



Sen. Frank C. Watson

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LRB094 18647 RSP 55469 a

1 AMENDMENT TO SENATE BILL 2333

2 AMENDMENT NO. _____. Amend Senate Bill 2333 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 4 and 7 as follows:

6 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

7 Sec. 4. Environmental Protection Agency; establishment;
8 duties.

9 (a) There is established in the Executive Branch of the
10 State Government an agency to be known as the Environmental
11 Protection Agency. This Agency shall be under the supervision
12 and direction of a Director who shall be appointed by the
13 Governor with the advice and consent of the Senate. The term of
14 office of the Director shall expire on the third Monday of
15 January in odd numbered years, provided that he or she shall
16 hold office until a successor is appointed and has qualified.
17 The Director shall receive an annual salary as set by the
18 Governor from time to time or as set by the Compensation Review
19 Board, whichever is greater. If set by the Governor, the
20 Director's annual salary may not exceed 85% of the Governor's
21 annual salary. The Director, in accord with the Personnel Code,
22 shall employ and direct such personnel, and shall provide for
23 such laboratory and other facilities, as may be necessary to
24 carry out the purposes of this Act. In addition, the Director

1 may by agreement secure such services as he or she may deem
2 necessary from any other department, agency, or unit of the
3 State Government, and may employ and compensate such
4 consultants and technical assistants as may be required.

5 (b) The Agency shall have the duty to collect and
6 disseminate such information, acquire such technical data, and
7 conduct such experiments as may be required to carry out the
8 purposes of this Act, including ascertainment of the quantity
9 and nature of discharges from any contaminant source and data
10 on those sources, and to operate and arrange for the operation
11 of devices for the monitoring of environmental quality.

12 (c) The Agency shall have authority to conduct a program of
13 continuing surveillance and of regular or periodic inspection
14 of actual or potential contaminant or noise sources, of public
15 water supplies, and of refuse disposal sites.

16 (d) In accordance with constitutional limitations, the
17 Agency shall have authority to enter at all reasonable times
18 upon any private or public property for the purpose of:

19 (1) Inspecting and investigating to ascertain possible
20 violations of this Act, any rule or regulation adopted
21 under this Act, any permit or term or condition of a
22 permit, or any Board order; or

23 (2) In accordance with the provisions of this Act,
24 taking whatever preventive or corrective action, including
25 but not limited to removal or remedial action, that is
26 necessary or appropriate whenever there is a release or a
27 substantial threat of a release of (A) a hazardous
28 substance or pesticide or (B) petroleum from an underground
29 storage tank.

30 (e) The Agency shall have the duty to investigate
31 violations of this Act, any rule or regulation adopted under
32 this Act, any permit or term or condition of a permit, or any
33 Board order; to issue administrative citations as provided in
34 Section 31.1 of this Act; and to take such summary enforcement

1 action as is provided for by Section 34 of this Act.

2 The Agency's duty to investigate under this Act may include
3 the authority to collect and solicit citizen complaints
4 alleging a violation of the Act, any rule adopted under the
5 Act, a permit granted by the Agency, or a condition of the
6 permit via telephone, website, fax, mail, e-mail, or any other
7 reasonable means. The Agency may accept citizen complaints that
8 are anonymous and unaccompanied by the name and mailing address
9 of the complainant, except that, for complaints alleging a
10 violation arising out of agricultural production, the
11 complainant must provide his or her name and mailing address.
12 The Agency shall keep the name and address of complainants
13 confidential as provided in Section 7 and subject to the
14 penalty provisions of Section 44 of this Act. As used in this
15 paragraph, "agricultural production" means the production for
16 commercial purposes of crops, livestock, and livestock and
17 aquatic products, but not the processing of such crops,
18 livestock, or livestock or aquatic products by persons who are
19 not producing them.

20 (f) The Agency shall appear before the Board in any hearing
21 upon a petition for variance, the denial of a permit, or the
22 validity or effect of a rule or regulation of the Board, and
23 shall have the authority to appear before the Board in any
24 hearing under the Act.

25 (g) The Agency shall have the duty to administer, in accord
26 with Title X of this Act, such permit and certification systems
27 as may be established by this Act or by regulations adopted
28 thereunder. The Agency may enter into written delegation
29 agreements with any department, agency, or unit of State or
30 local government under which all or portions of this duty may
31 be delegated for public water supply storage and transport
32 systems, sewage collection and transport systems, air
33 pollution control sources with uncontrolled emissions of 100
34 tons per year or less and application of algicides to waters of

1 the State. Such delegation agreements will require that the
2 work to be performed thereunder will be in accordance with
3 Agency criteria, subject to Agency review, and shall include
4 such financial and program auditing by the Agency as may be
5 required.

