

Public Act 099-0922

SB0550 Enrolled

LRB099 03301 MGM 23309 b

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Municipal Code is amended by adding Division 150.1 to Article 11 as follows:

(65 ILCS 5/Art. 11 Div. 150.1 heading new)
DIVISION 150.1. LEAD HAZARD COST RECOVERY FEE

(65 ILCS 5/11-150.1-1 new)

Sec. 11-150.1-1. Lead hazard cost recovery fee. The corporate authorities of any municipality that operates a waterworks system and that incurs reasonable costs to comply with Section 35.5 of the Illinois Plumbing License Law shall have the authority, by ordinance, to collect a fair and reasonable fee from users of the system in order to recover those reasonable costs. Fees collected pursuant to this Section shall be used exclusively for the purpose of complying with Section 35.5 of the Illinois Plumbing License Law.

Section 10. The School Code is amended by changing Sections 17-2.11 and 17-2A as follows:

(105 ILCS 5/17-2.11) (from Ch. 122, par. 17-2.11)

Sec. 17-2.11. School board power to levy a tax or to borrow money and issue bonds for fire prevention, safety, energy conservation, accessibility, school security, and specified repair purposes.

(a) Whenever, as a result of any lawful order of any agency, other than a school board, having authority to enforce any school building code applicable to any facility that houses students, or any law or regulation for the protection and safety of the environment, pursuant to the Environmental Protection Act, any school district having a population of less than 500,000 inhabitants is required to alter or reconstruct any school building or permanent, fixed equipment; the district may, by proper resolution, levy a tax for the purpose of making such alteration or reconstruction, based on a survey report by an architect or engineer licensed in this State, upon all of the taxable property of the district at the value as assessed by the Department of Revenue and at a rate not to exceed 0.05% per year for a period sufficient to finance such alteration or reconstruction, upon the following conditions:

(1) When there are not sufficient funds available in the operations and maintenance fund of the school district, the school facility occupation tax fund of the district, or the fire prevention and safety fund of the district, as determined by the district on the basis of rules adopted by the State Board of Education, to make such alteration or reconstruction or to purchase and install such permanent, fixed equipment so ordered or determined as necessary. Appropriate school district records must be made available to the State Superintendent of Education, upon request, to

confirm this insufficiency.

(2) When a certified estimate of an architect or engineer licensed in this State stating the estimated amount necessary to make the alteration or reconstruction or to purchase and install the equipment so ordered has been secured by the school district, and the estimate has been approved by the regional superintendent of schools having jurisdiction over the district and the State Superintendent of Education. Approval must not be granted for any work that has already started without the prior express authorization of the State Superintendent of Education. If the estimate is not approved or is denied approval by the regional superintendent of schools within 3 months after the date on which it is submitted to him or her, the school board of the district may submit the estimate directly to the State Superintendent of Education for approval or denial.

In the case of an emergency situation, where the estimated cost to effectuate emergency repairs is less than the amount specified in Section 10-20.21 of this Code, the school district may proceed with such repairs prior to approval by the State Superintendent of Education, but shall comply with the provisions of subdivision (2) of this subsection (a) as soon thereafter as may be as well as Section 10-20.21 of this Code. If the estimated cost to effectuate emergency repairs is greater than the amount specified in Section 10-20.21 of this Code, then the school district shall proceed in conformity with Section 10-20.21 of this Code and with rules established by the State Board of Education to address such situations. The rules adopted by the State Board of Education to deal with these situations shall stipulate that emergency situations must be expedited and given priority consideration. For purposes of this paragraph, an emergency is a situation that presents an imminent and continuing threat to the health and safety of students or other occupants of a facility, requires complete or partial evacuation of a building or part of a building, or consumes one or more of the 5 emergency days built into the adopted calendar of the school or schools or would otherwise be expected to cause such school or schools to fall short of the minimum school calendar requirements.

(b) Whenever any such district determines that it is necessary for energy conservation purposes that any school building or permanent, fixed equipment should be altered or reconstructed and that such alterations or reconstruction will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized by Section 2-3.12 of this Act; the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(c) Whenever any such district determines that it is necessary for accessibility purposes and to comply with the school building code that any school building or equipment should be altered or reconstructed and that such alterations or reconstruction will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized under Section 2-3.12 of this Act, the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(d) Whenever any such district determines that it is necessary for school security purposes and the related protection and safety of pupils and school personnel that any school building or property should be altered or reconstructed or that security systems and equipment (including but not limited to intercom, early detection and warning, access

