

1 AN ACT concerning local government.

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

4 Section 5. The Metropolitan Water Reclamation District Act
5 is amended by changing Section 7a as follows:

6 (70 ILCS 2605/7a) (from Ch. 42, par. 326a)

7 Sec. 7a. Discharge into sewers of a sanitary district.

8 (a) The terms used in this Section are defined as follows:

9 "Board of Commissioners" means the Board of Commissioners
10 of the sanitary district.

11 "Sewage" means water-carried human wastes or a combination
12 of water-carried wastes from residences, buildings,
13 businesses, industrial establishments, institutions, or other
14 places together with any ground, surface, storm, or other
15 water that may be present.

16 "Industrial Wastes" means all solids, liquids, or gaseous
17 wastes resulting from any commercial, industrial,
18 manufacturing, agricultural, trade, or business operation or
19 process, or from the development, recovery, or processing of
20 natural resources.

21 "Other Wastes" means decayed wood, sawdust, shavings,
22 bark, lime, refuse, ashes, garbage, offal, oil, tar,
23 chemicals, and all other substances except sewage and

1 industrial wastes.

2 "Person" means any individual, firm, association, joint
3 venture, sole proprietorship, company, partnership, estate
4 copartnership, corporation, joint stock company, trust, school
5 district, unit of local government, or private corporation
6 organized or existing under the laws of this or any other state
7 or country.

8 "Executive Director" means the executive director of the
9 sanitary district.

10 (b) It shall be unlawful for any person to discharge
11 sewage, industrial waste, or other wastes into the sewerage
12 system of a sanitary district or into any sewer connected
13 therewith, except upon the terms and conditions that the
14 sanitary district might reasonably impose by way of ordinance,
15 permit, or otherwise.

16 Any sanitary district, in addition to all other powers
17 vested in it and in the interest of public health and safety,
18 or as authorized by subsections (b) and (c) of Section 46 of
19 the Environmental Protection Act, is hereby empowered to pass
20 all ordinances, rules, or regulations necessary to implement
21 this Section, including but not limited to, the imposition of
22 charges based on factors that influence the cost of treatment,
23 including strength and volume, and including the right of
24 access during reasonable hours to the premises of a person for
25 enforcement of adopted ordinances, rules, or regulations.

26 (c) Whenever the sanitary district acting through the

1 executive director determines that sewage, industrial wastes,
2 or other wastes are being discharged into the sewerage system
3 and when, in the opinion of the executive director the
4 discharge is in violation of an ordinance, rules, or
5 regulations adopted by the Board of Commissioners under this
6 Section governing industrial wastes or other wastes, the
7 executive director shall order the offending party to cease
8 and desist. The order shall be served on the offending party by
9 U.S. first-class mail, U.S. certified mail, ~~or~~ personally, or
10 by email as provided in subsection (m) ~~on the owner, officer,~~
11 ~~registered agent, or individual designated by permit.~~

12 In the event the offending party fails or refuses to
13 discontinue the discharge within 90 days after service
14 ~~notification~~ of the cease and desist order, the executive
15 director may order the offending party to show cause before
16 the Board of Commissioners of the sanitary district why the
17 discharge should not be discontinued. A notice shall be served
18 ~~on the offending party directing him, her, or it~~ the offending
19 party to show cause before the Board of Commissioners why an
20 order should not be entered directing the discontinuance of
21 the discharge. The notice shall specify the time and place
22 where a hearing will be held and shall be served on the
23 offending party by U.S. first-class mail, U.S. certified mail,
24 personally, or by email as provided in subsection (m), ~~by~~
25 ~~registered or certified mail~~ at least 10 days before the
26 hearing; and in the case of a unit of local government or a

1 corporation the service shall be upon an officer or agent
2 thereof. After reviewing the evidence, the Board of
3 Commissioners may issue an order to the party responsible for
4 the discharge, directing that within a specified period of
5 time the discharge be discontinued. The Board of Commissioners
6 may also order the party responsible for the discharge to pay a
7 civil penalty in an amount specified by the Board of
8 Commissioners that is not less than \$1,000 nor more than
9 \$2,000 per day for each day of discharge of effluent in
10 violation of this Act as provided in subsection (d). The Board
11 of Commissioners may also order the party responsible for the
12 violation to pay court reporter costs and hearing officer fees
13 in a total amount not exceeding \$3,000.

