



Sen. William R. Haine

Filed: 4/11/2005

09400SB1910sam002

LRB094 10044 RCE 44903 a

1 AMENDMENT TO SENATE BILL 1910

2 AMENDMENT NO. _____. Amend Senate Bill 1910 by replacing
3 everything after the enacting clause with the following:

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

1 watershed plans.

2 (b) A stormwater management planning committee may be
3 established by county board resolution, with its membership
4 consisting of equal numbers of county board and municipal
5 representatives from each county board district, and such other
6 members as may be determined by the county and municipal
7 members. If the county has more than 6 county board districts,
8 however, the county board may by ordinance divide the county
9 into not less than 6 areas of approximately equal population,
10 to be used instead of county board districts for the purpose of
11 determining representation on the stormwater management
12 planning committee.

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

1 representative and one a municipal representative.

2 The principal duties of the committee shall be to develop a
3 stormwater management plan for presentation to and approval by
4 the county board, and to direct the plan's implementation and
5 revision. The committee may retain engineering, legal, and
6 financial advisors and inspection personnel. The committee
7 shall meet at least quarterly and shall hold at least one
8 public meeting during the preparation of the plan and prior to
9 its submittal to the county board. The committee may make
10 grants to units of local government and landowners for the
11 purposes of stormwater management; grants must be consistent
12 with the stormwater management plan.

13 The committee shall not have or exercise any power of
14 eminent domain.

15 (c) In the preparation of a stormwater management plan, a
16 county stormwater management planning committee shall
17 coordinate the planning process with each adjoining county to
18 ensure that recommended stormwater projects will have no
19 significant impact on the levels or flows of stormwaters in
20 inter-county watersheds or on the capacity of existing and
21 planned stormwater retention facilities. An adopted stormwater
22 management plan shall identify steps taken by the county to
23 coordinate the development of plan recommendations with
24 adjoining counties.

25 (d) The Stormwater Management Committee may not enforce any
26 rules or regulations that would interfere with (i) any power
27 granted by the Illinois Drainage Code to operate, construct,
28 maintain, or improve drainage systems or (ii) the ability to
29 operate, maintain, or improve the drainage systems used on or
30 by land or a facility used for production agriculture purposes,
31 as defined in Section 3-35 of the Use Tax Act, except newly
32 constructed buildings and newly installed impervious surfaces.
33 New buildings and pavement shall not be exempt from stormwater
34 management. Disputes regarding the exemption shall be

1 determined by a mutually agreed upon arbitrator paid by the
2 disputing party or parties.

3 (e) Before the stormwater management planning committee
4 recommends to the county board a stormwater management plan for
5 the county or a portion thereof, it shall submit the plan to
6 the Office of Water Resources of the Department of Natural
7 Resources for review and recommendations. The Office, in
8 reviewing the plan, shall consider such factors as impacts on
9 the levels or flows in rivers and streams and the cumulative
10 effects of stormwater discharges on flood levels. The Office of
11 Water Resources shall determine whether the plan or ordinances
12 enacted to implement the plan complies with the requirements of
13 subsection (f). Within a period not to exceed 60 days, the
14 review comments and recommendations shall be submitted to the
15 stormwater management planning committee for consideration.
16 Any amendments to the plan shall be submitted to the Office for
17 review.

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

1 The county board may enact the proposed plan by ordinance.
2 If the proposals for modification of the plan made by an
3 affected municipality having a stormwater management plan are
4 not included in the proposed county plan, and the municipality
5 affected by the plan opposes adoption of the county plan by
6 resolution of its corporate authorities, approval of the county
7 plan shall require an affirmative vote of at least two-thirds
8 of the county board members present and voting. If the county
9 board wishes to amend the county plan, it shall submit in
10 writing specific proposals to the stormwater management
11 planning committee. If the proposals are not approved by the
12 committee, or are opposed by resolution of the corporate
13 authorities of an affected municipality having a municipal
14 stormwater management plan, amendment of the plan shall require
15 an affirmative vote of at least two-thirds of the county board
16 members present and voting.

