



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3447

Introduced 2/14/2020, by Sen. Laura Fine

#### SYNOPSIS AS INTRODUCED:

20 ILCS 830/1-3	from Ch. 96 1/2, par. 9701-3
20 ILCS 830/1-4	from Ch. 96 1/2, par. 9701-4
20 ILCS 830/1-5	from Ch. 96 1/2, par. 9701-5
20 ILCS 830/1-6	from Ch. 96 1/2, par. 9701-6
20 ILCS 830/2-1	from Ch. 96 1/2, par. 9702-1
20 ILCS 830/Art. IIIA heading new	
20 ILCS 830/3A-1 new	
20 ILCS 830/3A-2 new	
20 ILCS 830/3A-3 new	
20 ILCS 830/3A-4 new	
30 ILCS 105/5.930 new	

Amends the Interagency Wetland Policy Act of 1989. Sets forth that State agencies shall avoid adverse impacts to unprotected wetlands by requiring the issuance of a license signed by the Director of the Department of Natural Resources and authenticated by the seal thereof. Provides that State agencies shall work to prevent or reduce overall net loss of the State's existing wetland acres or their functional value due to State-licensed activities. Adds the definitions of "unprotected wetland", "protective county program", and "nonprohibited discharge of dredged fill or materials" to the Act. Creates the State Wetland Conservation Fund. Provides that the Department of Natural Resources shall grant a license for certain activities in unprotected wetlands to applicants who pay a fee per acre of wetland to be adversely impacted by such activities. Provides that the fee shall be progressive and based on the quality of the wetland or wetlands to be adversely impacted. Provides that revenues raised from the fees shall be placed in the State Wetland Conservation Fund. Makes a corresponding change in the State Finance Act. Effective immediately.

LRB101 19747 CMG 69257 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning wetlands.

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

4 Section 5. The Interagency Wetland Policy Act of 1989 is  
5 amended by changing Sections 1-3, 1-4, 1-5, 1-6, and 2-1 and by  
6 adding Article IIIA as follows:

7 (20 ILCS 830/1-3) (from Ch. 96 1/2, par. 9701-3)

8 Sec. 1-3. Application. The General Assembly recognizes the  
9 environmental, economic and social values of the State's  
10 remaining wetlands and directs that State agencies shall  
11 preserve, enhance, and create wetlands where possible and avoid  
12 adverse impacts to wetlands from:

13 (a) State and State pass-through funded construction  
14 activities. This Act does not apply to construction activities  
15 costing less than \$10,000, in which non-public contributions  
16 are at least 25 percent of the total cost. This Act does not  
17 apply to cleanup of contaminated sites authorized, funded or  
18 approved pursuant to: (1) the federal Comprehensive  
19 Environmental Response Compensation and Liability Act of 1980  
20 (P.L. 96-510), as amended; (2) the leaking underground storage  
21 tank program, as established in Subtitle I of the Hazardous and  
22 Solid Waste Amendments of 1984 (P.L. 98-616), as amended, of  
23 the Resource Conservation and Recovery Act of 1976 (P.L.

1 94-580); (3) the State remedial action program established  
2 under Section 4 of the Environmental Protection Act, as  
3 amended, or any other Section of this Act or regulations  
4 promulgated thereunder which pertain to the above exempted  
5 federal cleanup programs.

6 This Act does not apply to projects receiving loan  
7 assistance provided to local government units under the  
8 provisions of the Illinois Water Pollution Control Revolving  
9 Fund, that are subject to review under the National  
10 Environmental Policy Act of 1969 (NEPA) or the state  
11 equivalent, pursuant to rules governing the Illinois Water  
12 Pollution Control Revolving Fund.

13 (b) State supported land management activities;

14 (c) State and State supported technical assistance  
15 programs; ~~and~~

16 (d) Other State activities that result in adverse impacts  
17 to wetlands; ~~and~~.

18 (e) Certain other activities in unprotected wetlands,  
19 including, but not limited, to (i) the discharge of any fill or  
20 deposit of rock, earth, sand, other material, or any refuse  
21 matter of any kind or description, (ii) the building or the  
22 commencement of building of any structure, or (iii) other work  
23 of any kind in the unprotected wetlands within the State  
24 without first receiving a license signed by the Director and  
25 authenticated by the seal thereof.

26 Educational materials produced with State support, shall

1 be consistent with the policies contained within this Act.

