



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB2419

Introduced 2/4/2025, by Rep. Maura Hirschauer

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/39.2  
415 ILCS 5/40.1

from Ch. 111 1/2, par. 1039.2  
from Ch. 111 1/2, par. 1040.1

Amends the Environmental Protection Act. Provides that, when determining whether certain local siting review criteria have been met, the county board of the county or the governing body of the municipality, as applicable, shall consider, among other things, vehicle emissions and the potential cumulative impacts created by the addition of the facility to the existing pollution sources, the disparate impacts created by the addition of the facility to existing pollution sources, and the potential disparate impacts on nearby communities. Requires the local siting decisions of the Pollution Control Board to include a written statement describing whether the procedures were conducted by the county board or governing body in a manner that is accessible to the public, including individuals with disabilities and individuals who are not native speakers of English.

LRB104 09346 BDA 19404 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 39.2 and 40.1 as follows:

6 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

7 Sec. 39.2. Local siting review.

8 (a) The county board of the county or the governing body of  
9 the municipality, as determined by paragraph (c) of Section 39  
10 of this Act, shall approve or disapprove the request for local  
11 siting approval for each pollution control facility which is  
12 subject to such review. An applicant for local siting approval  
13 shall submit sufficient details describing the proposed  
14 facility and evidence to demonstrate compliance, and local  
15 siting approval shall be granted only if the proposed facility  
16 meets the following criteria:

17 (i) the facility is necessary to accommodate the waste  
18 needs of the area it is intended to serve;

19 (ii) the facility is so designed, located and proposed  
20 to be operated that the public health, safety and welfare  
21 will be protected;

22 (iii) the facility is located so as to minimize  
23 incompatibility with the character of the surrounding area

1 and to minimize the effect on the value of the surrounding  
2 property;

3 (iv) (A) for a facility other than a sanitary landfill  
4 or waste disposal site, the facility is located outside  
5 the boundary of the 100 year flood plain or the site is  
6 flood-proofed; (B) for a facility that is a sanitary  
7 landfill or waste disposal site, the facility is located  
8 outside the boundary of the 100-year floodplain, or if the  
9 facility is a facility described in subsection (b) (3) of  
10 Section 22.19a, the site is flood-proofed;

11 (v) the plan of operations for the facility is  
12 designed to minimize the danger to the surrounding area  
13 from fire, spills, or other operational accidents;

14 (vi) the traffic patterns to or from the facility are  
15 so designed as to minimize vehicle emissions and the  
16 impact on existing traffic flows;

17 (vii) if the facility will be treating, storing or  
18 disposing of hazardous waste, an emergency response plan  
19 exists for the facility which includes notification,  
20 containment and evacuation procedures to be used in case  
21 of an accidental release;

22 (viii) if the facility is to be located in a county  
23 where the county board has adopted a solid waste  
24 management plan consistent with the planning requirements  
25 of the Local Solid Waste Disposal Act or the Solid Waste  
26 Planning and Recycling Act, the facility is consistent

1 with that plan; for purposes of this criterion (viii), the  
2 "solid waste management plan" means the plan that is in  
3 effect as of the date the application for siting approval  
4 is filed; and

5 (ix) if the facility will be located within a  
6 regulated recharge area, any applicable requirements  
7 specified by the Board for such areas have been met.

8 When determining whether the criteria described in item  
9 (ii) have been met, the county board of the county or the  
10 governing body of the municipality, as applicable, shall  
11 consider the potential cumulative impacts created by the  
12 addition of the facility to the existing pollution sources,  
13 the disparate impacts created by the addition of the facility  
14 to existing pollution sources, and the potential disparate  
15 impacts on nearby communities.

16 The county board or the governing body of the municipality  
17 may also consider as evidence the previous operating  
18 experience and past record of convictions or admissions of  
19 violations of the applicant (and any subsidiary or parent  
20 corporation) in the field of solid waste management when  
21 considering criteria (ii) and (v) under this Section.

22 If the facility is subject to the location restrictions in  
23 Section 22.14 of this Act, compliance with that Section shall  
24 be determined as of the date the application for siting  
25 approval is filed.

26 (b) No later than 14 days before the date on which the

1 county board or governing body of the municipality receives a  
2 request for site approval, the applicant shall cause written  
3 notice of such request to be served either in person or by  
4 registered mail, return receipt requested, on the owners of  
5 all property within the subject area not solely owned by the  
6 applicant, and on the owners of all property within 250 feet in  
7 each direction of the lot line of the subject property, said  
8 owners being such persons or entities which appear from the  
9 authentic tax records of the County in which such facility is  
10 to be located; provided, that the number of all feet occupied  
11 by all public roads, streets, alleys and other public ways  
12 shall be excluded in computing the 250 feet requirement;  
13 provided further, that in no event shall this requirement  
14 exceed 400 feet, including public streets, alleys and other  
15 public ways.

