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LRB094 10044 AJ0 45668 a

1 AMENDMENT TO SENATE BILL 1910

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1910 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by adding Section  
5 5-1062.2 as follows:

6 (55 ILCS 5/5-1062.2 new)

7 Sec. 5-1062.2. Stormwater management.

8 (a) The purpose of this Section is to allow management and  
9 mitigation of the effects of urbanization on stormwater  
10 drainage in metropolitan counties located in the area served by  
11 the Southwestern Illinois Metropolitan and Regional Planning  
12 Commission and the Counties of Kankakee, Grundy, LaSalle,  
13 DeKalb, Kendall, and Boone and references to "county" in this  
14 Section apply only to those counties. This Section does not  
15 apply to counties in the Northeastern Illinois Planning  
16 Commission that are granted authorities in Section 5-1062. The  
17 purpose of this Section shall be achieved by:

18 (1) Consolidating the existing stormwater management  
19 framework into a united, countywide structure.

20 (2) Setting minimum standards for floodplain and  
21 stormwater management.

22 (3) Preparing a countywide plan for the management of  
23 stormwater runoff, including the management of natural and  
24 man-made drainageways. The countywide plan may incorporate

1       watershed plans.

2       (b) A stormwater management planning committee may be  
3 established by county board resolution, with its membership  
4 consisting of equal numbers of county board and municipal  
5 representatives from each county board district, and such other  
6 members as may be determined by the county and municipal  
7 members. If the county has more than 6 county board districts,  
8 however, the county board may by ordinance divide the county  
9 into not less than 6 areas of approximately equal population,  
10 to be used instead of county board districts for the purpose of  
11 determining representation on the stormwater management  
12 planning committee.

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

1 representative and one a municipal representative.

2 The principal duties of the committee shall be to develop a  
3 stormwater management plan for presentation to and approval by  
4 the county board, and to direct the plan's implementation and  
5 revision. The committee may retain engineering, legal, and  
6 financial advisors and inspection personnel. The committee  
7 shall meet at least quarterly and shall hold at least one  
8 public meeting during the preparation of the plan and prior to  
9 its submittal to the county board. The committee may make  
10 grants to units of local government that have adopted an  
11 ordinance requiring actions consistent with the stormwater  
12 management plan and to landowners for the purposes of  
13 stormwater management, including special projects; use of the  
14 grant money must be consistent with the stormwater management  
15 plan.

16 The committee shall not have or exercise any power of  
17 eminent domain.

18 (c) In the preparation of a stormwater management plan, a  
19 county stormwater management planning committee shall  
20 coordinate the planning process with each adjoining county to  
21 ensure that recommended stormwater projects will have no  
22 significant impact on the levels or flows of stormwaters in  
23 inter-county watersheds or on the capacity of existing and  
24 planned stormwater retention facilities. An adopted stormwater  
25 management plan shall identify steps taken by the county to  
26 coordinate the development of plan recommendations with  
27 adjoining counties.

28 (d) The stormwater management committee may not enforce any  
29 rules or regulations that would interfere with (i) any power  
30 granted by the Illinois Drainage Code (70 ILCS 605/) to  
31 operate, construct, maintain, or improve drainage systems or  
32 (ii) the ability to operate, maintain, or improve the drainage  
33 systems used on or by land or a facility used for production  
34 agriculture purposes, as defined in the Use Tax Act (35 ILCS

1 105/), except newly constructed buildings and newly installed  
2 impervious paved surfaces. Disputes regarding an exception  
3 shall be determined by a mutually agreed upon arbitrator paid  
4 by the disputing party or parties.

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

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

1 or approve the plan and recommend it to the county board for  
2 adoption.

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

19 (g) The county board may prescribe by ordinance reasonable  
20 rules and regulations for floodplain management and for  
21 governing the location, width, course, and release rate of all  
22 stormwater runoff channels, streams, and basins in the county,  
23 in accordance with the adopted stormwater management plan.  
24 Land, facilities, and drainage district facilities used for  
25 production agriculture as defined in subsection (d) shall not  
26 be subjected to regulation by the county board or stormwater  
27 management committee under this Section for floodplain  
28 management and for governing location, width, course,  
29 maintenance, and release rate of stormwater runoff channels,  
30 streams and basins, or water discharged from a drainage  
31 district. These rules and regulations shall, at a minimum, meet  
32 the standards for floodplain management established by the  
33 Office of Water Resources and the requirements of the Federal  
34 Emergency Management Agency for participation in the National

1 Flood Insurance Program. The Commission may not impose more  
2 stringent regulations regarding water quality on entities  
3 discharging in accordance with a valid National Pollution  
4 Discharge Elimination System permit issued under the  
5 Environmental Protection Act.

