



Sen. David Koehler

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LRB095 04524 HLH 38390 a

1 AMENDMENT TO HOUSE BILL 699

2 AMENDMENT NO. _____. Amend House Bill 699 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 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, and Boone
12 and references to "county" in this Section apply only to those
13 counties. This Section does not apply to counties in the
14 Northeastern Illinois Planning Commission that are granted
15 authorities in Section 5-1062. The purpose of this Section
16 shall be achieved by:

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

3 (2) Setting minimum standards for floodplain and
4 stormwater management.

5 (3) Preparing a countywide plan for the management of
6 stormwater runoff, including the management of natural and
7 man-made drainageways. The countywide plan may incorporate
8 watershed plans.

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

20 The county board members shall be appointed by the chairman
21 of the county board. Municipal members from each county board
22 district or other represented area shall be appointed by a
23 majority vote of the mayors of those municipalities that have
24 the greatest percentage of their respective populations
25 residing in that county board district or other represented
26 area. All municipal and county board representatives shall be

1 entitled to a vote; the other members shall be nonvoting
2 members, unless authorized to vote by the unanimous consent of
3 the municipal and county board representatives. A municipality
4 that is located in more than one county may choose, at the time
5 of formation of the stormwater management planning committee
6 and based on watershed boundaries, to participate in the
7 stormwater management planning program of either or both of the
8 counties. Subcommittees of the stormwater management planning
9 committee may be established to serve a portion of the county
10 or a particular drainage basin that has similar stormwater
11 management needs. The stormwater management planning committee
12 shall adopt bylaws, by a majority vote of the county and
13 municipal members, to govern the functions of the committee and
14 its subcommittees. Officers of the committee shall include a
15 chair and vice chair, one of whom shall be a county
16 representative and one a municipal representative.

17 The principal duties of the committee shall be to develop a
18 stormwater management plan for presentation to and approval by
19 the county board, and to direct the plan's implementation and
20 revision. The committee may retain engineering, legal, and
21 financial advisors and inspection personnel. The committee
22 shall meet at least quarterly and shall hold at least one
23 public meeting during the preparation of the plan and prior to
24 its submittal to the county board. The committee may make
25 grants to units of local government that have adopted an
26 ordinance requiring actions consistent with the stormwater

1 management plan and to landowners for the purposes of
2 stormwater management, including special projects; use of the
3 grant money must be consistent with the stormwater management
4 plan.

5 The committee shall not have or exercise any power of
6 eminent domain.

7 (c) In the preparation of a stormwater management plan, a
8 county stormwater management planning committee shall
9 coordinate the planning process with each adjoining county to
10 ensure that recommended stormwater projects will have no
11 significant impact on the levels or flows of stormwaters in
12 inter-county watersheds or on the capacity of existing and
13 planned stormwater retention facilities. An adopted stormwater
14 management plan shall identify steps taken by the county to
15 coordinate the development of plan recommendations with
16 adjoining counties.

17 (d) The stormwater management committee may not enforce any
18 rules or regulations that would interfere with (i) any power
19 granted by the Illinois Drainage Code (70 ILCS 605/) to
20 operate, construct, maintain, or improve drainage systems or
21 (ii) the ability to operate, maintain, or improve the drainage
22 systems used on or by land or a facility used for production
23 agriculture purposes, as defined in the Use Tax Act (35 ILCS
24 105/), except newly constructed buildings and newly installed
25 impervious paved surfaces. Disputes regarding an exception
26 shall be determined by a mutually agreed upon arbitrator paid

1 by the disputing party or parties.

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

17 (f) Prior to recommending the plan to the county board, the
18 stormwater management planning committee shall hold at least
19 one public hearing thereon and shall afford interested persons
20 an opportunity to be heard. The hearing shall be held in the
21 county seat. Notice of the hearing shall be published at least
22 once no less than 15 days in advance of the hearing in a
23 newspaper of general circulation published in the county. The
24 notice shall state the time and place of the hearing and the
25 place where copies of the proposed plan will be accessible for
26 examination by interested parties. If an affected municipality

1 having a stormwater management plan adopted by ordinance wishes
2 to protest the proposed county plan provisions, it shall appear
3 at the hearing and submit in writing specific proposals to the
4 stormwater management planning committee. After consideration
5 of the matters raised at the hearing, the committee may amend
6 or approve the plan and recommend it to the county board for
7 adoption.

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

24 (g) The county board may prescribe by ordinance reasonable
25 rules and regulations for floodplain management and for
26 governing the location, width, course, and release rate of all

1 stormwater runoff channels, streams, and basins in the county,
2 in accordance with the adopted stormwater management plan.
3 Land, facilities, and drainage district facilities used for
4 production agriculture as defined in subsection (d) shall not
5 be subjected to regulation by the county board or stormwater
6 management committee under this Section for floodplain
7 management and for governing location, width, course,
8 maintenance, and release rate of stormwater runoff channels,
9 streams and basins, or water discharged from a drainage
10 district. These rules and regulations shall, at a minimum, meet
11 the standards for floodplain management established by the
12 Office of Water Resources and the requirements of the Federal
13 Emergency Management Agency for participation in the National
14 Flood Insurance Program. The Commission may not impose more
15 stringent regulations regarding water quality on entities
16 discharging in accordance with a valid National Pollution
17 Discharge Elimination System permit issued under the
18 Environmental Protection Act.