14 (d) The Board of Commissioners shall establish procedures
15 for assessing civil penalties and issuing orders under
16 subsection (c) as follows:

17 (1) In making its orders and determinations, the Board
18 of Commissioners shall take into consideration all the
19 facts and circumstances bearing on the activities involved
20 and the assessment of civil penalties as shown by the
21 record produced at the hearing.

22 (2) The Board of Commissioners shall establish a panel
23 of independent hearing officers to conduct all hearings on
24 the assessment of civil penalties and issuance of orders
25 under subsection (c). The hearing officers shall be
26 attorneys licensed to practice law in this State.

1 (3) The Board of Commissioners shall promulgate
2 procedural rules governing the proceedings, the assessment
3 of civil penalties, and the issuance of orders.

4 (4) All hearings shall be on the record, and testimony
5 taken must be under oath and recorded stenographically.
6 Transcripts so recorded must be made available to any
7 member of the public or any party to the hearing upon
8 payment of the usual charges for transcripts. At the
9 hearing, the hearing officer may issue, in the name of the
10 Board of Commissioners, notices of hearing requesting the
11 attendance and testimony of witnesses and the production
12 of evidence relevant to any matter involved in the hearing
13 and may examine witnesses.

14 (5) The hearing officer shall conduct a full and
15 impartial hearing on the record, with an opportunity for
16 the presentation of evidence and cross-examination of the
17 witnesses. The hearing officer shall issue findings of
18 fact, conclusions of law, a recommended civil penalty, and
19 an order based solely on the record. The hearing officer
20 may also recommend, as part of the order, that the
21 discharge of industrial waste be discontinued within a
22 specified time.

23 (6) The findings of fact, conclusions of law,
24 recommended civil penalty, and order shall be transmitted
25 to the Board of Commissioners along with a complete record
26 of the hearing.

1 (7) The Board of Commissioners shall either approve or
2 disapprove the findings of fact, conclusions of law,
3 recommended civil penalty, and order. If the findings of
4 fact, conclusions of law, recommended civil penalty, or
5 order are rejected, the Board of Commissioners shall
6 remand the matter to the hearing officer for further
7 proceedings. If the order is accepted by the Board of
8 Commissioners, it shall constitute the final order of the
9 Board of Commissioners.

10 (8) (Blank).

11 (9) The civil penalty specified by the Board of
12 Commissioners shall be paid within 35 days after the party
13 on whom it is imposed receives a written copy of the order
14 of the Board of Commissioners, unless the person or
15 persons to whom the order is issued seeks judicial review.

16 (10) If the respondent seeks judicial review of the
17 order assessing civil penalties, the respondent shall,
18 within 35 days after the date of the final order, pay the
19 amount of the civil penalties into an escrow account
20 maintained by the district for that purpose or file a bond
21 guaranteeing payment of the civil penalties if the civil
22 penalties are upheld on review.

23 (11) Civil penalties not paid by the times specified
24 above shall be delinquent and subject to a lien recorded
25 against the property of the person ordered to pay the
26 penalty. The foregoing provisions for asserting liens

1 against real estate by the sanitary district shall be in
2 addition to and not in derogation of any other remedy or
3 right of recovery, in law or equity, that the sanitary
4 district may have with respect to the collection or
5 recovery of penalties and charges imposed by the sanitary
6 district. Judgment in a civil action brought by the
7 sanitary district to recover or collect the charges shall
8 not operate as a release and waiver of the lien upon the
9 real estate for the amount of the judgment. Only
10 satisfaction of the judgment or the filing of a release or
11 satisfaction of lien shall release the lien.

12 (e) The executive director may order a person to cease the
13 discharge of industrial waste upon a finding by the executive
14 director that the final order of the Board of Commissioners
15 entered after a hearing to show cause has been violated. The
16 ~~executive director shall serve the person with a copy of his or~~
17 ~~her order~~ shall be served on the offending party either by U.S.
18 first-class mail, U.S. certified mail, or personally, or by
19 email as provided in subsection (m) ~~-serving the owner,~~
20 ~~officer, registered agent, or individual designated by permit.~~
21 The order of the executive director shall also schedule an
22 expedited hearing before a hearing officer designated by the
23 Board of Commissioners for the purpose of determining whether
24 the company has violated the final order of the Board of
25 Commissioners. The Board of Commissioners shall adopt rules of
26 procedure governing expedited hearings. In no event shall the

1 hearing be conducted less than 7 days after service ~~receipt~~ by
2 ~~the person~~ of the executive director's order on the offending
3 party.

