

SB1673



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1673

Introduced 2/8/2023, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

70 ILCS 2605/7h

Amends the Metropolitan Water Reclamation District Act. Provides that the Metropolitan Water Reclamation District of Greater Chicago may provide for a civil penalty for each offense of not less than \$100 nor more than \$1,000, with each day's continuance of a violation to be a separate offense, excluding costs and fees that may be assessed. Requires a hearing in front of the board of commissioners, or its designee, before a civil penalty may be imposed. Specifies procedures that must be adopted by the board of commissioners relating to imposing a civil penalty. Effective immediately.

LRB103 30218 AWJ 56646 b

A BILL FOR

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 7h as follows:

6 (70 ILCS 2605/7h)

7 Sec. 7h. Stormwater management.

8 (a) Stormwater management in Cook County shall be under
9 the general supervision of the Metropolitan Water Reclamation
10 District of Greater Chicago. The District has the authority to
11 plan, manage, implement, and finance activities relating to
12 stormwater management in Cook County. The authority of the
13 District with respect to stormwater management extends
14 throughout Cook County and is not limited to the area
15 otherwise within the territory and jurisdiction of the
16 District under this Act.

17 For the purposes of this Section, the term "stormwater
18 management" includes, without limitation, the management of
19 floods and floodwaters.

20 (b) The District may utilize the resources of cooperating
21 local watershed councils (including the stormwater management
22 planning councils created under Section 5-1062.1 of the
23 Counties Code), councils of local governments, the

1 Northeastern Illinois Planning Commission, and similar
2 organizations and agencies. The District may provide those
3 organizations and agencies with funding, on a contractual
4 basis, for providing information to the District, providing
5 information to the public, or performing other activities
6 related to stormwater management.

7 The District, in addition to other powers vested in it,
8 may negotiate and enter into agreements with any county for
9 the management of stormwater runoff in accordance with
10 subsection (c) of Section 5-1062 of the Counties Code.

11 The District may enter into intergovernmental agreements
12 with Cook County or other units of local government that are
13 located in whole or in part outside the District for the
14 purpose of implementing the stormwater management plan and
15 providing stormwater management services in areas not included
16 within the territory of the District.

17 (c) The District shall prepare and adopt by ordinance a
18 countywide stormwater management plan for Cook County. The
19 countywide plan may incorporate one or more separate watershed
20 plans.

21 Prior to adopting the countywide stormwater management
22 plan, the District shall hold at least one public hearing
23 thereon and shall afford interested persons an opportunity to
24 be heard.

25 (d) The District may prescribe by ordinance reasonable
26 rules and regulations for floodplain and stormwater management

1 and for governing the location, width, course, and release
2 rate of all stormwater runoff channels, streams, and basins in
3 Cook County, in accordance with the adopted stormwater
4 management plan. These rules and regulations shall, at a
5 minimum, meet the standards for floodplain management
6 established by the Office of Water Resources of the Department
7 of Natural Resources and the requirements of the Federal
8 Emergency Management Agency for participation in the National
9 Flood Insurance Program.

10 The ordinance adopted by the District under this
11 subsection may provide for a civil penalty for each violation
12 of the ordinance of not less than \$100 nor more than \$1,000,
13 excluding costs and fees that may be assessed under this
14 Section. Each day's continuance of a violation is a separate
15 offense.

16 (d-5) Civil penalties assessed by the board of
17 commissioners for violations of an ordinance adopted under
18 subsection (d) shall be assessed following a hearing, which
19 may be conducted by the board of commissioners or its
20 designee, pursuant to procedures adopted by the board of
21 commissioners. The procedures shall include, at a minimum, the
22 following:

23 (1) In addition to any civil penalty imposed, the
24 board of commissioners may order a party found to have
25 committed a violation of an ordinance adopted under
26 subsection (d) to reimburse the District for the costs of

1 the hearing, including any expenses incurred for
2 inspection, sampling, analysis, administrative costs, and
3 court reporter's and attorney's fees, and to comply with
4 the ordinance adopted under subsection (d) within a time
5 specified by the board of commissioners.

