



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB2809**

Introduced 1/20/2006, by Sen. Dale E. Risinger

**SYNOPSIS AS INTRODUCED:**

55 ILCS 5/5-1062.2

Amends the Counties Code. Includes Peoria County in the list of counties (i) that may establish a stormwater management planning committee for the purposes of preparing a stormwater management plan for presentation to and approval by the county board and (ii) that may adopt a schedule of fees in accordance with the stormwater management plan and levy an annual tax on all taxable property within the county. Contains other provisions. Effective immediately.

LRB094 19067 HLH 54569 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 changing Section  
5 5-1062.2 as follows:

6 (55 ILCS 5/5-1062.2)

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 the metropolitan counties of Madison, St. Clair,  
11 Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, Peoria,  
12 and Boone and references to "county" in this Section apply only  
13 to those counties. This Section does not apply to counties in  
14 the Northeastern Illinois Planning Commission that are granted  
15 authorities in Section 5-1062. The purpose of this Section  
16 shall be achieved by:

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

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

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

25 (b) A stormwater management planning committee may be  
26 established by county board resolution, with its membership  
27 consisting of equal numbers of county board and municipal  
28 representatives from each county board district, and such other  
29 members as may be determined by the county and municipal  
30 members. If the county has more than 6 county board districts,  
31 however, the county board may by ordinance divide the county  
32 into not less than 6 areas of approximately equal population,

1 to be used instead of county board districts for the purpose of  
2 determining representation on the stormwater management  
3 planning committee.

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

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

1 management plan and to landowners for the purposes of  
2 stormwater management, including special projects; use of the  
3 grant money must be consistent with the stormwater management  
4 plan.

5 The committee shall not have or exercise any power of  
6 eminent domain.

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

17 (d) The stormwater management committee may not enforce any  
18 rules or regulations that would interfere with (i) any power  
19 granted by the Illinois Drainage Code (70 ILCS 605/) to  
20 operate, construct, maintain, or improve drainage systems or  
21 (ii) the ability to operate, maintain, or improve the drainage  
22 systems used on or by land or a facility used for production  
23 agriculture purposes, as defined in the Use Tax Act (35 ILCS  
24 105/), except newly constructed buildings and newly installed  
25 impervious paved surfaces. Disputes regarding an exception  
26 shall be determined by a mutually agreed upon arbitrator paid  
27 by the disputing party or parties.

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

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

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

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

1 stormwater management plan, amendment of the plan shall require  
2 an affirmative vote of at least two-thirds of the county board  
3 members present and voting.

4 (g) The county board may prescribe by ordinance reasonable  
5 rules and regulations for floodplain management and for  
6 governing the location, width, course, and release rate of all  
7 stormwater runoff channels, streams, and basins in the county,  
8 in accordance with the adopted stormwater management plan.  
9 Land, facilities, and drainage district facilities used for  
10 production agriculture as defined in subsection (d) shall not  
11 be subjected to regulation by the county board or stormwater  
12 management committee under this Section for floodplain  
13 management and for governing location, width, course,  
14 maintenance, and release rate of stormwater runoff channels,  
15 streams and basins, or water discharged from a drainage  
16 district. These rules and regulations shall, at a minimum, meet  
17 the standards for floodplain management established by the  
18 Office of Water Resources and the requirements of the Federal  
19 Emergency Management Agency for participation in the National  
20 Flood Insurance Program. The Commission may not impose more  
21 stringent regulations regarding water quality on entities  
22 discharging in accordance with a valid National Pollution  
23 Discharge Elimination System permit issued under the  
24 Environmental Protection Act.

25 (h) In accordance with, and if recommended in, the adopted  
26 stormwater management plan, the county board may adopt a  
27 schedule of fees as may be necessary to mitigate the effects of  
28 increased stormwater runoff resulting from new development  
29 based on actual costs. The fees shall not exceed the cost of  
30 satisfying the onsite stormwater retention or detention  
31 requirements of the adopted stormwater management plan. The  
32 fees shall be used to finance activities undertaken by the  
33 county or its included municipalities to mitigate the effects  
34 of urban stormwater runoff by providing regional stormwater  
35 retention or detention facilities, as identified in the county  
36 plan. The county board shall provide for a credit or reduction

1 in fees for any onsite retention, detention, drainage district  
2 assessments, or other similar stormwater facility that the  
3 developer is required to construct consistent with the  
4 stormwater management ordinance. All these fees collected by  
5 the county shall be held in a separate fund, and shall be  
6 expended only in the watershed within which they were  
7 collected.

