

1 AMENDMENT TO HOUSE BILL 2576

2 AMENDMENT NO. _____. Amend House Bill 2576 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended
5 by changing Section 4 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
14 of office of the Director shall expire on the third Monday of
15 January in odd numbered years provided that he shall hold his
16 office until his successor is appointed and qualified. The
17 Director shall receive an annual salary as set by the
18 Governor from time to time or as set by the Compensation
19 Review Board, whichever is greater. If set by the Governor,
20 the Director's annual salary may not exceed 85% of the
21 Governor's annual salary. The Director, in accord with the
22 Personnel Code, shall employ and direct such personnel, and

1 shall provide for such laboratory and other facilities, as
2 may be necessary to carry out the purposes of this Act. In
3 addition, the Director may by agreement secure such services
4 as he may deem necessary from any other department, agency,
5 or unit of the State Government, and may employ and
6 compensate such consultants and technical assistants as may
7 be required.

8 (b) The Agency shall have the duty to collect and
9 disseminate such information, acquire such technical data,
10 and conduct such experiments as may be required to carry out
11 the purposes of this Act, including ascertainment of the
12 quantity and nature of discharges from any contaminant source
13 and data on those sources, and to operate and arrange for the
14 operation of devices for the monitoring of environmental
15 quality.

16 (c) The Agency shall have authority to conduct a program
17 of continuing surveillance and of regular or periodic
18 inspection of actual or potential contaminant or noise
19 sources, of public water supplies, and of refuse disposal
20 sites.

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

24 (1) Inspecting and investigating to ascertain possible
25 violations of the Act or of regulations thereunder, or of
26 permits or terms or conditions thereof; or

27 (2) In accordance with the provisions of this Act,
28 taking whatever preventive or corrective action, including
29 but not limited to removal or remedial action, that is
30 necessary or appropriate whenever there is a release or a
31 substantial threat of a release of (A) a hazardous substance
32 or pesticide or (B) petroleum from an underground storage
33 tank.

34 (e) The Agency shall have the duty to investigate

1 violations of this Act or of regulations adopted thereunder,
2 or of permits or terms or conditions thereof, to issue
3 administrative citations as provided in Section 31.1 of this
4 Act, and to take such summary enforcement action as is
5 provided for by Section 34 of this Act.

6 (f) The Agency shall appear before the Board in any
7 hearing upon a petition for variance, the denial of a permit,
8 or the validity or effect of a rule or regulation of the
9 Board, and shall have the authority to appear before the
10 Board in any hearing under the Act.

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

26 (h) The Agency shall have authority to require the
27 submission of complete plans and specifications from any
28 applicant for a permit required by this Act or by regulations
29 thereunder, and to require the submission of such reports
30 regarding actual or potential violations of the Act or of
31 regulations thereunder, or of permits or terms or conditions
32 thereof, as may be necessary for purposes of this Act.

33 (i) The Agency shall have authority to make
34 recommendations to the Board for the adoption of regulations

1 under Title VII of the Act.

2 (j) The Agency shall have the duty to represent the
3 State of Illinois in any and all matters pertaining to plans,
4 procedures, or negotiations for interstate compacts or other
5 governmental arrangements relating to environmental
6 protection.

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

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

24 (l) The Agency is hereby designated as water pollution
25 agency for the State for all purposes of the federal Water
26 Pollution Control Act, as amended; as implementing agency for
27 the State for all purposes of the Safe Drinking Water Act,
28 Public Law 93-523, as now or hereafter amended, except
29 Section 1425 of that Act; as air pollution agency for the
30 state for all purposes of the Clean Air Act of 1970, Public
31 Law 91-604, approved December 31, 1970, as amended; and as
32 solid waste agency for the state for all purposes of the
33 Solid Waste Disposal Act, Public Law 89-272, approved October
34 20, 1965, and amended by the Resource Recovery Act of 1970,

1 Public Law 91-512, approved October 26, 1970, as amended, and
2 amended by the Resource Conservation and Recovery Act of
3 1976, (P.L. 94-580) approved October 21, 1976, as amended; as
4 noise control agency for the state for all purposes of the
5 Noise Control Act of 1972, Public Law 92-574, approved
6 October 27, 1972, as amended; and as implementing agency for
7 the State for all purposes of the Comprehensive Environmental
8 Response, Compensation, and Liability Act of 1980 (P.L.
9 96-510), as amended; and otherwise as pollution control
10 agency for the State pursuant to federal laws integrated with
11 the foregoing laws, for financing purposes or otherwise. The
12 Agency is hereby authorized to take all action necessary or
13 appropriate to secure to the State the benefits of such
14 federal Acts, provided that the Agency shall transmit to the
15 United States without change any standards adopted by the
16 Pollution Control Board pursuant to Section 5(c) of this Act.
17 This subsection (1) of Section 4 shall not be construed to
18 bar or prohibit the Environmental Protection Trust Fund
19 Commission from accepting, receiving, and administering on
20 behalf of the State any grants, gifts, loans or other funds
21 for which the Commission is eligible pursuant to the
22 Environmental Protection Trust Fund Act. The Agency is hereby
23 designated as the State agency for all purposes of
24 administering the requirements of Section 313 of the federal
25 Emergency Planning and Community Right-to-Know Act of 1986.

26 The Agency is hereby designated as the administrator of
27 wetlands and erosion control programs under the federal Clean
28 Water Act for the State of Illinois. Beginning on the
29 effective date of this amendatory Act of the 92nd General
30 Assembly, no other commission, agency, district, or other
31 governmental entity has any authority to regulate wetlands or
32 erosion control programs, except as may be delegated to it by
33 the Agency or otherwise specifically granted by law.

