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1 AMENDMENT TO HOUSE BILL 5042

2 AMENDMENT NO. _____. Amend House Bill 5042 on page 1,
3 immediately below line 3 by inserting the following:

4 "Section 1. Short title. This Act may be cited as the
5 Nuclear Safety Law of 2004.

6 Section 5. Cross references. The Illinois Emergency
7 Management Agency shall exercise, administer, and enforce all
8 rights, powers, and duties vested in Department of Nuclear
9 Safety by the following named Acts or Sections of those Acts:

- 10 (1) The Radiation Protection Act of 1990.
- 11 (2) The Radioactive Waste Storage Act.
- 12 (3) The Personnel Radiation Monitoring Act.
- 13 (4) The Laser System Act of 1997.
- 14 (5) The Illinois Nuclear Safety Preparedness Act.
- 15 (6) The Radioactive Waste Compact Enforcement Act.
- 16 (7) Illinois Low-Level Radioactive Waste Management
17 Act.
- 18 (8) Illinois Nuclear Facility Safety Act.
- 19 (9) Radioactive Waste Tracking and Permitting Act.
- 20 (10) Radon Industry Licensing Act.
- 21 (11) Uranium and Thorium Mill Tailings Control Act.

22 Section 10. Nuclear and radioactive materials disposal.
23 The Illinois Emergency Management Agency shall formulate a

1 comprehensive plan regarding disposal of nuclear and
2 radioactive materials in this State. The Illinois Emergency
3 Management Agency shall establish minimum standards for
4 disposal sites, shall evaluate and publicize potential effects
5 on the public health and safety, and shall report to the
6 Governor and General Assembly all violations of the adopted
7 standards. In carrying out this function, the Illinois
8 Emergency Management Agency shall work in cooperation with the
9 Radiation Protection Advisory Council.

10 Section 15. Radiation sources; radioactive waste disposal.
11 The Illinois Emergency Management Agency, instead of the
12 Department of Nuclear Safety, shall register, license,
13 inspect, and control radiation sources, shall purchase, lease,
14 accept, or acquire lands, buildings, and grounds where
15 radioactive wastes can be disposed, and shall supervise and
16 regulate the operation of the disposal sites.

17 Section 20. Nuclear waste sites.

18 (a) The Illinois Emergency Management Agency shall conduct
19 a survey and prepare and publish a list of sites in the State
20 where nuclear waste has been deposited, treated, or stored.

21 (b) The Illinois Emergency Management Agency shall monitor
22 radioactive waste processing, use, handling, storage, and
23 disposal practices in the State, and shall determine existing
24 and expected rates of production of nuclear wastes.

25 (c) The Illinois Emergency Management Agency shall compile
26 and make available to the public an annual report identifying
27 the type and quantities of radioactive waste generated, stored,
28 treated, or disposed of within this State and containing the
29 other information required to be collected under this Section.

30 Section 25. Boiler and pressure vessel safety. The Illinois
31 Emergency Management Agency shall exercise, administer, and

1 enforce all of the following rights, powers, and duties:

2 (1) Rights, powers, and duties vested in the Department
3 of Nuclear Safety by the Boiler and Pressure Vessel Safety
4 Act prior to the abolishment of the Department of Nuclear
5 Safety, to the extent the rights, powers, and duties relate
6 to nuclear steam-generating facilities.

7 (2) Rights, powers, and duties relating to nuclear
8 steam-generating facilities vested in the Department of
9 Nuclear Safety by the Boiler and Pressure Vessel Safety Act
10 prior to the abolishment of the Department of Nuclear
11 Safety, which include but are not limited to the
12 formulation of definitions, rules, and regulations for the
13 safe and proper construction, installation, repair, use,
14 and operation of nuclear steam-generating facilities, the
15 adoption of rules for already installed nuclear
16 steam-generating facilities, the adoption of rules for
17 accidents in nuclear steam-generating facilities, the
18 examination for or suspension of inspectors' licenses of
19 the facilities, and the hearing of appeals from decisions
20 relating to the facilities.

