

# HB1543



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1543

Introduced 2/17/2021, by Rep. Emanuel Chris Welch

### 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.

LRB102 03559 CPF 13572 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  
10 the State Government an agency to be known as the  
11 Environmental Protection Agency. This Agency shall be under  
12 the supervision and direction of a Director who shall be  
13 appointed by the Governor with the advice and consent of the  
14 Senate. The term of office of the Director shall expire on the  
15 third Monday of January in odd numbered years, provided that  
16 he or she shall hold office until a successor is appointed and  
17 has qualified. For terms ending before December 31, 2019, the  
18 Director shall receive an annual salary as set by the  
19 Compensation Review Board. For terms beginning after the  
20 effective date of this amendatory Act of the 100th General  
21 Assembly, the Director's annual salary shall be an amount  
22 equal to 15% more than the Director's annual salary as of  
23 December 31, 2018. The calculation of the 2018 salary base for

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

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

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

1 sites.

2 (d) In accordance with constitutional limitations, the  
3 Agency shall have authority to enter at all reasonable times  
4 upon any private or public property for the purpose of:

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

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

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

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

1 Act.

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

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

25 (i) The Agency shall have authority to make  
26 recommendations to the Board for the adoption of regulations

1 under Title VII of the Act.

2 (j) The Agency shall have the duty to represent the State  
3 of Illinois in any and all matters pertaining to plans,  
4 procedures, or negotiations for interstate compacts or other  
5 governmental arrangements relating to environmental  
6 protection.

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

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

24 (l) The Agency is hereby designated as water pollution  
25 agency for the state for all purposes of the Federal Water  
26 Pollution Control Act, as amended; as implementing agency for

1 the State for all purposes of the Safe Drinking Water Act,  
2 Public Law 93-523, as now or hereafter amended, except Section  
3 1425 of that Act; as air pollution agency for the state for all  
4 purposes of the Clean Air Act of 1970, Public Law 91-604,  
5 approved December 31, 1970, as amended; and as solid waste  
6 agency for the state for all purposes of the Solid Waste  
7 Disposal Act, Public Law 89-272, approved October 20, 1965,  
8 and amended by the Resource Recovery Act of 1970, Public Law  
9 91-512, approved October 26, 1970, as amended, and amended by  
10 the Resource Conservation and Recovery Act of 1976, (P.L.  
11 94-580) approved October 21, 1976, as amended; as noise  
12 control agency for the state for all purposes of the Noise  
13 Control Act of 1972, Public Law 92-574, approved October 27,  
14 1972, as amended; and as implementing agency for the State for  
15 all purposes of the Comprehensive Environmental Response,  
16 Compensation, and Liability Act of 1980 (P.L. 96-510), as  
17 amended; and otherwise as pollution control agency for the  
18 State pursuant to federal laws integrated with the foregoing  
19 laws, for financing purposes or otherwise. The Agency is  
20 hereby authorized to take all action necessary or appropriate  
21 to secure to the State the benefits of such federal Acts,  
22 provided that the Agency shall transmit to the United States  
23 without change any standards adopted by the Pollution Control  
24 Board pursuant to Section 5(c) of this Act. This subsection  
25 (1) of Section 4 shall not be construed to bar or prohibit the  
26 Environmental Protection Trust Fund Commission from accepting,

1 receiving, and administering on behalf of the State any  
2 grants, gifts, loans or other funds for which the Commission  
3 is eligible pursuant to the Environmental Protection Trust  
4 Fund Act. The Agency is hereby designated as the State agency  
5 for all purposes of administering the requirements of Section  
6 313 of the federal Emergency Planning and Community  
7 Right-to-Know Act of 1986.

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

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

24 (n) In accordance with the powers conferred upon the  
25 Agency by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act,  
26 the Agency shall have authority to establish and enforce



1 minimum standards for the operation of laboratories relating  
2 to analyses and laboratory tests for air pollution, water  
3 pollution, noise emissions, contaminant discharges onto land  
4 and sanitary, chemical, and mineral quality of water  
5 distributed by a public water supply. The Agency may enter  
6 into formal working agreements with other departments or  
7 agencies of state government under which all or portions of  
8 this authority may be delegated to the cooperating department  
9 or agency.

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

19 (p) Except as provided in Section 17.7, the Agency shall  
20 have the duty to analyze samples as required from each public  
21 water supply to determine compliance with the contaminant  
22 levels specified by the Pollution Control Board. The maximum  
23 number of samples which the Agency shall be required to  
24 analyze for microbiological quality shall be 6 per month, but  
25 the Agency may, at its option, analyze a larger number each  
26 month for any supply. Results of sample analyses for

1 additional required bacteriological testing, turbidity,  
2 residual chlorine and radionuclides are to be provided to the  
3 Agency in accordance with Section 19. Owners of water supplies  
4 may enter into agreements with the Agency to provide for  
5 reduced Agency participation in sample analyses.

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

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

1 to this subsection (r).

2 (s) The Agency shall have authority to take whatever  
3 preventive or corrective action is necessary or appropriate,  
4 including but not limited to expenditure of monies  
5 appropriated from the Build Illinois Bond Fund and the Build  
6 Illinois Purposes Fund for removal or remedial action,  
7 whenever any hazardous substance or pesticide is released or  
8 there is a substantial threat of such a release into the  
9 environment. The State, the Director, and any State employee  
10 shall be indemnified for any damages or injury arising out of  
11 or resulting from any action taken under this subsection. The  
12 Director of the Agency is authorized to enter into such  
13 contracts and agreements as are necessary to carry out the  
14 Agency's duties under this subsection.

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

24 (u) Pursuant to the Illinois Administrative Procedure Act,  
25 the Agency shall have the authority to adopt such rules as are  
26 necessary or appropriate for the Agency to implement Section

1 31.1 of this Act.

2 (v) (Blank.)

3 (w) Neither the State, nor the Director, nor the Board,  
4 nor any State employee shall be liable for any damages or  
5 injury arising out of or resulting from any action taken under  
6 subsection (s).

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

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

1 unless and until the Agency adopts rules that set forth  
2 precise and complete standards, pursuant to Section 5-20 of  
3 the Illinois Administrative Procedure Act, for making such  
4 determinations. The Agency shall not issue a stop-work order  
5 in relation to such grants unless and until the Agency adopts  
6 precise and complete standards, pursuant to Section 5-20 of  
7 the Illinois Administrative Procedure Act, for determining  
8 whether to issue a stop-work order.

9 (y) The Agency shall have authority to release any person  
10 from further responsibility for preventive or corrective  
11 action under this Act following successful completion of  
12 preventive or corrective action undertaken by such person upon  
13 written request by the person.

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

25 (aa) The Agency may adopt rules requiring the electronic  
26 submission of any information required to be submitted to the

1 Agency pursuant to any State or federal law or regulation or  
2 any court or Board order. Any rules adopted under this  
3 subsection (aa) must include, but are not limited to,  
4 identification of the information to be submitted  
5 electronically.

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