



Rep. Elaine Nekritz

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LRB096 11642 JDS 23855 a

1 AMENDMENT TO HOUSE BILL 3792

2 AMENDMENT NO. _____. Amend House Bill 3792 by replacing
3 everything after the enacting clause with the following:

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 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.

1 The Director shall receive an annual salary as set by the
2 Governor from time to time or as set by the Compensation Review
3 Board, whichever is greater. If set by the Governor, the
4 Director's annual salary may not exceed 85% of the Governor's
5 annual salary. The Director, in accord with the Personnel Code,
6 shall employ and direct such personnel, and shall provide for
7 such laboratory and other facilities, as may be necessary to
8 carry out the purposes of this Act. In addition, the Director
9 may by agreement secure such services as he or she may deem
10 necessary from any other department, agency, or unit of the
11 State Government, and may employ and compensate such
12 consultants and technical assistants as may be required.

13 (b) The Agency shall have the duty to collect and
14 disseminate such information, acquire such technical data, and
15 conduct such experiments as may be required to carry out the
16 purposes of this Act, including ascertainment of the quantity
17 and nature of discharges from any contaminant source and data
18 on those sources, and to operate and arrange for the operation
19 of devices for the monitoring of environmental quality.

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

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

1 (1) Inspecting and investigating to ascertain possible
2 violations of this Act, any rule or regulation adopted
3 under this Act, any permit or term or condition of a
4 permit, or any Board order; or

5 (2) In accordance with the provisions of this Act,
6 taking whatever preventive or corrective action, including
7 but not limited to removal or remedial action, that is
8 necessary or appropriate whenever there is a release or a
9 substantial threat of a release of (A) a hazardous
10 substance or pesticide or (B) petroleum from an underground
11 storage tank.

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

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

23 (g) The Agency shall have the duty to administer, in accord
24 with Title X of this Act, such permit and certification systems
25 as may be established by this Act or by regulations adopted
26 thereunder. The Agency may enter into written delegation

1 agreements with any department, agency, or unit of State or
2 local government under which all or portions of this duty may
3 be delegated for public water supply storage and transport
4 systems, sewage collection and transport systems, air
5 pollution control sources with uncontrolled emissions of 100
6 tons per year or less and application of algicides to waters of
7 the State. Such delegation agreements will require that the
8 work to be performed thereunder will be in accordance with
9 Agency criteria, subject to Agency review, and shall include
10 such financial and program auditing by the Agency as may be
11 required.

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

20 (i) The Agency shall have authority to make recommendations
21 to the Board for the adoption of regulations under Title VII of
22 the Act.

23 (j) The Agency shall have the duty to represent the State
24 of Illinois in any and all matters pertaining to plans,
25 procedures, or negotiations for interstate compacts or other
26 governmental arrangements relating to environmental

1 protection.

2 (k) The Agency shall have the authority to accept, receive,
3 and administer on behalf of the State any grants, gifts, loans,
4 indirect cost reimbursements, or other funds made available to
5 the State from any source for purposes of this Act or for air
6 or water pollution control, public water supply, solid waste
7 disposal, noise abatement, or other environmental protection
8 activities, surveys, or programs. Any federal funds received by
9 the Agency pursuant to this subsection shall be deposited in a
10 trust fund with the State Treasurer and held and disbursed by
11 him in accordance with Treasurer as Custodian of Funds Act,
12 provided that such monies shall be used only for the purposes
13 for which they are contributed and any balance remaining shall
14 be returned to the contributor.

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

18 (l) The Agency is hereby designated as water pollution
19 agency for the state for all purposes of the Federal Water
20 Pollution Control Act, as amended; as implementing agency for
21 the State for all purposes of the Safe Drinking Water Act,
22 Public Law 93-523, as now or hereafter amended, except Section
23 1425 of that Act; as air pollution agency for the state for all
24 purposes of the Clean Air Act of 1970, Public Law 91-604,
25 approved December 31, 1970, as amended; and as solid waste
26 agency for the state for all purposes of the Solid Waste

1 Disposal Act, Public Law 89-272, approved October 20, 1965, and
2 amended by the Resource Recovery Act of 1970, Public Law
3 91-512, approved October 26, 1970, as amended, and amended by
4 the Resource Conservation and Recovery Act of 1976, (P.L.
5 94-580) approved October 21, 1976, as amended; as noise control
6 agency for the state for all purposes of the Noise Control Act
7 of 1972, Public Law 92-574, approved October 27, 1972, as
8 amended; and as implementing agency for the State for all
9 purposes of the Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980 (P.L. 96-510), as
11 amended; and otherwise as pollution control agency for the
12 State pursuant to federal laws integrated with the foregoing
13 laws, for financing purposes or otherwise. The Agency is hereby
14 authorized to take all action necessary or appropriate to
15 secure to the State the benefits of such federal Acts, provided
16 that the Agency shall transmit to the United States without
17 change any standards adopted by the Pollution Control Board
18 pursuant to Section 5(c) of this Act. This subsection (l) of
19 Section 4 shall not be construed to bar or prohibit the
20 Environmental Protection Trust Fund Commission from accepting,
21 receiving, and administering on behalf of the State any grants,
22 gifts, loans or other funds for which the Commission is
23 eligible pursuant to the Environmental Protection Trust Fund
24 Act. The Agency is hereby designated as the State agency for
25 all purposes of administering the requirements of Section 313
26 of the federal Emergency Planning and Community Right-to-Know

