



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2525

Introduced 11/9/2011, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

70 ILCS 2605/19

from Ch. 42, par. 339

Amends the Metropolitan Water Reclamation District Act. Provides that the district is liable for damages or loss to real estate or personal property caused in whole or in part by the operations of the sanitary district whether the damages or loss are caused by the overflow of the sanitary district's channels, ditches, drains, outlets, or other improvements, or whether the damages or loss result from the district's use, maintenance, construction, or repair of the same or other equipment or facilities. Further provides that an owner or permitted user of real estate may submit a claim for reimbursement rather than bringing action to recover damages. Sets forth the requirements for the claim and damages awarded. Effective immediately.

LRB097 14724 KMW 59723 b

FISCAL NOTE ACT
MAY APPLY

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 Metropolitan Water Reclamation District Act
5 is amended by changing Section 19 as follows:

6 (70 ILCS 2605/19) (from Ch. 42, par. 339)

7 Sec. 19. Sanitary district liability.

8 (a) Every sanitary district shall be liable for all damages
9 to real estate within or without such district which shall be
10 overflowed or otherwise damaged by reason of the construction,
11 enlargement or use of any channel, ditch, drain, outlet or
12 other improvement under the provisions of this Act. The
13 liability imposed by this Section shall be broadly construed
14 and shall include any damages or loss to real estate or
15 personal property caused in whole or in part by the operations
16 of the sanitary district, whether the damages or losses are
17 caused by the overflow of the sanitary district's channels,
18 ditches, drains, outlets, or other improvements, or whether the
19 damages or losses result from the sanitary district's use,
20 maintenance, construction, or repair of the same or other
21 equipment or facilities that are used by the sanitary district.
22 The right to recovery established by this Section applies,
23 without limitation, to all owners and permitted users of real

1 estate that are subject to the property tax levied by the
2 sanitary district. The provisions of the Local Governmental and
3 Governmental Tort Immunity Act shall not relieve the sanitary
4 district of any liability imposed by this Section. Actions ~~act~~
5 ~~, and actions~~ to recover such damages may be brought in the
6 county where such real estate is situated, or in the county
7 where such sanitary district is located, at the option of the
8 party claiming to be injured. And in case judgment is rendered
9 against such district for damage, the plaintiff shall also
10 recover his reasonable attorneys' fees to be taxed as costs of
11 suit: Provided, however, it shall appear on the hearing of
12 plaintiff's motion to tax such attorney's fees, that the
13 plaintiff notified the trustees of such district, in writing,
14 at least 60 days before suit was commenced by leaving a copy of
15 such notice with some one of the trustees of such district,
16 stating that he claims damages to the amount of dollars by
17 reason of (here insert the cause of damage) and intends to sue
18 for the same: And, provided further, that the amount recovered
19 shall be larger than the amount offered by said trustees (if
20 anything) as a compromise for damages sustained.

21 (b) An owner or permitted user of real estate entitled to
22 recover damages pursuant to this Section may submit a claim for
23 reimbursement to the Executive Director of the board for the
24 dollar amount expended to replace or repair the damaged real
25 estate or personal property as an alternative to bringing an
26 action to recover damages and attorneys' fees. The acceptance

1 and payment of a claim for reimbursement shall operate as a
2 waiver of the owner's or permitted user's right to initiate an
3 action to recover damages or loss arising from the same
4 incident. The maximum amount of any reimbursement shall be the
5 dollar amount of property tax levied by the sanitary district
6 on the damaged real estate in the immediately preceding tax
7 year or, where the claimant is not the owner of the damaged
8 real estate, a pro rata share of the dollar amount of property
9 tax levied on the damaged real estate by the sanitary district
10 in the immediately preceding tax year based upon the claimant's
11 proportionate use of the damaged real estate. A claim for
12 reimbursement shall be supported by receipts detailing the
13 amount expended for the replacement or repair of the damaged
14 real estate or personal property. The Executive Director shall
15 cause reimbursement to be made within 90 calendar days after
16 the Executive Director's receipt of a properly supported claim
17 for reimbursement. The Executive Director shall promulgate any
18 additional rules and regulations deemed necessary for the
19 reimbursement process.

20 (Source: Laws 1907, p. 284.)

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