6 (2) Unless the party or parties to whom the order is
7 issued seek judicial review, the civil penalties, costs,
8 and fees assessed by the board of commissioners under this
9 Section shall be paid by the party or parties in violation
10 no later than the later of (i) 35 days after the party
11 receives a written copy of the order of the board of
12 commissioners imposing the civil penalties, costs, or fees
13 or (ii) the date ordered by the board of commissioners.

14 (3) If the party assessed a civil penalty seeks
15 judicial review of the order assessing civil penalties,
16 the party shall, no later than 35 days after the date of
17 the final order, pay the amount of the civil penalties,
18 costs, and fees assessed into an escrow account maintained
19 by the District for that purpose or file a bond
20 guaranteeing payment of the civil penalties, fees, and
21 costs if the civil penalties, fees, and costs are upheld
22 on review.

23 (4) In addition to recovery under paragraph (5), civil
24 penalties, fees, and costs not paid by the times specified
25 in this subsection are delinquent and are subject to a
26 lien recorded against the property of the party ordered to

1 pay the civil penalty.

2 (5) Civil penalties, fees, and costs imposed under
3 this Section are recoverable by the District in a civil
4 action by all remedies available under the law. Judgment
5 in a civil action brought by the District to recover or
6 collect the civil penalties, fees, and costs does not
7 operate as a release and waiver of a lien upon the real
8 estate for the amount of the judgment. Only satisfaction
9 of the judgment or the filing of a release or satisfaction
10 of lien shall release the lien.

11 (6) The District may apply to the circuit court for an
12 injunction or mandamus when, in the opinion of the
13 executive director of the District, the person has failed
14 to comply with an order of the board of commissioners or
15 the relief is necessary to prevent flooding.

16 The Administrative Review Law governs proceedings for the
17 judicial review of final orders of the board of commissioners
18 issued under this subsection.

19 (e) The District may impose fees on areas outside the
20 District but within Cook County for performance of stormwater
21 management services, including but not limited to, maintenance
22 of streams and the development, design, planning,
23 construction, operation and maintenance of stormwater
24 facilities. The total amount of the fees collected from areas
25 outside of the District but within Cook County shall not
26 exceed the District's annual tax rate for stormwater

1 management within the District multiplied by the aggregate
2 equalized assessed valuation of areas outside of the District
3 but within Cook County. The District may require the unit of
4 local government in which the stormwater services are
5 performed to collect the fee and remit the collected fee to the
6 District. The District is authorized to pay a reasonable
7 administrative fee to the unit of local government for the
8 collection of these fees. All such fees collected by the
9 District shall be held in a separate fund and used for
10 implementation of this Section.

11 (f) Amounts realized from the tax levy for stormwater
12 management purposes authorized in Section 12 may be used by
13 the District for implementing this Section and for the
14 development, design, planning, construction, operation, and
15 maintenance of regional and local stormwater facilities
16 provided for in the stormwater management plan.

17 The proceeds of any tax imposed under Section 12 for
18 stormwater management purposes and any revenues generated as a
19 result of the ownership or operation of facilities or land
20 acquired with the proceeds of taxes imposed under Section 12
21 for stormwater management purposes shall be held in a separate
22 fund and used either for implementing this Section or to abate
23 those taxes.

24 (g) The District may plan, implement, finance, and operate
25 regional and local stormwater management projects in
26 accordance with the adopted countywide stormwater management

1 plan.

2 The District shall provide for public review and comment
3 on proposed stormwater management projects. The District shall
4 conform to State and federal requirements concerning public
5 information, environmental assessments, and environmental
6 impacts for projects receiving State or federal funds.

7 The District may issue bonds under Section 9.6a of this
8 Act for the purpose of funding stormwater management projects.

9 The District shall not use Cook County Forest Preserve
10 District land for stormwater or flood control projects without
11 the consent of the Forest Preserve District.

12 The District may acquire, by purchase from a willing
13 seller in a voluntary transaction, real property in
14 furtherance of its regional and local stormwater management
15 activities. Nothing in this Section shall affect the
16 District's powers of condemnation or eminent domain as
17 otherwise set forth in this Act.