control and television monitoring systems) should be purchased and installed, and that such alterations, reconstruction or purchase and installation of equipment will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendment thereto authorized by Section 2-3.12 of this Act and will deter and prevent unauthorized entry or activities upon school property by unknown or dangerous persons, assure early detection and advance warning of any such actual or attempted unauthorized entry or activities and help assure the continued safety of pupils and school staff if any such unauthorized entry or activity is attempted or occurs; the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(e) If a school district does not need funds for other fire prevention and safety projects, including the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized by Section 2-3.12 of this Act, and it is determined after a public hearing (which is preceded by at least one published notice (i) occurring at least 7 days prior to the hearing in a newspaper of general circulation within the school district and (ii) setting forth the time, date, place, and general subject matter of the hearing) that there is a substantial, immediate, and otherwise unavoidable threat to the health, safety, or welfare of pupils due to disrepair of school sidewalks, playgrounds, parking lots, or school bus turnarounds and repairs must be made; then the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(f) For purposes of this Section a school district may replace a school building or build additions to replace portions of a building when it is determined that the effectuation of the recommendations for the existing building will cost more than the replacement costs. Such determination shall be based on a comparison of estimated costs made by an architect or engineer licensed in the State of Illinois. The new building or addition shall be equivalent in area (square feet) and comparable in purpose and grades served and may be on the same site or another site. Such replacement may only be done upon order of the regional superintendent of schools and the approval of the State Superintendent of Education.

(g) The filing of a certified copy of the resolution levying the tax when accompanied by the certificates of the regional superintendent of schools and State Superintendent of Education shall be the authority of the county clerk to extend such tax.

(h) The county clerk of the county in which any school district levying a tax under the authority of this Section is located, in reducing raised levies, shall not consider any such tax as a part of the general levy for school purposes and shall not include the same in the limitation of any other tax rate which may be extended.

Such tax shall be levied and collected in like manner as all other taxes of school districts, subject to the provisions contained in this Section.

(i) The tax rate limit specified in this Section may be increased to .10% upon the approval of a proposition to effect such increase by a majority of the electors voting on that proposition at a regular scheduled election. Such proposition may be initiated by resolution of the school board and shall be certified by the secretary to the proper election authorities for submission in accordance with the general election law.

(j) When taxes are levied by any school district for fire prevention, safety, energy conservation, and school security

purposes as specified in this Section, and the purposes for which the taxes have been levied are accomplished and paid in full, and there remain funds on hand in the Fire Prevention and Safety Fund from the proceeds of the taxes levied, including interest earnings thereon, the school board by resolution shall use such excess and other board restricted funds, excluding bond proceeds and earnings from such proceeds, as follows:

(1) for other authorized fire prevention, safety, energy conservation, required safety inspections, ~~and~~ school security purposes, sampling for lead in drinking water in schools, and for repair and mitigation due to lead levels in the drinking water supply ~~and for required safety inspections~~; or

(2) for transfer to the Operations and Maintenance Fund for the purpose of abating an equal amount of operations and maintenance purposes taxes.

Notwithstanding subdivision (2) of this subsection (j) and subsection (k) of this Section, through June 30, 2019, the school board may, by proper resolution following a public hearing set by the school board or the president of the school board (that is preceded (i) by at least one published notice over the name of the clerk or secretary of the board, occurring at least 7 days and not more than 30 days prior to the hearing, in a newspaper of general circulation within the school district and (ii) by posted notice over the name of the clerk or secretary of the board, at least 48 hours before the hearing, at the principal office of the school board or at the building where the hearing is to be held if a principal office does not exist, with both notices setting forth the time, date, place, and subject matter of the hearing), transfer surplus life safety taxes and interest earnings thereon to the Operations and Maintenance Fund for building repair work.

(k) If any transfer is made to the Operation and Maintenance Fund, the secretary of the school board shall within 30 days notify the county clerk of the amount of that transfer and direct the clerk to abate the taxes to be extended for the purposes of operations and maintenance authorized under Section 17-2 of this Act by an amount equal to such transfer.

(l) If the proceeds from the tax levy authorized by this Section are insufficient to complete the work approved under this Section, the school board is authorized to sell bonds without referendum under the provisions of this Section in an amount that, when added to the proceeds of the tax levy authorized by this Section, will allow completion of the approved work.

(m) Any bonds issued pursuant to this Section shall bear interest at a rate not to exceed the maximum rate authorized by law at the time of the making of the contract, shall mature within 20 years from date, and shall be signed by the president of the school board and the treasurer of the school district.

(n) In order to authorize and issue such bonds, the school board shall adopt a resolution fixing the amount of bonds, the date thereof, the maturities thereof, rates of interest thereof, place of payment and denomination, which shall be in denominations of not less than \$100 and not more than \$5,000, and provide for the levy and collection of a direct annual tax upon all the taxable property in the school district sufficient to pay the principal and interest on such bonds to maturity. Upon the filing in the office of the county clerk of the county in which the school district is located of a certified copy of the resolution, it is the duty of the county clerk to extend the tax therefor in addition to and in excess of all other taxes heretofore or hereafter authorized to be levied by such school district.