19 (h) In accordance with, and if recommended in, the adopted
20 stormwater management plan, the county board may adopt a
21 schedule of fees as may be necessary to mitigate the effects of
22 ~~increased~~ stormwater runoff ~~resulting from new development~~
23 based on actual costs. The fees shall not exceed the cost of
24 satisfying the onsite stormwater retention or detention
25 requirements of the adopted stormwater management plan. The
26 fees shall be used to finance activities undertaken by the

1 county or its included municipalities to mitigate the effects
2 of urban stormwater runoff by providing regional stormwater
3 retention or detention facilities, as identified in the county
4 plan. The county board shall provide for a credit or reduction
5 in fees for any onsite retention, detention, drainage district
6 assessments, or other similar stormwater facility ~~that the~~
7 ~~developer is required to construct~~ consistent with the
8 stormwater management ordinance. Developers are exempt from
9 any fees under this Section if the new development satisfies
10 onsite retention or detention pursuant to any other local
11 ordinance addressing erosion, sediment, or stormwater control
12 and Illinois Environmental Protection Agency regulations that
13 place the development into compliance with the National
14 Pollutant Discharge Elimination System (NPDES) permit program
15 at the time of the dedication of public infrastructure. All
16 these fees collected by the county shall be held in a separate
17 fund, and shall be expended only in the watershed within which
18 they were collected.

19 (i) For the purpose of implementing this Section and for
20 the development, design, planning, construction, operation,
21 and maintenance of stormwater facilities provided for in the
22 stormwater management plan, a county board that has established
23 a stormwater management planning committee pursuant to this
24 Section may cause an annual tax of not to exceed 0.20% of the
25 value, as equalized or assessed by the Department of Revenue,
26 of all taxable property in the county to be levied upon all the

1 taxable property in the county or occupation and use taxes of
2 1/10 of one cent. The property tax shall be in addition to all
3 other taxes authorized by law to be levied and collected in the
4 county and shall be in addition to the maximum tax rate
5 authorized by law for general county purposes. The 0.20%
6 limitation provided in this Section may be increased or
7 decreased by referendum in accordance with the provisions of
8 Sections 18-120, 18-125, and 18-130 of the Property Tax Code
9 (35 ILCS 200/).

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

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

1 thereafter be levied in the county for the specified period or
2 indefinitely, as provided in the proposition. The question
3 shall be put in substantially the following form:

4 Shall an annual tax be levied for stormwater management
5 purposes (for a period of not more than years) at a
6 rate not exceeding% of the equalized assessed value
7 of the taxable property of County?

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

13 Shall use and occupation taxes be raised for stormwater
14 management purposes (for a period of not more than
15 years) at a rate of 1/10 of one cent for taxable goods in
16 County?

17 Votes shall be recorded as Yes or No.

18 (j) For those counties that adopt a property tax in
19 accordance with the provisions in this Section, the stormwater
20 management committee shall offer property tax abatements or
21 incentive payments to property owners who construct, maintain,
22 and use approved stormwater management devices. For those
23 counties that adopt use and occupation taxes in accordance with
24 the provisions of this Section, the stormwater management
25 committee may offer tax rebates or incentive payments to
26 property owners who construct, maintain, and use approved

1 stormwater management devices. The stormwater management
2 committee is authorized to offer credits to the property tax,
3 if applicable, based on authorized practices consistent with
4 the stormwater management plan and approved by the committee.
5 Expenses of staff of a stormwater management committee that are
6 expended on regulatory project review may be no more than 20%
7 of the annual budget of the committee, including funds raised
8 under subsections (h) and (i).

9 (k) Any county that has adopted a county stormwater
10 management plan under this Section may, after 10 days written
11 notice receiving consent of the owner or occupant, enter upon
12 any lands or waters within the county for the purpose of
13 inspecting stormwater facilities or causing the removal of any
14 obstruction to an affected watercourse. If consent is denied or
15 cannot be reasonably obtained, the county ordinance shall
16 provide a process or procedure for an administrative warrant to
17 be obtained. The county shall be responsible for any damages
18 occasioned thereby.

19 (l) Upon petition of the municipality, and based on a
20 finding of the stormwater management planning committee, the
21 county shall not enforce rules and regulations adopted by the
22 county in any municipality located wholly or partly within the
23 county that has a municipal stormwater management ordinance
24 that is consistent with and at least as stringent as the county
25 plan and ordinance, and is being enforced by the municipal
26 authorities. On issues that the county ordinance is more

1 stringent as deemed by the committee, the county shall only
2 enforce rules and regulations adopted by the county on the more
3 stringent issues and accept municipal permits. The county shall
4 have no more than 60 days to review permits or the permits
5 shall be deemed approved.

6 (m) A county may issue general obligation bonds for
7 implementing any stormwater plan adopted under this Section in
8 the manner prescribed in Section 5-1012; except that the
9 referendum requirement of Section 5-1012 does not apply to
10 bonds issued pursuant to this Section on which the principal
11 and interest are to be paid entirely out of funds generated by
12 the taxes and fees authorized by this Section.

13 (n) The powers authorized by this Section may be
14 implemented by the county board for a portion of the county
15 subject to similar stormwater management needs.

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."