

AN ACT concerning local government.

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

Section 5. The Counties Code is amended by adding Section 5-1062.2 as follows:

(55 ILCS 5/5-1062.2 new)

Sec. 5-1062.2. Stormwater management.

(a) The purpose of this Section is to allow management and mitigation of the effects of urbanization on stormwater drainage in the metropolitan counties of Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone and references to "county" in this Section apply only to those counties. This Section does not apply to counties in the Northeastern Illinois Planning Commission that are granted authorities in Section 5-1062. The purpose of this Section shall be achieved by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Votes shall be recorded as Yes or No.

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

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

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

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

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

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

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

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