(o) After the time such bonds are issued as provided for by this Section, if additional alterations or reconstructions are required to be made because of surveys conducted by an architect or engineer licensed in the State of Illinois, the district may levy a tax at a rate not to exceed .05% per year upon all the taxable property of the district or issue additional bonds, whichever action shall be the most feasible.

(p) This Section is cumulative and constitutes complete authority for the issuance of bonds as provided in this Section notwithstanding any other statute or law to the contrary.

(q) With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of Public Act 86-004 (June 6, 1989), it is, and always has been, the intention of the General Assembly (i) that the Omnibus Bond Acts 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.

(r) When the purposes for which the bonds are issued have been accomplished and paid for in full and there remain funds on hand from the proceeds of the bond sale and interest earnings therefrom, the board shall, by resolution, use such excess funds in accordance with the provisions of Section 10-22.14 of this Act.

(s) Whenever any tax is levied or bonds issued for fire prevention, safety, energy conservation, and school security purposes, such proceeds shall be deposited and accounted for separately within the Fire Prevention and Safety Fund.

(Source: P.A. 98-26, eff. 6-21-13; 98-1066, eff. 8-26-14; 99-143, eff. 7-27-15; 99-713, eff. 8-5-16.)

(105 ILCS 5/17-2A) (from Ch. 122, par. 17-2A)

Sec. 17-2A. Interfund transfers.

(a) The school board of any district having a population of less than 500,000 inhabitants may, by proper resolution following a public hearing set by the school board or the president of the school board (that is preceded (i) by at least one published notice over the name of the clerk or secretary of the board, occurring at least 7 days and not more than 30 days prior to the hearing, in a newspaper of general circulation within the school district and (ii) by posted notice over the name of the clerk or secretary of the board, at least 48 hours before the hearing, at the principal office of the school board or at the building where the hearing is to be held if a principal office does not exist, with both notices setting forth the time, date, place, and subject matter of the hearing), transfer money from (1) the Educational Fund to the Operations and Maintenance Fund or the Transportation Fund, (2) the Operations and Maintenance Fund to the Educational Fund or the Transportation Fund, ~~or~~ (3) the Transportation Fund to the Educational Fund or the Operations and Maintenance Fund, or (4) the Tort Immunity Fund to the Operations and Maintenance Fund of said district, provided that, except during the period from July 1, 2003 through June 30, 2019, such transfer is made solely for the purpose of meeting one-time, non-recurring expenses. Except during the period from July 1, 2003 through June 30, 2019 and except as otherwise provided in subsection (b) of this Section, any other permanent interfund transfers

authorized by any provision or judicial interpretation of this Code for which the transferee fund is not precisely and specifically set forth in the provision of this Code authorizing such transfer shall be made to the fund of the school district most in need of the funds being transferred, as determined by resolution of the school board.

~~(b) (Blank). Notwithstanding subsection (a) of this Section or any other provision of this Code to the contrary, the school board of any school district (i) that is subject to the Property Tax Extension Limitation Law, (ii) that has a population of less than 500,000 inhabitants, (iii) that is levying at its maximum tax rate, (iv) whose total equalized assessed valuation has declined 20% in the prior 2 years, (v) in which 80% or more of its students receive free or reduced price lunch, and (vi) that had an equalized assessed valuation of less than \$207 million but more than \$203 million in the 2011 levy year may annually, until July 1, 2016, transfer money from any fund of the district, other than the Illinois Municipal Retirement Fund and the Bonds and Interest Fund, to the educational fund, the operations and maintenance fund, or the transportation fund of the district by proper resolution following a public hearing set by the school board or the president of the school board, with notice as provided in subsection (a) of this Section, so long as the district meets the qualifications set forth in this subsection (b) on the effective date of this amendatory Act of the 98th General Assembly even if the district does not meet those qualifications at the time a given transfer is made. (Source: P.A. 98-26, eff. 6-21-13; 98-131, eff. 1-1-14; 99-713, eff. 8-5-16.)~~

Section 15. The Public Utilities Act is amended by adding Section 9-246 as follows:

(220 ILCS 5/9-246 new)

Sec. 9-246. Rates; lead hazard cost recovery by investor-owned water utilities. In determining the rates for an investor-owned public utility engaged in providing water service, the Commission shall allow the utility to recover annually any reasonable costs incurred by the utility to comply with Section 35.5 of the Illinois Plumbing License Law.

