



Sen. William R. Haine

**Filed: 2/10/2010**

09600SB2556sam001

LRB096 17788 JDS 36329 a

1 AMENDMENT TO SENATE BILL 2556

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2556 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 adding Section 3.103 as follows:

6 (415 ILCS 5/3.103 new)

7 Sec. 3.103. 100-year floodplain. "100-year floodplain"  
8 means the lowland and relatively flat areas adjoining inland  
9 and coastal waters, including flood-prone areas of offshore  
10 islands, that are inundated by a flood that has a 1% or greater  
11 chance of recurring in any given year or a flood of a magnitude  
12 equalled or exceeded once in 100 years on the average over a  
13 significantly long period. For the purposes of this Act,  
14 including for the purposes of granting permit and license  
15 applications filed or pending prior to the effective date of  
16 this amendatory Act of the 96th General Assembly, an area shall

1 be deemed by operation of law not to be within the 100-year  
2 floodplain if the area lies within an area protected by a levee  
3 or levees located in a flood prevention district established by  
4 the Flood Prevention District Act. To the extent that Executive  
5 Order 2006-5 is inconsistent with the provisions of this  
6 amendatory Act of the 96th General Assembly, the provisions of  
7 this amendatory Act shall govern.

8 Section 10. The Livestock Management Facilities Act is  
9 amended by adding Section 10.3 as follows:

10 (510 ILCS 77/10.3 new)

11 Sec. 10.3. 100-year floodplain. "100-year floodplain"  
12 means the lowland and relatively flat areas adjoining inland  
13 and coastal waters, including flood-prone areas of offshore  
14 islands, that are inundated by a flood that has a 1% or greater  
15 chance of recurring in any given year or a flood of a magnitude  
16 equalled or exceeded once in 100 years on the average over a  
17 significantly long period. For the purposes of this Act,  
18 including for the purposes of granting permit and license  
19 applications filed or pending prior to the effective date of  
20 this amendatory Act of the 96th General Assembly, an area shall  
21 be deemed by operation of law not to be within the 100-year  
22 floodplain if the area lies within an area protected by a levee  
23 or levees located in a flood prevention district established by  
24 the Flood Prevention District Act. To the extent that Executive

1 Order 2006-5 is inconsistent with the provisions of this  
2 amendatory Act of the 96th General Assembly, the provisions of  
3 this amendatory Act shall govern.  
4

5 Section 15. The Rivers, Lakes, and Streams Act is amended  
6 by adding Section 18h and by changing Sections 18f and 18g as  
7 follows:

8 (615 ILCS 5/18f) (from Ch. 19, par. 65f)

9 Sec. 18f.

10 (a) The Department of Natural Resources shall define  
11 100-year floodplains ~~flood plains~~ within the State of Illinois  
12 on a township by township basis and may issue permits for any  
13 construction within such 100-year floodplains ~~flood plains~~ on  
14 or after the effective date of this amendatory Act of 1971. The  
15 Department shall publish and distribute suitable reports,  
16 together with mapping and hydrologic exhibits pertaining to  
17 100-year floodplains ~~flood plains~~ defined and established  
18 under this Act. In defining applicable 100-year floodplains  
19 ~~flood plains~~, the Department shall cooperate with, and shall  
20 consider planning and zoning requirements of, regional  
21 planning agencies created by statute, counties, municipalities  
22 and other units of government. A period of thirty days shall be  
23 allowed for any agency to submit written comments to the  
24 Department regarding any proposed 100-year floodplain ~~flood~~

1 ~~plain~~ area. If such agency fails to return comments to the  
2 Department within the specified time period the Department may  
3 proceed with the publication and institution of the 100-year  
4 floodplain ~~flood plain~~ permit procedure. The Department is  
5 charged with the planning, development, and evaluation of the  
6 most economic combination of retention storage, channel  
7 improvement, and floodplain ~~flood plain~~ preservation in  
8 defining and establishing 100-year floodplain ~~flood plain~~  
9 areas. All construction undertaken on a defined 100-year  
10 floodplain ~~flood plain~~ subsequent to the effective date of this  
11 amendatory Act, without benefit of a permit from the Department  
12 of Natural Resources, shall be unlawful and the Department, may  
13 in its discretion, proceed to obtain injunctive relief for  
14 abatement or removal of such unlawful construction. The  
15 Department, in its discretion, may make such investigations and  
16 conduct such hearings as may be necessary to the performance of  
17 its duties under this amendatory Act of 1971. Activity of the  
18 Department under this Section shall be limited to townships  
19 related to projects of the Department authorized by the General  
20 Assembly. The report of the Department shall be considered a  
21 final administrative decision and subject to judicial review in  
22 accordance with the provision of the Administrative Review Law.

