



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1068

Introduced 2/7/2005, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062

from Ch. 34, par. 5-1062

Amends the Counties Code. Makes a technical change in a Section concerning stormwater management.

LRB094 09131 AJO 39362 b

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing Section
5 5-1062 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)

7 Sec. 5-1062. Stormwater management.

8 (a) The ~~The~~ purpose of this Section is to allow management
9 and mitigation of the effects of urbanization on stormwater
10 drainage in metropolitan counties located in the area served by
11 the Northeastern Illinois Planning Commission, and references
12 to "county" in this Section shall apply only to those counties.
13 This Section shall not apply to any county with a population in
14 excess of 1,500,000, except as provided in subsection (c). The
15 purpose of this Section shall be achieved by:

16 (1) consolidating the existing stormwater management
17 framework into a united, countywide structure;

18 (2) setting minimum standards for floodplain and
19 stormwater management; and

20 (3) preparing a countywide plan for the management of
21 stormwater runoff, including the management of natural and
22 man-made drainageways. The countywide plan may incorporate
23 watershed plans.

24 (b) A stormwater management planning committee shall be
25 established by county board resolution, with its membership
26 consisting of equal numbers of county board and municipal
27 representatives from each county board district, and such other
28 members as may be determined by the county and municipal
29 members. However, if the county has more than 6 county board
30 districts, the county board may by ordinance divide the county
31 into not less than 6 areas of approximately equal population,
32 to be used instead of county board districts for the purpose of

1 determining representation on the stormwater management
2 planning committee.

3 The county board members shall be appointed by the chairman
4 of the county board. Municipal members from each county board
5 district or other represented area shall be appointed by a
6 majority vote of the mayors of those municipalities which have
7 the greatest percentage of their respective populations
8 residing in such county board district or other represented
9 area. All municipal and county board representatives shall be
10 entitled to a vote; the other members shall be nonvoting
11 members, unless authorized to vote by the unanimous consent of
12 the municipal and county board representatives. A municipality
13 that is located in more than one county may choose, at the time
14 of formation of the stormwater management planning committee
15 and based on watershed boundaries, to participate in the
16 stormwater management planning program of either or both of the
17 counties. Subcommittees of the stormwater management planning
18 committee may be established to serve a portion of the county
19 or a particular drainage basin that has similar stormwater
20 management needs. The stormwater management planning committee
21 shall adopt by-laws, by a majority vote of the county and
22 municipal members, to govern the functions of the committee and
23 its subcommittees. Officers of the committee shall include a
24 chair and vice chair, one of whom shall be a county
25 representative and one a municipal representative.

26 The principal duties of the committee shall be to develop a
27 stormwater management plan for presentation to and approval by
28 the county board, and to direct the plan's implementation and
29 revision. The committee may retain engineering, legal and
30 financial advisors and inspection personnel. The committee
31 shall meet at least quarterly and shall hold at least one
32 public meeting during the preparation of the plan and prior to
33 its submittal to the county board.

34 (c) In the preparation of a stormwater management plan, a
35 county stormwater management planning committee shall
36 coordinate the planning process with each adjoining county to

1 ensure that recommended stormwater projects will have no
2 significant impact on the levels or flows of stormwaters in
3 inter-county watersheds or on the capacity of existing and
4 planned stormwater retention facilities. An adopted stormwater
5 management plan shall identify steps taken by the county to
6 coordinate the development of plan recommendations with
7 adjoining counties.

8 (d) Before the stormwater management planning committee
9 recommends to the county board a stormwater management plan for
10 the county or a portion thereof, it shall submit the plan to
11 the Office of Water Resources of the Department of Natural
12 Resources and to the Northeastern Illinois Planning Commission
13 for review and recommendations. The Office and the Commission,
14 in reviewing the plan, shall consider such factors as impacts
15 on the levels or flows in rivers and streams and the cumulative
16 effects of stormwater discharges on flood levels. The Office of
17 Water Resources shall determine whether the plan or ordinances
18 enacted to implement the plan complies with the requirements of
19 subsection (f). Within a period not to exceed 60 days, the
20 review comments and recommendations shall be submitted to the
21 stormwater management planning committee for consideration.
22 Any amendments to the plan shall be submitted to the Office and
23 the Commission for review.