17 (g) The county board may prescribe by ordinance reasonable
18 rules and regulations for floodplain management and for
19 governing the location, width, course, and release rate of all
20 stormwater runoff channels, streams, and basins in the county,
21 in accordance with the adopted stormwater management plan,
22 unless those actions would interfere with the ability to
23 operate, maintain, or improve the drainage systems used on or
24 by land or facility used for production agriculture as defined
25 in subsection (d). These rules and regulations shall, at a
26 minimum, meet the standards for floodplain management
27 established by the Office of Water Resources and the
28 requirements of the Federal Emergency Management Agency for
29 participation in the National Flood Insurance Program. The
30 Commission may not impose more stringent regulations regarding
31 water quality on entities discharging in accordance with a
32 valid National Pollution Discharge Elimination System permit
33 issued under the Environmental Protection Act.

34 (h) In accordance with, and if recommended in, the adopted

1 stormwater management plan, the county board may adopt a
2 schedule of fees as may be necessary to mitigate the effects of
3 increased stormwater runoff resulting from new development
4 based on actual costs. The fees shall not exceed the cost of
5 satisfying the onsite stormwater retention or detention
6 requirements of the adopted stormwater management plan. The
7 fees shall be used to finance activities undertaken by the
8 county or its included municipalities to mitigate the effects
9 of urban stormwater runoff by providing regional stormwater
10 retention or detention facilities, as identified in the county
11 plan. The county board shall provide for a credit or reduction
12 in fees for any onsite retention, detention, drainage district
13 assessments, or other similar stormwater facility that the
14 developer is required to construct consistent with the
15 stormwater management ordinance. All such fees collected by the
16 county shall be held in a separate fund, and shall be expended
17 only in the watershed within which they were collected.

18 (i) For the purpose of implementing this Section and for
19 the development, design, planning, construction, operation,
20 and maintenance of stormwater facilities provided for in the
21 stormwater management plan, a county board that has established
22 a stormwater management planning committee pursuant to this
23 Section may cause an annual tax of not to exceed 0.20% of the
24 value, as equalized or assessed by the Department of Revenue,
25 of all taxable property in the county to be levied upon all the
26 taxable property in the county or occupation and use taxes of
27 no more than 1/10 of one cent. The property tax shall be in
28 addition to all other taxes authorized by law to be levied and
29 collected in the county and shall be in addition to the maximum
30 tax rate authorized by law for general county purposes. The
31 0.20% limitation provided in this Section may be increased or
32 decreased by referendum in accordance with the provisions of
33 Sections 18-120, 18-125, and 18-130 of the Property Tax Code.

34 Any revenues generated as a result of ownership or

1 operation of facilities or land acquired with the tax funds
2 collected pursuant to this subsection shall be held in a
3 separate fund and be used either to abate such property tax or
4 for implementing this Section.

5 However, the tax authorized by this subsection shall not be
6 levied until the question of its adoption, either for a
7 specified period or indefinitely, has been submitted to the
8 electors thereof and approved by a majority of those voting on
9 the question. This question may be submitted at any election
10 held in the county after the adoption of a resolution by the
11 county board providing for the submission of the question to
12 the electors of the county. The county board shall certify the
13 resolution and proposition to the proper election officials,
14 who shall submit the proposition at an election in accordance
15 with the general election law. If a majority of the votes cast
16 on the question is in favor of the levy of the tax, it may
17 thereafter be levied in the county for the specified period or
18 indefinitely, as provided in the proposition. The question
19 shall be put in substantially the following form:

20 Shall an annual tax be levied for stormwater management
21 purposes (for a period of not more thanyears) at a
22 rate not exceeding% of the equalized assessed value
23 of the taxable property ofCounty?

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

29 Shall use and occupation taxes be raised for stormwater
30 management purposes (for a period of not more than
31 years) at a rate not exceeding% for taxable goods in
32 County?

33 Votes shall be recorded as Yes or No.

34 (j) For those counties that adopt a property tax in

1 accordance with the provisions in this Section, the stormwater
2 management committee shall offer property tax abatements or
3 incentive payments to property owners who construct, maintain,
4 and use approved stormwater management devices. For those
5 counties that adopt use and occupation taxes in accordance with
6 the provisions of this Section, the stormwater management
7 commission may offer tax rebates or incentive payments to
8 property owners who construct, maintain, and use approved
9 stormwater management devices. The Stormwater Management
10 Commission is authorized to offer credits to the property tax,
11 if applicable, based on authorized practices consistent with
12 the stormwater management plan and approved by the Commission.

