



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2164

Introduced 1/4/2006, by Sen. Frank C. Watson

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4
415 ILCS 5/7

from Ch. 111 1/2, par. 1004
from Ch. 111 1/2, par. 1007

Amends the Environmental Protection Act. Authorizes the Agency to collect and solicit citizen complaints alleging a violation of the Act, any rule adopted under the Act, a permit granted by the Agency, or a condition of a permit via telephone, website, fax, mail, e-mail, or any other reasonable means. Provides that the Agency may not accept citizen complaints that are anonymous and unaccompanied by the name and mailing address of the complainant. Sets forth that the Agency must keep the name and address of the complainant confidential. Exempts the name and address of these complainants from public disclosure under provisions of the Act authorizing reasonable public inspection. Effective immediately.

LRB094 14231 RSP 50042 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sections 4 and 7 as follows:

6 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

7 Sec. 4. Environmental Protection Agency; establishment;
8 duties.

9 (a) There is established in the Executive Branch of the
10 State Government an agency to be known as the Environmental
11 Protection Agency. This Agency shall be under the supervision
12 and direction of a Director who shall be appointed by the
13 Governor with the advice and consent of the Senate. The term of
14 office of the Director shall expire on the third Monday of
15 January in odd numbered years, provided that he or she shall
16 hold office until a successor is appointed and has qualified.
17 The Director shall receive an annual salary as set by the
18 Governor from time to time or as set by the Compensation Review
19 Board, whichever is greater. If set by the Governor, the
20 Director's annual salary may not exceed 85% of the Governor's
21 annual salary. The Director, in accord with the Personnel Code,
22 shall employ and direct such personnel, and shall provide for
23 such laboratory and other facilities, as may be necessary to
24 carry out the purposes of this Act. In addition, the Director
25 may by agreement secure such services as he or she may deem
26 necessary from any other department, agency, or unit of the
27 State Government, and may employ and compensate such
28 consultants and technical assistants as may be required.

29 (b) The Agency shall have the duty to collect and
30 disseminate such information, acquire such technical data, and
31 conduct such experiments as may be required to carry out the
32 purposes of this Act, including ascertainment of the quantity

1 and nature of discharges from any contaminant source and data
2 on those sources, and to operate and arrange for the operation
3 of devices for the monitoring of environmental quality.

4 (c) The Agency shall have authority to conduct a program of
5 continuing surveillance and of regular or periodic inspection
6 of actual or potential contaminant or noise sources, of public
7 water supplies, and of refuse disposal sites.

8 (d) In accordance with constitutional limitations, the
9 Agency shall have authority to enter at all reasonable times
10 upon any private or public property for the purpose of:

11 (1) Inspecting and investigating to ascertain possible
12 violations of this Act, any rule or regulation adopted
13 under this Act, any permit or term or condition of a
14 permit, or any Board order; or

15 (2) In accordance with the provisions of this Act,
16 taking whatever preventive or corrective action, including
17 but not limited to removal or remedial action, that is
18 necessary or appropriate whenever there is a release or a
19 substantial threat of a release of (A) a hazardous
20 substance or pesticide or (B) petroleum from an underground
21 storage tank.

22 (e) The Agency shall have the duty to investigate
23 violations of this Act, any rule or regulation adopted under
24 this Act, any permit or term or condition of a permit, or any
25 Board order; to issue administrative citations as provided in
26 Section 31.1 of this Act; and to take such summary enforcement
27 action as is provided for by Section 34 of this Act.

28 The Agency's duty to investigate under this Act may include
29 the authority to collect and solicit citizen complaints
30 alleging a violation of the Act, any rule adopted under the
31 Act, a permit granted by the Agency, or a condition of the
32 permit via telephone, website, fax, mail, e-mail, or any other
33 reasonable means. The Agency, however, may not accept citizen
34 complaints that are anonymous and unaccompanied by the name and
35 mailing address of the complainant. The Agency must keep the
36 name and address of the complainant confidential.

1 (f) The Agency shall appear before the Board in any hearing
2 upon a petition for variance, the denial of a permit, or the
3 validity or effect of a rule or regulation of the Board, and
4 shall have the authority to appear before the Board in any
5 hearing under the Act.

6 (g) The Agency shall have the duty to administer, in accord
7 with Title X of this Act, such permit and certification systems
8 as may be established by this Act or by regulations adopted
9 thereunder. The Agency may enter into written delegation
10 agreements with any department, agency, or unit of State or
11 local government under which all or portions of this duty may
12 be delegated for public water supply storage and transport
13 systems, sewage collection and transport systems, air
14 pollution control sources with uncontrolled emissions of 100
15 tons per year or less and application of algicides to waters of
16 the State. Such delegation agreements will require that the
17 work to be performed thereunder will be in accordance with
18 Agency criteria, subject to Agency review, and shall include
19 such financial and program auditing by the Agency as may be
20 required.