24 (e) Prior to recommending the plan to the county board, the
25 stormwater management planning committee shall hold at least
26 one public hearing thereon and shall afford interested persons
27 an opportunity to be heard. The hearing shall be held in the
28 county seat. Notice of the hearing shall be published at least
29 once no less than 15 days in advance thereof in a newspaper of
30 general circulation published in the county. The notice shall
31 state the time and place of the hearing and the place where
32 copies of the proposed plan will be accessible for examination
33 by interested parties. If an affected municipality having a
34 stormwater management plan adopted by ordinance wishes to
35 protest the proposed county plan provisions, it shall appear at
36 the hearing and submit in writing specific proposals to the

1 stormwater management planning committee. After consideration
2 of the matters raised at the hearing, the committee may amend
3 or approve the plan and recommend it to the county board for
4 adoption.

5 The county board may enact the proposed plan by ordinance.
6 If the proposals for modification of the plan made by an
7 affected municipality having a stormwater management plan are
8 not included in the proposed county plan, and the municipality
9 affected by the plan opposes adoption of the county plan by
10 resolution of its corporate authorities, approval of the county
11 plan shall require an affirmative vote of at least two-thirds
12 of the county board members present and voting. If the county
13 board wishes to amend the county plan, it shall submit in
14 writing specific proposals to the stormwater management
15 planning committee. If the proposals are not approved by the
16 committee, or are opposed by resolution of the corporate
17 authorities of an affected municipality having a municipal
18 stormwater management plan, amendment of the plan shall require
19 an affirmative vote of at least two-thirds of the county board
20 members present and voting.

21 (f) The county board may prescribe by ordinance reasonable
22 rules and regulations for floodplain management and for
23 governing the location, width, course and release rate of all
24 stormwater runoff channels, streams and basins in the county,
25 in accordance with the adopted stormwater management plan.
26 These rules and regulations shall, at a minimum, meet the
27 standards for floodplain management established by the Office
28 of Water Resources and the requirements of the Federal
29 Emergency Management Agency for participation in the National
30 Flood Insurance Program.

31 (g) In accordance with, and if recommended in, the adopted
32 stormwater management plan, the county board may adopt a
33 schedule of fees as may be necessary to mitigate the effects of
34 increased stormwater runoff resulting from new development.
35 The fees shall not exceed the cost of satisfying the onsite
36 stormwater retention or detention requirements of the adopted

1 stormwater management plan. The fees shall be used to finance
2 activities undertaken by the county or its included
3 municipalities to mitigate the effects of urban stormwater
4 runoff by providing regional stormwater retention or detention
5 facilities, as identified in the county plan. All such fees
6 collected by the county shall be held in a separate fund, and
7 shall be expended only in the watershed within which they were
8 collected.

9 (h) For the purpose of implementing this Section and for
10 the development, design, planning, construction, operation and
11 maintenance of stormwater facilities provided for in the
12 stormwater management plan, a county board that has established
13 a stormwater management planning committee pursuant to this
14 Section may cause an annual tax of not to exceed 0.20% of the
15 value, as equalized or assessed by the Department of Revenue,
16 of all taxable property in the county to be levied upon all the
17 taxable property in the county. The tax shall be in addition to
18 all other taxes authorized by law to be levied and collected in
19 the county and shall be in addition to the maximum tax rate
20 authorized by law for general county purposes. The 0.20%
21 limitation provided in this Section may be increased or
22 decreased by referendum in accordance with the provisions of
23 Sections 18-120, 18-125, and 18-130 of the Property Tax Code.

