

AN ACT concerning local government.

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

Section 1. Short title. This Act may be cited as the Beardstown Regional Flood Prevention District Act.

Section 3. Definitions. As used in this Act, the following terms shall have the following meanings unless a different meaning clearly appears from the context:

"Board" means the Board of Commissioners of the Beardstown Regional Flood Prevention District.

"County board" means the Cass County Board.

"District" means the Beardstown Regional Flood Prevention District created by this Act.

"Fund" means the Beardstown Regional Flood Prevention District Property Tax Fund created under subsection (h) of Section 20 of this Act.

Section 5. Creation; purpose.

(a) The Cass County Board may, by ordinance approved by the affirmative vote of the majority of the members of the county board, create the Beardstown Regional Flood Prevention District to perform emergency levee repair and flood prevention, prevent the loss of life or property, and comply

with the levee requirements imposed by the Federal Emergency Management Agency and the United States Army Corps of Engineers. The Beardstown Regional Flood Prevention District shall include all properties located within the Federal Emergency Management Agency's (FEMA's) floodplain map with a Provisionally Accredited Levees (PAL) expiration date of January 27, 2011, and all properties within or later annexed to or incorporated into the South Beardstown Levee and Drainage District, the Valley Levee and Drainage District, the Lost Creek Levee and Drainage District, the City of Beardstown, and the Beardstown Sanitary District regardless of the elevation of the properties. The Beardstown Regional Flood Prevention District shall work in concert with affected existing drainage districts, the City of Beardstown, the Beardstown Sanitary District, the Cass County Board, the people of Cass County, FEMA, and the Army Corps of Engineers. In addition to the powers and authority granted to the District in Section 15 of this Act, the District shall be responsible for performing and funding all regular and necessary repairs and maintenance to the levees including, but not limited to: (i) the repair, maintenance and replacement of pipes, relief wells, infrastructure, and other structures existing on or within the levees as of the effective date of this Act or which may be constructed or installed by the District after its establishment; (ii) the removal and abatement of unwanted vegetation and nuisance animals; (iii) the mowing of the

levees; and (iv) the establishment and maintenance of levee sod covering. The creation of the Beardstown Regional Flood Protection District shall neither constitute nor be deemed a conveyance of title or ownership to the district of any properties within the district.

(b) The district created under this Act shall be dissolved upon the later of (i) 25 years after the date the district is created or (ii) the payment of all obligations of the county and district under Section 20 of this Act and any federal reimbursement moneys under Section 25 of this Act. The district may be dissolved earlier if all federal reimbursement moneys have been paid and all obligations of the county and district incurred under this Act have been paid, including any obligations related to bonds issued under Section 15 of this Act and any obligations incurred pursuant to an intergovernmental agreement. Upon dissolution of the district, sole possession, control, and maintenance of the properties and improvements within the district shall revert back to the South Beardstown Levee and Drainage District, the Valley Levee and Drainage District, the Lost Creek Levee and Drainage District, the City of Beardstown, and the Beardstown Sanitary District, as existed prior to the creation of the district.

Section 10. Commissioners.

(a) The affairs of the district shall be managed by a board of 7 commissioners: one shall be appointed by the chairperson

of the county board; one shall be appointed by the Mayor of the City of Beardstown; one shall be appointed by the Beardstown Sanitary District; one shall be appointed by the South Beardstown Levee and Drainage District; one shall be appointed by the Valley Levee and Drainage District; one shall be appointed by the Lost Creek Levee and Drainage District; and one shall be appointed by a majority vote of the other 6 commissioners. All initial appointments under this Section must be made within 60 days after the district is organized.

(b) Of the initial appointments, 3 commissioners shall serve a 2-year term and 4 commissioners shall serve a 4-year term, as determined by lot. Their successors shall be appointed for 4-year terms. No commissioner may serve for more than 20 years. Vacancies shall be filled in the same manner as original appointments.

(c) Each commissioner must be a legal voter in Cass County, and all commissioners shall reside in and own property that is located within the district. Commissioners shall serve without compensation, but may be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) A majority of the commissioners shall constitute a quorum of the board for the transaction of business. An affirmative vote of a majority of the commissioners shall be sufficient to approve any action or expenditure.