6 (h) The Agency shall have authority to require the
7 submission of complete plans and specifications from any
8 applicant for a permit required by this Act or by regulations
9 thereunder, and to require the submission of such reports
10 regarding actual or potential violations of this Act, any rule
11 or regulation adopted under this Act, any permit or term or
12 condition of a permit, or any Board order, as may be necessary
13 for the purposes of this Act.

14 (i) The Agency shall have authority to make recommendations
15 to the Board for the adoption of regulations under Title VII of
16 the Act.

17 (j) The Agency shall have the duty to represent the State
18 of Illinois in any and all matters pertaining to plans,
19 procedures, or negotiations for interstate compacts or other
20 governmental arrangements relating to environmental
21 protection.

22 (k) The Agency shall have the authority to accept, receive,
23 and administer on behalf of the State any grants, gifts, loans,
24 indirect cost reimbursements, or other funds made available to
25 the State from any source for purposes of this Act or for air
26 or water pollution control, public water supply, solid waste
27 disposal, noise abatement, or other environmental protection
28 activities, surveys, or programs. Any federal funds received by
29 the Agency pursuant to this subsection shall be deposited in a
30 trust fund with the State Treasurer and held and disbursed by
31 him in accordance with Treasurer as Custodian of Funds Act,
32 provided that such monies shall be used only for the purposes
33 for which they are contributed and any balance remaining shall
34 be returned to the contributor.

1 The Agency is authorized to promulgate such regulations and
2 enter into such contracts as it may deem necessary for carrying
3 out the provisions of this subsection.

4 (1) The Agency is hereby designated as water pollution
5 agency for the state for all purposes of the Federal Water
6 Pollution Control Act, as amended; as implementing agency for
7 the State for all purposes of the Safe Drinking Water Act,
8 Public Law 93-523, as now or hereafter amended, except Section
9 1425 of that Act; as air pollution agency for the state for all
10 purposes of the Clean Air Act of 1970, Public Law 91-604,
11 approved December 31, 1970, as amended; and as solid waste
12 agency for the state for all purposes of the Solid Waste
13 Disposal Act, Public Law 89-272, approved October 20, 1965, and
14 amended by the Resource Recovery Act of 1970, Public Law
15 91-512, approved October 26, 1970, as amended, and amended by
16 the Resource Conservation and Recovery Act of 1976, (P.L.
17 94-580) approved October 21, 1976, as amended; as noise control
18 agency for the state for all purposes of the Noise Control Act
19 of 1972, Public Law 92-574, approved October 27, 1972, as
20 amended; and as implementing agency for the State for all
21 purposes of the Comprehensive Environmental Response,
22 Compensation, and Liability Act of 1980 (P.L. 96-510), as
23 amended; and otherwise as pollution control agency for the
24 State pursuant to federal laws integrated with the foregoing
25 laws, for financing purposes or otherwise. The Agency is hereby
26 authorized to take all action necessary or appropriate to
27 secure to the State the benefits of such federal Acts, provided
28 that the Agency shall transmit to the United States without
29 change any standards adopted by the Pollution Control Board
30 pursuant to Section 5(c) of this Act. This subsection (1) of
31 Section 4 shall not be construed to bar or prohibit the
32 Environmental Protection Trust Fund Commission from accepting,
33 receiving, and administering on behalf of the State any grants,
34 gifts, loans or other funds for which the Commission is

1 eligible pursuant to the Environmental Protection Trust Fund
2 Act. The Agency is hereby designated as the State agency for
3 all purposes of administering the requirements of Section 313
4 of the federal Emergency Planning and Community Right-to-Know
5 Act of 1986.

6 Any municipality, sanitary district, or other political
7 subdivision, or any Agency of the State or interstate Agency,
8 which makes application for loans or grants under such federal
9 Acts shall notify the Agency of such application; the Agency
10 may participate in proceedings under such federal Acts.

11 (m) The Agency shall have authority, consistent with
12 Section 5(c) and other provisions of this Act, and for purposes
13 of Section 303(e) of the Federal Water Pollution Control Act,
14 as now or hereafter amended, to engage in planning processes
15 and activities and to develop plans in cooperation with units
16 of local government, state agencies and officers, and other
17 appropriate persons in connection with the jurisdiction or
18 duties of each such unit, agency, officer or person. Public
19 hearings shall be held on the planning process, at which any
20 person shall be permitted to appear and be heard, pursuant to
21 procedural regulations promulgated by the Agency.

