

SB3651



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3651

Introduced 2/14/2020, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4

from Ch. 111 1/2, par. 1004

Amends the Environmental Protection Act. Makes a technical change in a Section concerning the duties of the Environmental Protection Agency.

LRB101 19990 CPF 69516 b

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 4 as follows:

6 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

7 Sec. 4. Environmental Protection Agency; establishment;
8 duties.

9 (a) There is established in the ~~the~~ Executive Branch of the
10 State Government an agency to be known as the Environmental
11 Protection Agency. This Agency shall be under the supervision
12 and direction of a Director who shall be appointed by the
13 Governor with the advice and consent of the Senate. The term of
14 office of the Director shall expire on the third Monday of
15 January in odd numbered years, provided that he or she shall
16 hold office until a successor is appointed and has qualified.
17 For terms ending before December 31, 2019, the Director shall
18 receive an annual salary as set by the Compensation Review
19 Board. For terms beginning after the effective date of this
20 amendatory Act of the 100th General Assembly, the Director's
21 annual salary shall be an amount equal to 15% more than the
22 Director's annual salary as of December 31, 2018. The
23 calculation of the 2018 salary base for this adjustment shall

1 not include any cost of living adjustments, as authorized by
2 Senate Joint Resolution 192 of the 86th General Assembly, for
3 the period beginning July 1, 2009 to June 30, 2019. Beginning
4 July 1, 2019 and each July 1 thereafter, the Director shall
5 receive an increase in salary based on a cost of living
6 adjustment as authorized by Senate Joint Resolution 192 of the
7 86th General Assembly. The Director, in accord with the
8 Personnel Code, shall employ and direct such personnel, and
9 shall provide for such laboratory and other facilities, as may
10 be necessary to carry out the purposes of this Act. In
11 addition, the Director may by agreement secure such services as
12 he or she may deem necessary from any other department, agency,
13 or unit of the State Government, and may employ and compensate
14 such consultants and technical assistants as may be required.

15 (b) The Agency shall have the duty to collect and
16 disseminate such information, acquire such technical data, and
17 conduct such experiments as may be required to carry out the
18 purposes of this Act, including ascertainment of the quantity
19 and nature of discharges from any contaminant source and data
20 on those sources, and to operate and arrange for the operation
21 of devices for the monitoring of environmental quality.

22 (c) The Agency shall have authority to conduct a program of
23 continuing surveillance and of regular or periodic inspection
24 of actual or potential contaminant or noise sources, of public
25 water supplies, and of refuse disposal sites.

26 (d) In accordance with constitutional limitations, the

1 Agency shall have authority to enter at all reasonable times
2 upon any private or public property for the purpose of:

3 (1) Inspecting and investigating to ascertain possible
4 violations of this Act, any rule or regulation adopted
5 under this Act, any permit or term or condition of a
6 permit, or any Board order; or

7 (2) In accordance with the provisions of this Act,
8 taking whatever preventive or corrective action, including
9 but not limited to removal or remedial action, that is
10 necessary or appropriate whenever there is a release or a
11 substantial threat of a release of (A) a hazardous
12 substance or pesticide or (B) petroleum from an underground
13 storage tank.

14 (e) The Agency shall have the duty to investigate
15 violations of this Act, any rule or regulation adopted under
16 this Act, any permit or term or condition of a permit, or any
17 Board order; to issue administrative citations as provided in
18 Section 31.1 of this Act; and to take such summary enforcement
19 action as is provided for by Section 34 of this Act.

20 (f) The Agency shall appear before the Board in any hearing
21 upon a petition for variance or time-limited water quality
22 standard, the denial of a permit, or the validity or effect of
23 a rule or regulation of the Board, and shall have the authority
24 to appear before the Board in any hearing under the Act.