8 (i) For the purpose of implementing this Section and for  
9 the development, design, planning, construction, operation,  
10 and maintenance of stormwater facilities provided for in the  
11 stormwater management plan, a county board that has established  
12 a stormwater management planning committee pursuant to this  
13 Section may cause an annual tax of not to exceed 0.20% of the  
14 value, as equalized or assessed by the Department of Revenue,  
15 of all taxable property in the county to be levied upon all the  
16 taxable property in the county or occupation and use taxes of  
17 1/10 of one cent. The property tax shall be in addition to all  
18 other taxes authorized by law to be levied and collected in the  
19 county and shall be in addition to the maximum tax rate  
20 authorized by law for general county purposes. The 0.20%  
21 limitation provided in this Section may be increased or  
22 decreased by referendum in accordance with the provisions of  
23 Sections 18-120, 18-125, and 18-130 of the Property Tax Code  
24 (35 ILCS 200/).

25 Any revenues generated as a result of ownership or  
26 operation of facilities or land acquired with the tax funds  
27 collected pursuant to this subsection shall be held in a  
28 separate fund and be used either to abate such property tax or  
29 for implementing this Section.

30 However, the tax authorized by this subsection shall not be  
31 levied until the question of its adoption, either for a  
32 specified period or indefinitely, has been submitted to the  
33 electors thereof and approved by a majority of those voting on  
34 the question. This question may be submitted at any election  
35 held in the county after the adoption of a resolution by the  
36 county board providing for the submission of the question to

1 the electors of the county. The county board shall certify the  
2 resolution and proposition to the proper election officials,  
3 who shall submit the proposition at an election in accordance  
4 with the general election law. If a majority of the votes cast  
5 on the question is in favor of the levy of the tax, it may  
6 thereafter be levied in the county for the specified period or  
7 indefinitely, as provided in the proposition. The question  
8 shall be put in substantially the following form:

9           Shall an annual tax be levied for stormwater management  
10           purposes (for a period of not more than ..... years) at a  
11           rate not exceeding .....% of the equalized assessed value  
12           of the taxable property of ..... County?

13 Or this question may be submitted at any election held in the  
14 county after the adoption of a resolution by the county board  
15 providing for the submission of the question to the electors of  
16 the county to authorize use and occupation taxes of 1/10 of one  
17 cent:

18           Shall use and occupation taxes be raised for stormwater  
19           management purposes (for a period of not more than .....  
20           years) at a rate of 1/10 of one cent for taxable goods in  
21           ..... County?

22           Votes shall be recorded as Yes or No.

23           (j) For those counties that adopt a property tax in  
24 accordance with the provisions in this Section, the stormwater  
25 management committee shall offer property tax abatements or  
26 incentive payments to property owners who construct, maintain,  
27 and use approved stormwater management devices. For those  
28 counties that adopt use and occupation taxes in accordance with  
29 the provisions of this Section, the stormwater management  
30 committee may offer tax rebates or incentive payments to  
31 property owners who construct, maintain, and use approved  
32 stormwater management devices. The stormwater management  
33 committee is authorized to offer credits to the property tax,  
34 if applicable, based on authorized practices consistent with  
35 the stormwater management plan and approved by the committee.  
36 Expenses of staff of a stormwater management committee that are



1 expended on regulatory project review may be no more than 20%  
2 of the annual budget of the committee, including funds raised  
3 under subsections (h) and (i).

4 (k) Any county that has adopted a county stormwater  
5 management plan under this Section may, after 10 days written  
6 notice receiving consent of the owner or occupant, enter upon  
7 any lands or waters within the county for the purpose of  
8 inspecting stormwater facilities or causing the removal of any  
9 obstruction to an affected watercourse. If consent is denied or  
10 cannot be reasonably obtained, the county ordinance shall  
11 provide a process or procedure for an administrative warrant to  
12 be obtained. The county shall be responsible for any damages  
13 occasioned thereby.

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

27 (m) A county may issue general obligation bonds for  
28 implementing any stormwater plan adopted under this Section in  
29 the manner prescribed in Section 5-1012; except that the  
30 referendum requirement of Section 5-1012 does not apply to  
31 bonds issued pursuant to this Section on which the principal  
32 and interest are to be paid entirely out of funds generated by  
33 the taxes and fees authorized by this Section.

34 (n) The powers authorized by this Section may be  
35 implemented by the county board for a portion of the county  
36 subject to similar stormwater management needs.

1           (o) The powers and taxes authorized by this Section are in  
2 addition to the powers and taxes authorized by Division 5-15;  
3 in exercising its powers under this Section, a county shall not  
4 be subject to the restrictions and requirements of that  
5 Division.

6           (Source: P.A. 94-675, eff. 8-23-05.)

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