2 (Source: P.A. 86-157.)

3 (20 ILCS 830/1-4) (from Ch. 96 1/2, par. 9701-4)

4 Sec. 1-4. State goal. It shall be the goal of the State  
5 that there be no overall net loss of the State's existing  
6 wetland acres or their functional value due to State-supported  
7 or State-licensed ~~State-supported~~ activities. Further, State  
8 agencies shall preserve, enhance and create wetlands where  
9 necessary in order to increase the quality and quantity of the  
10 State's wetland resource base.

11 (Source: P.A. 86-157.)

12 (20 ILCS 830/1-5) (from Ch. 96 1/2, par. 9701-5)

13 Sec. 1-5. Goal implementation. The goal is implemented  
14 through a State Wetland Mitigation Policy, the creation of a  
15 State Wetland Conservation Fund, and the development of Agency  
16 Action Plans.

17 (Source: P.A. 86-157.)

18 (20 ILCS 830/1-6) (from Ch. 96 1/2, par. 9701-6)

19 Sec. 1-6. Definitions. As used in this Act:

20 (a) "Wetland" means land that has a predominance of hydric  
21 soils (soils which are usually wet and where there is little or  
22 no free oxygen) and that is inundated or saturated by surface  
23 or groundwater at a frequency and duration sufficient to

1 support, and that under normal circumstances does support, a  
2 prevalence of hydrophytic vegetation (plants typically found  
3 in wet habitats) typically adapted for life in saturated soil  
4 conditions. Areas which are restored or created as the result  
5 of mitigation or planned construction projects and which  
6 function as a wetland are included within this definition even  
7 when all three wetland parameters are not present.

8 (b) "Adverse wetland impacts" means any land management and  
9 construction or related project activity which directly or  
10 indirectly reduces the size of a wetland or impairs a wetland's  
11 functional value, as described in subsection (c) of Section 1-2  
12 of this Act, or the hydraulic and hydrologic characteristics of  
13 a wetland.

14 (c) "Director" means the Director of Natural Resources.

15 (d) "Department" with reference to this Act means the  
16 Department of Natural Resources.

17 (e) "Committee" means the Interagency Wetlands Committee  
18 created by this Act.

19 (f) "Mitigation" includes avoiding, minimizing or  
20 compensating for adverse wetland impacts. This includes:

21 (1) Avoiding the impact altogether by not taking a  
22 certain action or parts of an action;

23 (2) Minimizing the impact by limiting the magnitude of  
24 the action; and

25 (3) Compensating for the impact by replacing or  
26 providing substitute wetland resources or environments.

1 (g) "Agency Action Plan" means a plan developed by an  
2 individual agency to implement this Act.

3 (h) "Wetland Compensation Plan" means a plan developed for  
4 each individual construction project that details how the  
5 responsible agency will compensate for actions which will  
6 result in adverse wetland impacts.

7 (i) "Conservation Organization" means an organization,  
8 legally established under Illinois Law, for the purpose of  
9 managing and protecting natural resources.

10 (j) "Necessary" means in a manner consistent with the  
11 intent of this Act.

12 (k) "Nonprohibited discharge of dredged or fill materials"  
13 means activities exempt under Section 404(f) (1) of the federal  
14 Clean Water Act.

15 (l) "Unprotected wetland" means a wetland that is not  
16 included in waters of the United States as that term is used in  
17 the federal Water Pollution Control Act, and is not protected  
18 by any protective county program.

19 (m) "Protective county program" means the programs now  
20 administered by Cook, DuPage, Kane, Lake, and McHenry Counties,  
21 so long as those programs are not substantially weakened as  
22 determined by the Director, and includes the programs of any  
23 other county that shall be certified by the Director as  
24 protective of wetlands and wetland values.

25 (Source: P.A. 89-445, eff. 2-7-96.)

1 (20 ILCS 830/2-1) (from Ch. 96 1/2, par. 9702-1)

2 Sec. 2-1. Interagency Wetlands Committee. An Interagency  
3 Wetlands Committee, chaired by the Director of Natural  
4 Resources or his or her representative, is established. The  
5 Directors of the following agencies, or their respective  
6 representatives, shall serve as members of the Committee:

7 Capital Development Board,

8 Department of Agriculture,

9 Department of Commerce and Economic Opportunity,

10 Environmental Protection Agency, and

11 Department of Transportation.

12 The Interagency Wetlands Committee shall also include 2  
13 additional persons with relevant expertise designated by the  
14 Director of Natural Resources.