16 Such written notice shall also be served upon members of  
17 the General Assembly from the legislative district in which  
18 the proposed facility is located and shall be published in a  
19 newspaper of general circulation published in the county in  
20 which the site is located.

21 Such notice shall state the name and address of the  
22 applicant, the location of the proposed site, the nature and  
23 size of the development, the nature of the activity proposed,  
24 the probable life of the proposed activity, the date when the  
25 request for site approval will be submitted, and a description  
26 of the right of persons to comment on such request as hereafter

1 provided.

2 (c) An applicant shall file a copy of its request with the  
3 county board of the county or the governing body of the  
4 municipality in which the proposed site is located. The  
5 request shall include (i) the substance of the applicant's  
6 proposal and (ii) all documents, if any, submitted as of that  
7 date to the Agency pertaining to the proposed facility, except  
8 trade secrets as determined under Section 7.1 of this Act. All  
9 such documents or other materials on file with the county  
10 board or governing body of the municipality shall be made  
11 available for public inspection at the office of the county  
12 board or the governing body of the municipality and may be  
13 copied upon payment of the actual cost of reproduction.

14 Any person may file written comment with the county board  
15 or governing body of the municipality concerning the  
16 appropriateness of the proposed site for its intended purpose.  
17 The county board or governing body of the municipality shall  
18 consider any comment received or postmarked not later than 30  
19 days after the date of the last public hearing.

20 (d) At least one public hearing, at which an applicant  
21 shall present at least one witness to testify subject to  
22 cross-examination, is to be held by the county board or  
23 governing body of the municipality no sooner than 90 days but  
24 no later than 120 days after the date on which it received the  
25 request for site approval. No later than 14 days prior to such  
26 hearing, notice shall be published in a newspaper of general

1 circulation published in the county of the proposed site, and  
2 delivered by certified mail to all members of the General  
3 Assembly from the district in which the proposed site is  
4 located, to the governing authority of every municipality  
5 contiguous to the proposed site or contiguous to the  
6 municipality in which the proposed site is to be located, to  
7 the county board of the county where the proposed site is to be  
8 located, if the proposed site is located within the boundaries  
9 of a municipality, and to the Agency. Members or  
10 representatives of the governing authority of a municipality  
11 contiguous to the proposed site or contiguous to the  
12 municipality in which the proposed site is to be located and,  
13 if the proposed site is located in a municipality, members or  
14 representatives of the county board of a county in which the  
15 proposed site is to be located may appear at and participate in  
16 public hearings held pursuant to this Section. The public  
17 hearing shall develop a record sufficient to form the basis of  
18 appeal of the decision in accordance with Section 40.1 of this  
19 Act. The fact that a member of the county board or governing  
20 body of the municipality has publicly expressed an opinion on  
21 an issue related to a site review proceeding shall not  
22 preclude the member from taking part in the proceeding and  
23 voting on the issue.

24 (e) Decisions of the county board or governing body of the  
25 municipality are to be in writing, confirming a public hearing  
26 was held with testimony from at least one witness presented by

1 the applicant, specifying the reasons for the decision, such  
2 reasons to be in conformance with subsection (a) of this  
3 Section. In granting approval for a site the county board or  
4 governing body of the municipality may impose such conditions  
5 as may be reasonable and necessary to accomplish the purposes  
6 of this Section and as are not inconsistent with regulations  
7 promulgated by the Board. Such decision shall be available for  
8 public inspection at the office of the county board or  
9 governing body of the municipality and may be copied upon  
10 payment of the actual cost of reproduction. If there is no  
11 final action by the county board or governing body of the  
12 municipality within 180 days after the date on which it  
13 received the request for site approval, the applicant may deem  
14 the request approved.

15 At the public hearing, at any time prior to completion by  
16 the applicant of the presentation of the applicant's factual  
17 evidence, testimony, and an opportunity for cross-examination  
18 by the county board or governing body of the municipality and  
19 any participants, the applicant may file not more than one  
20 amended application upon payment of additional fees pursuant  
21 to subsection (k); in which case the time limitation for final  
22 action set forth in this subsection (e) shall be extended for  
23 an additional period of 90 days.