22 (n) In accordance with the powers conferred upon the Agency
23 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
24 Agency shall have authority to establish and enforce minimum
25 standards for the operation of laboratories relating to
26 analyses and laboratory tests for air pollution, water
27 pollution, noise emissions, contaminant discharges onto land
28 and sanitary, chemical, and mineral quality of water
29 distributed by a public water supply. The Agency may enter into
30 formal working agreements with other departments or agencies of
31 state government under which all or portions of this authority
32 may be delegated to the cooperating department or agency.

33 (o) The Agency shall have the authority to issue
34 certificates of competency to persons and laboratories meeting

1 the minimum standards established by the Agency in accordance
2 with Section 4(n) of this Act and to promulgate and enforce
3 regulations relevant to the issuance and use of such
4 certificates. The Agency may enter into formal working
5 agreements with other departments or agencies of state
6 government under which all or portions of this authority may be
7 delegated to the cooperating department or agency.

8 (p) Except as provided in Section 17.7, the Agency shall
9 have the duty to analyze samples as required from each public
10 water supply to determine compliance with the contaminant
11 levels specified by the Pollution Control Board. The maximum
12 number of samples which the Agency shall be required to analyze
13 for microbiological quality shall be 6 per month, but the
14 Agency may, at its option, analyze a larger number each month
15 for any supply. Results of sample analyses for additional
16 required bacteriological testing, turbidity, residual chlorine
17 and radionuclides are to be provided to the Agency in
18 accordance with Section 19. Owners of water supplies may enter
19 into agreements with the Agency to provide for reduced Agency
20 participation in sample analyses.

21 (q) The Agency shall have the authority to provide notice
22 to any person who may be liable pursuant to Section 22.2(f) of
23 this Act for a release or a substantial threat of a release of
24 a hazardous substance or pesticide. Such notice shall include
25 the identified response action and an opportunity for such
26 person to perform the response action.

27 (r) The Agency may enter into written delegation agreements
28 with any unit of local government under which it may delegate
29 all or portions of its inspecting, investigating and
30 enforcement functions. Such delegation agreements shall
31 require that work performed thereunder be in accordance with
32 Agency criteria and subject to Agency review. Notwithstanding
33 any other provision of law to the contrary, no unit of local
34 government shall be liable for any injury resulting from the

1 exercise of its authority pursuant to such a delegation
2 agreement unless the injury is proximately caused by the
3 willful and wanton negligence of an agent or employee of the
4 unit of local government, and any policy of insurance coverage
5 issued to a unit of local government may provide for the denial
6 of liability and the nonpayment of claims based upon injuries
7 for which the unit of local government is not liable pursuant
8 to this subsection (r).

9 (s) The Agency shall have authority to take whatever
10 preventive or corrective action is necessary or appropriate,
11 including but not limited to expenditure of monies appropriated
12 from the Build Illinois Bond Fund and the Build Illinois
13 Purposes Fund for removal or remedial action, whenever any
14 hazardous substance or pesticide is released or there is a
15 substantial threat of such a release into the environment. The
16 State, the Director, and any State employee shall be
17 indemnified for any damages or injury arising out of or
18 resulting from any action taken under this subsection. The
19 Director of the Agency is authorized to enter into such
20 contracts and agreements as are necessary to carry out the
21 Agency's duties under this subsection.

22 (t) The Agency shall have authority to distribute grants,
23 subject to appropriation by the General Assembly, for financing
24 and construction of municipal wastewater facilities. With
25 respect to all monies appropriated from the Build Illinois Bond
26 Fund and the Build Illinois Purposes Fund for wastewater
27 facility grants, the Agency shall make distributions in
28 conformity with the rules and regulations established pursuant
29 to the Anti-Pollution Bond Act, as now or hereafter amended.

30 (u) Pursuant to the Illinois Administrative Procedure Act,
31 the Agency shall have the authority to adopt such rules as are
32 necessary or appropriate for the Agency to implement Section
33 31.1 of this Act.

34 (v) (Blank.)

1 (w) Neither the State, nor the Director, nor the Board, nor
2 any State employee shall be liable for any damages or injury
3 arising out of or resulting from any action taken under
4 subsection (s).

5 (x)(1) The Agency shall have authority to distribute
6 grants, subject to appropriation by the General Assembly,
7 to units of local government for financing and construction
8 of public water supply facilities. With respect to all
9 monies appropriated from the Build Illinois Bond Fund or
10 the Build Illinois Purposes Fund for public water supply
11 grants, such grants shall be made in accordance with rules
12 promulgated by the Agency. Such rules shall include a
13 requirement for a local match of 30% of the total project
14 cost for projects funded through such grants.