21 (h) The Agency shall have authority to require the
22 submission of complete plans and specifications from any
23 applicant for a permit required by this Act or by regulations
24 thereunder, and to require the submission of such reports
25 regarding actual or potential violations of this Act, any rule
26 or regulation adopted under this Act, any permit or term or
27 condition of a permit, or any Board order, as may be necessary
28 for the purposes of this Act.

29 (i) The Agency shall have authority to make recommendations
30 to the Board for the adoption of regulations under Title VII of
31 the Act.

32 (j) The Agency shall have the duty to represent the State
33 of Illinois in any and all matters pertaining to plans,
34 procedures, or negotiations for interstate compacts or other
35 governmental arrangements relating to environmental
36 protection.

1 (k) The Agency shall have the authority to accept, receive,
2 and administer on behalf of the State any grants, gifts, loans,
3 indirect cost reimbursements, or other funds made available to
4 the State from any source for purposes of this Act or for air
5 or water pollution control, public water supply, solid waste
6 disposal, noise abatement, or other environmental protection
7 activities, surveys, or programs. Any federal funds received by
8 the Agency pursuant to this subsection shall be deposited in a
9 trust fund with the State Treasurer and held and disbursed by
10 him in accordance with Treasurer as Custodian of Funds Act,
11 provided that such monies shall be used only for the purposes
12 for which they are contributed and any balance remaining shall
13 be returned to the contributor.

14 The Agency is authorized to promulgate such regulations and
15 enter into such contracts as it may deem necessary for carrying
16 out the provisions of this subsection.

17 (1) The Agency is hereby designated as water pollution
18 agency for the state for all purposes of the Federal Water
19 Pollution Control Act, as amended; as implementing agency for
20 the State for all purposes of the Safe Drinking Water Act,
21 Public Law 93-523, as now or hereafter amended, except Section
22 1425 of that Act; as air pollution agency for the state for all
23 purposes of the Clean Air Act of 1970, Public Law 91-604,
24 approved December 31, 1970, as amended; and as solid waste
25 agency for the state for all purposes of the Solid Waste
26 Disposal Act, Public Law 89-272, approved October 20, 1965, and
27 amended by the Resource Recovery Act of 1970, Public Law
28 91-512, approved October 26, 1970, as amended, and amended by
29 the Resource Conservation and Recovery Act of 1976, (P.L.
30 94-580) approved October 21, 1976, as amended; as noise control
31 agency for the state for all purposes of the Noise Control Act
32 of 1972, Public Law 92-574, approved October 27, 1972, as
33 amended; and as implementing agency for the State for all
34 purposes of the Comprehensive Environmental Response,
35 Compensation, and Liability Act of 1980 (P.L. 96-510), as
36 amended; and otherwise as pollution control agency for the

1 State pursuant to federal laws integrated with the foregoing
2 laws, for financing purposes or otherwise. The Agency is hereby
3 authorized to take all action necessary or appropriate to
4 secure to the State the benefits of such federal Acts, provided
5 that the Agency shall transmit to the United States without
6 change any standards adopted by the Pollution Control Board
7 pursuant to Section 5(c) of this Act. This subsection (l) of
8 Section 4 shall not be construed to bar or prohibit the
9 Environmental Protection Trust Fund Commission from accepting,
10 receiving, and administering on behalf of the State any grants,
11 gifts, loans or other funds for which the Commission is
12 eligible pursuant to the Environmental Protection Trust Fund
13 Act. The Agency is hereby designated as the State agency for
14 all purposes of administering the requirements of Section 313
15 of the federal Emergency Planning and Community Right-to-Know
16 Act of 1986.

17 Any municipality, sanitary district, or other political
18 subdivision, or any Agency of the State or interstate Agency,
19 which makes application for loans or grants under such federal
20 Acts shall notify the Agency of such application; the Agency
21 may participate in proceedings under such federal Acts.

22 (m) The Agency shall have authority, consistent with
23 Section 5(c) and other provisions of this Act, and for purposes
24 of Section 303(e) of the Federal Water Pollution Control Act,
25 as now or hereafter amended, to engage in planning processes
26 and activities and to develop plans in cooperation with units
27 of local government, state agencies and officers, and other
28 appropriate persons in connection with the jurisdiction or
29 duties of each such unit, agency, officer or person. Public
30 hearings shall be held on the planning process, at which any
31 person shall be permitted to appear and be heard, pursuant to
32 procedural regulations promulgated by the Agency.

