

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 5-1062.3 as follows:

(55 ILCS 5/5-1062.3 new)

Sec. 5-1062.3. Stormwater management; DuPage and Peoria Counties.

(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 DuPage and Peoria, and references to "county" in this Section apply only to those counties. This Section does not apply to a municipality that only partially lies within one of these counties and, on the effective date of this amendatory Act of the 98th General Assembly, is served by an existing Section in the Counties Code regarding stormwater management. 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; and

(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 county. 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 and 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. With respect to DuPage County only, the Chicago Metropolitan Agency for Planning 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) For the purpose of implementing this Section and for the development, design, planning, construction, operation, and maintenance of stormwater facilities provided for in the adopted stormwater management plan, a county board that has established a stormwater management planning committee pursuant to this Section or has participated in a stormwater management planning process may adopt a schedule of fees applicable to all real property within the county which benefits from the county's stormwater management facilities and activities, and as may be necessary to mitigate the effects of increased stormwater runoff resulting from development. The total amount of the fees assessed must be specifically and

uniquely attributable to the actual costs of the county in the preparation, administration, and implementation of the adopted stormwater management plan, construction and maintenance of stormwater facilities, and other activities related to the management of the runoff from the property. The individual fees must be specifically and uniquely attributable to the portion of the actual cost to the county of managing the runoff from the property. 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 and maintaining stormwater collection, retention, detention, and particulate treatment facilities, and improving water bodies impacted by stormwater runoff, as identified in the county plan. In establishing, maintaining, or replacing such facilities, the county shall not duplicate facilities operated by other governmental bodies within its corporate boundaries. The schedule of fees established by the county board shall include a procedure for a full or partial fee waiver for property owners who have taken actions or put in place facilities that reduce or eliminate the cost to the county of providing stormwater management services to their property. The county board may also offer tax or fee rebates or incentive payments to property owners who construct, maintain, and use approved green infrastructure stormwater management devices or any other methods that reduce or eliminate the cost to the county of providing stormwater management services to the



property, including but not limited to facilities that reduce the volume, temperature, velocity, and pollutant load of the stormwater managed by the county, such as systems that infiltrate, evapotranspire, or harvest stormwater for reuse, known as "green infrastructure". In exercising this authority, the county shall provide notice to the municipalities within their jurisdictions of any fees proposed under this Section and seek the input of each municipality with respect to the calculation of the fees. The county shall also give property owners at least 2 years' notice of the fee, during which time the county shall provide education on green infrastructure practices and an opportunity to take action to reduce or eliminate the fee. 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. The county may enter into intergovernmental agreements with other government bodies for the joint administration of stormwater management and the collection of the fees authorized in this Section.

A fee schedule authorized by this subsection must have the same limit as the authorized stormwater tax. In Peoria County only, the fee schedule shall not be adopted unless (i) a referendum has been passed approving a stormwater tax as provided in subsection (i) of this Section; or (ii) the question of the adoption of a fee schedule with the same limit as the authorized stormwater tax has been approved in a referendum by a majority of those voting on the question.

(i) In the alternative to a fee imposed under subsection (h), the county board 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. 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.

If at least part of the county has been declared by a presidential proclamation after July 1, 1986 and before December 31, 1987, to be a disaster area as a result of flooding, the tax authorized by this subsection does not require approval by referendum. However, in Peoria County, 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?

Votes shall be recorded as Yes or No.

The following 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 adoption of a schedule of fees applicable to all real property within the county:

Shall the county board be authorized to adopt a schedule of fees, at a rate not exceeding that of the stormwater management tax, applicable to all real property for preparation, administration, and implementation of an adopted stormwater management plan, construction and

maintenance of related facilities, and management of the runoff from the property?

Votes shall be recorded as Yes or No.

If these questions have been approved by a majority of those voting prior to the effective date of this amendatory Act of the 98th General Assembly, this subsection does not apply.

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

However, any active drainage district implementing a plan that is consistent with and at least as stringent as the county

stormwater management plan may petition the stormwater management planning committee for exception from dissolution. Upon filing of the petition, the committee shall set a date for hearing not less than 2 weeks, nor more than 4 weeks, from the filing thereof, and the committee shall give at least one week's notice of the hearing in one or more newspapers of general circulation within the district, and in addition shall cause a copy of the notice to be personally served upon each of the trustees of the district. At the hearing, the committee shall hear the district's petition and allow the district trustees and any interested parties an opportunity to present oral and written evidence. The committee shall render its decision upon the petition for exception from dissolution based upon the best interests of the residents of the district. In the event that the exception is not allowed, the district may file a petition within 30 days of the decision with the circuit court. In that case, the notice and hearing requirements for the court shall be the same as herein provided for the committee. The court shall likewise render its decision of whether to dissolve the district based upon the best interests of residents of the district.

The dissolution of any drainage district shall not affect the obligation of any bonds issued or contracts entered into by the district nor invalidate the levy, extension or collection of any taxes or special assessments upon the property in the former drainage district. All property and obligations of the

former drainage district shall be assumed and managed by the county, and the debts of the former drainage district shall be discharged as soon as practicable.

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

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

(1) 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.

(m) Except as otherwise provided in subsection (a) of this Section, 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.

(n) 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.

(o) A county that has adopted a fee schedule pursuant to this Section may not thereafter issue any bond extensions related to implementing a stormwater management plan.

(p) 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.

(q) 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.

(r) Stormwater management projects and actions related to stormwater management in a county that has adopted a fee schedule or tax pursuant to this Section prior to the effective date of this amendatory Act of the 98th General Assembly are not altered by this amendatory Act of the 98th General Assembly.

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