



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1972

Introduced 2/26/2021, 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 105/5.935 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.

LRB102 13606 KMF 18956 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
12 avoid 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
22 and Solid Waste Amendments of 1984 (P.L. 98-616), as amended,
23 of 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
9 and construction or related project activity which directly or
10 indirectly reduces the size of a wetland or impairs a
11 wetland's functional value, as described in subsection (c) of
12 Section 1-2 of this Act, or the hydraulic and hydrologic
13 characteristics of 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
21 Counties, so long as those programs are not substantially
22 weakened as determined by the Director, and includes the
23 programs of any other county that shall be certified by the
24 Director as 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,
11 (ii) to build or to commence to build any structure, or (iii)
12 to 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
17 license to perform activities in unprotected wetlands shall be
18 granted to applicants without first submitting the plans,
19 profiles, and specifications for the project affecting
20 unprotected wetlands, and such other data and information as
21 may be required by the Department. This license requirement
22 does not apply to duck blinds that comply with regulations of
23 the Department or to nonprohibited discharges of dredge or
24 fill materials.

25 (d) Obtaining a license for activities in an unprotected

1 wetland shall not except the licensee from obtaining any other
2 required license or permit. Issuance of a license for
3 activities in unprotected wetlands shall not constitute
4 evidence that other permits or licenses are not needed for
5 such activities.

6 (20 ILCS 830/3A-4 new)

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

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

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

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

23 Section 10. The State Finance Act is amended by adding
24 Section 5.935 as follows:

1 (30 ILCS 105/5.935 new)

2 Sec. 5.935. The State Wetland Conservation Fund.

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