15 The Interagency Wetlands Committee shall advise the  
16 Director in the administration of this Act. This will include:

17 (a) Developing rules and regulations for the  
18 implementation and administration of this Act.

19 (b) Establishing guidelines for developing individual  
20 Agency Action Plans.

21 (c) Developing and adopting technical procedures for  
22 the consistent identification, delineation and evaluation  
23 of existing wetlands and quantification of their  
24 functional values and the evaluation of wetland  
25 restoration or creation projects.

26 (d) Developing a research program for wetland

1 function, restoration and creation.

2 (e) Preparing reports, including:

3 (1) A biennial report to the Governor and the  
4 General Assembly on the impact of State-supported and  
5 State-licensed ~~State-supported~~ activities on wetlands.

6 (2) A comprehensive report on the status of the  
7 State's wetland resources, including recommendations  
8 for additional programs, by January 15, 1991.

9 (f) Development of educational materials to promote  
10 the protection of wetlands.

11 (Source: P.A. 100-695, eff. 8-3-18.)

12 (20 ILCS 830/Art. IIIA heading new)

13 ARTICLE IIIA. STATE WETLAND CONSERVATION FUND

14 (20 ILCS 830/3A-1 new)

15 Sec. 3A-1. State Wetland Conservation Fund. There is  
16 created the State Wetland Conservation Fund to be managed by  
17 the Department. This fund shall be used for the sole and  
18 exclusive purpose of acquiring interests in, preserving, and  
19 restoring wetlands.

20 (20 ILCS 830/3A-2 new)

21 Sec. 3A-2. State acquisition of wetlands. Lands may be  
22 acquired in fee simple, by easements, or by other ownership  
23 interests in unprotected wetlands through the use of the State



1 Wetland Conservation Fund.

2 (20 ILCS 830/3A-3 new)

3 Sec. 3A-3. State protection and restoration of wetlands.

4 (a) The Department may award grants to municipalities,  
5 counties, and not-for-profit corporations in order to promote  
6 the goal of protecting and restoring wetlands and wetland  
7 values.

8 (b) It is unlawful (i) to conduct any activity causing the  
9 discharge of any fill or deposit of rock, earth, sand, or other  
10 material, or any refuse matter of any kind or description, (ii)  
11 to build or to commence to build any structure, or (iii) to  
12 perform other work of any kind in the unprotected wetlands  
13 within this State without first receiving a license signed by  
14 the Director and authenticated by the seal thereof.

15 (c) The Department shall license certain activities in  
16 unprotected wetlands through an in-lieu fee program. No license  
17 to perform activities in unprotected wetlands shall be granted  
18 to applicants without first submitting the plans, profiles, and  
19 specifications for the project affecting unprotected wetlands,  
20 and such other data and information as may be required by the  
21 Department. This license requirement does not apply to duck  
22 blinds that comply with regulations of the Department or to  
23 nonprohibited discharges of dredge or fill materials.

24 (d) Obtaining a license for activities in an unprotected  
25 wetland shall not except the licensee from obtaining any other

1 required license or permit. Issuance of a license for  
2 activities in unprotected wetlands shall not constitute  
3 evidence that other permits or licenses are not needed for such  
4 activities.

5 (20 ILCS 830/3A-4 new)

6 Sec. 3A-4. In-lieu fee program.

7 (a) The Department shall grant a license for certain  
8 activities in unprotected wetlands to applicants who pay a fee  
9 per acre of wetland to be adversely impacted by such  
10 activities. This fee shall be progressive and based on the  
11 quality of the wetland or wetlands to be adversely impacted.  
12 Revenues raised from these fees shall be placed in the State  
13 Wetland Conservation Fund.

14 (b) The in-lieu fee for activities that will adversely  
15 impact wetlands identified on the Illinois Natural Areas  
16 Inventory and through the Advance Identification Wetlands GIS  
17 datasets shall be \$175,000 per acre of wetland to be adversely  
18 impacted.

19 (c) The in-lieu fee for activities that will adversely  
20 impact all other unprotected wetlands shall be \$50,000 per acre  
21 of wetland to be adversely impacted.

22 Section 10. The State Finance Act is amended by adding  
23 Section 5.930 as follows:

1 (30 ILCS 105/5.930 new)

2 Sec. 5.930. The State Wetland Conservation Fund.

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