

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 Counties Code is amended by adding Section
5 5-1062.2 as follows:

6 (55 ILCS 5/5-1062.2 new)

7 Sec. 5-1062.2. Stormwater management.

8 (a) The purpose of this Section is to allow management and
9 mitigation of the effects of urbanization on stormwater
10 drainage in metropolitan counties located in the area served by
11 the Southwestern Illinois Metropolitan and Regional Planning
12 Commission and the Counties of Kankakee, Grundy, LaSalle,
13 DeKalb, Kendall, Boone, and Winnebago and references to
14 "county" in this Section apply only to those counties. This
15 Section does not apply to counties in the Northeastern Illinois
16 Planning Commission that are granted authorities in Section
17 5-1062. The purpose of this Section shall be achieved by:

18 (1) Consolidating the existing stormwater management
19 framework into a united, countywide structure.

20 (2) Setting minimum standards for floodplain and
21 stormwater management.

22 (3) Preparing a countywide plan for the management of
23 stormwater runoff, including the management of natural and
24 man-made drainageways. The countywide plan may incorporate
25 watershed plans.

26 (b) A stormwater management planning committee may be
27 established by county board resolution, with its membership
28 consisting of equal numbers of county board and municipal
29 representatives from each county board district, and such other
30 members as may be determined by the county and municipal
31 members. If the county has more than 6 county board districts,
32 however, the county board may by ordinance divide the county

1 into not less than 6 areas of approximately equal population,
2 to be used instead of county board districts for the purpose of
3 determining representation on the stormwater management
4 planning committee.

5 The county board members shall be appointed by the chairman
6 of the county board. Municipal members from each county board
7 district or other represented area shall be appointed by a
8 majority vote of the mayors of those municipalities that have
9 the greatest percentage of their respective populations
10 residing in that county board district or other represented
11 area. All municipal and county board representatives shall be
12 entitled to a vote; the other members shall be nonvoting
13 members, unless authorized to vote by the unanimous consent of
14 the municipal and county board representatives. A municipality
15 that is located in more than one county may choose, at the time
16 of formation of the stormwater management planning committee
17 and based on watershed boundaries, to participate in the
18 stormwater management planning program of either or both of the
19 counties. Subcommittees of the stormwater management planning
20 committee may be established to serve a portion of the county
21 or a particular drainage basin that has similar stormwater
22 management needs. The stormwater management planning committee
23 shall adopt bylaws, by a majority vote of the county and
24 municipal members, to govern the functions of the committee and
25 its subcommittees. Officers of the committee shall include a
26 chair and vice chair, one of whom shall be a county
27 representative and one a municipal representative.

28 The principal duties of the committee shall be to develop a
29 stormwater management plan for presentation to and approval by
30 the county board, and to direct the plan's implementation and
31 revision. The committee may retain engineering, legal, and
32 financial advisors and inspection personnel. The committee
33 shall meet at least quarterly and shall hold at least one
34 public meeting during the preparation of the plan and prior to
35 its submittal to the county board. The committee may make
36 grants to units of local government and landowners for the

1 purposes of stormwater management; grants must be consistent
2 with the stormwater management plan.

3 The committee shall not have or exercise any power of
4 eminent domain.

5 (c) In the preparation of a stormwater management plan, a
6 county stormwater management planning committee shall
7 coordinate the planning process with each adjoining county to
8 ensure that recommended stormwater projects will have no
9 significant impact on the levels or flows of stormwaters in
10 inter-county watersheds or on the capacity of existing and
11 planned stormwater retention facilities. An adopted stormwater
12 management plan shall identify steps taken by the county to
13 coordinate the development of plan recommendations with
14 adjoining counties.