33 (n) In accordance with the powers conferred upon the Agency
34 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
35 Agency shall have authority to establish and enforce minimum
36 standards for the operation of laboratories relating to

1 analyses and laboratory tests for air pollution, water
2 pollution, noise emissions, contaminant discharges onto land
3 and sanitary, chemical, and mineral quality of water
4 distributed by a public water supply. The Agency may enter into
5 formal working agreements with other departments or agencies of
6 state government under which all or portions of this authority
7 may be delegated to the cooperating department or agency.

8 (o) The Agency shall have the authority to issue
9 certificates of competency to persons and laboratories meeting
10 the minimum standards established by the Agency in accordance
11 with Section 4(n) of this Act and to promulgate and enforce
12 regulations relevant to the issuance and use of such
13 certificates. The Agency may enter into formal working
14 agreements with other departments or agencies of state
15 government under which all or portions of this authority may be
16 delegated to the cooperating department or agency.

17 (p) Except as provided in Section 17.7, the Agency shall
18 have the duty to analyze samples as required from each public
19 water supply to determine compliance with the contaminant
20 levels specified by the Pollution Control Board. The maximum
21 number of samples which the Agency shall be required to analyze
22 for microbiological quality shall be 6 per month, but the
23 Agency may, at its option, analyze a larger number each month
24 for any supply. Results of sample analyses for additional
25 required bacteriological testing, turbidity, residual chlorine
26 and radionuclides are to be provided to the Agency in
27 accordance with Section 19. Owners of water supplies may enter
28 into agreements with the Agency to provide for reduced Agency
29 participation in sample analyses.

30 (q) The Agency shall have the authority to provide notice
31 to any person who may be liable pursuant to Section 22.2(f) of
32 this Act for a release or a substantial threat of a release of
33 a hazardous substance or pesticide. Such notice shall include
34 the identified response action and an opportunity for such
35 person to perform the response action.

36 (r) The Agency may enter into written delegation agreements

1 with any unit of local government under which it may delegate
2 all or portions of its inspecting, investigating and
3 enforcement functions. Such delegation agreements shall
4 require that work performed thereunder be in accordance with
5 Agency criteria and subject to Agency review. Notwithstanding
6 any other provision of law to the contrary, no unit of local
7 government shall be liable for any injury resulting from the
8 exercise of its authority pursuant to such a delegation
9 agreement unless the injury is proximately caused by the
10 willful and wanton negligence of an agent or employee of the
11 unit of local government, and any policy of insurance coverage
12 issued to a unit of local government may provide for the denial
13 of liability and the nonpayment of claims based upon injuries
14 for which the unit of local government is not liable pursuant
15 to this subsection (r).

16 (s) The Agency shall have authority to take whatever
17 preventive or corrective action is necessary or appropriate,
18 including but not limited to expenditure of monies appropriated
19 from the Build Illinois Bond Fund and the Build Illinois
20 Purposes Fund for removal or remedial action, whenever any
21 hazardous substance or pesticide is released or there is a
22 substantial threat of such a release into the environment. The
23 State, the Director, and any State employee shall be
24 indemnified for any damages or injury arising out of or
25 resulting from any action taken under this subsection. The
26 Director of the Agency is authorized to enter into such
27 contracts and agreements as are necessary to carry out the
28 Agency's duties under this subsection.

29 (t) The Agency shall have authority to distribute grants,
30 subject to appropriation by the General Assembly, for financing
31 and construction of municipal wastewater facilities. With
32 respect to all monies appropriated from the Build Illinois Bond
33 Fund and the Build Illinois Purposes Fund for wastewater
34 facility grants, the Agency shall make distributions in
35 conformity with the rules and regulations established pursuant
36 to the Anti-Pollution Bond Act, as now or hereafter amended.

1 (u) Pursuant to the Illinois Administrative Procedure Act,
2 the Agency shall have the authority to adopt such rules as are
3 necessary or appropriate for the Agency to implement Section
4 31.1 of this Act.

5 (v) (Blank.)

6 (w) Neither the State, nor the Director, nor the Board, nor
7 any State employee shall be liable for any damages or injury
8 arising out of or resulting from any action taken under
9 subsection (s).

10 (x)(1) The Agency shall have authority to distribute
11 grants, subject to appropriation by the General Assembly,
12 to units of local government for financing and construction
13 of public water supply facilities. With respect to all
14 monies appropriated from the Build Illinois Bond Fund or
15 the Build Illinois Purposes Fund for public water supply
16 grants, such grants shall be made in accordance with rules
17 promulgated by the Agency. Such rules shall include a
18 requirement for a local match of 30% of the total project
19 cost for projects funded through such grants.