21 (3) Rights, powers, and duties relating to nuclear
22 steam-generating facilities, vested in the State Fire
23 Marshal, the Chief Inspector, or the Department of Nuclear
24 Safety prior to its abolishment, by the Boiler and Pressure
25 Vessel Safety Act, which include but are not limited to the
26 employment of inspectors of nuclear steam-generating
27 facilities, issuance or suspension of their commissions,
28 prosecution of the Act or rules promulgated thereunder for
29 violations by nuclear steam-generating facilities,
30 maintenance of inspection records of all the facilities,
31 publication of rules relating to the facilities, having
32 free access to the facilities, issuance of inspection
33 certificates of the facilities, and the furnishing of bonds
34 conditioned upon the faithful performance of their duties.

1 The Director of Illinois Emergency Management Agency may
2 designate a Chief Inspector, or other inspectors, as he or
3 she deems necessary to perform the functions transferred by
4 this Section.

5 The transfer of rights, powers, and duties specified in
6 paragraphs (1), (2), and (3) is limited to the program
7 transferred by this Act and shall not be deemed to abolish or
8 diminish the exercise of those same rights, powers, and duties
9 by the Office of the State Fire Marshal, the Board of Boiler
10 and Pressure Vessel Rules, the State Fire Marshal, or the Chief
11 Inspector with respect to programs retained by the Office of
12 the State Fire Marshal.

13 Section 30. Powers vested in Environmental Protection
14 Agency.

15 (a) The Illinois Emergency Management Agency shall
16 exercise, administer, and enforce all rights, powers, and
17 duties vested in the Environmental Protection Agency by
18 paragraphs a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p, q,
19 and r of Section 4 and by Sections 30 through 45 of the
20 Environmental Protection Act, to the extent that these powers
21 relate to standards of the Pollution Control Board adopted
22 under Section 35 of this Act. The transfer of rights, powers,
23 and duties specified in this Section is limited to the programs
24 transferred by Public Act 81-1516 and this Act and shall not be
25 deemed to abolish or diminish the exercise of those same
26 rights, powers, and duties by the Environmental Protection
27 Agency with respect to programs retained by the Environmental
28 Protection Agency.

29 (b) Notwithstanding provisions in Sections 4 and 17.7 of
30 the Environmental Protection Act, the Environmental Protection
31 Agency is not required to perform analytical services for
32 community water supplies to determine compliance with
33 contaminant levels for radionuclides as specified in State or

1 federal drinking water regulations.

2 (c) Community water supplies may request the Illinois
3 Emergency Management Agency to perform analytical services to
4 determine compliance with contaminant levels for radionuclides
5 as specified in State or federal drinking water regulations.
6 The Illinois Emergency Management Agency must adopt rules
7 establishing reasonable fees reflecting the direct and
8 indirect cost of testing community water supply samples. The
9 rules may require a community water supply to commit to
10 participation in the Illinois Emergency Management Agency's
11 testing program. Neither the Illinois Emergency Management
12 Agency nor the Environmental Protection Agency is required to
13 perform analytical services to determine contaminant levels
14 for radionuclides from any community water supply that does not
15 participate in the Illinois Emergency Management Agency's
16 testing program.

17 Community water supplies that choose not to participate in
18 the Illinois Emergency Management Agency's testing program or
19 do not pay the fees established by the Illinois Emergency
20 Management Agency shall have the duty to analyze all drinking
21 water samples as required by State or federal safe drinking
22 water regulations to determine radionuclide contaminant
23 levels.

24 Section 35. Pollution Control Board regulations concerning
25 nuclear plants. The Illinois Emergency Management Agency shall
26 enforce the regulations promulgated by the Pollution Control
27 Board under Section 25b of the Environmental Protection Act.
28 Under these regulations the Illinois Emergency Management
29 Agency shall require that a person, corporation, or public
30 authority intending to construct a nuclear steam-generating
31 facility or a nuclear fuel reprocessing plant file with the
32 Illinois Emergency Management Agency an environmental
33 feasibility report that incorporates the data provided in the

1 preliminary safety analysis required to be filed with the
2 United States Nuclear Regulatory Commission.

3 Section 40. Regulation of nuclear safety. The Illinois
4 Emergency Management Agency shall have primary responsibility
5 for the coordination and oversight of all State governmental
6 functions concerning the regulation of nuclear power,
7 including low level waste management, environmental
8 monitoring, and transportation of nuclear waste. Functions
9 performed by the Department of State Police and the Department
10 of Transportation in the area of nuclear safety, on the
11 effective date of this Act, may continue to be performed by
12 these agencies but under the direction of the Illinois
13 Emergency Management Agency. All other governmental functions
14 regulating nuclear safety shall be coordinated by Illinois
15 Emergency Management Agency.