13 (k) Upon the creation and implementation of a county
14 stormwater management plan, the county may petition the circuit
15 court to dissolve any or all drainage districts created
16 pursuant to the Illinois Drainage Code or predecessor Acts that
17 are located entirely within the area of the county covered by
18 the plan, unless the drainage district petitions the county for
19 exception from dissolution within 60 days after notice that is
20 personally served upon each of the trustees of the district and
21 its attorney. The circuit court shall not dissolve any drainage
22 district that petitions the county within 60 days after notice.

23 The dissolution of any drainage district shall not affect
24 the obligation of any bonds issued or contracts entered into by
25 the district nor invalidate the levy, extension, or collection
26 of any taxes or special assessments upon the property in the
27 former drainage district. All property and obligations of the
28 former drainage district shall be assumed and managed by the
29 county, and the debts of the former drainage district shall be
30 discharged as soon as practical.

31 If a drainage district lies only partly within a county
32 that adopts a county stormwater management plan, the county may
33 petition the circuit court to disconnect from the drainage
34 district that portion of the district that lies within that

1 county unless the drainage district petitions the stormwater
2 management planning committee for exception from dissolution
3 within 60 days after notice that is personally served upon each
4 of the trustees of the district. The property of the drainage
5 district within the disconnected area shall be assumed and
6 managed by the county. The county shall also assume a portion
7 of the drainage district's debt at the time of disconnection,
8 based on the portion of the value of the taxable property of
9 the drainage district that is located within the area being
10 disconnected.

11 The operations of any drainage district that continues to
12 exist in a county that has adopted a stormwater management plan
13 in accordance with this Section shall be in accordance with the
14 adopted plan unless those actions would interfere with the
15 ability to operate, maintain, or improve the drainage systems
16 used on or by land or facility used for production agriculture
17 as defined in subsection (d). The stormwater committee and
18 county shall not have the authority to require any drainage
19 district to disburse drainage district funds.

20 (l) Any county that has adopted a county stormwater
21 management plan under this Section may, after 10 days written
22 notice receiving consent of the owner or occupant, enter upon
23 any lands or waters within the county for the purpose of
24 inspecting stormwater facilities or causing the removal of any
25 obstruction to an affected watercourse. If consent is denied or
26 cannot be reasonably obtained, the county ordinance shall
27 provide a process or procedure for an administrative warrant to
28 be obtained. The county shall be responsible for any damages
29 occasioned thereby.

30 (m) Upon petition of the municipality, and based on a
31 finding of the stormwater management planning committee, the
32 county shall not enforce rules and regulations adopted by the
33 county in any municipality located wholly or partly within the
34 county that has a municipal stormwater management ordinance

1 that is consistent with and at least as stringent as the county
2 plan and ordinance, and is being enforced by the municipal
3 authorities. On issues that the county ordinance is more
4 stringent as deemed by the commission, the county shall only
5 enforce rules and regulations adopted by the county on the more
6 stringent issues and accept municipal permits. The county shall
7 have no more than 60 days to review permits or the permits
8 shall be deemed approved.

9 (n) A county may issue general obligation bonds for
10 implementing any stormwater plan adopted under this Section in
11 the manner prescribed in Section 5-1012; except that the
12 referendum requirement of Section 5-1012 does not apply to
13 bonds issued pursuant to this Section on which the principal
14 and interest are to be paid entirely out of funds generated by
15 the taxes and fees authorized by this Section.

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

19 (p) The powers and taxes authorized by this Section are in
20 addition to the powers and taxes authorized by Division 5-15;
21 in exercising its powers under this Section, a county shall not
22 be subject to the restrictions and requirements of that
23 Division.

24 (q) Pursuant to paragraphs (g) and (i) of Section 6 of
25 Article VII of the Illinois Constitution, this Section
26 specifically denies and limits the exercise of any power that
27 is inconsistent herewith by home rule units in any county with
28 a population of less than 1,500,000. This Section does not
29 prohibit the concurrent exercise of powers consistent
30 herewith.

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