20 (2) The Agency shall not terminate a grant to a unit of
21 local government for the financing and construction of
22 public water supply facilities unless and until the Agency
23 adopts rules that set forth precise and complete standards,
24 pursuant to Section 5-20 of the Illinois Administrative
25 Procedure Act, for the termination of such grants. The
26 Agency shall not make determinations on whether specific
27 grant conditions are necessary to ensure the integrity of a
28 project or on whether subagreements shall be awarded, with
29 respect to grants for the financing and construction of
30 public water supply facilities, unless and until the Agency
31 adopts rules that set forth precise and complete standards,
32 pursuant to Section 5-20 of the Illinois Administrative
33 Procedure Act, for making such determinations. The Agency
34 shall not issue a stop-work order in relation to such
35 grants unless and until the Agency adopts precise and
36 complete standards, pursuant to Section 5-20 of the

1 Illinois Administrative Procedure Act, for determining
2 whether to issue a stop-work order.

3 (y) The Agency shall have authority to release any person
4 from further responsibility for preventive or corrective
5 action under this Act following successful completion of
6 preventive or corrective action undertaken by such person upon
7 written request by the person.

8 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

9 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007)

10 Sec. 7. Public inspection; fees.

11 (a) All files, records, and data of the Agency, the Board,
12 and the Department shall be open to reasonable public
13 inspection and may be copied upon payment of reasonable fees to
14 be established where appropriate by the Agency, the Board, or
15 the Department, except for the following:

- 16 (i) information which constitutes a trade secret;
17 (ii) information privileged against introduction in
18 judicial proceedings;
19 (iii) internal communications of the several agencies;
20 (iv) information concerning secret manufacturing
21 processes or confidential data submitted by any person
22 under this Act; ~~and~~

23 (v) information concerning the name or address of a
24 citizen complainant who has submitted a complaint to the
25 Agency alleging a violation of the Act, any rule adopted
26 under the Act, a permit granted by the Agency, or a
27 condition of the permit.

28 (b) Notwithstanding subsection (a) above, as to
29 information from or concerning persons subject to NPDES permit
30 requirements:

31 (i) effluent data may under no circumstances be kept
32 confidential; and

33 (ii) the Agency, the Board, and the Department may make
34 available to the public for inspection and copying any
35 required records, reports, information, permits, and

1 permit applications obtained from contaminant sources
2 subject to the provisions of Section 12 (f) of this Act;
3 provided that upon a showing satisfactory to the Agency,
4 the Board or the Department, as the case may be, by any
5 person that such information, or any part thereof (other
6 than effluent data) would, if made public, divulge methods
7 or processes entitled to protection as trade secrets of
8 such person, the Agency, the Board, or the Department, as
9 the case may be, shall treat such information as
10 confidential.

11 (c) Notwithstanding any other provision of this Title or
12 any other law to the contrary, all emission data reported to or
13 otherwise obtained by the Agency, the Board or the Department
14 in connection with any examination, inspection or proceeding
15 under this Act shall be available to the public to the extent
16 required by the federal Clean Air Act, as amended.

17 (d) Notwithstanding subsection (a) above, the quantity and
18 identity of substances being placed or to be placed in
19 landfills or hazardous waste treatment, storage or disposal
20 facilities, and the name of the generator of such substances
21 may under no circumstances be kept confidential.

22 (e) Notwithstanding any other provisions of this Title, or
23 any other law to the contrary, any information accorded
24 confidential treatment may be disclosed or transmitted to other
25 officers, employees or authorized representatives of this
26 State or of the United States concerned with or for the
27 purposes of carrying out this Act or federal environmental
28 statutes and regulations; provided, however, that such
29 information shall be identified as confidential by the Agency,
30 the Board, or the Department, as the case may be. Any
31 confidential information disclosed or transmitted under this
32 provision shall be used for the purposes stated herein.

33 (f) Except as provided in this Act neither the Agency, the
34 Board, nor the Department shall charge any fee for the
35 performance of its respective duties under this Act.

36 (g) All files, records and data of the Agency, the Board

1 and the Department shall be made available to the Department of
2 Public Health pursuant to the Illinois Health and Hazardous
3 Substances Registry Act. Expenses incurred in the copying and
4 transmittal of files, records and data requested pursuant to
5 this subsection (g) shall be the responsibility of the
6 Department of Public Health.

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

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