15 (d) The Stormwater Management Committee may not enforce any
16 rules or regulations that would interfere with (i) any power
17 granted by the Illinois Drainage Code to operate, construct,
18 maintain, or improve drainage systems or (ii) the ability to
19 operate, maintain, or improve the drainage systems used on or
20 by land or a facility used for production agriculture purposes,
21 as defined in Section 3-35 of the Use Tax Act, except newly
22 constructed buildings and newly installed impervious surfaces.
23 New buildings and pavement shall not be exempt from stormwater
24 management. Disputes regarding the exemption shall be
25 determined by a mutually agreed upon arbitrator paid by the
26 disputing party or parties.

27 (e) Before the stormwater management planning committee
28 recommends to the county board a stormwater management plan for
29 the county or a portion thereof, it shall submit the plan to
30 the Office of Water Resources of the Department of Natural
31 Resources for review and recommendations. The Office, in
32 reviewing the plan, shall consider such factors as impacts on
33 the levels or flows in rivers and streams and the cumulative
34 effects of stormwater discharges on flood levels. The Office of
35 Water Resources shall determine whether the plan or ordinances
36 enacted to implement the plan complies with the requirements of

1 subsection (f). Within a period not to exceed 60 days, the
2 review comments and recommendations shall be submitted to the
3 stormwater management planning committee for consideration.
4 Any amendments to the plan shall be submitted to the Office for
5 review.

6 (f) Prior to recommending the plan to the county board, the
7 stormwater management planning committee shall hold at least
8 one public hearing thereon and shall afford interested persons
9 an opportunity to be heard. The hearing shall be held in the
10 county seat. Notice of the hearing shall be published at least
11 once no less than 15 days in advance thereof in a newspaper of
12 general circulation published in the county. The notice shall
13 state the time and place of the hearing and the place where
14 copies of the proposed plan will be accessible for examination
15 by interested parties. If an affected municipality having a
16 stormwater management plan adopted by ordinance wishes to
17 protest the proposed county plan provisions, it shall appear at
18 the hearing and submit in writing specific proposals to the
19 stormwater management planning committee. After consideration
20 of the matters raised at the hearing, the committee may amend
21 or approve the plan and recommend it to the county board for
22 adoption.

23 The county board may enact the proposed plan by ordinance.
24 If the proposals for modification of the plan made by an
25 affected municipality having a stormwater management plan are
26 not included in the proposed county plan, and the municipality
27 affected by the plan opposes adoption of the county plan by
28 resolution of its corporate authorities, approval of the county
29 plan shall require an affirmative vote of at least two-thirds
30 of the county board members present and voting. If the county
31 board wishes to amend the county plan, it shall submit in
32 writing specific proposals to the stormwater management
33 planning committee. If the proposals are not approved by the
34 committee, or are opposed by resolution of the corporate
35 authorities of an affected municipality having a municipal
36 stormwater management plan, amendment of the plan shall require

1 an affirmative vote of at least two-thirds of the county board
2 members present and voting.

3 (g) The county board may prescribe by ordinance reasonable
4 rules and regulations for floodplain management and for
5 governing the location, width, course, and release rate of all
6 stormwater runoff channels, streams, and basins in the county,
7 in accordance with the adopted stormwater management plan,
8 unless those actions would interfere with the ability to
9 operate, maintain, or improve the drainage systems used on or
10 by land or facility used for production agriculture as defined
11 in subsection (d). These rules and regulations shall, at a
12 minimum, meet the standards for floodplain management
13 established by the Office of Water Resources and the
14 requirements of the Federal Emergency Management Agency for
15 participation in the National Flood Insurance Program. The
16 Commission may not impose more stringent regulations regarding
17 water quality on entities discharging in accordance with a
18 valid National Pollution Discharge Elimination System permit
19 issued under the Environmental Protection Act.