(e) An alderman of the City of Beardstown, a member of the county board, and a commissioner of each of the aforementioned

drainage districts and sanitation district may be appointed to serve concurrently as commissioners of the district, and the appointment shall be deemed lawful and not to constitute a violation of the Public Officer Prohibited Activities Act, nor to create an impermissible conflict of interest or incompatibility of offices.

Section 15. Powers of the district. A district formed under this Act has the following powers:

(1) To sue or be sued.

(2) To apply for and accept gifts, grants, and loans from any public agency or private entity.

(3) To enter into intergovernmental agreements with other governmental units including municipalities, sanitary districts, or drainage districts to further ensure levee repair, levee construction or reconstruction, and flood prevention, including agreements with the United States Army Corps of Engineers or any other agency or department of the federal government.

(4) To undertake evaluation, planning, design, construction, and related activities that are determined to be urgently needed to stabilize, repair, restore, improve, or replace existing levees.

(5) To address underseepage problems and old and deteriorating gates, pipes, and other infrastructure related to existing levees.

(6) To conduct evaluations of levees and other flood control facilities including the performance of floodplain mapping studies.

(7) To provide capital moneys for levee studies including the construction of facilities for that purpose.

(8) To borrow money or receive money from the United States Government or any agency thereof, or from any other public or private source, for the purposes of the district.

(9) To enter into agreements with private property owners.

(10) To issue revenue bonds for the purposes of the district. Revenue bonds shall be payable from revenue received from a property tax imposed under Section 20 of this Act and from any other revenue sources available to the flood prevention district. These bonds may be issued with maturities not exceeding 25 years after the date of issue, and in any amounts as may be necessary to provide sufficient funds, together with interest, for the purposes of the district. These bonds shall bear interest at a rate of not more than the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract of sale, payable semi-annually, may be made registerable as to principal, and may be made payable and callable as provided on any date at a price of par and accrued interest under any terms and conditions as may be fixed by an ordinance approved by the affirmative vote of

the county board. Bonds issued under this Section are negotiable instruments. In case any officer whose signature appears on the bonds or coupons ceases to hold that office before the bonds are delivered, the officer's signature shall nevertheless be valid and sufficient for all purposes the same as though the officer had remained in office until the bonds were delivered. The bonds shall be sold in any manner and upon any terms as the district shall determine, except that the selling price shall be such that the interest cost to the district of the proceeds of the bonds shall not exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract of sale, payable semi-annually, computed to maturity according to the standard table of bond values.

(11) To acquire property by gift, grant, or intergovernmental agreement.

(12) To retain professional staff to carry out the functions of the district including, but not limited to, administrative support personnel and legal counsel. The district may employ a Chief Supervisor of Construction and the Works with appropriate professional qualifications, including a degree in engineering, construction, hydrology, or a related field, or an equivalent combination of education and experience. If the district employs a Chief Supervisor of Construction and the Works, he or she

shall be vested with the authority to carry out the duties and mission of the district, pursuant to the direction and supervision of the board of commissioners.

(13) To reimburse any unit of local government for costs advanced by the local government for expenses that would have otherwise been paid out of the Beardstown Regional Flood Prevention District Property Tax Fund, had the fund been established at the time of the expenditure. Nothing in this Section shall be construed to permit a unit of local government to seek reimbursement from the district for any expense related to levee maintenance, repair, improvement, construction, staff, operating expenses, the construction of facilities for any such purpose, or any other non-emergency levee related expense that occurred prior to an emergency situation involving the levees within the county.

(14) To change the name of the district by an ordinance approved by the affirmative vote of a majority of the commissioners of the district.

(15) To adopt rules, procedures, and policies concerning the operation and purpose of the district.

(16) To establish and maintain accounts with banks and other financial institutions to further the purposes and operations of the district.

(17) To expend monies in furtherance of the district's purposes and operations.

Section 20. Property tax.

(a) The district organized under this Act shall, by ordinance or resolution, petition the county board to levy a property tax to accomplish its goals, purposes, and obligations as set forth in Section 5 of this Act or to provide for the payment of debt incurred in accordance with this Act.

