

# HB5180



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5180

by Rep. Harry Osterman

### SYNOPSIS AS INTRODUCED:

415 ILCS 5/4

from Ch. 111 1/2, par. 1004

Amends the Environmental Protection Act. Makes a technical change in a Section concerning the duties of the Environmental Protection Agency.

LRB095 17832 HLH 43911 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 4 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 ~~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

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

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

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

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

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

24 (2) In accordance with the provisions of this Act,  
25 taking whatever preventive or corrective action, including  
26 but not limited to removal or remedial action, that is

1           necessary or appropriate whenever there is a release or a  
2           substantial threat of a release of (A) a hazardous  
3           substance or pesticide or (B) petroleum from an underground  
4           storage tank.

5           (e) The Agency shall have the duty to investigate  
6           violations of this Act, any rule or regulation adopted under  
7           this Act, any permit or term or condition of a permit, or any  
8           Board order; to issue administrative citations as provided in  
9           Section 31.1 of this Act; and to take such summary enforcement  
10          action as is provided for by Section 34 of this Act.

11          (f) The Agency shall appear before the Board in any hearing  
12          upon a petition for variance, the denial of a permit, or the  
13          validity or effect of a rule or regulation of the Board, and  
14          shall have the authority to appear before the Board in any  
15          hearing under the Act.

16          (g) The Agency shall have the duty to administer, in accord  
17          with Title X of this Act, such permit and certification systems  
18          as may be established by this Act or by regulations adopted  
19          thereunder. The Agency may enter into written delegation  
20          agreements with any department, agency, or unit of State or  
21          local government under which all or portions of this duty may  
22          be delegated for public water supply storage and transport  
23          systems, sewage collection and transport systems, air  
24          pollution control sources with uncontrolled emissions of 100  
25          tons per year or less and application of algicides to waters of  
26          the State. Such delegation agreements will require that the

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

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

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

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

21 (k) The Agency shall have the authority to accept, receive,  
22 and administer on behalf of the State any grants, gifts, loans,  
23 indirect cost reimbursements, or other funds made available to  
24 the State from any source for purposes of this Act or for air  
25 or water pollution control, public water supply, solid waste  
26 disposal, noise abatement, or other environmental protection

1 activities, surveys, or programs. Any federal funds received by  
2 the Agency pursuant to this subsection shall be deposited in a  
3 trust fund with the State Treasurer and held and disbursed by  
4 him in accordance with Treasurer as Custodian of Funds Act,  
5 provided that such monies shall be used only for the purposes  
6 for which they are contributed and any balance remaining shall  
7 be returned to the contributor.

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

11 (1) The Agency is hereby designated as water pollution  
12 agency for the state for all purposes of the Federal Water  
13 Pollution Control Act, as amended; as implementing agency for  
14 the State for all purposes of the Safe Drinking Water Act,  
15 Public Law 93-523, as now or hereafter amended, except Section  
16 1425 of that Act; as air pollution agency for the state for all  
17 purposes of the Clean Air Act of 1970, Public Law 91-604,  
18 approved December 31, 1970, as amended; and as solid waste  
19 agency for the state for all purposes of the Solid Waste  
20 Disposal Act, Public Law 89-272, approved October 20, 1965, and  
21 amended by the Resource Recovery Act of 1970, Public Law  
22 91-512, approved October 26, 1970, as amended, and amended by  
23 the Resource Conservation and Recovery Act of 1976, (P.L.  
24 94-580) approved October 21, 1976, as amended; as noise control  
25 agency for the state for all purposes of the Noise Control Act  
26 of 1972, Public Law 92-574, approved October 27, 1972, as

1 amended; and as implementing agency for the State for all  
2 purposes of the Comprehensive Environmental Response,  
3 Compensation, and Liability Act of 1980 (P.L. 96-510), as  
4 amended; and otherwise as pollution control agency for the  
5 State pursuant to federal laws integrated with the foregoing  
6 laws, for financing purposes or otherwise. The Agency is hereby  
7 authorized to take all action necessary or appropriate to  
8 secure to the State the benefits of such federal Acts, provided  
9 that the Agency shall transmit to the United States without  
10 change any standards adopted by the Pollution Control Board  
11 pursuant to Section 5(c) of this Act. This subsection (l) of  
12 Section 4 shall not be construed to bar or prohibit the  
13 Environmental Protection Trust Fund Commission from accepting,  
14 receiving, and administering on behalf of the State any grants,  
15 gifts, loans or other funds for which the Commission is  
16 eligible pursuant to the Environmental Protection Trust Fund  
17 Act. The Agency is hereby designated as the State agency for  
18 all purposes of administering the requirements of Section 313  
19 of the federal Emergency Planning and Community Right-to-Know  
20 Act of 1986.

