



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2504

Introduced 1/18/2006, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

520 ILCS 10/2	from Ch. 8, par. 332
520 ILCS 10/10	from Ch. 8, par. 340
520 ILCS 10/11	from Ch. 8, par. 341
525 ILCS 30/3	from Ch. 105, par. 703
525 ILCS 30/3.01-a new	
525 ILCS 30/3.02-a new	
525 ILCS 30/3.08-a new	
525 ILCS 30/3.17 new	
525 ILCS 30/17	from Ch. 105, par. 717

Amends the Illinois Endangered Species Protection Act. In a Section requiring units of local government and State agencies (now, agencies and local governments) to consult with the Department as to whether actions authorized, funded, or carried out by them are likely to jeopardize the continued existence of Illinois listed endangered and threatened species or are likely to result in the destruction or adverse modification of the essential habitat of such species, authorizes any party seeking authorization or funding to initiate the consultation process on behalf of the State agency or unit of local government from which the authorization or funding is sought. Provides that if a unit of local government or State agency is diligently proceeding with the consultation process in accordance with this Act, the unit of local government or State agency shall not be subject to any claim of inverse condemnation. Requires the Department to assign an expiration date to each individual compliance consultation. Adds certain definitions. Amends the Illinois Natural Areas Preservation Act to make corresponding changes. Makes other changes. Effective immediately.

LRB094 18520 RSP 53848 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning wildlife.

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

4 Section 5. The Illinois Endangered Species Protection Act
5 is amended by changing Sections 2, 10, and 11 as follows:

6 (520 ILCS 10/2) (from Ch. 8, par. 332)

7 Sec. 2. As used in this Act the following words have the
8 following meanings:

9 "Authorization" or "authorized" means any permitting,
10 licensing, zoning, or other approval provided by a unit of
11 local government or State agency.

12 "Board" means the Endangered Species Protection Board
13 created by this Act.

14 "Carried out" means activity conducted by, or on behalf of,
15 a unit of local government or State agency, or its agents,
16 through contract, agreement, or other arrangement.

17 "Conservation" means to use and the use of all methods and
18 procedures which are necessary to bring any endangered species
19 or threatened species to the point at which the measures
20 provided pursuant to this Act are no longer necessary. Such
21 methods and procedures include, but are not limited to, all
22 activities associated with scientific resources management
23 such as research, census, law enforcement, habitat acquisition
24 and maintenance, propagation and transplantation.

25 "Department" means the Department of Natural Resources and

26 "Director" means the Director of that Department.

27 "Endangered Species" means any species of plant or animal
28 classified as endangered under the Federal Endangered Species
29 Act of 1973, P.L. 93-205, and amendments thereto, plus such
30 other species which the Board may list as in danger of
31 extinction in the wild in Illinois due to one or more causes
32 including but not limited to, the destruction, diminution or

1 disturbance of habitat, overexploitation, predation,
2 pollution, disease, or other natural or manmade factors
3 affecting its prospects of survival.

4 "Funded" or "funding" means any grant, loan, loan
5 guarantee, bond, or other public financing provided by a unit
6 of local government or State agency.

7 "Threatened Species" means any species of plant or animal
8 classified as threatened under the Federal Endangered Species
9 Act of 1973, P.L. 93-205, and amendments thereto, plus such
10 other species which the Board may list as likely to become
11 endangered in the wild in Illinois within the foreseeable
12 future.

13 "Animal" means those organisms commonly included in the
14 science of zoology and generally distinguished from plants by
15 possession of a nervous system and the ability to move from
16 place to place, including all invertebrates such as sponges and
17 mollusks as well as vertebrates such as fishes, amphibians,
18 reptiles, birds, and mammals.

19 "Animal Product" means the fur, hide, skin, teeth,
20 feathers, tusks, claws, eggs, nests or the body or any portion
21 thereof whether in a green or raw state or as a product
22 manufactured or refined from an animal protected under this Act
23 or under rules issued pursuant to this Act.

24 "Plant" means any organism not considered to be an animal,
25 and shall include such organisms as algae, fungi, bryophytes,
26 and ferns, as well as flowering plants and conifers.