(b) The manner of levying the tax authorized by subsection (a) shall be as provided in this Section.

(c) A property tax may be levied by the district at a rate not to exceed 0.7% to produce revenues required to accomplish its goals, purposes, and obligations as set forth in Section 5 of this Act. Before the first levy of taxes in the district, notice shall be given and a hearing shall be held under the provisions of subsections (d) and (e). For purposes of this subsection, the notice shall include:

(1) the time and place of the hearing;

(2) a notification that all interested persons, including all persons owning taxable real property located within the district, shall be given an opportunity to be heard at the hearing regarding the tax levy and an opportunity to file objections to the amount of the tax levy; and

(3) the maximum rate of taxes to be extended in any year and may include a maximum number of years the taxes will be levied.

(d) After the first levy of taxes, taxes may be extended without additional hearings, provided the taxes shall not exceed the rate specified in the notice and the taxes shall not be extended for a period longer than that outlined in subsection (b) of Section 5. The district, by ordinance or resolution, may petition the county board to increase the rate of tax by no more than 0.1%. Any such increase must be approved by the county board and by the electors.

The tax under this subsection may not be increased until, by ordinance or resolution of the county board, the question of imposing the tax has been submitted to the electors of the county at a regular election and approved by a majority of the electors voting on the question.

The election authority must submit the question in substantially the following form:

Shall Cass County be authorized to increase the property tax rate to be used exclusively for the operation of the Beardstown Regional Flood Prevention District by (insert up to 0.1%)?

The election authority must record the votes as "Yes" or "No".

If a majority of the electors voting on the question vote in the affirmative, then the county may, thereafter, increase the rate of tax.

The rate of tax may be increased more than once under this subsection, but not at the same election.

(d) Within a period of 61 to 120 calendar days following

the adoption of the ordinance establishing the district, the district shall fix a time and a place for a public hearing. Notice of the hearing shall be given by publication and mailing. Notice by publication shall be given by publication at least once not less than 15 days before the hearing in a newspaper of general circulation within the district. Notice by mailing shall be given by depositing the notice in the United States mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the district. The notice shall be mailed not less than 10 days before the time set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall be sent to the person last listed on the tax rolls before that year as the owner of the property.

(e) At the public hearing, any interested person, including all persons owning taxable real property located within the district, may file with the district written objections to and may be heard orally in respect to any issues embodied in the notice. The district shall hear and determine all protests and objections at the hearing, and the hearing may be adjourned or recessed to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of its adjournment.

(f) Bonds secured by the full faith and credit of the district may be issued as described in paragraph (10) of

Section 15. Bonds, when so issued, shall be retired by the levy of taxes as specified in subsection (c), against all of the taxable real property included in the district as provided in the ordinance or resolution authorizing the issuance of the bonds. The county clerk shall annually extend taxes against all of the taxable property situated in the county and contained in the district in amounts sufficient to pay maturing principal and interest of those bonds.

Before the issuance of bonds, notice shall be given and a hearing shall be held under the provisions of subsections (d) and (e). For purposes of this subsection, the notice shall include:

(1) the time and place of the hearing;

(2) a notification that all interested persons, including all persons owning taxable real property located within the district, will be given an opportunity to be heard at the hearing regarding the district's decision to issue the bonds and an opportunity to file objections to the issuance of the bonds; and

(3) the maximum amount of bonds proposed to be issued, the maximum period of time over which the bonds shall be retired, and the maximum interest rate the bonds shall bear.

The questions of the property tax levy and the issuance of bonds may be considered together at one hearing. Any bonds issued shall not exceed the number of bonds, the interest rate,

and the period of extension set forth in the notice, unless an additional hearing is held. No bonds issued under this Section shall be regarded as indebtedness of the district for the purpose of any limitation imposed by any law.