Section 20. The Child Care Act of 1969 is amended by adding Section 5.9 as follows:

(225 ILCS 10/5.9 new)

Sec. 5.9. Lead testing of water in licensed day care centers, day care homes and group day care homes.

(a) On or before January 1, 2018, the Department, in consultation with the Department of Public Health, shall adopt rules that prescribe the procedures and standards to be used by the Department in assessing levels of lead in water in licensed day care centers, day care homes, and group day care homes constructed on or before January 1, 2000 that serve children under the age of 6. Such rules shall, at a minimum, include provisions regarding testing parameters, the notification of sampling results, training requirements for lead exposure and mitigation.

(b) After adoption of the rules required by subsection (a), and as part of an initial application or application for renewal of a license for day care centers, day care homes, and group day care homes, the Department shall require proof that the applicant has complied with all such rules.

Section 25. The Illinois Plumbing License Law is amended by

adding Section 35.5 as follows:

(225 ILCS 320/35.5 new)

Sec. 35.5. Lead in drinking water prevention.

(a) The General Assembly finds that lead has been detected in the drinking water of schools in this State. The General Assembly also finds that infants and young children may suffer adverse health effects and developmental delays as a result of exposure to even low levels of lead. The General Assembly further finds that it is in the best interests of the people of the State to require school districts or chief school administrators, or the designee of the school district or chief school administrator, to test for lead in drinking water in school buildings and provide written notification of the test results.

The purpose of this Section is to require (i) school districts or chief school administrators, or the designees of the school districts or chief school administrators, to test for lead with the goal of providing school building occupants with an adequate supply of safe, potable water; and (ii) school districts or chief school administrators, or the designees of the school districts or chief school administrators, to notify the parents and legal guardians of enrolled students of the sampling results from their respective school buildings.

(b) For the purposes of this Section:

"Community water system" has the meaning provided in 35 Ill. Adm. Code 611.101.

"School building" means any facility or portion thereof that was constructed on or before January 1, 2000 and may be occupied by more than 10 children or students, pre-kindergarten through grade 5, under the control of (a) a school district or (b) a public, private, charter, or nonpublic day or residential educational institution.

"Source of potable water" means the point at which non-bottled water that may be ingested by children or used for food preparation exits any tap, faucet, drinking fountain, wash basin in a classroom occupied by children or students under grade 1, or similar point of use; provided, however, that all (a) bathroom sinks and (b) wash basins used by janitorial staff are excluded from this definition.

(c) Each school district or chief school administrator, or the designee of each school district or chief school administrator, shall test each source of potable water in a school building for lead contamination as required in this subsection.

(1) Each school district or chief school administrator, or the designee of each school district or chief school administrator, shall, at a minimum, (a) collect a first-draw 250 milliliter sample of water, (b) flush for 30 seconds, and (c) collect a second-draw 250 milliliter sample from each source of potable water located at each corresponding school building; provided, however, that to the extent that multiple sources of potable water utilize the same drain, (i) the foregoing collection protocol is required for one such source of potable water, and (ii) only a first-draw 250 milliliter sample of water is required from the remaining such sources of potable water. The water corresponding to the first-draw 250 milliliter sample from each source of potable water shall have been standing in the plumbing pipes for at least 8 hours, but not more than 18 hours, without any flushing of the source of potable water before sample collection.

(2) Each school district or chief school

administrator, or the designee of each school district or chief school administrator, shall submit or cause to be submitted (A) the samples to an Illinois Environmental Protection Agency-accredited laboratory for analysis for lead in accordance with the instructions supplied by an Illinois Environmental Protection Agency-accredited laboratory and (B) the written sampling results to the Department within 7 business days of receipt of the results.

(3) If any of the samples taken in the school exceed 5 parts per billion, the school district or chief school administrator, or the designee of the school district or chief school administrator, shall promptly provide an individual notification of the sampling results, via written or electronic communication, to the parents or legal guardians of all enrolled students and include the following information: the corresponding sampling location within the school building and the United States Environmental Protection Agency's website for information about lead in drinking water. If any of the samples taken at the school are at or below 5 parts per billion, notification may be made as provided in this paragraph or by posting on the school's website.

(4) Sampling and analysis required under this Section shall be completed by the following applicable deadlines: for school buildings constructed prior to January 1, 1987, by December 31, 2017; and for school buildings constructed between January 2, 1987 and January 1, 2000, by December 31, 2018.