20 (h) In accordance with, and if recommended in, the adopted
21 stormwater management plan, the county board may adopt a
22 schedule of fees as may be necessary to mitigate the effects of
23 increased stormwater runoff resulting from new development
24 based on actual costs. The fees shall not exceed the cost of
25 satisfying the onsite stormwater retention or detention
26 requirements of the adopted stormwater management plan. The
27 fees shall be used to finance activities undertaken by the
28 county or its included municipalities to mitigate the effects
29 of urban stormwater runoff by providing regional stormwater
30 retention or detention facilities, as identified in the county
31 plan. The county board shall provide for a credit or reduction
32 in fees for any onsite retention, detention, drainage district
33 assessments, or other similar stormwater facility that the
34 developer is required to construct consistent with the
35 stormwater management ordinance. All such fees collected by the
36 county shall be held in a separate fund, and shall be expended

1 only in the watershed within which they were collected.

2 (i) For the purpose of implementing this Section and for
3 the development, design, planning, construction, operation,
4 and maintenance of stormwater facilities provided for in the
5 stormwater management plan, a county board that has established
6 a stormwater management planning committee pursuant to this
7 Section may cause an annual tax of not to exceed 0.20% of the
8 value, as equalized or assessed by the Department of Revenue,
9 of all taxable property in the county to be levied upon all the
10 taxable property in the county or occupation and use taxes of
11 no more than 1/10 of one cent. The property tax shall be in
12 addition to all other taxes authorized by law to be levied and
13 collected in the county and shall be in addition to the maximum
14 tax rate authorized by law for general county purposes. The
15 0.20% limitation provided in this Section may be increased or
16 decreased by referendum in accordance with the provisions of
17 Sections 18-120, 18-125, and 18-130 of the Property Tax Code.

18 Any revenues generated as a result of ownership or
19 operation of facilities or land acquired with the tax funds
20 collected pursuant to this subsection shall be held in a
21 separate fund and be used either to abate such property tax or
22 for implementing this Section.

23 However, the tax authorized by this subsection shall not be
24 levied until the question of its adoption, either for a
25 specified period or indefinitely, has been submitted to the
26 electors thereof and approved by a majority of those voting on
27 the question. This question may be submitted at any election
28 held in the county after the adoption of a resolution by the
29 county board providing for the submission of the question to
30 the electors of the county. The county board shall certify the
31 resolution and proposition to the proper election officials,
32 who shall submit the proposition at an election in accordance
33 with the general election law. If a majority of the votes cast
34 on the question is in favor of the levy of the tax, it may
35 thereafter be levied in the county for the specified period or
36 indefinitely, as provided in the proposition. The question

1 shall be put in substantially the following form:

2 Shall an annual tax be levied for stormwater management
3 purposes (for a period of not more than years) at a
4 rate not exceeding% of the equalized assessed value
5 of the taxable property of County?

6 Or this question may be submitted at any election held in the
7 county after the adoption of a resolution by the county board
8 providing for the submission of the question to the electors of
9 the county to authorize use and occupation taxes of no more
10 than 1/10 of one cent:

11 Shall use and occupation taxes be raised for stormwater
12 management purposes (for a period of not more than
13 years) at a rate not exceeding% for taxable goods in
14 County?

15 Votes shall be recorded as Yes or No.

16 (j) For those counties that adopt a property tax in
17 accordance with the provisions in this Section, the stormwater
18 management committee shall offer property tax abatements or
19 incentive payments to property owners who construct, maintain,
20 and use approved stormwater management devices. For those
21 counties that adopt use and occupation taxes in accordance with
22 the provisions of this Section, the stormwater management
23 commission may offer tax rebates or incentive payments to
24 property owners who construct, maintain, and use approved
25 stormwater management devices. The Stormwater Management
26 Commission is authorized to offer credits to the property tax,
27 if applicable, based on authorized practices consistent with
28 the stormwater management plan and approved by the Commission.