27 "Plant Product" means any plant body or part thereof
28 removed from natural habitat, including seeds, fruits, roots,
29 stems, flowers, leaves, or products made from any of these,
30 including extracts or powders.

31 "Essential Habitat" means the specific ecological
32 conditions required by an endangered or threatened species for
33 its survival and propagation, or physical examples of these
34 conditions.

35 "Take" means, in reference to animals and animal products,
36 to harm, hunt, shoot, pursue, lure, wound, kill, destroy,

1 harass, gig, spear, ensnare, trap, capture, collect, or to
2 attempt to engage in such conduct. "Take" means, in reference
3 to plants and plant products, to collect, pick, cut, dig up,
4 kill, destroy, bury, crush, or harm in any manner.

5 "Illinois List" means a list of species of animals and
6 plants listed by the Board as endangered or threatened.

7 "Person" means any individual, firm, corporation,
8 partnership, trust, association, private entity, government
9 agency, or their agents, and representatives.

10 "Unit of local government" means all those units of local
11 government as defined in Article 7, Section 1 of the
12 Constitution of the Sate of Illinois, as well as any boards or
13 commissions and subdivisions of these units of local
14 government, and includes school and community college
15 districts.

16 (Source: P.A. 89-445, eff. 2-7-96.)

17 (520 ILCS 10/10) (from Ch. 8, par. 340)

18 Sec. 10. The Endangered and Threatened Species Program
19 shall be located within the Department of Natural Resources
20 ~~Conservation~~. All fines collected under this Act shall be paid
21 to the State Treasurer and deposited in the ~~Nongame~~ Wildlife
22 Preservation ~~Conservation~~ Fund.

23 (Source: P.A. 84-1065.)

24 (520 ILCS 10/11) (from Ch. 8, par. 341)

25 Sec. 11. Conservation program; public policy; rules.

26 (a) The Department, with the advice of the Board, shall
27 actively plan and implement a program for the conservation of
28 endangered and threatened species, by means which should
29 include published data search, research, management,
30 cooperative agreements with other agencies, identification,
31 protection and acquisition of essential habitat, support of
32 beneficial legislation, issuance of grants from appropriated
33 funds, and education of the public.

34 (b) It is the public policy of all State agencies ~~of State~~

1 and units of local governments to utilize their authorities in
2 furtherance of the purposes of this Act by evaluating through a
3 consultation process with the Department whether actions
4 authorized, funded, or carried out by them are likely to
5 jeopardize the continued existence of Illinois listed
6 endangered and threatened species or are likely to result in
7 the destruction or adverse modification of the ~~designated~~
8 essential habitat of such species, except that any party
9 seeking authorization or funding may initiate the consultation
10 process on behalf of the State agency or unit of local
11 government from which the authorization or funding is sought.
12 The resulting Department review shall be made available to the
13 entity initiating the review prior to authorizing or funding
14 the proposed action. The policy stated in this subsection ~~which~~
15 ~~policy~~ shall be enforceable only by writ of mandamus. If ~~and~~
16 ~~where~~ a State ~~or local~~ agency or unit of local government
17 completes the consultation process in accordance with this Act
18 and regulations promulgated thereunder, ~~does so consult in~~
19 ~~furtherance of this public policy,~~ the ~~such~~ State ~~or local~~
20 agency or unit of local government shall be deemed to have
21 complied with its obligations under the "Illinois Endangered
22 Species Act", provided the agency action shall not result in
23 the wounding, killing, or destroying ~~injuring~~ of any Illinois
24 listed animal species, or provided that authorization for
25 taking a listed species has been issued under Section ~~4,~~ ~~5,~~ or
26 5.5 of this Act. If a unit of local government or State agency
27 is diligently proceeding with the consultation process in
28 accordance with this Act, the unit of local government or State
29 agency shall not be subject to any claim of inverse
30 condemnation. The Department shall assign an expiration date to
31 each individual consultation initiated under this Section.
32 ~~This paragraph (b) shall not apply to any project of a State~~
33 ~~agency on which a biological opinion has been issued (in~~
34 ~~accordance with Section 7 of the Federal Endangered Species~~
35 ~~Act) prior to the effective date of this amendatory Act of 1985~~
36 ~~stating that the action proposed by said project will not~~

1 ~~jeopardize the continued existence of any federal listed~~
2 ~~endangered or threatened species.~~

3 (c) The Department shall have the authority to adopt such
4 rules as are reasonable and necessary to implement the
5 provisions of this Act.