24 Any revenues generated as a result of ownership or
25 operation of facilities or land acquired with the tax funds
26 collected pursuant to this subsection (h) shall be held in a
27 separate fund and be used either to abate such property tax or
28 for implementing this Section.

29 However, unless at least part of the county has been
30 declared after July 1, 1986 by presidential proclamation to be
31 a disaster area as a result of flooding, the tax authorized by
32 this subsection (h) shall not be levied until the question of
33 its adoption, either for a specified period or indefinitely,
34 has been submitted to the electors thereof and approved by a
35 majority of those voting on the question. This question may be
36 submitted at any election held in the county after the adoption

1 shall hear the district's petition and allow the district
2 trustees and any interested parties an opportunity to present
3 oral and written evidence. The committee shall render its
4 decision upon the petition for exception from dissolution based
5 upon the best interests of the residents of the district. In
6 the event that the exception is not allowed, the district may
7 file a petition within 30 days of the decision with the circuit
8 court. In that case, the notice and hearing requirements for
9 the court shall be the same as herein provided for the
10 committee. The court shall likewise render its decision of
11 whether to dissolve the district based upon the best interests
12 of residents of the district.

13 The dissolution of any drainage district shall not affect
14 the obligation of any bonds issued or contracts entered into by
15 the district nor invalidate the levy, extension or collection
16 of any taxes or special assessments upon the property in the
17 former drainage district. All property and obligations of the
18 former drainage district shall be assumed and managed by the
19 county, and the debts of the former drainage district shall be
20 discharged as soon as practicable.

21 If a drainage district lies only partly within a county
22 that adopts a county stormwater management plan, the county may
23 petition the circuit court to disconnect from the drainage
24 district that portion of the district that lies within that
25 county. The property of the drainage district within the
26 disconnected area shall be assumed and managed by the county.
27 The county shall also assume a portion of the drainage
28 district's debt at the time of disconnection, based on the
29 portion of the value of the taxable property of the drainage
30 district which is located within the area being disconnected.

31 The operations of any drainage district that continues to
32 exist in a county that has adopted a stormwater management plan
33 in accordance with this Section shall be in accordance with the
34 adopted plan.

35 (j) Any county that has adopted a county stormwater
36 management plan under this Section may, after 10 days written

1 notice to the owner or occupant, enter upon any lands or waters
2 within the county for the purpose of inspecting stormwater
3 facilities or causing the removal of any obstruction to an
4 affected watercourse. The county shall be responsible for any
5 damages occasioned thereby.

6 (k) Upon petition of the municipality, and based on a
7 finding of the stormwater management planning committee, the
8 county shall not enforce rules and regulations adopted by the
9 county in any municipality located wholly or partly within the
10 county that has a municipal stormwater management ordinance
11 that is consistent with and at least as stringent as the county
12 plan and ordinance, and is being enforced by the municipal
13 authorities.

14 (l) A county may issue general obligation bonds for
15 implementing any stormwater plan adopted under this Section in
16 the manner prescribed in Section 5-1012; except that the
17 referendum requirement of Section 5-1012 shall not apply to
18 bonds issued pursuant to this Section on which the principal
19 and interest are to be paid entirely out of funds generated by
20 the taxes and fees authorized by this Section.

21 (m) The powers authorized by this Section may be
22 implemented by the county board for a portion of the county
23 subject to similar stormwater management needs.

24 (n) The powers and taxes authorized by this Section are in
25 addition to the powers and taxes authorized by Division 5-15;
26 in exercising its powers under this Section, a county shall not
27 be subject to the restrictions and requirements of that
28 Division.

29 (o) Pursuant to paragraphs (g) and (i) of Section 6 of
30 Article VII of the Illinois Constitution, this Section
31 specifically denies and limits the exercise of any power which
32 is inconsistent herewith by home rule units in any county with
33 a population of less than 1,500,000 in the area served by the
34 Northeastern Illinois Planning Commission. This Section does
35 not prohibit the concurrent exercise of powers consistent
36 herewith.

1 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)