24 If, prior to making a final local siting decision, a  
25 county board or governing body of a municipality has  
26 negotiated and entered into a host agreement with the local



1 siting applicant, the terms and conditions of the host  
2 agreement, whether written or oral, shall be disclosed and  
3 made a part of the hearing record for that local siting  
4 proceeding. In the case of an oral agreement, the disclosure  
5 shall be made in the form of a written summary jointly prepared  
6 and submitted by the county board or governing body of the  
7 municipality and the siting applicant and shall describe the  
8 terms and conditions of the oral agreement.

9 (e-5) Siting approval obtained pursuant to this Section is  
10 transferable and may be transferred to a subsequent owner or  
11 operator. In the event that siting approval has been  
12 transferred to a subsequent owner or operator, that subsequent  
13 owner or operator assumes and takes subject to any and all  
14 conditions imposed upon the prior owner or operator by the  
15 county board of the county or governing body of the  
16 municipality pursuant to subsection (e). However, any such  
17 conditions imposed pursuant to this Section may be modified by  
18 agreement between the subsequent owner or operator and the  
19 appropriate county board or governing body. Further, in the  
20 event that siting approval obtained pursuant to this Section  
21 has been transferred to a subsequent owner or operator, that  
22 subsequent owner or operator assumes all rights and  
23 obligations and takes the facility subject to any and all  
24 terms and conditions of any existing host agreement between  
25 the prior owner or operator and the appropriate county board  
26 or governing body.

1           (f) A local siting approval granted under this Section  
2 shall expire at the end of 2 calendar years from the date upon  
3 which it was granted, unless the local siting approval granted  
4 under this Section is for a sanitary landfill operation, in  
5 which case the approval shall expire at the end of 3 calendar  
6 years from the date upon which it was granted, and unless  
7 within that period the applicant has made application to the  
8 Agency for a permit to develop the site. In the event that the  
9 local siting decision has been appealed, such expiration  
10 period shall be deemed to begin on the date upon which the  
11 appeal process is concluded.

12           Except as otherwise provided in this subsection, upon the  
13 expiration of a development permit under subsection (k) of  
14 Section 39, any associated local siting approval granted for  
15 the facility under this Section shall also expire.

16           If a first development permit for a municipal waste  
17 incineration facility expires under subsection (k) of Section  
18 39 after September 30, 1989 due to circumstances beyond the  
19 control of the applicant, any associated local siting approval  
20 granted for the facility under this Section may be used to  
21 fulfill the local siting approval requirement upon application  
22 for a second development permit for the same site, provided  
23 that the proposal in the new application is materially the  
24 same, with respect to the criteria in subsection (a) of this  
25 Section, as the proposal that received the original siting  
26 approval, and application for the second development permit is

1 made before January 1, 1990.

2 (g) The siting approval procedures, criteria and appeal  
3 procedures provided for in this Act for new pollution control  
4 facilities shall be the exclusive siting procedures and rules  
5 and appeal procedures for facilities subject to such  
6 procedures. Local zoning or other local land use requirements  
7 shall not be applicable to such siting decisions.

8 (h) Nothing in this Section shall apply to any existing or  
9 new pollution control facility located within the corporate  
10 limits of a municipality with a population of over 1,000,000.

11 (i) (Blank.)

12 The Board shall adopt regulations establishing the  
13 geologic and hydrologic siting criteria necessary to protect  
14 usable groundwater resources which are to be followed by the  
15 Agency in its review of permit applications for new pollution  
16 control facilities. Such regulations, insofar as they apply to  
17 new pollution control facilities authorized to store, treat or  
18 dispose of any hazardous waste, shall be at least as stringent  
19 as the requirements of the Resource Conservation and Recovery  
20 Act and any State or federal regulations adopted pursuant  
21 thereto.

22 (j) Any new pollution control facility which has never  
23 obtained local siting approval under the provisions of this  
24 Section shall be required to obtain such approval after a  
25 final decision on an appeal of a permit denial.

26 (k) A county board or governing body of a municipality may

1 charge applicants for siting review under this Section a  
2 reasonable fee to cover the reasonable and necessary costs  
3 incurred by such county or municipality in the siting review  
4 process.

5 (l) The governing Authority as determined by subsection  
6 (c) of Section 39 of this Act may request the Department of  
7 Transportation to perform traffic impact studies of proposed  
8 or potential locations for required pollution control  
9 facilities.

10 (m) An applicant may not file a request for local siting  
11 approval which is substantially the same as a request which  
12 was disapproved pursuant to a finding against the applicant  
13 under any of criteria (i) through (ix) of subsection (a) of  
14 this Section within the preceding 2 years.

15 (n) In any review proceeding of a decision of the county  
16 board or governing body of a municipality made pursuant to the  
17 local siting review process, the petitioner in the review  
18 proceeding shall pay to the county or municipality the cost of  
19 preparing and certifying the record of proceedings. Should the  
20 petitioner in the review proceeding fail to make payment, the  
21 provisions of Section 3-109 of the Code of Civil Procedure  
22 shall apply.