6 (Source: P.A. 91-556, eff. 1-1-00.)

7 Section 10. The Illinois Natural Areas Preservation Act is
8 amended by changing Sections 3 and 17 and by adding Sections
9 3.01-a, 3.08-a, 3.02-a, and 3.17 as follows:

10 (525 ILCS 30/3) (from Ch. 105, par. 703)

11 Sec. 3. Unless the context otherwise requires, the terms
12 defined in Sections 3.01 through 3.17 ~~3.16~~ have the meanings
13 ascribed to them in those Sections.

14 (Source: P.A. 82-445.)

15 (525 ILCS 30/3.01-a new)

16 Sec. 3.01-a. "Authorized" means any permitting, licensing,
17 zoning, or other approval provided by a unit of local
18 government or State agency.

19 (525 ILCS 30/3.02-a new)

20 Sec. 3.02-a. "Carried out" means activity conducted by, or
21 on behalf of, a unit of local government or State agency, or
22 its agents, through contract, agreement, or other arrangement.

23 (525 ILCS 30/3.08-a new)

24 Sec. 3.08-a. "Funded" means any grant, loan, loan
25 guarantee, bond, or other public financing provided by a unit
26 of local government or State agency.

27 (525 ILCS 30/3.17 new)

28 Sec. 3.17. "Unit of local government" means all those units
29 of local government as defined in Article 7, Section 1 of the
30 Constitution of the State of Illinois, as well as any boards or

1 commissions and subdivisions of these units of local
2 government, and includes school and community college
3 districts.

4 (525 ILCS 30/17) (from Ch. 105, par. 717)

5 Sec. 17. All State agencies and units of local government
6 ~~public agencies~~ shall recognize that the protection of nature
7 preserves, buffer areas, and registered areas is the public
8 policy of the State of Illinois and shall avoid the planning of
9 ~~any action that would adversely affect them.~~

10 It shall be the public policy of each State agency ~~of State~~
11 or unit of local government to utilize its authority in
12 furtherance of the purposes of this Act, and to evaluate,
13 through a process of consultation with the Department, whether
14 the actions, including capital projects, that are authorized,
15 funded, or carried out by the State agency ~~of State~~ or unit of
16 local government are likely to result in the destruction or
17 adverse modification of any natural area that is dedicated or
18 registered under this Act or identified in the Illinois Natural
19 Areas Inventory. Any other party seeking authorization or
20 funding from a unit of local government or State agency may
21 initiate the consultation process on behalf of the unit of
22 local government or State agency from which the authorization
23 or funding is sought. The resulting Department review shall be
24 made available to the entity initiating the review prior to
25 authorizing or funding the proposed action.

26 The consultation ~~evaluation~~ shall be conducted early in the
27 planning of a proposed action. If, through consultation with
28 the Department, the proposed action is found likely to
29 adversely modify ~~have an adverse impact on~~ a natural area, the
30 State agency or unit of local government shall study the
31 proposed action to determine possible methods of reducing,
32 eliminating, or mitigating the adverse modification ~~impact~~.
33 Before authorizing, funding, or carrying out ~~implementing~~ any
34 action, the State agency or unit of local government shall
35 attempt to mitigate or eliminate any adverse modifications

1 ~~impacts~~ in a manner consistent with the planned action. The
2 Department, Commission, or any affected person may seek a writ
3 of mandamus to compel an agency of State or local government to
4 engage in the evaluation and study required by this Section.
5 The Department shall assign an expiration date to each
6 individual consultation initiated under this Section
7 (Source: P.A. 88-139.)

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