6 (h) In accordance with, and if recommended in, the adopted  
7 stormwater management plan, the county board may adopt a  
8 schedule of fees as may be necessary to mitigate the effects of  
9 increased stormwater runoff resulting from new development  
10 based on actual costs. The fees shall not exceed the cost of  
11 satisfying the onsite stormwater retention or detention  
12 requirements of the adopted stormwater management plan. The  
13 fees shall be used to finance activities undertaken by the  
14 county or its included municipalities to mitigate the effects  
15 of urban stormwater runoff by providing regional stormwater  
16 retention or detention facilities, as identified in the county  
17 plan. The county board shall provide for a credit or reduction  
18 in fees for any onsite retention, detention, drainage district  
19 assessments, or other similar stormwater facility that the  
20 developer is required to construct consistent with the  
21 stormwater management ordinance. All these fees collected by  
22 the county shall be held in a separate fund, and shall be  
23 expended only in the watershed within which they were  
24 collected.

25 (i) For the purpose of implementing this Section and for  
26 the development, design, planning, construction, operation,  
27 and maintenance of stormwater facilities provided for in the  
28 stormwater management plan, a county board that has established  
29 a stormwater management planning committee pursuant to this  
30 Section may cause an annual tax of not to exceed 0.20% of the  
31 value, as equalized or assessed by the Department of Revenue,  
32 of all taxable property in the county to be levied upon all the  
33 taxable property in the county or occupation and use taxes of  
34 no more than 1/10 of one cent. The property tax shall be in

1 addition to all other taxes authorized by law to be levied and  
2 collected in the county and shall be in addition to the maximum  
3 tax rate authorized by law for general county purposes. The  
4 0.20% limitation provided in this Section may be increased or  
5 decreased by referendum in accordance with the provisions of  
6 Sections 18-120, 18-125, and 18-130 of the Property Tax Code  
7 (35 ILCS 200/).

8 Any revenues generated as a result of ownership or  
9 operation of facilities or land acquired with the tax funds  
10 collected pursuant to this subsection shall be held in a  
11 separate fund and be used either to abate such property tax or  
12 for implementing this Section.

13 However, the tax authorized by this subsection shall not be  
14 levied until the question of its adoption, either for a  
15 specified period or indefinitely, has been submitted to the  
16 electors thereof and approved by a majority of those voting on  
17 the question. This question may be submitted at any election  
18 held in the county after the adoption of a resolution by the  
19 county board providing for the submission of the question to  
20 the electors of the county. The county board shall certify the  
21 resolution and proposition to the proper election officials,  
22 who shall submit the proposition at an election in accordance  
23 with the general election law. If a majority of the votes cast  
24 on the question is in favor of the levy of the tax, it may  
25 thereafter be levied in the county for the specified period or  
26 indefinitely, as provided in the proposition. The question  
27 shall be put in substantially the following form:

28 Shall an annual tax be levied for stormwater management  
29 purposes (for a period of not more than ..... years) at a  
30 rate not exceeding .....% of the equalized assessed value  
31 of the taxable property of ..... County?

32 Or this question may be submitted at any election held in the  
33 county after the adoption of a resolution by the county board  
34 providing for the submission of the question to the electors of

1 the county to authorize use and occupation taxes of no more  
2 than 1/10 of one cent:

3 Shall use and occupation taxes be raised for stormwater  
4 management purposes (for a period of not more than .....  
5 years) at a rate not exceeding .....% for taxable goods in  
6 ..... County?

7 Votes shall be recorded as Yes or No.

8 (j) For those counties that adopt a property tax in  
9 accordance with the provisions in this Section, the stormwater  
10 management committee shall offer property tax abatements or  
11 incentive payments to property owners who construct, maintain,  
12 and use approved stormwater management devices. For those  
13 counties that adopt use and occupation taxes in accordance with  
14 the provisions of this Section, the stormwater management  
15 committee may offer tax rebates or incentive payments to  
16 property owners who construct, maintain, and use approved  
17 stormwater management devices. The stormwater management  
18 committee is authorized to offer credits to the property tax,  
19 if applicable, based on authorized practices consistent with  
20 the stormwater management plan and approved by the committee.  
21 Expenses of staff of a stormwater management committee that are  
22 expended on regulatory project review may be no more than 20%  
23 of the annual budget of the committee, including funds raised  
24 under subsections (h) and (i).

25 (k) Any county that has adopted a county stormwater  
26 management plan under this Section may, after 10 days written  
27 notice receiving consent of the owner or occupant, enter upon  
28 any lands or waters within the county for the purpose of  
29 inspecting stormwater facilities or causing the removal of any  
30 obstruction to an affected watercourse. If consent is denied or  
31 cannot be reasonably obtained, the county ordinance shall  
32 provide a process or procedure for an administrative warrant to  
33 be obtained. The county shall be responsible for any damages  
34 occasioned thereby.



1       (l) Upon petition of the municipality, and based on a  
2 finding of the stormwater management planning committee, the  
3 county shall not enforce rules and regulations adopted by the  
4 county in any municipality located wholly or partly within the  
5 county that has a municipal stormwater management ordinance  
6 that is consistent with and at least as stringent as the county  
7 plan and ordinance, and is being enforced by the municipal  
8 authorities. On issues that the county ordinance is more  
9 stringent as deemed by the committee, the county shall only  
10 enforce rules and regulations adopted by the county on the more  
11 stringent issues and accept municipal permits. The county shall  
12 have no more than 60 days to review permits or the permits  
13 shall be deemed approved.

14       (m) 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 does 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       (n) 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       (o) 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       Section 99. Effective date. This Act takes effect upon  
30 becoming law.".