS 105/6
314.7	430 ILCS 105/7
314.8	430 ILCS 105/8
354.9	70 ILCS 3305/0.01
355	70 ILCS 3305/1
356	70 ILCS 3305/2
356a	70 ILCS 3305/2a
356b	70 ILCS 3305/2b
356c	70 ILCS 3305/2c
357	70 ILCS 3305/3
358	70 ILCS 3305/4
359	70 ILCS 3305/5
359.1	70 ILCS 3305/5.1
360	70 ILCS 3305/6
361	70 ILCS 3305/7
362	70 ILCS 3305/8
363	70 ILCS 3305/9
364	70 ILCS 3305/10
364.1	70 ILCS 3305/10.1
364.9	740 ILCS 85/0.01
365	740 ILCS 85/1
380	745 ILCS 15/0.01
381	745 ILCS 15/1
382	745 ILCS 15/2
383	745 ILCS 15/3
384	745 ILCS 15/4
385	745 ILCS 15/5
386	745 ILCS 15/6
387	745 ILCS 15/7
388	605 ILCS 15/0.01
389	605 ILCS 15/1
389.9	605 ILCS 20/0.01
390	605 ILCS 20/1
390.9	605 ILCS 25/0.01
391	605 ILCS 25/1
392	605 ILCS 25/2
460	415 ILCS 95/0.01
461	415 ILCS 95/1
462	415 ILCS 95/2
463	415 ILCS 95/3
464	415 ILCS 95/4
465	415 ILCS 95/5
466	415 ILCS 95/6
467	415 ILCS 95/7
468	415 ILCS 95/8
501	225 ILCS 440/1
502	225 ILCS 440/2
503	225 ILCS 440/3
503.01	225 ILCS 440/3.01
503.02	225 ILCS 440/3.02
503.03	225 ILCS 440/3.03
503.04	225 ILCS 440/3.04
503.05	225 ILCS 440/3.05
503.06	225 ILCS 440/3.06
503.07	225 ILCS 440/3.07
503.08	225 ILCS 440/3.08
503.09	225 ILCS 440/3.09
503.10	225 ILCS 440/3.10
503.11	225 ILCS 440/3.11
504	225 ILCS 440/4
504.01	225 ILCS 440/4.01
504.02	225 ILCS 440/4.02
504.03	225 ILCS 440/4.03
504.04	225 ILCS 440/4.04

Illinois Revised Statute
1991, ch. 121 *(continued)*

Paragraph	ILCS 1992
504.05	225 ILCS 440/4.05
504.06	225 ILCS 440/4.06
504.07	225 ILCS 440/4.07
504.08	225 ILCS 440/4.08
505.6	225 ILCS 440/5
506	225 ILCS 440/6
506.01	225 ILCS 440/6.01
506.02	225 ILCS 440/6.02
506.03	225 ILCS 440/6.03
506.04	225 ILCS 440/6.04
507	225 ILCS 440/7
508	225 ILCS 440/8
509	225 ILCS 440/9
510	225 ILCS 440/10
511	225 ILCS 440/11
512	225 ILCS 440/12
513	225 ILCS 440/13
514	225 ILCS 440/14
514.01	225 ILCS 440/14.01
516	225 ILCS 440/16
600	605 ILCS 30/0.01
601	605 ILCS 30/1
602	605 ILCS 30/2
603	605 ILCS 30/3
604	605 ILCS 30/4

Illinois Revised Statute
1991, ch. 127

Paragraph	ILCS 1992
1	20 ILCS 5/1
2	20 ILCS 5/2
3	20 ILCS 5/3
4	20 ILCS 5/4
5	20 ILCS 5/5
5.05	20 ILCS 5/5.05
9	20 ILCS 5/9
9.05	20 ILCS 5/9.05
10	20 ILCS 5/10
11	20 ILCS 5/11
12	20 ILCS 5/12
13	20 ILCS 5/13
14	20 ILCS 5/14
15	20 ILCS 5/15
16	20 ILCS 5/16
17	20 ILCS 5/17
18	20 ILCS 5/18
19	20 ILCS 5/19
20	20 ILCS 5/20
25	20 ILCS 5/25
26	20 ILCS 5/26
49	20 ILCS 2705/49
49.01a	20 ILCS 2705/49.01a
49.02a	20 ILCS 2705/49.02a
49.04	20 ILCS 2705/49.04
49.05	20 ILCS 2705/49.05
49.06a	20 ILCS 2705/49.06a
49.06b	20 ILCS 2705/49.06b
49.06c	20 ILCS 2705/49.06c
49.06d	20 ILCS 2705/49.06d
49.06e	20 ILCS 2705/49.06e
49.06f	20 ILCS 2705/49.06f
49.07a	20 ILCS 2705/49.07a
49.08a	20 ILCS 2705/49.08a
49.11	20 ILCS 2705/49.11
49.12	20 ILCS 2705/49.12
49.13	20 ILCS 2705/49.13
49.14	20 ILCS 2705/49.14