(5) A school district or chief school administrator, or the designee of the school district or chief school administrator, may seek a waiver of the requirements of this subsection from the Department, if (A) the school district or chief school administrator, or the designee of the school district or chief school administrator, collected at least one 250 milliliter or greater sample of water from each source of potable water that had been standing in the plumbing pipes for at least 6 hours and that was collected without flushing the source of potable water before collection, (B) an Illinois Environmental Protection Agency-accredited laboratory analyzed the samples, (C) test results were obtained prior to the effective date of this amendatory Act of the 99th General Assembly, but after January 1, 2013, and (D) test results were submitted to the Department within 120 days of the effective date of this amendatory Act of the 99th General Assembly.

(6) The owner or operator of a community water system may agree to pay for the cost of the laboratory analysis of the samples required under this Section and may utilize the lead hazard cost recovery fee under Section 11-150.1-1 of the Illinois Municipal Code or other available funds to defray said costs.

(7) Lead sampling results obtained shall not be used for purposes of determining compliance with the Board's rules that implement the national primary drinking water regulations for lead and copper.

(d) By no later than June 30, 2019, the Department shall determine whether it is necessary and appropriate to protect public health to require schools constructed in whole or in part after January 1, 2000 to conduct testing for lead from

sources of potable water, taking into account, among other relevant information, the results of testing conducted pursuant to this Section.

(e) Within 90 days of the effective date of this amendatory Act of the 99th General Assembly, the Department shall post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. In preparing such guidance, the Department may, in part, reference the United States Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools.

Section 30. The Environmental Protection Act is amended by changing Section 19.3 and by adding Section 17.11 as follows:

(415 ILCS 5/17.11 new)

Sec. 17.11. Lead in drinking water notifications and inventories.

(a) The purpose of this Section is to require the owners and operators of community water systems to (i) create a comprehensive lead service line inventory; and (ii) provide notice to occupants of potentially affected residences of construction or repair work on water mains, lead service lines, or water meters.

(b) For the purposes of this Section:

"Community water system" has the meaning provided in 35 Ill. Adm. Code 611.101.

"Potentially affected residence" means any residence where water service is or may be temporarily interrupted or shut off by or on behalf of an owner or operator of a community water system because construction or repair work is to be performed by or on behalf of the owner or operator of a community water system on or affecting a water main, service line, or water meter.

"Small system" has the meaning provided in 35 Ill. Adm. Code 611.350.

(c) The owner or operator of each community water system in the State shall develop a water distribution system material inventory that shall be submitted in written or electronic form to the Agency on an annual basis commencing on April 15, 2018 and continuing on each April 15 thereafter until the water distribution system material inventory is completed. In addition to meeting the requirements for water distribution system material inventories that are mandated by the United States Environmental Protection Agency, each water distribution system material inventory shall identify:

(1) the total number of service lines within or connected to the distribution system, including privately owned service lines;

(2) the number of all known lead service lines within or connected to the distribution system, including privately owned lead service lines; and

(3) the number of the lead service lines that were added to the inventory after the previous year's submission.

Nothing in this subsection shall be construed to require that service lines be unearthed.

(d) Beginning on January 1, 2018, when conducting routine inspections of community water systems as required under this Act, the Agency may conduct a separate audit to identify progress that the community water system has made toward completing the water distribution system material inventories required under subsection (c) of this Section.

(e) The owner or operator of the community water system shall provide notice of construction or repair work on a water

main service line, or water meter in accordance with the following requirements:

(1) At least 14 days prior to beginning planned work to repair or replace any water mains or lead service lines, the owner or operator of a community water system shall notify, through an individual written notice, each potentially affected residence of the planned work. In cases where a community water system must perform construction or repair work on an emergency basis or where such work is not scheduled at least 14 days prior to work taking place, the community water system shall notify each potentially affected residence as soon as reasonably possible. When work is to repair or replace a water meter, the notification shall be provided at the time the work is initiated.

(2) Such notification shall include, at a minimum:

(A) a warning that the work may result in sediment, possibly containing lead, in the residence's water supply; and

(B) information concerning best practices for preventing the consumption of any lead in drinking water, including a recommendation to flush water lines during and after the completion of the repair or replacement work and to clean faucet aerator screens; and

(C) information regarding the dangers of lead in young children.

(3) To the extent that the owner or operator of a community water system serves a significant proportion of non-English speaking consumers, the notification must contain information in the appropriate languages regarding the importance of the notice, and it must contain a telephone number or address where a person served may contact the owner or operator of the community water system to obtain a translated copy of the notification or to request assistance in the appropriate language.

(4) Notwithstanding anything to the contrary set forth in this Section, to the extent that (a) notification is required for the entire community served by a community water system, (b) notification is required for construction or repairs occurring on an emergency basis, or (c) the community water system is a small system, publication notification, through a local media, social media or other similar means, may be utilized in lieu of an individual written notification.