1 Act of 1986.

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

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

18 (n) In accordance with the powers conferred upon the Agency
19 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
20 Agency shall have authority to establish and enforce minimum
21 standards for the operation of laboratories relating to
22 analyses and laboratory tests for air pollution, water
23 pollution, noise emissions, contaminant discharges onto land
24 and sanitary, chemical, and mineral quality of water
25 distributed by a public water supply. The Agency may enter into
26 formal working agreements with other departments or agencies of

1 state government under which all or portions of this authority
2 may be delegated to the cooperating department or agency.

3 (o) The Agency shall have the authority to issue
4 certificates of competency to persons and laboratories meeting
5 the minimum standards established by the Agency in accordance
6 with Section 4(n) of this Act and to promulgate and enforce
7 regulations relevant to the issuance and use of such
8 certificates. The Agency may enter into formal working
9 agreements with other departments or agencies of state
10 government under which all or portions of this authority may be
11 delegated to the cooperating department or agency.

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

25 (q) The Agency shall have the authority to provide notice
26 to any person who may be liable pursuant to Section 22.2(f) of

1 this Act for a release or a substantial threat of a release of
2 a hazardous substance or pesticide. Such notice shall include
3 the identified response action and an opportunity for such
4 person to perform the response action.

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

21 (s) The Agency shall have authority to take whatever
22 preventive or corrective action is necessary or appropriate,
23 including but not limited to expenditure of monies appropriated
24 from the Build Illinois Bond Fund and the Build Illinois
25 Purposes Fund for removal or remedial action, whenever any
26 hazardous substance or pesticide is released or there is a

1 substantial threat of such a release into the environment. The
2 State, the Director, and any State employee shall be
3 indemnified for any damages or injury arising out of or
4 resulting from any action taken under this subsection. The
5 Director of the Agency is authorized to enter into such
6 contracts and agreements as are necessary to carry out the
7 Agency's duties under this subsection.

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

16 (u) Pursuant to the Illinois Administrative Procedure Act,
17 the Agency shall have the authority to adopt such rules as are
18 necessary or appropriate for the Agency to implement Section
19 31.1 of this Act.

20 (v) (Blank.)

21 (w) Neither the State, nor the Director, nor the Board, nor
22 any State employee shall be liable for any damages or injury
23 arising out of or resulting from any action taken under
24 subsection (s).

25 (x) (1) The Agency shall have authority to distribute
26 grants, subject to appropriation by the General Assembly,

1 to units of local government for financing and construction
2 of public water supply facilities. With respect to all
3 monies appropriated from the Build Illinois Bond Fund or
4 the Build Illinois Purposes Fund for public water supply
5 grants, such grants shall be made in accordance with rules
6 promulgated by the Agency. Such rules shall include a
7 requirement for a local match of 30% of the total project
8 cost for projects funded through such grants.

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

1 whether to issue a stop-work order.

2 (y) The Agency shall have authority to release any person
3 from further responsibility for preventive or corrective
4 action under this Act following successful completion of
5 preventive or corrective action undertaken by such person upon
6 written request by the person.

7 (z) The Agency, acting either individually or in
8 cooperation with other states or government entities, may
9 maintain or participate in a clearinghouse for information
10 pertaining to the presence of, the hazardous traits associated
11 with, and the potential for human and environmental health
12 effects of (i) chemicals in consumer products and (ii) known or
13 potential alternatives to those chemicals. Information in the
14 clearinghouse must be publicly accessible through the
15 Internet.

16 For the purposes of subsection (z) of this Section, the
17 term "consumer product" means any item sold for residential or
18 commercial use, including any component parts and packaging.
19 For purposes of this subsection (z), "consumer product" does
20 not include (i) a drug or biologic regulated by the U.S. Food
21 and Drug Administration, (ii) a food, beverage, or food or
22 beverage additive, (iii) tobacco products, or (iv) a pesticide
23 regulated by the U.S. Environmental Protection Agency;
24 however, the term "consumer product" does include any container
25 or packaging in which any of these excluded items are sold.

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".