34 Any municipality, sanitary district, or other political

1 subdivision, or any Agency of the State or interstate Agency,
2 which makes application for loans or grants under such
3 federal Acts shall notify the Agency of such application; the
4 Agency may participate in proceedings under such federal
5 Acts.

6 (m) The Agency shall have authority, consistent with
7 Section 5(c) and other provisions of this Act, and for
8 purposes of Section 303(e) of the Federal Water Pollution
9 Control Act, as now or hereafter amended, to engage in
10 planning processes and activities and to develop plans in
11 cooperation with units of local government, state agencies
12 and officers, and other appropriate persons in connection
13 with the jurisdiction or duties of each such unit, agency,
14 officer or person. Public hearings shall be held on the
15 planning process, at which any person shall be permitted to
16 appear and be heard, pursuant to procedural regulations
17 promulgated by the Agency.

18 (n) In accordance with the powers conferred upon the
19 Agency by Sections 10(g), 13(b), 19, 22(d) and 25 of this
20 Act, the Agency shall have authority to establish and enforce
21 minimum standards for the operation of laboratories relating
22 to analyses and laboratory tests for air pollution, water
23 pollution, noise emissions, contaminant discharges onto land
24 and sanitary, chemical, and mineral quality of water
25 distributed by a public water supply. The Agency may enter
26 into formal working agreements with other departments or
27 agencies of state government under which all or portions of
28 this authority may be delegated to the cooperating department
29 or agency.

30 (o) The Agency shall have the authority to issue
31 certificates of competency to persons and laboratories
32 meeting the minimum standards established by the Agency in
33 accordance with Section 4(n) of this Act and to promulgate
34 and enforce regulations relevant to the issuance and use of

1 such certificates. The Agency may enter into formal working
2 agreements with other departments or agencies of state
3 government under which all or portions of this authority may
4 be delegated to the cooperating department or agency.

5 (p) Except as provided in Section 17.7, the Agency shall
6 have the duty to analyze samples as required from each public
7 water supply to determine compliance with the contaminant
8 levels specified by the Pollution Control Board. The maximum
9 number of samples which the Agency shall be required to
10 analyze for microbiological quality shall be 6 per month, but
11 the Agency may, at its option, analyze a larger number each
12 month for any supply. Results of sample analyses for
13 additional required bacteriological testing, turbidity,
14 residual chlorine and radionuclides are to be provided to the
15 Agency in accordance with Section 19. Owners of water
16 supplies may enter into agreements with the Agency to provide
17 for reduced Agency participation in sample analyses.

18 (q) The Agency shall have the authority to provide
19 notice to any person who may be liable pursuant to Section
20 22.2(f) of this Act for a release or a substantial threat of
21 a release of a hazardous substance or pesticide. Such notice
22 shall include the identified response action and an
23 opportunity for such person to perform the response action.

24 (r) The Agency may enter into written delegation
25 agreements with any unit of local government under which it
26 may delegate all or portions of its inspecting, investigating
27 and enforcement functions. Such delegation agreements shall
28 require that work performed thereunder be in accordance with
29 Agency criteria and subject to Agency review. Notwithstanding
30 any other provision of law to the contrary, no unit of local
31 government shall be liable for any injury resulting from the
32 exercise of its authority pursuant to such a delegation
33 agreement unless the injury is proximately caused by the
34 willful and wanton negligence of an agent or employee of the

1 unit of local government, and any policy of insurance
2 coverage issued to a unit of local government may provide for
3 the denial of liability and the nonpayment of claims based
4 upon injuries for which the unit of local government is not
5 liable pursuant to this subsection (r).

6 (s) The Agency shall have authority to take whatever
7 preventive or corrective action is necessary or appropriate,
8 including but not limited to expenditure of monies
9 appropriated from the Build Illinois Bond Fund and the Build
10 Illinois Purposes Fund for removal or remedial action,
11 whenever any hazardous substance or pesticide is released or
12 there is a substantial threat of such a release into the
13 environment. The State, the Director, and any State employee
14 shall be indemnified for any damages or injury arising out of
15 or resulting from any action taken under this subsection.
16 The Director of the Agency is authorized to enter into such
17 contracts and agreements as are necessary to carry out the
18 Agency's duties under this subsection.

19 (t) The Agency shall have authority to distribute
20 grants, subject to appropriation by the General Assembly, for
21 financing and construction of municipal wastewater
22 facilities. With respect to all monies appropriated from the
23 Build Illinois Bond Fund and the Build Illinois Purposes Fund
24 for wastewater facility grants, the Agency shall make
25 distributions in conformity with the rules and regulations
26 established pursuant to the Anti-Pollution Bond Act, as now
27 or hereafter amended.

28 (u) Pursuant to the Illinois Administrative Procedure
29 Act, the Agency shall have the authority to adopt such rules
30 as are necessary or appropriate for the Agency to implement
31 Section 31.1 of this Act.

32 (v) (Blank)

33 (w) Neither the State, nor the Director, nor the Board,
34 nor any State employee shall be liable for any damages or

1 injury arising out of or resulting from any action taken
2 under subsection (s) or subsection (v).

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

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

31 (y) The Agency shall have authority to release any
32 person from further responsibility for preventive or
33 corrective action under this Act following successful
34 completion of preventive or corrective action undertaken by

1 such person upon written request by the person.

2 (Source: P.A. 91-25, eff. 6-9-99.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".