16 Section 45. Appointment of Assistant Director. The
17 Assistant Director shall be an officer appointed by the
18 Governor, with the advice and consent of the Senate, and shall
19 serve for a term of 2 years beginning on the third Monday in
20 January of the odd-numbered year, and until a successor is
21 appointed and has qualified; except that the first Assistant
22 Director under this Act shall be the Director of the Department
23 of Nuclear Safety. The Assistant Director shall not hold any
24 other remunerative public office. The Assistant Director shall
25 receive an annual salary as set by the Governor from time to
26 time or the amount set by the Compensation Review Board,
27 whichever is higher. If set by the Governor, the Assistant
28 Director's annual salary may not exceed 85% of the Governor's
29 annual salary.

30 Section 50. Personnel transferred. Personnel previously
31 assigned to the programs transferred from the Department of

1 Nuclear Safety are hereby transferred to the Illinois Emergency
2 Management Agency. All personnel shall initially constitute
3 probationary employees under the Personnel Code. The
4 Department of Central Management Services shall establish a
5 procedure for qualification and retention of personnel in
6 accordance with the Personnel Code. The rights of the
7 employees, the State, and executive agencies under the
8 Personnel Code, any collective bargaining agreement, or any
9 pension, retirement, or annuity plan shall not be affected by
10 this Act.

11 Section 55. Records and property transferred. All books,
12 records, papers, documents, property (real or personal),
13 unexpended appropriations, and pending business in any way
14 pertaining to the rights, powers, and duties transferred by
15 this Act shall be delivered and transferred to the Illinois
16 Emergency Management Agency.

17 Section 60. Data available to Department of Public Health.
18 All files, records, and data gathered by or under the direction
19 or authority of the Director under the Civil Administrative
20 Code of Illinois shall be made available to the Department of
21 Public Health under the Illinois Health and Hazardous
22 Substances Registry Act.

23 Section 65. Nuclear accident plan. The Illinois Emergency
24 Management Agency shall have primary responsibility to
25 formulate a comprehensive emergency preparedness and response
26 plan for any nuclear accident. The Illinois Emergency
27 Management Agency shall also train and maintain an emergency
28 response team. For entities who possess radioactive materials
29 in significant quantities, as specified by the Agency, the
30 Agency shall establish emergency response threshold
31 requirements for emergency notifications to the Agency.

1 Section 70. Nuclear and radioactive materials
2 transportation plan. The Illinois Emergency Management Agency
3 shall formulate a comprehensive plan regarding the
4 transportation of nuclear and radioactive materials in
5 Illinois. The Illinois Emergency Management Agency shall have
6 primary responsibility for all State governmental regulation
7 of the transportation of nuclear and radioactive materials,
8 insofar as the regulation pertains to the public health and
9 safety. This responsibility shall include but not be limited to
10 the authority to oversee and coordinate regulatory functions
11 performed by the Department of Transportation, the Department
12 of State Police, and the Illinois Commerce Commission.

13 Section 75. State nuclear power policy. The Illinois
14 Emergency Management Agency, in cooperation with the
15 Department of Natural Resources, shall study (i) the impact and
16 cost of nuclear power and compare these to the impact and cost
17 of alternative sources of energy, (ii) the potential effects on
18 the public health and safety of all radioactive emissions from
19 nuclear power plants, and (iii) all other factors that bear on
20 the use of nuclear power or on nuclear safety. The Illinois
21 Emergency Management Agency shall formulate a general nuclear
22 policy for the State based on the findings of the study. The
23 policy shall include but not be limited to the feasibility of
24 continued use of nuclear power, effects of the use of nuclear
25 power on the public health and safety, minimum acceptable
26 standards for the location of any future nuclear power plants,
27 and rules and regulations for the reporting by public utilities
28 of radioactive emissions from power plants. The Illinois
29 Emergency Management Agency shall establish a reliable system
30 for communication between the public and the Illinois Emergency
31 Management Agency and for dissemination of information by the
32 Illinois Emergency Management Agency. The Illinois Emergency

1 Management Agency shall publicize the findings of all studies
2 and make the publications reasonably available to the public.