25 (g) The Agency shall have the duty to administer, in accord
26 with Title X of this Act, such permit and certification systems

1 as may be established by this Act or by regulations adopted
2 thereunder. The Agency may enter into written delegation
3 agreements with any department, agency, or unit of State or
4 local government under which all or portions of this duty may
5 be delegated for public water supply storage and transport
6 systems, sewage collection and transport systems, air
7 pollution control sources with uncontrolled emissions of 100
8 tons per year or less and application of algicides to waters of
9 the State. Such delegation agreements will require that the
10 work to be performed thereunder will be in accordance with
11 Agency criteria, subject to Agency review, and shall include
12 such financial and program auditing by the Agency as may be
13 required.

14 (h) The Agency shall have authority to require the
15 submission of complete plans and specifications from any
16 applicant for a permit required by this Act or by regulations
17 thereunder, and to require the submission of such reports
18 regarding actual or potential violations of this Act, any rule
19 or regulation adopted under this Act, any permit or term or
20 condition of a permit, or any Board order, as may be necessary
21 for the purposes of this Act.

22 (i) The Agency shall have authority to make recommendations
23 to the Board for the adoption of regulations under Title VII of
24 the Act.

25 (j) The Agency shall have the duty to represent the State
26 of Illinois in any and all matters pertaining to plans,

1 procedures, or negotiations for interstate compacts or other
2 governmental arrangements relating to environmental
3 protection.

4 (k) The Agency shall have the authority to accept, receive,
5 and administer on behalf of the State any grants, gifts, loans,
6 indirect cost reimbursements, or other funds made available to
7 the State from any source for purposes of this Act or for air
8 or water pollution control, public water supply, solid waste
9 disposal, noise abatement, or other environmental protection
10 activities, surveys, or programs. Any federal funds received by
11 the Agency pursuant to this subsection shall be deposited in a
12 trust fund with the State Treasurer and held and disbursed by
13 him in accordance with Treasurer as Custodian of Funds Act,
14 provided that such monies shall be used only for the purposes
15 for which they are contributed and any balance remaining shall
16 be returned to the contributor.

17 The Agency is authorized to promulgate such regulations and
18 enter into such contracts as it may deem necessary for carrying
19 out the provisions of this subsection.

20 (l) The Agency is hereby designated as water pollution
21 agency for the state for all purposes of the Federal Water
22 Pollution Control Act, as amended; as implementing agency for
23 the State for all purposes of the Safe Drinking Water Act,
24 Public Law 93-523, as now or hereafter amended, except Section
25 1425 of that Act; as air pollution agency for the state for all
26 purposes of the Clean Air Act of 1970, Public Law 91-604,

1 approved December 31, 1970, as amended; and as solid waste
2 agency for the state for all purposes of the Solid Waste
3 Disposal Act, Public Law 89-272, approved October 20, 1965, and
4 amended by the Resource Recovery Act of 1970, Public Law
5 91-512, approved October 26, 1970, as amended, and amended by
6 the Resource Conservation and Recovery Act of 1976, (P.L.
7 94-580) approved October 21, 1976, as amended; as noise control
8 agency for the state for all purposes of the Noise Control Act
9 of 1972, Public Law 92-574, approved October 27, 1972, as
10 amended; and as implementing agency for the State for all
11 purposes of the Comprehensive Environmental Response,
12 Compensation, and Liability Act of 1980 (P.L. 96-510), as
13 amended; and otherwise as pollution control agency for the
14 State pursuant to federal laws integrated with the foregoing
15 laws, for financing purposes or otherwise. The Agency is hereby
16 authorized to take all action necessary or appropriate to
17 secure to the State the benefits of such federal Acts, provided
18 that the Agency shall transmit to the United States without
19 change any standards adopted by the Pollution Control Board
20 pursuant to Section 5(c) of this Act. This subsection (1) of
21 Section 4 shall not be construed to bar or prohibit the
22 Environmental Protection Trust Fund Commission from accepting,
23 receiving, and administering on behalf of the State any grants,
24 gifts, loans or other funds for which the Commission is
25 eligible pursuant to the Environmental Protection Trust Fund
26 Act. The Agency is hereby designated as the State agency for

1 all purposes of administering the requirements of Section 313
2 of the federal Emergency Planning and Community Right-to-Know
3 Act of 1986.