(g) If a petition signed by at least 30% of the electors residing within the district and by at least 30% of the owners of record of the land included within the boundaries of the district is filed with the district within 60 days following the final adjournment of the public hearing objecting to the levy or imposition of the property tax or issuance of bonds, no such tax may be levied or imposed or no such bonds may be issued. The subject matter of the petition filed by the electors and owners shall not be proposed by the district within the next year. Each resident of the district registered to vote at the time of the public hearing held with regard to the district shall be considered an elector. Each person in whose name legal title to land included within the boundaries of the district is held according to the records of the county in which the land is located shall be considered an owner of record. Owners of record shall be determined at the time of the public hearing held with regard to the district. Land owned in the name of a land trust, corporation, estate, or partnership shall be considered to have a single owner of record.

(h) If a property tax is levied, the tax shall be extended by the county clerk in the district in the manner provided by the Property Tax Code based on assessed values as established

under that Act. A special fund shall be created in the county treasury that shall be known as the Beardstown Regional Flood Prevention District Property Tax Fund. The county treasurer shall collect and deposit into the Fund the revenues generated by the property tax. The county treasurer shall, within 30 days of receiving tax revenues, disburse all revenues to the district.

Section 25. Disbursement of federal funds.

(a) Any reimbursements for the construction of flood protection facilities shall be appropriated to the district in accordance with the location of the specific facility for which the federal appropriation is made.

(b) If there are federal reimbursements to the district for construction of flood protection facilities that were built using revenues authorized by this Act, those funds shall be used for the early retirement of bonds issued in accordance with this Act.

(c) When all bond obligations of the district have been paid, the remaining federal reimbursement moneys shall be remitted in equal shares to the drainage districts and sanitary district included within the boundaries of the district to be used for the continued long-term maintenance of federal levees and flood protection districts.

Section 30. Financial audit of the district. A financial

audit of the district shall be conducted annually by a certified public accountant (CPA) that is licensed at the time of the audit by the Illinois Department of Financial and Professional Regulation. The CPA shall meet all of the general standards concerning qualifications, independence, due professional care, and quality control as required by the Government Auditing Standards, 1994 Revision, Chapter 3, including the requirements for continuing professional education and external peer review. The financial audit is to be performed in accordance with generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA) for field work and reporting, generally accepted government auditing standards (GAGAS), and AICPA Statements on Auditing Standards (SAS) current at the time the audit is commenced. The audit shall be made publicly available and sent to the county board chairperson and to the Secretary of State.

Section 35. Budget of the district. The board shall adopt an annual budget for the district in accordance with the fiscal year adopted by the county board. The budget shall include expected revenues by source and expenditures by project or by function for the following year. The budget must be approved by the county board prior to any expenditure by the district for the fiscal year. The county board must approve or disapprove the budget of the board within 30 calendar days after the

budget is received by the county board. If the county board does not act to approve or disapprove the budget within 30 calendar days of receipt, it shall stand as approved. In addition, the board shall submit an annual report to the county board by the last day of the fiscal year detailing the activities of the district.

Section 40. Procurement. The board shall conduct all procurements in accordance with the requirements of the Local Government Professional Services Selection Act and any competitive bid requirements contained in Section 5-1022 of the Counties Code.

Section 45. The Illinois Governmental Ethics Act is amended by changing Section 4A-101 as follows:

(5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

Sec. 4A-101. Persons required to file. The following persons shall file verified written statements of economic interests, as provided in this Article:

(a) Members of the General Assembly and candidates for nomination or election to the General Assembly.

(b) Persons holding an elected office in the Executive Branch of this State, and candidates for nomination or election to these offices.

(c) Members of a Commission or Board created by the

Illinois Constitution, and candidates for nomination or election to such Commission or Board.

(d) Persons whose appointment to office is subject to confirmation by the Senate and persons appointed by the Governor to any other position on a board or commission described in subsection (a) of Section 15 of the Gubernatorial Boards and Commissions Act.

(e) Holders of, and candidates for nomination or election to, the office of judge or associate judge of the Circuit Court and the office of judge of the Appellate or Supreme Court.