21 Any municipality, sanitary district, or other political  
22 subdivision, or any Agency of the State or interstate Agency,  
23 which makes application for loans or grants under such federal  
24 Acts shall notify the Agency of such application; the Agency  
25 may participate in proceedings under such federal Acts.

26 (m) The Agency shall have authority, consistent with

1 Section 5(c) and other provisions of this Act, and for purposes  
2 of Section 303(e) of the Federal Water Pollution Control Act,  
3 as now or hereafter amended, to engage in planning processes  
4 and activities and to develop plans in cooperation with units  
5 of local government, state agencies and officers, and other  
6 appropriate persons in connection with the jurisdiction or  
7 duties of each such unit, agency, officer or person. Public  
8 hearings shall be held on the planning process, at which any  
9 person shall be permitted to appear and be heard, pursuant to  
10 procedural regulations promulgated by the Agency.

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

22 (o) The Agency shall have the authority to issue  
23 certificates of competency to persons and laboratories meeting  
24 the minimum standards established by the Agency in accordance  
25 with Section 4(n) of this Act and to promulgate and enforce  
26 regulations relevant to the issuance and use of such



1 certificates. The Agency may enter into formal working  
2 agreements with other departments or agencies of state  
3 government under which all or portions of this authority may be  
4 delegated to the cooperating department or agency.

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

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

24 (r) The Agency may enter into written delegation agreements  
25 with any unit of local government under which it may delegate  
26 all or portions of its inspecting, investigating and

1 enforcement functions. Such delegation agreements shall  
2 require that work performed thereunder be in accordance with  
3 Agency criteria and subject to Agency review. Notwithstanding  
4 any other provision of law to the contrary, no unit of local  
5 government shall be liable for any injury resulting from the  
6 exercise of its authority pursuant to such a delegation  
7 agreement unless the injury is proximately caused by the  
8 willful and wanton negligence of an agent or employee of the  
9 unit of local government, and any policy of insurance coverage  
10 issued to a unit of local government may provide for the denial  
11 of liability and the nonpayment of claims based upon injuries  
12 for which the unit of local government is not liable pursuant  
13 to this subsection (r).

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

1           (t) The Agency shall have authority to distribute grants,  
2 subject to appropriation by the General Assembly, for financing  
3 and construction of municipal wastewater facilities. With  
4 respect to all monies appropriated from the Build Illinois Bond  
5 Fund and the Build Illinois Purposes Fund for wastewater  
6 facility grants, the Agency shall make distributions in  
7 conformity with the rules and regulations established pursuant  
8 to the Anti-Pollution Bond Act, as now or hereafter amended.

9           (u) Pursuant to the Illinois Administrative Procedure Act,  
10 the Agency shall have the authority to adopt such rules as are  
11 necessary or appropriate for the Agency to implement Section  
12 31.1 of this Act.

13           (v) (Blank.)

14           (w) Neither the State, nor the Director, nor the Board, nor  
15 any State employee shall be liable for any damages or injury  
16 arising out of or resulting from any action taken under  
17 subsection (s).

18           (x)(1) The Agency shall have authority to distribute  
19 grants, subject to appropriation by the General Assembly,  
20 to units of local government for financing and construction  
21 of public water supply facilities. With respect to all  
22 monies appropriated from the Build Illinois Bond Fund or  
23 the Build Illinois Purposes Fund for public water supply  
24 grants, such grants shall be made in accordance with rules  
25 promulgated by the Agency. Such rules shall include a  
26 requirement for a local match of 30% of the total project

1 cost for projects funded through such grants.

2 (2) The Agency shall not terminate a grant to a unit of  
3 local government for the financing and construction of  
4 public water supply facilities unless and until the Agency  
5 adopts rules that set forth precise and complete standards,  
6 pursuant to Section 5-20 of the Illinois Administrative  
7 Procedure Act, for the termination of such grants. The  
8 Agency shall not make determinations on whether specific  
9 grant conditions are necessary to ensure the integrity of a  
10 project or on whether subagreements shall be awarded, with  
11 respect to grants for the financing and construction of  
12 public water supply facilities, unless and until the Agency  
13 adopts rules that set forth precise and complete standards,  
14 pursuant to Section 5-20 of the Illinois Administrative  
15 Procedure Act, for making such determinations. The Agency  
16 shall not issue a stop-work order in relation to such  
17 grants unless and until the Agency adopts precise and  
18 complete standards, pursuant to Section 5-20 of the  
19 Illinois Administrative Procedure Act, for determining  
20 whether to issue a stop-work order.

21 (y) The Agency shall have authority to release any person  
22 from further responsibility for preventive or corrective  
23 action under this Act following successful completion of  
24 preventive or corrective action undertaken by such person upon  
25 written request by the person.

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