23 In the event the petitioner is a citizens' group that  
24 participated in the siting proceeding and is so located as to  
25 be affected by the proposed facility, such petitioner shall be  
26 exempt from paying the costs of preparing and certifying the

1 record.

2 (o) Notwithstanding any other provision of this Section, a  
3 transfer station used exclusively for landscape waste, where  
4 landscape waste is held no longer than 24 hours from the time  
5 it was received, is not subject to the requirements of local  
6 siting approval under this Section, but is subject only to  
7 local zoning approval.

8 (Source: P.A. 100-382, eff. 8-25-17.)

9 (415 ILCS 5/40.1) (from Ch. 111 1/2, par. 1040.1)

10 Sec. 40.1. Appeal of siting approval.

11 (a) If the county board or the governing body of the  
12 municipality, as determined by paragraph (c) of Section 39 of  
13 this Act, refuses to grant or grants with conditions approval  
14 under Section 39.2 of this Act, the applicant may, within 35  
15 days after the date on which the local siting authority  
16 disapproved or conditionally approved siting, petition for a  
17 hearing before the Board to contest the decision of the county  
18 board or the governing body of the municipality. The Board  
19 shall publish 21 day notice of the hearing on the appeal in a  
20 newspaper of general circulation published in that county. The  
21 county board or governing body of the municipality shall  
22 appear as respondent in such hearing, and such hearing shall  
23 be based exclusively on the record before the county board or  
24 the governing body of the municipality. At such hearing the  
25 rules prescribed in Sections 32 and 33 (a) of this Act shall

1     apply, and the burden of proof shall be on the petitioner;  
2     however, no new or additional evidence in support of or in  
3     opposition to any finding, order, determination or decision of  
4     the appropriate county board or governing body of the  
5     municipality shall be heard by the Board. In making its orders  
6     and determinations under this Section the Board shall include  
7     in its consideration the written decision and reasons for the  
8     decision of the county board or the governing body of the  
9     municipality, the transcribed record of the hearing held  
10    pursuant to subsection (d) of Section 39.2, and the  
11    fundamental fairness of the procedures used by the county  
12    board or the governing body of the municipality in reaching  
13    its decision, including a written statement describing whether  
14    the procedures were conducted by the county board or governing  
15    body in a manner that is accessible to the public, including  
16    individuals with disabilities and individuals who are not  
17    native speakers of English. The Board shall transmit a copy of  
18    its decision to the office of the county board or governing  
19    body of the municipality where it shall be available for  
20    public inspection and copied upon payment of the actual cost  
21    of reproduction. If there is no final action by the Board  
22    within 120 days after the date on which it received the  
23    petition, the petitioner may deem the site location approved;  
24    provided, however, that that period of 120 days shall not run  
25    for any period of time, not to exceed 30 days, during which the  
26    Board is without sufficient membership to constitute the

1 quorum required by subsection (a) of Section 5 of this Act, and  
2 provided further, that such 120 day period shall not be stayed  
3 for lack of quorum beyond 30 days regardless of whether the  
4 lack of quorum exists at the beginning of such 120 day period  
5 or occurs during the running of such 120 day period.

6 (b) If the county board or the governing body of the  
7 municipality as determined by paragraph (c) of Section 39 of  
8 this Act, grants approval under Section 39.2 of this Act, a  
9 third party other than the applicant who participated in the  
10 public hearing conducted by the county board or governing body  
11 of the municipality may, within 35 days after the date on which  
12 the local siting authority granted siting approval, petition  
13 the Board for a hearing to contest the approval of the county  
14 board or the governing body of the municipality. Unless the  
15 Board determines that such petition is duplicative or  
16 frivolous, or that the petitioner is so located as to not be  
17 affected by the proposed facility, the Board shall hear the  
18 petition in accordance with the terms of subsection (a) of  
19 this Section and its procedural rules governing denial  
20 appeals, such hearing to be based exclusively on the record  
21 before county board or the governing body of the municipality.  
22 The burden of proof shall be on the petitioner. The county  
23 board or the governing body of the municipality and the  
24 applicant shall be named as co-respondents.

25 The Board shall transmit a copy of its decision to the  
26 office of the county board or governing body of the

1 municipality where it shall be available for public inspection  
2 and may be copied upon payment of the actual cost of  
3 reproduction.

4 (c) Any person who files a petition to contest a decision  
5 of the county board or governing body of the municipality  
6 shall pay a filing fee.

7 (Source: P.A. 92-574, eff. 6-26-02.)