

HB4759



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4759

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062

from Ch. 34, par. 5-1062

Amends the Counties Code. Makes a technical change in a Section concerning stormwater management.

LRB099 18013 AWJ 42376 b

A BILL FOR

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 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)
7 Sec. 5-1062. Stormwater management.

8 (a) The ~~The~~ purpose of this Section is to allow management
9 and mitigation of the effects of urbanization on stormwater
10 drainage in metropolitan counties located in the area served by
11 the Northeastern Illinois Planning Commission, and references
12 to "county" in this Section shall apply only to those counties.
13 This Section shall not apply to any county with a population in
14 excess of 1,500,000, except as provided in subsection (c). The
15 purpose of this Section shall be achieved by:

16 (1) consolidating the existing stormwater management
17 framework into a united, countywide structure;

18 (2) setting minimum standards for floodplain and
19 stormwater management; and

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

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

12 The county board members shall be appointed by the chairman
13 of the county board. Municipal members from each county board
14 district or other represented area shall be appointed by a
15 majority vote of the mayors of those municipalities which have
16 the greatest percentage of their respective populations
17 residing in such county board district or other represented
18 area. All municipal and county board representatives shall be
19 entitled to a vote; the other members shall be nonvoting
20 members, unless authorized to vote by the unanimous consent of
21 the municipal and county board representatives. A municipality
22 that is located in more than one county may choose, at the time
23 of formation of the stormwater management planning committee
24 and based on watershed boundaries, to participate in the
25 stormwater management planning program of either or both of the
26 counties. Subcommittees of the stormwater management planning

1 committee may be established to serve a portion of the county
2 or a particular drainage basin that has similar stormwater
3 management needs. The stormwater management planning committee
4 shall adopt by-laws, by a majority vote of the county and
5 municipal members, to govern the functions of the committee and
6 its subcommittees. Officers of the committee shall include a
7 chair and vice chair, one of whom shall be a county
8 representative and one a municipal representative.

9 The principal duties of the committee shall be to develop a
10 stormwater management plan for presentation to and approval by
11 the county board, and to direct the plan's implementation and
12 revision. The committee may retain engineering, legal and
13 financial advisors and inspection personnel. The committee
14 shall meet at least quarterly and shall hold at least one
15 public meeting during the preparation of the plan and prior to
16 its submittal to the county board.

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

1 (d) (Blank).

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

19 The county board may enact the proposed plan by ordinance.
20 If the proposals for modification of the plan made by an
21 affected municipality having a stormwater management plan are
22 not included in the proposed county plan, and the municipality
23 affected by the plan opposes adoption of the county plan by
24 resolution of its corporate authorities, approval of the county
25 plan shall require an affirmative vote of at least two-thirds
26 of the county board members present and voting. If the county

1 board wishes to amend the county plan, it shall submit in
2 writing specific proposals to the stormwater management
3 planning committee. If the proposals are not approved by the
4 committee, or are opposed by resolution of the corporate
5 authorities of an affected municipality having a municipal
6 stormwater management plan, amendment of the plan shall require
7 an affirmative vote of at least two-thirds of the county board
8 members present and voting.

9 (f) The county board may prescribe by ordinance reasonable
10 rules and regulations for floodplain management and for
11 governing the location, width, course and release rate of all
12 stormwater runoff channels, streams and basins in the county,
13 in accordance with the adopted stormwater management plan.
14 These rules and regulations shall, at a minimum, meet the
15 standards for floodplain management established by the Office
16 of Water Resources and the requirements of the Federal
17 Emergency Management Agency for participation in the National
18 Flood Insurance Program.

19 (g) In accordance with, and if recommended in, the adopted
20 stormwater management plan, the county board may adopt a
21 schedule of fees as may be necessary to mitigate the effects of
22 increased stormwater runoff resulting from new development.
23 The fees shall not exceed the cost of satisfying the onsite
24 stormwater retention or detention requirements of the adopted
25 stormwater management plan. The fees shall be used to finance
26 activities undertaken by the county or its included

1 municipalities to mitigate the effects of urban stormwater
2 runoff by providing regional stormwater retention or detention
3 facilities, as identified in the county plan. All such fees
4 collected by the county shall be held in a separate fund, and
5 shall be expended only in the watershed within which they were
6 collected.

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

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

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2 (i) Upon the creation and implementation of a county
3 stormwater management plan, the county may petition the circuit
4 court to dissolve any or all drainage districts created
5 pursuant to the Illinois Drainage Code or predecessor Acts
6 which are located entirely within the area of the county
7 covered by the plan.

8 However, any active drainage district implementing a plan
9 that is consistent with and at least as stringent as the county
10 stormwater management plan may petition the stormwater
11 management planning committee for exception from dissolution.
12 Upon filing of the petition, the committee shall set a date for
13 hearing not less than 2 weeks, nor more than 4 weeks, from the
14 filing thereof, and the committee shall give at least one
15 week's notice of the hearing in one or more newspapers of
16 general circulation within the district, and in addition shall
17 cause a copy of the notice to be personally served upon each of
18 the trustees of the district. At the hearing, the committee
19 shall hear the district's petition and allow the district
20 trustees and any interested parties an opportunity to present
21 oral and written evidence. The committee shall render its
22 decision upon the petition for exception from dissolution based
23 upon the best interests of the residents of the district. In
24 the event that the exception is not allowed, the district may
25 file a petition within 30 days of the decision with the circuit
26 court. In that case, the notice and hearing requirements for

1 the court shall be the same as herein provided for the
2 committee. The court shall likewise render its decision of
3 whether to dissolve the district based upon the best interests
4 of residents of the district.

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

13 If a drainage district lies only partly within a county
14 that adopts a county stormwater management plan, the county may
15 petition the circuit court to disconnect from the drainage
16 district that portion of the district that lies within that
17 county. The property of the drainage district within the
18 disconnected area shall be assumed and managed by the county.
19 The county shall also assume a portion of the drainage
20 district's debt at the time of disconnection, based on the
21 portion of the value of the taxable property of the drainage
22 district which is located within the area being disconnected.

23 The operations of any drainage district that continues to
24 exist in a county that has adopted a stormwater management plan
25 in accordance with this Section shall be in accordance with the
26 adopted plan.

1 (j) Any county that has adopted a county stormwater
2 management plan under this Section may, after 10 days written
3 notice to the owner or occupant, enter upon any lands or waters
4 within the county for the purpose of inspecting stormwater
5 facilities or causing the removal of any obstruction to an
6 affected watercourse. The county shall be responsible for any
7 damages occasioned thereby.

8 (k) 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.

16 (l) A county may issue general obligation bonds for
17 implementing any stormwater plan adopted under this Section in
18 the manner prescribed in Section 5-1012; except that the
19 referendum requirement of Section 5-1012 shall not apply to
20 bonds issued pursuant to this Section on which the principal
21 and interest are to be paid entirely out of funds generated by
22 the taxes and fees authorized by this Section.

23 (m) The powers authorized by this Section may be
24 implemented by the county board for a portion of the county
25 subject to similar stormwater management needs.

26 (n) The powers and taxes authorized by this Section are in

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

5 (o) Pursuant to paragraphs (g) and (i) of Section 6 of
6 Article VII of the Illinois Constitution, this Section
7 specifically denies and limits the exercise of any power which
8 is inconsistent herewith by home rule units in any county with
9 a population of less than 1,500,000 in the area served by the
10 Northeastern Illinois Planning Commission. This Section does
11 not prohibit the concurrent exercise of powers consistent
12 herewith.

13 (Source: P.A. 97-916, eff. 8-9-12.)