(5) If an owner or operator is required to provide an individual written notification to a residence that is a multidwelling building, posting a written notification on the primary entrance way to the building shall be sufficient.

(6) The notification requirements in this subsection (e) do not apply to work performed on water mains that are used to transmit treated water between community water systems and have no service connections.

(7) The owner or operator of a community water system may seek a full or partial waiver of the requirements of this subsection from the Agency if (i) the community water system was originally constructed without lead, (ii) the residential structures were constructed under local building codes that categorically prohibited lead construction materials or the owner or operator of a

community water system certifies that any residential structures requiring notification were constructed without lead, and (iii) no lead sediment is likely to be present within the community water system or residential structures. The owner or operator of a community water system may seek a time-limited or permanent waiver.

(8) The owner and operator of a community water system shall not be required to comply with this subsection (e) to the extent that the corresponding water distribution system material inventory has been completed that demonstrates the water distribution system does not contain any lead.

(415 ILCS 5/19.3) (from Ch. 111 1/2, par. 1019.3)
Sec. 19.3. Water Revolving Fund.

(a) There is hereby created within the State Treasury a Water Revolving Fund, consisting of 3 interest-bearing special programs to be known as the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program, which shall be used and administered by the Agency.

(b) The Water Pollution Control Loan Program shall be used and administered by the Agency to provide assistance for the following purposes:

(1) to accept and retain funds from grant awards, appropriations, transfers, and payments of interest and principal;

(2) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit to finance the construction of treatments works, including storm water treatment systems that are treatment works, and projects that fulfill federal State Revolving Fund grant requirements for a green project reserve;

(2.5) with respect to funds provided under the American Recovery and Reinvestment Act of 2009:

(A) to make direct loans at or below market interest rates to any eligible local government unit and to provide additional subsidization to any eligible local government unit, including, but not limited to, forgiveness of principal, negative interest rates, and grants;

(B) to make direct loans at or below market interest rates to any eligible local government unit to buy or refinance debt obligations for treatment works incurred on or after October 1, 2008; and

(C) to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants for treatment works incurred on or after October 1, 2008;

(3) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit to buy or refinance debt obligations for costs incurred after March 7, 1985, for the construction of treatment works, including storm water treatment systems that are treatment works, and projects that fulfill federal State Revolving Fund grant requirements for a green project reserve;

(3.5) to make loans, including, but not limited to, loans through a linked deposit program, at or below market interest rates for the implementation of a management program established under Section 319 of the Federal Water Pollution Control Act, as amended;

(4) to guarantee or purchase insurance for local obligations where such action would improve credit market access or reduce interest rates;

(5) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or instrumentality thereof, if the proceeds of such bonds will be deposited in the Fund;

(6) to finance the reasonable costs incurred by the Agency in the administration of the Fund;

(7) to transfer funds to the Public Water Supply Loan Program; and

(8) notwithstanding any other provision of this subsection (b), to provide, in accordance with rules adopted under this Title, any other financial assistance that may be provided under Section 603 of the Federal Water Pollution Control Act for any other projects or activities eligible for assistance under that Section or federal rules adopted to implement that Section.

(c) The Loan Support Program shall be used and administered by the Agency for the following purposes:

(1) to accept and retain funds from grant awards and appropriations;

(2) to finance the reasonable costs incurred by the Agency in the administration of the Fund, including activities under Title III of this Act, including the administration of the State construction grant program;

(3) to transfer funds to the Water Pollution Control Loan Program and the Public Water Supply Loan Program;

(4) to accept and retain a portion of the loan repayments;

(5) to finance the development of the low interest loan programs for water pollution control and public water supply projects;

(6) to finance the reasonable costs incurred by the Agency to provide technical assistance for public water supplies; and

(7) to finance the reasonable costs incurred by the Agency for public water system supervision programs, to administer or provide for technical assistance through source water protection programs, to develop and implement a capacity development strategy, to delineate and assess source water protection areas, and for an operator certification program in accordance with Section 1452 of the federal Safe Drinking Water Act.

(d) The Public Water Supply Loan Program shall be used and administered by the Agency to provide assistance to local government units and privately owned community water supplies for public water supplies for the following public purposes:

(1) to accept and retain funds from grant awards, appropriations, transfers, and payments of interest and principal;

(2) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit or to any eligible privately owned

community water supply to finance the construction of water supplies and projects that fulfill federal State Revolving Fund grant requirements for a green project reserve;

(2.5) with respect to funds provided under the American Recovery and Reinvestment Act of 2009:

(A) to make direct loans at or below market interest rates to any eligible local government unit or to any eligible privately owned community water supply, and to provide additional subsidization to any eligible local government unit or to any eligible privately owned community water supply, including, but not limited to, forgiveness of principal, negative interest rates, and grants;

