



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3358

Introduced 2/22/2021, by Rep. Charles Meier

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4

from Ch. 111 1/2, par. 1004

Amends the Environmental Protection Act. In provisions granting the Environmental Protection Agency authority to establish and enforce minimum standards for the operation of laboratories relating to analyses and laboratory tests for air pollution, water pollution, noise emissions, contaminant discharges onto land and sanitary, chemical, and mineral quality of water distributed by a public water supply, provides that the Agency shall ensure that Agency-owned and State-owned laboratory equipment is able to guarantee accurate reporting and testing to the degree being required by any newly revised environmental standards and regulations within one year of the newly revised standards and regulations.

LRB102 10011 CPF 18955 b

FISCAL NOTE ACT
MAY APPLY

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 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
12 as he or she may deem necessary from any other department,
13 agency, or unit of the State Government, and may employ and
14 compensate such consultants and technical assistants as may be
15 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 The Agency shall ensure that Agency-owned and State-owned
11 laboratory equipment is able to guarantee accurate reporting
12 and testing to the degree being required by any newly revised
13 environmental standards and regulations within one year of the
14 newly revised standards and regulations.

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

24 (p) Except as provided in Section 17.7, the Agency shall
25 have the duty to analyze samples as required from each public
26 water supply to determine compliance with the contaminant

1 levels specified by the Pollution Control Board. The maximum
2 number of samples which the Agency shall be required to
3 analyze for microbiological quality shall be 6 per month, but
4 the Agency may, at its option, analyze a larger number each
5 month for any supply. Results of sample analyses for
6 additional required bacteriological testing, turbidity,
7 residual chlorine and radionuclides are to be provided to the
8 Agency in accordance with Section 19. Owners of water supplies
9 may enter into agreements with the Agency to provide for
10 reduced Agency participation in sample analyses.

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

17 (r) The Agency may enter into written delegation
18 agreements with any unit of local government under which it
19 may delegate all or portions of its inspecting, investigating
20 and enforcement functions. Such delegation agreements shall
21 require that work performed thereunder be in accordance with
22 Agency criteria and subject to Agency review. Notwithstanding
23 any other provision of law to the contrary, no unit of local
24 government shall be liable for any injury resulting from the
25 exercise of its authority pursuant to such a delegation
26 agreement unless the injury is proximately caused by the

1 willful and wanton negligence of an agent or employee of the
2 unit of local government, and any policy of insurance coverage
3 issued to a unit of local government may provide for the denial
4 of liability and the nonpayment of claims based upon injuries
5 for which the unit of local government is not liable pursuant
6 to this subsection (r).

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

20 (t) The Agency shall have authority to distribute grants,
21 subject to appropriation by the General Assembly, to units of
22 local government for financing and construction of wastewater
23 facilities in both incorporated and unincorporated areas. With
24 respect to all monies appropriated from the Build Illinois
25 Bond Fund and the Build Illinois Purposes Fund for wastewater
26 facility grants, the Agency shall make distributions in

1 conformity with the rules and regulations established pursuant
2 to the Anti-Pollution Bond Act, as now or hereafter amended.

3 (u) Pursuant to the Illinois Administrative Procedure Act,
4 the Agency shall have the authority to adopt such rules as are
5 necessary or appropriate for the Agency to implement Section
6 31.1 of this Act.

7 (v) (Blank.)

8 (w) Neither the State, nor the Director, nor the Board,
9 nor any State employee shall be liable for any damages or
10 injury arising out of or resulting from any action taken under
11 subsection (s).

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

22 (2) The Agency shall not terminate a grant to a unit of
23 local government for the financing and construction of public
24 water supply facilities unless and until the Agency adopts
25 rules that set forth precise and complete standards, pursuant
26 to Section 5-20 of the Illinois Administrative Procedure Act,

1 for the termination of such grants. The Agency shall not make
2 determinations on whether specific grant conditions are
3 necessary to ensure the integrity of a project or on whether
4 subagreements shall be awarded, with respect to grants for the
5 financing and construction of public water supply facilities,
6 unless and until the Agency adopts rules that set forth
7 precise and complete standards, pursuant to Section 5-20 of
8 the Illinois Administrative Procedure Act, for making such
9 determinations. The Agency shall not issue a stop-work order
10 in relation to such grants unless and until the Agency adopts
11 precise and complete standards, pursuant to Section 5-20 of
12 the Illinois Administrative Procedure Act, for determining
13 whether to issue a stop-work order.

14 (y) The Agency shall have authority to release any person
15 from further responsibility for preventive or corrective
16 action under this Act following successful completion of
17 preventive or corrective action undertaken by such person upon
18 written request by the person.

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

1 persons domiciled in the State of Illinois. The Department of
2 Labor shall promulgate rules providing for the enforcement of
3 this subsection.

4 (aa) The Agency may adopt rules requiring the electronic
5 submission of any information required to be submitted to the
6 Agency pursuant to any State or federal law or regulation or
7 any court or Board order. Any rules adopted under this
8 subsection (aa) must include, but are not limited to,
9 identification of the information to be submitted
10 electronically.

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