Illinois Revised Statute
1991, ch. 127 *(continued)*

Paragraph	ILCS 1992
49.15	20 ILCS 2705/49.15
49.15a	20 ILCS 2705/49.15a
49.16	20 ILCS 2705/49.16
49.17	20 ILCS 2705/49.17
49.18	20 ILCS 2705/49.18
49.19	20 ILCS 2705/49.19
49.19a	20 ILCS 2705/49.19a
49.19b	20 ILCS 2705/49.19b
49.20	20 ILCS 2705/49.20
49.21	20 ILCS 2705/49.21
49.22	20 ILCS 2705/49.22
49.23	20 ILCS 2705/49.23
49.24	20 ILCS 2705/49.24
49.25a	20 ILCS 2705/49.25a
49.25b	20 ILCS 2705/49.25b
49.25c	20 ILCS 2705/49.25c
49.25d	20 ILCS 2705/49.25d
49.25e	20 ILCS 2705/49.25e
49.25f	20 ILCS 2705/49.25f
49.25g	20 ILCS 2705/49.25g
49.25g–1	20 ILCS 2705/49.25g–1
49.25h	20 ILCS 2705/49.25h
49.25h–1	20 ILCS 2705/49.25h–1
49.25i	20 ILCS 2705/49.25i
49.25j	20 ILCS 2705/49.25j
49.26	20 ILCS 2705/49.26
49.27	20 ILCS 2705/49.27
49.28	20 ILCS 2705/49.28
49.29	20 ILCS 2705/49.29
49.30	20 ILCS 2705/49.30
49.31	20 ILCS 2705/49.31
49.32	20 ILCS 2705/49.32
51	20 ILCS 5/51
132.6	30 ILCS 505/6
132.6–1	30 ILCS 505/6–1
132.6–3	30 ILCS 505/6–3
132.10–1	30 ILCS 505/10.1
132.10–2	30 ILCS 505/10.2
133c.01	20 ILCS 3435/.01
133c.02	20 ILCS 3435/.02
133c1	20 ILCS 3435/1
133c2	20 ILCS 3435/2
133c3	20 ILCS 3435/3
13363.1	20 ILCS 3435/3.1
133c3.2	20 ILCS 3435/3.2
133c5	20 ILCS 3435/5
133c6	20 ILCS 3435/6
133c7	20 ILCS 3435/7
133c8	20 ILCS 3435/8
133c9	20 ILCS 3435/9
133c10	20 ILCS 3435/10
133c11	20 ILCS 3435/11
133c21	20 ILCS 3420/1
133c22	20 ILCS 3420/2
133c23	20 ILCS 3420/3
133c24	20 ILCS 3420/4
133c25	20 ILCS 3420/5
133c26	20 ILCS 3420/6
141d	30 ILCS 105/5d
141e	30 ILCS 105/5e
141f	30 ILCS 105/5f
141g	30 ILCS 105/59
142c	30 ILCS 105/6c
142r	30 ILCS 105/6r
144.3	30 ILCS 105/8.3
701	30 ILCS 415/1
702	30 ILCS 415/2

Illinois Revised Statute 1991, ch. 127 *(continued)*

Paragraph	ILCS 1992
703	30 ILCS 415/3
704	30 ILCS 415/4
705	30 ILCS 415/5
705.1	30 ILCS 415/5.1
706	30 ILCS 415/6
707	30 ILCS 415/7
708	30 ILCS 415/8
709	30 ILCS 415/9
710	30 ILCS 415/10
711	30 ILCS 415/11
712	30 ILCS 415/11.1

Illinois Revised Statute 1991, ch. 134

Paragraph	ILCS 1992
0.01	220 ILCS 55/0.01
1	220 ILCS 55/1
4	220 ILCS 55/4
16.90	220 ILCS 65/0.01
17	220 ILCS 65/1
20	220 ILCS 65/4

Illinois Revised Statute 1991, ch. 146 1/2

Paragraph	ILCS 1992
3.01	50 ILCS 340/0.01
3.1.	50 ILCS 340/1
3.2.	50 ILCS 340/2

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