(B) to buy or refinance the debt obligation of a local government unit for costs incurred on or after October 1, 2008; and

(C) to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants for a local government unit for costs incurred on or after October 1, 2008;

(3) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit or to any eligible privately owned community water supply to buy or refinance debt obligations for costs incurred on or after July 17, 1997, for the construction of water supplies and projects that fulfill federal State Revolving Fund requirements for a green project reserve;

(4) to guarantee local obligations where such action would improve credit market access or reduce interest rates;

(5) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or instrumentality thereof, if the proceeds of such bonds will be deposited into the Fund; ~~and~~

(6) to transfer funds to the Water Pollution Control Loan Program; ~~and~~ -

(7) notwithstanding any other provision of this subsection (d), to provide to local government units and privately owned community water supplies any other financial assistance that may be provided under Section 1452 of the federal Safe Drinking Water Act for any expenditures eligible for assistance under that Section or federal rules adopted to implement that Section.

(e) The Agency is designated as the administering agency of the Fund. The Agency shall submit to the Regional Administrator of the United States Environmental Protection Agency an intended use plan which outlines the proposed use of funds available to the State. The Agency shall take all actions necessary to secure to the State the benefits of the federal Water Pollution Control Act and the federal Safe Drinking Water Act, as now or hereafter amended.

(f) 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 Water Revolving Fund. Moneys on deposit in the Water Revolving Fund may be used for the creation of reserve funds or pledged funds that secure the obligations of repayment

of loans made pursuant to this Section. For the purpose of obtaining capital for deposit into the Water Revolving 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 Water Revolving Fund, including any reserve fund or pledged fund, shall be deposited into the Water Revolving Fund.

(Source: P.A. 98-782, eff. 7-23-14; 99-187, eff. 7-29-15.)

Section 35. The Local Governmental and Governmental Employees Tort Immunity Act is amended by changing Section 9-107 as follows:

(745 ILCS 10/9-107) (from Ch. 85, par. 9-107)
Sec. 9-107. Policy; tax levy.

(a) The General Assembly finds that the purpose of this Section is to provide an extraordinary tax for funding expenses relating to (i) tort liability, (ii) liability relating to actions brought under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Environmental Protection Act, but only until December 31, 2010, (iii) insurance, and (iv) risk management programs. Thus, the tax has been excluded from various limitations otherwise applicable to tax levies. Notwithstanding the extraordinary nature of the tax authorized by this Section, however, it has become apparent that some units of local government are using the tax revenue to fund expenses more properly paid from general operating funds. These uses of the revenue are inconsistent with the limited purpose of the tax authorization.

Therefore, the General Assembly declares, as a matter of policy, that (i) the use of the tax revenue authorized by this Section for purposes not expressly authorized under this Act is improper and (ii) the provisions of this Section shall be strictly construed consistent with this declaration and the Act's express purposes.

(b) A local public entity may annually levy or have levied on its behalf taxes upon all taxable property within its territory at a rate that will produce a sum that will be sufficient to: (i) pay the cost of insurance, individual or joint self-insurance (including reserves thereon), including all operating and administrative costs and expenses directly associated therewith, claims services and risk management directly attributable to loss prevention and loss reduction, legal services directly attributable to the insurance, self-insurance, or joint self-insurance program, and educational, inspectional, and supervisory services directly relating to loss prevention and loss reduction, participation in a reciprocal insurer as provided in Sections 72, 76, and 81 of the Illinois Insurance Code, or participation in a reciprocal insurer, all as provided in settlements or judgments under Section 9-102, including all costs and reserves directly attributable to being a member of an insurance pool, under Section 9-103; (ii) pay the costs of and principal and interest on bonds issued under Section 9-105; (iii) pay judgments and settlements under Section 9-104 of this Act; (iv) discharge obligations under Section 34-18.1 of the School Code or make transfers under Section 17-2A of the School Code; (v) pay judgments and settlements under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Environmental Protection Act, but only until

December 31, 2010; (vi) pay the costs authorized by the Metro-East Sanitary District Act of 1974 as provided in subsection (a) of Section 5-1 of that Act (~~70 ILCS 2905/5-1~~); and (vii) pay the cost of risk management programs. Provided it complies with any other applicable statutory requirements, the local public entity may self-insure and establish reserves for expected losses for any property damage or for any liability or loss for which the local public entity is authorized to levy or have levied on its behalf taxes for the purchase of insurance or the payment of judgments or settlements under this Section. The decision of the board to establish a reserve shall be based on reasonable actuarial or insurance underwriting evidence and subject to the limits and reporting provisions in Section 9-103.