4 At the conclusion of the expedited hearing, the hearing
5 officer shall prepare a report with his or her findings and
6 recommendations and transmit it to the Board of Commissioners.
7 If the Board of Commissioners, after reviewing the findings
8 and recommendations, and the record produced at the hearings,
9 determines that the person has violated the Board of
10 Commissioner's final order, the Board of Commissioners may
11 authorize the plugging of the sewer. The executive director
12 shall give not less than 10 days written notice of the Board of
13 Commissioner's order to the owner, officer, registered agent,
14 or individual designated by permit, as well as the owner of
15 record of the real estate and other parties known to be
16 affected, that the sewer will be plugged.

17 The foregoing provision for plugging a sewer shall be in
18 addition to and not in derogation of any other remedy, in law
19 or in equity, that the district may have to prevent violation
20 of its ordinances and orders of its Board of Commissioners.

21 (f) A violation of the final order of the Board of
22 Commissioners shall be considered a nuisance. If any person
23 discharges sewage, industrial wastes, or other wastes into any
24 waters contrary to the final order of the Board of
25 Commissioners, the sanitary district acting through the
26 executive director has the power to commence an action or

1 proceeding in the circuit court in and for the county in which
2 the sanitary district is located for the purpose of having the
3 discharge stopped either by mandamus or injunction, or to
4 remedy the violation in any manner provided for in this
5 Section.

6 The court shall specify a time, not exceeding 20 days
7 after the service of the copy of the complaint, in which the
8 party complained of must plead to the complaint, and in the
9 meantime, the party may be restrained. In case of default or
10 after pleading, the court shall immediately inquire into the
11 facts and circumstances of the case and enter an appropriate
12 judgment in respect to the matters complained of. Appeals may
13 be taken as in other civil cases.

14 (g) The sanitary district, acting through the executive
15 director, has the power to commence an action or proceeding
16 for mandamus or injunction in the circuit court ordering a
17 person to cease its discharge, when, in the opinion of the
18 executive director, the person's discharge presents an
19 imminent danger to the public health, welfare, or safety,
20 presents or may present an endangerment to the environment, or
21 threatens to interfere with the operation of the sewerage
22 system or a water reclamation plant under the jurisdiction of
23 the sanitary district. The initiation of a show cause hearing
24 is not a prerequisite to the commencement by the sanitary
25 district of an action or proceeding for mandamus or injunction
26 in the circuit court. The court shall specify a time, not

1 exceeding 20 days after the service of a copy of the petition,
2 in which the party complained of must answer the petition, and
3 in the meantime, the party may be restrained. In case of
4 default in answer or after answer, the court shall immediately
5 inquire into the facts and circumstances of the case and enter
6 an appropriate judgment order in respect to the matters
7 complained of. An appeal may be taken from the final judgment
8 in the same manner and with the same effect as appeals are
9 taken from judgment of the circuit court in other actions for
10 mandamus or injunction.

11 (h) Whenever the sanitary district commences an action
12 under subsection (f) of this Section, the court shall assess a
13 civil penalty of not less than \$1,000 nor more than \$10,000 for
14 each day the person violates a Board order. Whenever the
15 sanitary district commences an action under subsection (g) of
16 this Section, the court shall assess a civil penalty of not
17 less than \$1,000 nor more than \$10,000 for each day the person
18 violates the ordinance. Each day's continuance of the
19 violation is a separate offense. The penalties provided in
20 this Section plus interest at the rate set forth in the
21 Interest Act on unpaid penalties, costs, and fees, imposed by
22 the Board of Commissioners under subsection (d), the
23 reasonable costs to the sanitary district of removal or other
24 remedial action caused by discharges in violation of this Act,
25 reasonable attorney's fees, court costs, and other expenses of
26 litigation together with costs for inspection, sampling,

1 analysis, and administration related to the enforcement action
2 against the offending party are recoverable by the sanitary
3 district in a civil action.

