

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 5-1062.2 as follows:

6 (55 ILCS 5/5-1062.2)

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 the metropolitan counties of Madison, St. Clair,  
11 Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, Peoria,  
12 and Boone and references to "county" in this Section apply only  
13 to those counties. This Section does not apply to counties in  
14 the Northeastern Illinois Planning Commission that are granted  
15 authorities in Section 5-1062. The purpose of this Section  
16 shall be achieved by:

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

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

21 (3) Preparing a countywide plan for the management of  
22 stormwater runoff, including the management of natural and  
23 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

1 counties. Subcommittees of the stormwater management planning  
2 committee may be established to serve a portion of the county  
3 or a particular drainage basin that has similar stormwater  
4 management needs. The stormwater management planning committee  
5 shall adopt bylaws, by a majority vote of the county and  
6 municipal members, to govern the functions of the committee and  
7 its subcommittees. Officers of the committee shall include a  
8 chair and vice chair, one of whom shall be a county  
9 representative and one a municipal representative.

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

24 The committee shall not have or exercise any power of  
25 eminent domain.

26 (c) In the preparation of a stormwater management plan, a

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

10 (d) The stormwater management committee may not enforce any  
11 rules or regulations that would interfere with (i) any power  
12 granted by the Illinois Drainage Code (70 ILCS 605/) to  
13 operate, construct, maintain, or improve drainage systems or  
14 (ii) the ability to operate, maintain, or improve the drainage  
15 systems used on or by land or a facility used for production  
16 agriculture purposes, as defined in the Use Tax Act (35 ILCS  
17 105/), except newly constructed buildings and newly installed  
18 impervious paved surfaces. Disputes regarding an exception  
19 shall be determined by a mutually agreed upon arbitrator paid  
20 by the disputing party or parties.

21 (e) Before the stormwater management planning committee  
22 recommends to the county board a stormwater management plan for  
23 the county or a portion thereof, it shall submit the plan to  
24 the Office of Water Resources of the Department of Natural  
25 Resources for review and recommendations. The Office, in  
26 reviewing the plan, shall consider such factors as impacts on

1 the levels or flows in rivers and streams and the cumulative  
2 effects of stormwater discharges on flood levels. The Office of  
3 Water Resources shall determine whether the plan or ordinances  
4 enacted to implement the plan complies with the requirements of  
5 subsection (f). Within a period not to exceed 60 days, the  
6 review comments and recommendations shall be submitted to the  
7 stormwater management planning committee for consideration.  
8 Any amendments to the plan shall be submitted to the Office for  
9 review.

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

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

17          (g) The county board may prescribe by ordinance reasonable  
18          rules and regulations for floodplain management and for  
19          governing the location, width, course, and release rate of all  
20          stormwater runoff channels, streams, and basins in the county,  
21          in accordance with the adopted stormwater management plan.  
22          Land, facilities, and drainage district facilities used for  
23          production agriculture as defined in subsection (d) shall not  
24          be subjected to regulation by the county board or stormwater  
25          management committee under this Section for floodplain  
26          management and for governing location, width, course,

1 maintenance, and release rate of stormwater runoff channels,  
2 streams and basins, or water discharged from a drainage  
3 district. These rules and regulations shall, at a minimum, meet  
4 the standards for floodplain management established by the  
5 Office of Water Resources and the requirements of the Federal  
6 Emergency Management Agency for participation in the National  
7 Flood Insurance Program. The Commission may not impose more  
8 stringent regulations regarding water quality on entities  
9 discharging in accordance with a valid National Pollution  
10 Discharge Elimination System permit issued under the  
11 Environmental Protection Act.

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

1 stormwater management ordinance. All these fees collected by  
2 the county shall be held in a separate fund, and shall be  
3 expended only in the watershed within which they were  
4 collected.

5 (i) For the purpose of implementing this Section and for  
6 the development, design, planning, construction, operation,  
7 and maintenance of stormwater facilities provided for in the  
8 stormwater management plan, a county board that has established  
9 a stormwater management planning committee pursuant to this  
10 Section may cause an annual tax of not to exceed 0.20% of the  
11 value, as equalized or assessed by the Department of Revenue,  
12 of all taxable property in the county to be levied upon all the  
13 taxable property in the county or occupation and use taxes of  
14 1/10 of one cent. The property tax shall be in addition to all  
15 other taxes authorized by law to be levied and collected in the  
16 county and shall be in addition to the maximum tax rate  
17 authorized by law for general county purposes. The 0.20%  
18 limitation provided in this Section may be increased or  
19 decreased by referendum in accordance with the provisions of  
20 Sections 18-120, 18-125, and 18-130 of the Property Tax Code  
21 (35 ILCS 200/).

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



1           However, the tax authorized by this subsection shall not be  
2 levied until the question of its adoption, either for a  
3 specified period or indefinitely, has been submitted to the  
4 electors thereof and approved by a majority of those voting on  
5 the question. This question may be submitted at any election  
6 held in the county after the adoption of a resolution by the  
7 county board providing for the submission of the question to  
8 the electors of the county. The county board shall certify the  
9 resolution and proposition to the proper election officials,  
10 who shall submit the proposition at an election in accordance  
11 with the general election law. If a majority of the votes cast  
12 on the question is in favor of the levy of the tax, it may  
13 thereafter be levied in the county for the specified period or  
14 indefinitely, as provided in the proposition. The question  
15 shall be put in substantially the following form:

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

20 Or this question may be submitted at any election held in the  
21 county after the adoption of a resolution by the county board  
22 providing for the submission of the question to the electors of  
23 the county to authorize use and occupation taxes of 1/10 of one  
24 cent:

25           Shall use and occupation taxes be raised for stormwater  
26 management purposes (for a period of not more than .....

1           years) at a rate of 1/10 of one cent for taxable goods in  
2           ..... County?

3           Votes shall be recorded as Yes or No.

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

21          (k) Any county that has adopted a county stormwater  
22          management plan under this Section may, after 10 days written  
23          notice receiving consent of the owner or occupant, enter upon  
24          any lands or waters within the county for the purpose of  
25          inspecting stormwater facilities or causing the removal of any  
26          obstruction to an affected watercourse. If consent is denied or

1 cannot be reasonably obtained, the county ordinance shall  
2 provide a process or procedure for an administrative warrant to  
3 be obtained. The county shall be responsible for any damages  
4 occasioned thereby.

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

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

25 (n) The powers authorized by this Section may be  
26 implemented by the county board for a portion of the county

1 subject to similar stormwater management needs.

2 (o) The powers and taxes authorized by this Section are in  
3 addition to the powers and taxes authorized by Division 5-15;  
4 in exercising its powers under this Section, a county shall not  
5 be subject to the restrictions and requirements of that  
6 Division.

7 (Source: P.A. 94-675, eff. 8-23-05.)

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