23 (b) For the purposes of this Section, including for the  
24 purposes of granting permit and license applications filed or  
25 pending prior to the effective date of this amendatory Act of  
26 the 96th General Assembly, "100-year floodplain" means the

1 lowland and relatively flat areas adjoining inland and coastal  
2 waters, including flood-prone areas of offshore islands, that  
3 are inundated by a flood that has a 1% or greater chance of  
4 recurring in any given year or a flood of a magnitude equalled  
5 or exceeded once in 100 years on the average over a  
6 significantly long period. For the purposes of this Section, an  
7 area shall be deemed by operation of law not to be within the  
8 100-year floodplain if the area lies within an area protected  
9 by a levee or levees located in a flood prevention district  
10 established by the Flood Prevention District Act.

11 (Source: P.A. 89-445, eff. 2-7-96.)

12 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

13 Sec. 18g. (a) The Department of Natural Resources shall  
14 define the 100-year floodway within metropolitan counties  
15 located in the area served by the Northeastern Illinois  
16 Planning Commission, except for the part of that area which is  
17 within any city with a population exceeding 1,500,000. In  
18 defining the 100-year floodway, the Department may rely on  
19 published data and maps which have been prepared by the  
20 Department itself, by the Illinois State Water Survey of the  
21 University of Illinois, by federal, State or local governmental  
22 agencies, or by any other private or public source which it  
23 determines to be reliable and appropriate.

24 (b) The Department may issue permits for construction that  
25 is an appropriate use of the designated 100-year floodway in

1 such metropolitan counties. If a unit of local government has  
2 adopted an ordinance that establishes minimum standards for  
3 appropriate use of the floodway that are at least as  
4 restrictive as those established by the Department and this  
5 Section, and the unit of local government has adequate staff to  
6 enforce the ordinance, the Department may delegate to such unit  
7 of local government the authority to issue permits for  
8 construction that is an appropriate use of the floodway within  
9 its jurisdiction.

10 (c) No person may engage in any new construction within the  
11 100-year floodway as designated by the Department in such  
12 metropolitan counties, unless such construction relates to an  
13 appropriate use of the floodway. No unit of local government,  
14 including home rule units, in such metropolitan counties may  
15 issue any building permit or other apparent authorization for  
16 any prohibited new construction within the 100-year floodway.

17 (d) For the purpose of this Section, including for the  
18 purposes of granting permit and license applications filed or  
19 pending prior to the effective date of this amendatory Act of  
20 the 96th General Assembly":

21 (1) "100-year floodway" means the channel and that  
22 portion of the 100-year floodplain adjacent to a stream or  
23 watercourse which is needed to store and convey the  
24 100-year frequency flood discharge without a significant  
25 increase in stage.

26 (1.5) "100-year floodplain" means the lowland and

1       relatively flat areas adjoining inland and coastal waters,  
2       including flood-prone areas of offshore islands, that are  
3       inundated by a flood that has a 1% or greater chance of  
4       recurring in any given year or a flood of a magnitude  
5       equalled or exceeded once in 100 years on the average over  
6       a significantly long period.

7           (2) "New construction" means the construction of any  
8       new building or structure or the placement of any fill or  
9       material, but does not include the repair, remodeling or  
10      maintenance of buildings or structures in existence on the  
11      effective date of this amendatory Act of 1987.

12          (3) "Appropriate use of the floodway" means use for (i)  
13      flood control structures, dikes, dams and other public  
14      works or private improvements relating to the control of  
15      drainage, flooding or erosion; (ii) structures or  
16      facilities relating to the use of, or requiring access to,  
17      the water or shoreline, including pumping and treatment  
18      facilities, and facilities and improvements related to  
19      recreational boats, commercial shipping and other  
20      functionally dependent uses; and (iii) any other purposes  
21      which the Department determines, by rule, to be appropriate  
22      to the 100-year floodway, and the periodic inundation of  
23      which will not pose a danger to the general health and  
24      welfare of the user, or require the expenditure of public  
25      funds or the provision of public resources or disaster  
26      relief services. Appropriate use of the floodway does not

1 include construction of a new building unless such building  
2 is a garage, storage shed or other structure accessory to  
3 an existing building and such building does not increase  
4 flood stages.

5 (4) "Person" includes natural persons, corporations,  
6 associations, governmental entities, and all other legal  
7 entities.

8 (e) All construction undertaken on a designated 100-year  
9 floodway in such metropolitan counties, without benefit of a  
10 permit from the Department of Natural Resources, shall be  
11 unlawful and the Department or any affected unit of local  
12 government may, in its discretion, proceed to obtain injunctive  
13 relief for abatement or removal of such unlawful construction.  
14 The Department, in its discretion, may make such investigations  
15 and conduct such hearings and adopt such rules as may be  
16 necessary to the performance of its duties under this Section.

17 (f) This Section does not limit any power granted to the  
18 Department by any other Act.

19 (g) This Section does not limit the concurrent exercise by  
20 any unit of local government of any power consistent herewith.

21 (h) This Section does not apply to any city with a  
22 population exceeding 1,500,000.

23 (Source: P.A. 95-728, eff. date - See Sec. 999.)

24 (615 ILCS 5/18h new)

25 Sec. 18h. Conflicts with Executive Order 2006-5. To the



1 extent that Executive Order 2006-5 is inconsistent with the  
2 provisions of this amendatory Act of the 96th General Assembly,  
3 the provisions of this amendatory Act shall govern.

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.".