4 Any municipality, sanitary district, or other political
5 subdivision, or any Agency of the State or interstate Agency,
6 which makes application for loans or grants under such federal
7 Acts shall notify the Agency of such application; the Agency
8 may participate in proceedings under such federal Acts.

9 (m) The Agency shall have authority, consistent with
10 Section 5(c) and other provisions of this Act, and for purposes
11 of Section 303(e) of the Federal Water Pollution Control Act,
12 as now or hereafter amended, to engage in planning processes
13 and activities and to develop plans in cooperation with units
14 of local government, state agencies and officers, and other
15 appropriate persons in connection with the jurisdiction or
16 duties of each such unit, agency, officer or person. Public
17 hearings shall be held on the planning process, at which any
18 person shall be permitted to appear and be heard, pursuant to
19 procedural regulations promulgated by the Agency.

20 (n) In accordance with the powers conferred upon the Agency
21 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
22 Agency shall have authority to establish and enforce minimum
23 standards for the operation of laboratories relating to
24 analyses and laboratory tests for air pollution, water
25 pollution, noise emissions, contaminant discharges onto land
26 and sanitary, chemical, and mineral quality of water

1 distributed by a public water supply. The Agency may enter into
2 formal working agreements with other departments or agencies of
3 state government under which all or portions of this authority
4 may be delegated to the cooperating department or agency.

5 (o) The Agency shall have the authority to issue
6 certificates of competency to persons and laboratories meeting
7 the minimum standards established by the Agency in accordance
8 with Section 4(n) of this Act and to promulgate and enforce
9 regulations relevant to the issuance and use of such
10 certificates. The Agency may enter into formal working
11 agreements with other departments or agencies of state
12 government under which all or portions of this authority may be
13 delegated to the cooperating department or agency.

14 (p) Except as provided in Section 17.7, the Agency shall
15 have the duty to analyze samples as required from each public
16 water supply to determine compliance with the contaminant
17 levels specified by the Pollution Control Board. The maximum
18 number of samples which the Agency shall be required to analyze
19 for microbiological quality shall be 6 per month, but the
20 Agency may, at its option, analyze a larger number each month
21 for any supply. Results of sample analyses for additional
22 required bacteriological testing, turbidity, residual chlorine
23 and radionuclides are to be provided to the Agency in
24 accordance with Section 19. Owners of water supplies may enter
25 into agreements with the Agency to provide for reduced Agency
26 participation in sample analyses.

1 (q) The Agency shall have the authority to provide notice
2 to any person who may be liable pursuant to Section 22.2(f) of
3 this Act for a release or a substantial threat of a release of
4 a hazardous substance or pesticide. Such notice shall include
5 the identified response action and an opportunity for such
6 person to perform the response action.

7 (r) The Agency may enter into written delegation agreements
8 with any unit of local government under which it may delegate
9 all or portions of its inspecting, investigating and
10 enforcement functions. Such delegation agreements shall
11 require that work performed thereunder be in accordance with
12 Agency criteria and subject to Agency review. Notwithstanding
13 any other provision of law to the contrary, no unit of local
14 government shall be liable for any injury resulting from the
15 exercise of its authority pursuant to such a delegation
16 agreement unless the injury is proximately caused by the
17 willful and wanton negligence of an agent or employee of the
18 unit of local government, and any policy of insurance coverage
19 issued to a unit of local government may provide for the denial
20 of liability and the nonpayment of claims based upon injuries
21 for which the unit of local government is not liable pursuant
22 to this subsection (r).

