



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2081

Introduced 2/22/2011, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4

from Ch. 111 1/2, par. 1004

Amends the Environmental Protection Act. Requires that the Environmental Protection Agency (i) identify a system for the issuance of general permits and permits by rule under the Act, (ii) complete a study of the legislative and administrative actions that must be taken to establish and implement such a system, (iii) report to the General Assembly the results of the study and recommendations for legislative changes, and (iv) establish and implement such a system within one year after the adoption of the legislative and administrative changes. Effective immediately.

LRB097 08871 JDS 49001 b

FISCAL NOTE ACT
MAY APPLY

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 45. 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.
17 The Director shall receive an annual salary as set by the
18 Compensation Review Board. The Director, in accord with the
19 Personnel Code, shall employ and direct such personnel, and
20 shall provide for such laboratory and other facilities, as may
21 be necessary to carry out the purposes of this Act. In
22 addition, the Director may by agreement secure such services as
23 he or she may deem necessary from any other department, agency,

1 or unit of the State Government, and may employ and compensate
2 such consultants and technical assistants as may be required.

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

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

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

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

21 (2) In accordance with the provisions of this Act,
22 taking whatever preventive or corrective action, including
23 but not limited to removal or remedial action, that is
24 necessary or appropriate whenever there is a release or a
25 substantial threat of a release of (A) a hazardous
26 substance or pesticide or (B) petroleum from an underground

1 storage tank.

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

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

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

1 required.

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

10 (i) The Agency shall have authority to make recommendations
11 to the Board for the adoption of regulations under Title VII of
12 the Act.

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

18 (k) The Agency shall have the authority to accept, receive,
19 and administer on behalf of the State any grants, gifts, loans,
20 indirect cost reimbursements, or other funds made available to
21 the State from any source for purposes of this Act or for air
22 or water pollution control, public water supply, solid waste
23 disposal, noise abatement, or other environmental protection
24 activities, surveys, or programs. Any federal funds received by
25 the Agency pursuant to this subsection shall be deposited in a
26 trust fund with the State Treasurer and held and disbursed by

1 him in accordance with Treasurer as Custodian of Funds Act,
2 provided that such monies shall be used only for the purposes
3 for which they are contributed and any balance remaining shall
4 be returned to the contributor.

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

8 (1) The Agency is hereby designated as water pollution
9 agency for the state for all purposes of the Federal Water
10 Pollution Control Act, as amended; as implementing agency for
11 the State for all purposes of the Safe Drinking Water Act,
12 Public Law 93-523, as now or hereafter amended, except Section
13 1425 of that Act; as air pollution agency for the state for all
14 purposes of the Clean Air Act of 1970, Public Law 91-604,
15 approved December 31, 1970, as amended; and as solid waste
16 agency for the state for all purposes of the Solid Waste
17 Disposal Act, Public Law 89-272, approved October 20, 1965, and
18 amended by the Resource Recovery Act of 1970, Public Law
19 91-512, approved October 26, 1970, as amended, and amended by
20 the Resource Conservation and Recovery Act of 1976, (P.L.
21 94-580) approved October 21, 1976, as amended; as noise control
22 agency for the state for all purposes of the Noise Control Act
23 of 1972, Public Law 92-574, approved October 27, 1972, as
24 amended; and as implementing agency for the State for all
25 purposes of the Comprehensive Environmental Response,
26 Compensation, and Liability Act of 1980 (P.L. 96-510), as

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

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

23 (m) The Agency shall have authority, consistent with
24 Section 5(c) and other provisions of this Act, and for purposes
25 of Section 303(e) of the Federal Water Pollution Control Act,
26 as now or hereafter amended, to engage in planning processes

1 and activities and to develop plans in cooperation with units
2 of local government, state agencies and officers, and other
3 appropriate persons in connection with the jurisdiction or
4 duties of each such unit, agency, officer or person. Public
5 hearings shall be held on the planning process, at which any
6 person shall be permitted to appear and be heard, pursuant to
7 procedural regulations promulgated by the Agency.

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

19 (o) The Agency shall have the authority to issue
20 certificates of competency to persons and laboratories meeting
21 the minimum standards established by the Agency in accordance
22 with Section 4(n) of this Act and to promulgate and enforce
23 regulations relevant to the issuance and use of such
24 certificates. The Agency may enter into formal working
25 agreements with other departments or agencies of state
26 government under which all or portions of this authority may be

1 delegated to the cooperating department or agency.

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

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

21 (r) The Agency may enter into written delegation agreements
22 with any unit of local government under which it may delegate
23 all or portions of its inspecting, investigating and
24 enforcement functions. Such delegation agreements shall
25 require that work performed thereunder be in accordance with
26 Agency criteria and subject to Agency review. Notwithstanding

1 any other provision of law to the contrary, no unit of local
2 government shall be liable for any injury resulting from the
3 exercise of its authority pursuant to such a delegation
4 agreement unless the injury is proximately caused by the
5 willful and wanton negligence of an agent or employee of the
6 unit of local government, and any policy of insurance coverage
7 issued to a unit of local government may provide for the denial
8 of liability and the nonpayment of claims based upon injuries
9 for which the unit of local government is not liable pursuant
10 to this subsection (r).

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

24 (t) The Agency shall have authority to distribute grants,
25 subject to appropriation by the General Assembly, to units of
26 local government for financing and construction of wastewater

1 facilities in both incorporated and unincorporated areas. With
2 respect to all monies appropriated from the Build Illinois Bond
3 Fund and the Build Illinois Purposes Fund for wastewater
4 facility grants, the Agency shall make distributions in
5 conformity with the rules and regulations established pursuant
6 to the Anti-Pollution Bond Act, as now or hereafter amended.

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

11 (v) (Blank.)

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

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

26 (2) The Agency shall not terminate a grant to a unit of

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

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

24 (z) To the extent permitted by any applicable federal law
25 or regulation, for all work performed for State construction
26 projects which are funded in whole or in part by a capital

1 infrastructure bill enacted by the 96th General Assembly by
2 sums appropriated to the Environmental Protection Agency, at
3 least 50% of the total labor hours must be performed by actual
4 residents of the State of Illinois. For purposes of this
5 subsection, "actual residents of the State of Illinois" means
6 persons domiciled in the State of Illinois. The Department of
7 Labor shall promulgate rules providing for the enforcement of
8 this subsection.

9 (aa) To reduce the time required for the making of final
10 determinations on permit applications under this Act, attract
11 businesses to the State, and create jobs within the State, the
12 Agency shall:

13 (1) identify a system for the issuance of general
14 permits and permits by rule under this Act, which shall
15 include source categories within the energy industry
16 (NAICS 2211);

17 (2) within 4 months after the effective date of this
18 amendatory Act of the 97th General Assembly, complete a
19 study of the legislative and administrative actions that
20 must be taken to establish and implement, within one year
21 after the adoption of the required legislative and
22 administrative changes, such a system;

23 (3) as soon as practicable after the completion of the
24 study, report to the General Assembly the results of the
25 study and recommendations for legislative changes required
26 to implement such a system; and

1 (4) establish and implement such a system within one
2 year after the adoption of the legislative and
3 administrative changes identified in the report.

4 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;
5 96-800, eff. 10-30-09; 96-1000, eff. 7-2-10.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.