4 (i) The Board of Commissioners may establish fees for late
5 filing of reports with the sanitary district required by an
6 ordinance governing discharges. The sanitary district shall
7 provide ~~by certified mail~~ a written notice of the fee
8 assessment, by U.S. first-class mail, U.S. certified mail,
9 personally, or by email as provided in subsection (m), that
10 states the person has 30 days after being served with ~~the~~
11 ~~receipt of~~ the notice to request a conference with the
12 executive director's designee to discuss or dispute the
13 appropriateness of the assessed fee. Unless a person objects
14 to paying the fee for filing a report late by timely requesting
15 in writing a conference with a designee of the executive
16 director, that person waives his or her right to a conference
17 and the sanitary district may impose a lien recorded against
18 the property of the person for the amount of the unpaid fee.

19 If a person requests a conference and the matter is not
20 resolved at the conference, the person subject to the fee may
21 request an administrative hearing before an impartial hearing
22 officer appointed under subsection (d) to determine the
23 person's liability for and the amount of the fee.

24 If the hearing officer finds that the late filing fees are
25 owed to the sanitary district, the sanitary district shall
26 notify the responsible person or persons of the hearing

1 officer's decision. If payment is not made within 30 days
2 after the notice, the sanitary district may impose a lien on
3 the property of the person or persons.

4 Any liens filed under this subsection shall apply only to
5 the property to which the late filing fees are related. A claim
6 for lien shall be filed in the office of the recorder of the
7 county in which the property is located. The filing of a claim
8 for lien by the district does not prevent the sanitary
9 district from pursuing other means for collecting late filing
10 fees. If a claim for lien is filed, the sanitary district shall
11 notify the person whose property is subject to the lien, and
12 the person may challenge the lien by filing an action in the
13 circuit court. The action shall be filed within 90 days after
14 the person receives the notice of the filing of the claim for
15 lien. The court shall hear evidence concerning the underlying
16 reasons for the lien only if an administrative hearing has not
17 been held under this subsection.

18 (j) If the provisions of any paragraph of this Section are
19 declared unconstitutional or invalid by the final decision of
20 any court of competent jurisdiction, the provisions of the
21 remaining paragraphs continue in effect.

22 (k) Nothing in this Section eliminates any of the powers
23 now granted to municipalities having a population of 500,000
24 or more as to design, preparation of plans, and construction,
25 maintenance, and operation of sewers and sewerage systems, or
26 for the control and elimination or prevention of the pollution

1 of their waters or waterways, in the Illinois Municipal Code
2 or any other Act of the State of Illinois.

3 (1) The provisions of the Administrative Review Law and
4 all amendments and rules adopted pursuant to that Law apply to
5 and govern all proceedings for the judicial review of final
6 administrative decisions of the Board of Commissioners in the
7 enforcement of any ordinance, rule, or regulation adopted
8 under this Act.

9 (m) Solely in relation to the discharge of sewage,
10 industrial wastes, or other wastes subject to one of the
11 sanitary district's ordinances, the sanitary district may
12 implement an electronic reporting system that will allow
13 notices, orders, and other documents to be sent directly by
14 email to persons or entities registered with the sanitary
15 district, and, in the discretion of the sanitary district, to
16 allow those persons or entities registered with the sanitary
17 district to view, modify, or submit documents using the
18 electronic reporting system. Wherever this Section provides
19 for service of documents by the sanitary district by U.S.
20 first-class mail, U.S. certified mail, or personal service,
21 the sanitary district may serve by email the documents upon
22 the registered persons or entities in lieu of service by U.S.
23 first-class mail, U.S. certified mail, or personal service.
24 Enrollment in the electronic reporting system in this
25 subsection is voluntary and limited to nonresidential
26 facilities or uses. Service by email under this Section is

1 only permitted on those persons or entities that voluntarily
2 enroll in the system. The sanitary district shall adopt rules,
3 as approved by ordinance, to ensure service of process by
4 email is properly effectuated upon the registered persons and
5 entities.

6 (Source: P.A. 96-328, eff. 8-11-09; 97-298, eff. 8-11-11.)

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