23 (s) The Agency shall have authority to take whatever
24 preventive or corrective action is necessary or appropriate,
25 including but not limited to expenditure of monies appropriated
26 from the Build Illinois Bond Fund and the Build Illinois

1 Purposes Fund for removal or remedial action, whenever any
2 hazardous substance or pesticide is released or there is a
3 substantial threat of such a release into the environment. The
4 State, the Director, and any State employee shall be
5 indemnified for any damages or injury arising out of or
6 resulting from any action taken under this subsection. The
7 Director of the Agency is authorized to enter into such
8 contracts and agreements as are necessary to carry out the
9 Agency's duties under this subsection.

10 (t) The Agency shall have authority to distribute grants,
11 subject to appropriation by the General Assembly, to units of
12 local government for financing and construction of wastewater
13 facilities in both incorporated and unincorporated areas. With
14 respect to all monies appropriated from the Build Illinois Bond
15 Fund and the Build Illinois Purposes Fund for wastewater
16 facility grants, the Agency shall make distributions in
17 conformity with the rules and regulations established pursuant
18 to the Anti-Pollution Bond Act, as now or hereafter amended.

19 (u) Pursuant to the Illinois Administrative Procedure Act,
20 the Agency shall have the authority to adopt such rules as are
21 necessary or appropriate for the Agency to implement Section
22 31.1 of this Act.

23 (v) (Blank.)

24 (w) Neither the State, nor the Director, nor the Board, nor
25 any State employee shall be liable for any damages or injury
26 arising out of or resulting from any action taken under

1 subsection (s).

2 (x)(1) The Agency shall have authority to distribute
3 grants, subject to appropriation by the General Assembly, to
4 units of local government for financing and construction of
5 public water supply facilities. With respect to all monies
6 appropriated from the Build Illinois Bond Fund or the Build
7 Illinois Purposes Fund for public water supply grants, such
8 grants shall be made in accordance with rules promulgated by
9 the Agency. Such rules shall include a requirement for a local
10 match of 30% of the total project cost for projects funded
11 through such grants.

12 (2) The Agency shall not terminate a grant to a unit of
13 local government for the financing and construction of public
14 water supply facilities unless and until the Agency adopts
15 rules that set forth precise and complete standards, pursuant
16 to Section 5-20 of the Illinois Administrative Procedure Act,
17 for the termination of such grants. The Agency shall not make
18 determinations on whether specific grant conditions are
19 necessary to ensure the integrity of a project or on whether
20 subagreements shall be awarded, with respect to grants for the
21 financing and construction of public water supply facilities,
22 unless and until the Agency adopts rules that set forth precise
23 and complete standards, pursuant to Section 5-20 of the
24 Illinois Administrative Procedure Act, for making such
25 determinations. The Agency shall not issue a stop-work order in
26 relation to such grants unless and until the Agency adopts

1 precise and complete standards, pursuant to Section 5-20 of the
2 Illinois Administrative Procedure Act, for determining whether
3 to issue a stop-work order.

4 (y) The Agency shall have authority to release any person
5 from further responsibility for preventive or corrective
6 action under this Act following successful completion of
7 preventive or corrective action undertaken by such person upon
8 written request by the person.

9 (z) To the extent permitted by any applicable federal law
10 or regulation, for all work performed for State construction
11 projects which are funded in whole or in part by a capital
12 infrastructure bill enacted by the 96th General Assembly by
13 sums appropriated to the Environmental Protection Agency, at
14 least 50% of the total labor hours must be performed by actual
15 residents of the State of Illinois. For purposes of this
16 subsection, "actual residents of the State of Illinois" means
17 persons domiciled in the State of Illinois. The Department of
18 Labor shall promulgate rules providing for the enforcement of
19 this subsection.

20 (aa) The Agency may adopt rules requiring the electronic
21 submission of any information required to be submitted to the
22 Agency pursuant to any State or federal law or regulation or
23 any court or Board order. Any rules adopted under this
24 subsection (aa) must include, but are not limited to,
25 identification of the information to be submitted
26 electronically.

1 (Source: P.A. 99-937, eff. 2-24-17; 100-1179, eff. 1-18-19.)