29 (k) Upon the creation and implementation of a county
30 stormwater management plan, the county may petition the circuit
31 court to dissolve any or all drainage districts created
32 pursuant to the Illinois Drainage Code or predecessor Acts that
33 are located entirely within the area of the county covered by
34 the plan, unless the drainage district petitions the county for
35 exception from dissolution within 60 days after notice that is
36 personally served upon each of the trustees of the district and

1 its attorney. The circuit court shall not dissolve any drainage
2 district that petitions the county within 60 days after notice.

3 The dissolution of any drainage district shall not affect
4 the obligation of any bonds issued or contracts entered into by
5 the district nor invalidate the levy, extension, or collection
6 of any taxes or special assessments upon the property in the
7 former drainage district. All property and obligations of the
8 former drainage district shall be assumed and managed by the
9 county, and the debts of the former drainage district shall be
10 discharged as soon as practical.

11 If a drainage district lies only partly within a county
12 that adopts a county stormwater management plan, the county may
13 petition the circuit court to disconnect from the drainage
14 district that portion of the district that lies within that
15 county unless the drainage district petitions the stormwater
16 management planning committee for exception from dissolution
17 within 60 days after notice that is personally served upon each
18 of the trustees of the district. The property of the drainage
19 district within the disconnected area shall be assumed and
20 managed by the county. The county shall also assume a portion
21 of the drainage district's debt at the time of disconnection,
22 based on the portion of the value of the taxable property of
23 the drainage district that is located within the area being
24 disconnected.

25 The operations of any drainage district that continues to
26 exist in a county that has adopted a stormwater management plan
27 in accordance with this Section shall be in accordance with the
28 adopted plan unless those actions would interfere with the
29 ability to operate, maintain, or improve the drainage systems
30 used on or by land or facility used for production agriculture
31 as defined in subsection (d). The stormwater committee and
32 county shall not have the authority to require any drainage
33 district to disburse drainage district funds.

34 (1) Any county that has adopted a county stormwater
35 management plan under this Section may, after 10 days written
36 notice receiving consent of the owner or occupant, enter upon

1 any lands or waters within the county for the purpose of
2 inspecting stormwater facilities or causing the removal of any
3 obstruction to an affected watercourse. If consent is denied or
4 cannot be reasonably obtained, the county ordinance shall
5 provide a process or procedure for an administrative warrant to
6 be obtained. The county shall be responsible for any damages
7 occasioned thereby.

8 (m) Upon petition of the municipality, and based on a
9 finding of the stormwater management planning committee, the
10 county shall not enforce rules and regulations adopted by the
11 county in any municipality located wholly or partly within the
12 county that has a municipal stormwater management ordinance
13 that is consistent with and at least as stringent as the county
14 plan and ordinance, and is being enforced by the municipal
15 authorities. On issues that the county ordinance is more
16 stringent as deemed by the commission, the county shall only
17 enforce rules and regulations adopted by the county on the more
18 stringent issues and accept municipal permits. The county shall
19 have no more than 60 days to review permits or the permits
20 shall be deemed approved.

21 (n) A county may issue general obligation bonds for
22 implementing any stormwater plan adopted under this Section in
23 the manner prescribed in Section 5-1012; except that the
24 referendum requirement of Section 5-1012 does not apply to
25 bonds issued pursuant to this Section on which the principal
26 and interest are to be paid entirely out of funds generated by
27 the taxes and fees authorized by this Section.

28 (o) The powers authorized by this Section may be
29 implemented by the county board for a portion of the county
30 subject to similar stormwater management needs.

31 (p) The powers and taxes authorized by this Section are in
32 addition to the powers and taxes authorized by Division 5-15;
33 in exercising its powers under this Section, a county shall not
34 be subject to the restrictions and requirements of that
35 Division.

36 (q) Pursuant to paragraphs (q) and (i) of Section 6 of

1 Article VII of the Illinois Constitution, this Section
2 specifically denies and limits the exercise of any power that
3 is inconsistent herewith by home rule units in any county with
4 a population of less than 1,500,000. This Section does not
5 prohibit the concurrent exercise of powers consistent
6 herewith.

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