3 Section 80. No accreditation, certification, or
4 registration if in default on educational loan. The Illinois
5 Emergency Management Agency shall not issue or renew to any
6 individual any accreditation, certification, or registration
7 (but excluding registration under Section 24.7 of the Radiation
8 Protection Act of 1990) otherwise issued by the Illinois
9 Emergency Management Agency if the individual has defaulted on
10 an educational loan guaranteed by the Illinois Student
11 Assistance Commission; however, the Agency may issue or renew
12 an accreditation, certification, or registration if the
13 individual has established a satisfactory repayment record as
14 determined by the Illinois Student Assistance Commission.
15 Additionally, any accreditation, certification, or
16 registration issued by the Illinois Emergency Management
17 Agency (but excluding registration under Section 24.7 of the
18 Radiation Protection Act of 1990) may be suspended or revoked
19 if the Illinois Emergency Management Agency, after the
20 opportunity for a hearing under the appropriate accreditation,
21 certification, or registration Act, finds that the holder has
22 failed to make satisfactory repayment to the Illinois Student
23 Assistance Commission for a delinquent or defaulted loan as
24 determined by the Illinois Student Assistance Commission.

25 Section 85. Saving clause.

26 (a) The rights, powers and duties transferred to the
27 Illinois Emergency Management Agency by this Act shall be
28 vested in and shall be exercised by the Illinois Emergency
29 Management Agency. Each act done in exercise of such rights,
30 powers, and duties shall have the same legal effect as if done
31 by the Department of Nuclear Safety, its divisions, officers,
32 or employees.

1 (b) Every person or corporation shall be subject to the
2 same obligations and duties and any penalties, civil or
3 criminal, arising therefrom, and shall have the same rights
4 arising from the exercise of such powers, duties, rights and
5 responsibilities as had been exercised by the Department of
6 Nuclear Safety, its divisions, officers or employees.

7 (c) Every officer of the Illinois Emergency Management
8 Agency shall, for any offense, be subject to the same penalty
9 or penalties, civil or criminal, as are prescribed by existing
10 law for the same offense by any officer whose powers or duties
11 were transferred under this Act.

12 (d) Whenever reports or notices are now required to be made
13 or given or papers or documents furnished or served by any
14 person to or upon the agencies and officers transferred by this
15 Act, the same shall be made, given, furnished, or served in the
16 same manner to or upon the Illinois Emergency Management
17 Agency.

18 (e) This Act shall not affect any act done, ratified, or
19 canceled or any right occurring or established or any action or
20 proceeding had or commenced in an administrative, civil, or
21 criminal cause regarding the Department of Nuclear Safety
22 before this Act takes effect, but such actions or proceedings
23 may be prosecuted and continued by the Illinois Emergency
24 Management Agency.

25 (f) Any rules of the Department of Nuclear Safety that are
26 in full force on the effective date of this Act and that have
27 been duly adopted by the Illinois Emergency Management Agency
28 shall become the rules of the Illinois Emergency Management
29 Agency. This Act shall not affect the legality of any such
30 rules in the Illinois Administrative Code. Any proposed rules
31 filed with the Secretary of State by the Department of Nuclear
32 Safety that are pending in the rulemaking process on the
33 effective date of this Act, shall be deemed to have been filed
34 by the Illinois Emergency Management Agency. As soon as

1 practicable hereafter, the Illinois Emergency Management
2 Agency shall revise and clarify the rules transferred to it
3 under this Act to reflect the reorganization of rights, powers,
4 and duties effected by this Act using the procedures for
5 recodification of rules available under the Illinois
6 Administrative Procedure Act, except that existing title,
7 part, and section numbering for the affected rules may be
8 retained. The Illinois Emergency Management Agency may propose
9 and adopt under the Illinois Administrative Procedure Act such
10 other rules of the reorganized agencies that will now be
11 administered by the Illinois Emergency Management Agency.

12 (g) If any provision of this Act or its application to any
13 person or circumstances is held invalid by any court of
14 competent jurisdiction, this invalidity does not effect any
15 other provision or application. To achieve this purpose, the
16 provisions of this Act are declared to be severable."; and

17 on page 1, line 4, by changing "Section 5" to "Section 905";
18 and

19 on page 3, immediately below line 18, by inserting the
20 following:

21 "(20 ILCS 2005/Act rep.)

22 Section 910. The Department of Nuclear Safety Law of the
23 Civil Administrative Code of Illinois is repealed."; and

24 on page 3, line 19, by changing "Section 99" to "Section 999".