If a school district was a member of a joint-self-health-insurance cooperative that had more liability in outstanding claims than revenue to pay those claims, the school board of that district may by resolution make a one-time transfer from any fund in which tort immunity moneys are maintained to the fund or funds from which payments to a joint-self-health-insurance cooperative can be or have been made of an amount not to exceed the amount of the liability claim that the school district owes to the joint-self-health-insurance cooperative or that the school district paid within the 2 years immediately preceding the effective date of this amendatory Act of the 92nd General Assembly.

Funds raised pursuant to this Section shall, unless lawfully transferred as provided in Section 17-2A of the School Code, only be used for the purposes specified in this Act, including protection against and reduction of any liability or loss described hereinabove and under Federal or State common or statutory law, the Workers' Compensation Act, the Workers' Occupational Diseases Act and the Unemployment Insurance Act. Funds raised pursuant to this Section may be invested in any manner in which other funds of local public entities may be invested under Section 2 of the Public Funds Investment Act. Interest on such funds shall be used only for purposes for which the funds can be used or, if surplus, must be used for abatement of property taxes levied by the local taxing entity.

A local public entity may enter into intergovernmental contracts with a term of not to exceed 12 years for the provision of joint self-insurance which contracts may include an obligation to pay a proportional share of a general obligation or revenue bond or other debt instrument issued by a local public entity which is a party to the intergovernmental contract and is authorized by the terms of the contract to issue the bond or other debt instrument. Funds due under such contracts shall not be considered debt under any constitutional or statutory limitation and the local public entity may levy or have levied on its behalf taxes to pay for its proportional share under the contract. Funds raised pursuant to intergovernmental contracts for the provision of joint self-insurance may only be used for the payment of any cost, liability or loss against which a local public entity may protect itself or self-insure pursuant to Section 9-103 or for the payment of which such entity may levy a tax pursuant to this Section, including tort judgments or settlements, costs associated with the issuance, retirement or refinancing of the bonds or other debt instruments, the repayment of the principal or interest of the bonds or other debt instruments, the costs of the administration of the joint self-insurance fund, consultant, and risk care management programs or the costs of insurance. Any surplus returned to the local public entity

under the terms of the intergovernmental contract shall be used only for purposes set forth in subsection (a) of Section 9-103 and Section 9-107 or for abatement of property taxes levied by the local taxing entity.

Any tax levied under this Section shall be levied and collected in like manner with the general taxes of the entity and shall be exclusive of and in addition to the amount of tax that entity is now or may hereafter be authorized to levy for general purposes under any statute which may limit the amount of tax which that entity may levy for general purposes. The county clerk of the county in which any part of the territory of the local taxing entity is located, in reducing tax levies under the provisions of any Act concerning the levy and extension of taxes, shall not consider any tax provided for by this Section as a part of the general tax levy for the purposes of the entity nor include such tax within any limitation of the percent of the assessed valuation upon which taxes are required to be extended for such entity.

With respect to taxes levied under this Section, either before, on, or after the effective date of this amendatory Act of 1994:

(1) Those taxes are excepted from and shall not be included within the rate limitation imposed by law on taxes levied for general corporate purposes by the local public entity authorized to levy a tax under this Section.

(2) Those taxes that a local public entity has levied in reliance on this Section and that are excepted under paragraph (1) from the rate limitation imposed by law on taxes levied for general corporate purposes by the local public entity are not invalid because of any provision of the law authorizing the local public entity's tax levy for general corporate purposes that may be construed or may have been construed to restrict or limit those taxes levied, and those taxes are hereby validated. This validation of taxes levied applies to all cases pending on or after the effective date of this amendatory Act of 1994.

(3) Paragraphs (1) and (2) do not apply to a hospital organized under Article 170 or 175 of the Township Code, under the Town Hospital Act, or under the Township Non-Sectarian Hospital Act and do not give any authority to levy taxes on behalf of such a hospital in excess of the rate limitation imposed by law on taxes levied for general corporate purposes. A hospital organized under Article 170 or 175 of the Township Code, under the Town Hospital Act, or under the Township Non-Sectarian Hospital Act is not prohibited from levying taxes in support of tort liability bonds if the taxes do not cause the hospital's aggregate tax rate from exceeding the rate limitation imposed by law on taxes levied for general corporate purposes.

Revenues derived from such tax shall be paid to the treasurer of the local taxing entity as collected and used for the purposes of this Section and of Section 9-102, 9-103, 9-104 or 9-105, as the case may be. If payments on account of such taxes are insufficient during any year to meet such purposes, the entity may issue tax anticipation warrants against the current tax levy in the manner provided by statute.

(Source: P.A. 95-244, eff. 8-17-07; 95-723, eff. 6-23-08.)

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