(f) Persons who are employed by any branch, agency, authority or board of the government of this State, including but not limited to, the Illinois State Toll Highway Authority, the Illinois Housing Development Authority, the Illinois Community College Board, and institutions under the jurisdiction of the Board of Trustees of the University of Illinois, Board of Trustees of Southern Illinois University, Board of Trustees of Chicago State University, Board of Trustees of Eastern Illinois University, Board of Trustees of Governor's State University, Board of Trustees of Illinois State University, Board of Trustees of Northeastern Illinois University, Board of Trustees of Northern Illinois University, Board of Trustees of Western Illinois University, or Board of Trustees of the Illinois

Mathematics and Science Academy, and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within the government of this State, or who exercise similar authority within the government of this State;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the State in the amount of \$5,000 or more;

(3) have authority for the issuance or promulgation of rules and regulations within areas under the authority of the State;

(4) have authority for the approval of professional licenses;

(5) have responsibility with respect to the financial inspection of regulated nongovernmental entities;

(6) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the State;

(7) have supervisory responsibility for 20 or more employees of the State;

(8) negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the State, whether real, personal, tangible, or intangible; or

(9) have responsibility with respect to the procurement of goods or services.

(g) Persons who are elected to office in a unit of local government, and candidates for nomination or election to that office, including regional superintendents of school districts.

(h) Persons appointed to the governing board of a unit of local government, or of a special district, and persons appointed to a zoning board, or zoning board of appeals, or to a regional, county, or municipal plan commission, or to a board of review of any county, and persons appointed to the Board of the Metropolitan Pier and Exposition Authority and any Trustee appointed under Section 22 of the Metropolitan Pier and Exposition Authority Act, and persons appointed to a board or commission of a unit of local government who have authority to authorize the expenditure of public funds. This subsection does not apply to members of boards or commissions who function in an advisory capacity.

(i) Persons who are employed by a unit of local

government and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, division, bureau, authority or other administrative unit within the unit of local government, or who exercise similar authority within the unit of local government;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the unit of local government in the amount of \$1,000 or greater;

(3) have authority to approve licenses and permits by the unit of local government; this item does not include employees who function in a ministerial capacity;

(4) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the unit of local government;

(5) have authority to issue or promulgate rules and regulations within areas under the authority of the unit of local government; or

(6) have supervisory responsibility for 20 or more employees of the unit of local government.

(j) Persons on the Board of Trustees of the Illinois Mathematics and Science Academy.

(k) Persons employed by a school district in positions that require that person to hold an administrative or a chief school business official endorsement.

(l) Special government agents. A "special government agent" is a person who is directed, retained, designated, appointed, or employed, with or without compensation, by or on behalf of a statewide executive branch constitutional officer to make an ex parte communication under Section 5-50 of the State Officials and Employees Ethics Act or Section 5-165 of the Illinois Administrative Procedure Act.

(m) Members of the board of commissioners of any flood prevention district created under the Flood Prevention District Act or the Beardstown Regional Flood Prevention District Act.

(n) Members of the board of any retirement system or investment board established under the Illinois Pension Code, if not required to file under any other provision of this Section.

(o) Members of the board of any pension fund established under the Illinois Pension Code, if not required to file under any other provision of this Section.

This Section shall not be construed to prevent any unit of local government from enacting financial disclosure

requirements that mandate more information than required by this Act.

(Source: P.A. 95-719, eff. 5-21-08; 96-6, eff. 4-3-09; 96-543, eff. 8-17-09; 96-555, eff. 8-18-09; 96-1000, eff. 7-2-10.)

Section 50. The Public Officer Prohibited Activities Act is amended by changing Section 2 as follows:

(50 ILCS 105/2) (from Ch. 102, par. 2)

Sec. 2. No alderman of any city, or member of the board of trustees of any village, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the mayor or president of the board of trustees, unless the alderman or board member is granted a leave of absence from such office, or unless he or she first resigns from the office of alderman or member of the board of trustees, or unless the holding of another office is authorized by law. The alderman or board member may, however, serve as a volunteer fireman and receive compensation for that service. The alderman may also serve as a commissioner of the Beardstown Regional Flood Prevention District board. Any appointment in violation of this Section is void. Nothing in this Act shall be construed to prohibit an elected municipal official from holding elected office in another unit of local government as long as there is no contractual relationship between the municipality and the other unit of local

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government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

(Source: P.A. 89-89, eff. 6-30-95.)

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