

# SB1910



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB1910

Introduced 2/25/2005, by Sen. William R. Haine

#### 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 10044 AJ0 40302 b

A BILL FOR

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 of a resolution by the county board providing for the  
 2 submission of the question to the electors of the county. The  
 3 county board shall certify the resolution and proposition to  
 4 the proper election officials, who shall submit the proposition  
 5 at an election in accordance with the general election law. If  
 6 a majority of the votes cast on the question is in favor of the  
 7 levy of the tax, it may thereafter be levied in the county for  
 8 the specified period or indefinitely, as provided in the  
 9 proposition. The question shall be put in substantially the  
 10 following form:

11 -----  
 12 Shall an annual tax be levied  
 13 for stormwater management purposes YES  
 14 (for a period of not more than  
 15 ..... years) at a rate not exceeding -----  
 16 .....% of the equalized assessed  
 17 value of the taxable property of NO  
 18 ..... County?  
 19 -----

20 (i) Upon the creation and implementation of a county  
 21 stormwater management plan, the county may petition the circuit  
 22 court to dissolve any or all drainage districts created  
 23 pursuant to the Illinois Drainage Code or predecessor Acts  
 24 which are located entirely within the area of the county  
 25 covered by the plan.

26 However, any active drainage district implementing a plan  
 27 that is consistent with and at least as stringent as the county  
 28 stormwater management plan may petition the stormwater  
 29 management planning committee for exception from dissolution.  
 30 Upon filing of the petition, the committee shall set a date for  
 31 hearing not less than 2 weeks, nor more than 4 weeks, from the  
 32 filing thereof, and the committee shall give at least one  
 33 week's notice of the hearing in one or more newspapers of  
 34 general circulation within the district, and in addition shall  
 35 cause a copy of the notice to be personally served upon each of  
 36 the trustees of the district. At the hearing, the committee

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.)