18 (h) Upon the creation and implementation of a county
19 stormwater management plan, the District may petition the
20 circuit court to dissolve any or all drainage districts
21 created pursuant to the Illinois Drainage Code or predecessor
22 Acts that are located entirely within the District.

23 However, any active drainage district implementing a plan
24 that is consistent with and at least as stringent as the county
25 stormwater management plan may petition the District for
26 exception from dissolution. Upon filing of the petition, the

1 District shall set a date for hearing not less than 2 weeks,
2 nor more than 4 weeks, from the filing thereof, and the
3 District shall give at least one week's notice of the hearing
4 in one or more newspapers of general circulation within the
5 drainage district, and in addition shall cause a copy of the
6 notice to be personally served upon each of the trustees of the
7 drainage district. At the hearing, the District shall hear the
8 drainage district's petition and allow the drainage district
9 trustees and any interested parties an opportunity to present
10 oral and written evidence. The District shall render its
11 decision upon the petition for exception from dissolution
12 based upon the best interests of the residents of the drainage
13 district. In the event that the exception is not allowed, the
14 drainage district may file a petition with the circuit court
15 within 30 days of the decision. In that case, the notice and
16 hearing requirements for the court shall be the same as
17 provided in this subsection for the petition to the District.
18 The court shall render its decision of whether to dissolve the
19 district based upon the best interests of the residents of the
20 drainage district.

21 The dissolution of a drainage district shall not affect
22 the obligation of any bonds issued or contracts entered into
23 by the drainage district nor invalidate the levy, extension,
24 or collection of any taxes or special assessments upon the
25 property in the former drainage district. All property and
26 obligations of the former drainage district shall be assumed

1 and managed by the District, and the debts of the former
2 drainage district shall be discharged as soon as practicable.

3 If a drainage district lies only partly within the
4 District, the District may petition the circuit court to
5 disconnect from the drainage district that portion of the
6 drainage district that lies within the District. The property
7 of the drainage district within the disconnected area shall be
8 assumed and managed by the District. The District shall also
9 assume a portion of the drainage district's debt at the time of
10 disconnection, based on the portion of the value of the
11 taxable property of the drainage district which is located
12 within the area being disconnected.

13 A drainage district that continues to exist within Cook
14 County shall conform its operations to the countywide
15 stormwater management plan.

16 (i) The District may assume responsibility for maintaining
17 any stream within Cook County.

18 (j) The District may, after 10 days written notice to the
19 owner or occupant, enter upon any lands or waters within the
20 county for the purpose of inspecting stormwater facilities or
21 causing the removal of any obstruction to an affected
22 watercourse. The District shall be responsible for any damages
23 occasioned thereby.

24 (k) The District shall report to the public annually on
25 its activities and expenditures under this Section and the
26 adopted countywide stormwater management plan.

1 (1) The powers granted to the District under this Section
2 are in addition to the other powers granted under this Act.
3 This Section does not limit the powers of the District under
4 any other provision of this Act or any other law.

5 (m) This Section does not affect the power or duty of any
6 unit of local government to take actions relating to flooding
7 or stormwater, so long as those actions conform with this
8 Section and the plans, rules, and ordinances adopted by the
9 District under this Section.

10 A home rule unit located in whole or in part in Cook County
11 (other than a municipality with a population over 1,000,000)
12 may not regulate stormwater management or planning in Cook
13 County in a manner inconsistent with this Section or the
14 plans, rules, and ordinances adopted by the District under
15 this Section; provided, within a municipality with a
16 population over 1,000,000, the stormwater management planning
17 program of Cook County shall be conducted by that municipality
18 or, to the extent provided in an intergovernmental agreement
19 between the municipality and the District, by the District
20 pursuant to this Section; provided further that the power
21 granted to such municipality shall not be inconsistent with
22 existing powers of the District. Pursuant to paragraph (i) of
23 Section 6 of Article VII of the Illinois Constitution, this
24 Section specifically denies and limits the exercise of any
25 power that is inconsistent with this Section by a home rule
26 unit that is a county with a population of 1,500,000 or more or

1 is located, in whole or in part, within such a county, other
2 than a municipality with a population over 1,000,000.

3 (Source: P.A. 98-652, eff. 6-18-14.)

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