15 (2) The Agency shall not terminate a grant to a unit of
16 local government for the financing and construction of
17 public water supply facilities unless and until the Agency
18 adopts rules that set forth precise and complete standards,
19 pursuant to Section 5-20 of the Illinois Administrative
20 Procedure Act, for the termination of such grants. The
21 Agency shall not make determinations on whether specific
22 grant conditions are necessary to ensure the integrity of a
23 project or on whether subagreements shall be awarded, with
24 respect to grants for the financing and construction of
25 public water supply facilities, unless and until the Agency
26 adopts rules that set forth precise and complete standards,
27 pursuant to Section 5-20 of the Illinois Administrative
28 Procedure Act, for making such determinations. The Agency
29 shall not issue a stop-work order in relation to such
30 grants unless and until the Agency adopts precise and
31 complete standards, pursuant to Section 5-20 of the
32 Illinois Administrative Procedure Act, for determining
33 whether to issue a stop-work order.

34 (y) The Agency shall have authority to release any person

1 from further responsibility for preventive or corrective
2 action under this Act following successful completion of
3 preventive or corrective action undertaken by such person upon
4 written request by the person.

5 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

6 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007)

7 Sec. 7. Public inspection; fees.

8 (a) All files, records, and data of the Agency, the Board,
9 and the Department shall be open to reasonable public
10 inspection and may be copied upon payment of reasonable fees to
11 be established where appropriate by the Agency, the Board, or
12 the Department, except for the following:

13 (i) information which constitutes a trade secret;

14 (ii) information privileged against introduction in
15 judicial proceedings;

16 (iii) internal communications of the several agencies;

17 (iv) information concerning secret manufacturing
18 processes or confidential data submitted by any person
19 under this Act; -

20 (v) information concerning the name or address of a
21 citizen complainant who has submitted a complaint to the
22 Agency alleging a violation of the Act, any rule adopted
23 under the Act, a permit granted by the Agency, or a
24 condition of the permit.

25 (b) Notwithstanding subsection (a) above, as to
26 information from or concerning persons subject to NPDES permit
27 requirements:

28 (i) effluent data may under no circumstances be kept
29 confidential; and

30 (ii) the Agency, the Board, and the Department may make
31 available to the public for inspection and copying any
32 required records, reports, information, permits, and
33 permit applications obtained from contaminant sources

1 subject to the provisions of Section 12 (f) of this Act;
2 provided that upon a showing satisfactory to the Agency,
3 the Board or the Department, as the case may be, by any
4 person that such information, or any part thereof (other
5 than effluent data) would, if made public, divulge methods
6 or processes entitled to protection as trade secrets of
7 such person, the Agency, the Board, or the Department, as
8 the case may be, shall treat such information as
9 confidential.

10 (c) Notwithstanding any other provision of this Title or
11 any other law to the contrary, all emission data reported to or
12 otherwise obtained by the Agency, the Board or the Department
13 in connection with any examination, inspection or proceeding
14 under this Act shall be available to the public to the extent
15 required by the federal Clean Air Act, as amended.

16 (d) Notwithstanding subsection (a) above, the quantity and
17 identity of substances being placed or to be placed in
18 landfills or hazardous waste treatment, storage or disposal
19 facilities, and the name of the generator of such substances
20 may under no circumstances be kept confidential.

21 (e) Notwithstanding any other provisions of this Title, or
22 any other law to the contrary, any information accorded
23 confidential treatment may be disclosed or transmitted to other
24 officers, employees or authorized representatives of this
25 State or of the United States concerned with or for the
26 purposes of carrying out this Act or federal environmental
27 statutes and regulations; provided, however, that such
28 information shall be identified as confidential by the Agency,
29 the Board, or the Department, as the case may be. Any
30 confidential information disclosed or transmitted under this
31 provision shall be used for the purposes stated herein.

32 (f) Except as provided in this Act neither the Agency, the
33 Board, nor the Department shall charge any fee for the
34 performance of its respective duties under this Act.

1 (g) All files, records and data of the Agency, the Board
2 and the Department shall be made available to the Department of
3 Public Health pursuant to the Illinois Health and Hazardous
4 Substances Registry Act. Expenses incurred in the copying and
5 transmittal of files, records and data requested pursuant to
6 this subsection (g) shall be the responsibility of the
7 Department of Public Health.

8 (Source: P.A. 92-574, eff. 6-26-02.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".