

SB0588



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0588

Introduced 2/8/2011, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062

from Ch. 34, par. 5-1062

Amends the Counties Code. Makes a technical change in a Section concerning stormwater management.

LRB097 04307 KMW 44346 b

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing Section
5 5-1062 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)

7 Sec. 5-1062. Stormwater management.

8 (a) The ~~The~~ purpose of this Section is to allow management
9 and mitigation of the effects of urbanization on stormwater
10 drainage in metropolitan counties located in the area served by
11 the Northeastern Illinois Planning Commission, and references
12 to "county" in this Section shall apply only to those counties.
13 This Section shall not apply to any county with a population in
14 excess of 1,500,000, except as provided in subsection (c). The
15 purpose of this Section shall be achieved by:

16 (1) consolidating the existing stormwater management
17 framework into a united, countywide structure;

18 (2) setting minimum standards for floodplain and
19 stormwater management; and

20 (3) preparing a countywide plan for the management of
21 stormwater runoff, including the management of natural and
22 man-made drainageways. The countywide plan may incorporate
23 watershed plans.

1 (b) A stormwater management planning committee shall be
2 established by county board resolution, with its membership
3 consisting of equal numbers of county board and municipal
4 representatives from each county board district, and such other
5 members as may be determined by the county and municipal
6 members. However, if the county has more than 6 county board
7 districts, the county board may by ordinance divide the county
8 into not less than 6 areas of approximately equal population,
9 to be used instead of county board districts for the purpose of
10 determining representation on the stormwater management
11 planning committee.

12 The county board members shall be appointed by the chairman
13 of the county board. Municipal members from each county board
14 district or other represented area shall be appointed by a
15 majority vote of the mayors of those municipalities which have
16 the greatest percentage of their respective populations
17 residing in such county board district or other represented
18 area. All municipal and county board representatives shall be
19 entitled to a vote; the other members shall be nonvoting
20 members, unless authorized to vote by the unanimous consent of
21 the municipal and county board representatives. A municipality
22 that is located in more than one county may choose, at the time
23 of formation of the stormwater management planning committee
24 and based on watershed boundaries, to participate in the
25 stormwater management planning program of either or both of the
26 counties. Subcommittees of the stormwater management planning

1 committee may be established to serve a portion of the county
2 or a particular drainage basin that has similar stormwater
3 management needs. The stormwater management planning committee
4 shall adopt by-laws, by a majority vote of the county and
5 municipal members, to govern the functions of the committee and
6 its subcommittees. Officers of the committee shall include a
7 chair and vice chair, one of whom shall be a county
8 representative and one a municipal representative.

9 The principal duties of the committee shall be to develop a
10 stormwater management plan for presentation to and approval by
11 the county board, and to direct the plan's implementation and
12 revision. The committee may retain engineering, legal and
13 financial advisors and inspection personnel. The committee
14 shall meet at least quarterly and shall hold at least one
15 public meeting during the preparation of the plan and prior to
16 its submittal to the county board.

17 (c) In the preparation of a stormwater management plan, a
18 county stormwater management planning committee shall
19 coordinate the planning process with each adjoining county to
20 ensure that recommended stormwater projects will have no
21 significant impact on the levels or flows of stormwaters in
22 inter-county watersheds or on the capacity of existing and
23 planned stormwater retention facilities. An adopted stormwater
24 management plan shall identify steps taken by the county to
25 coordinate the development of plan recommendations with
26 adjoining counties.

1 (d) Before the stormwater management planning committee
2 recommends to the county board a stormwater management plan for
3 the county or a portion thereof, it shall submit the plan to
4 the Office of Water Resources of the Department of Natural
5 Resources and to the Northeastern Illinois Planning Commission
6 for review and recommendations. The Office and the Commission,
7 in reviewing the plan, shall consider such factors as impacts
8 on 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 and
16 the Commission for review.

17 (e) 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 thereof in a newspaper of
23 general circulation published in the county. The notice shall
24 state the time and place of the hearing and the place where
25 copies of the proposed plan will be accessible for examination
26 by interested parties. If an affected municipality having a

1 stormwater management plan adopted by ordinance wishes to
2 protest the proposed county plan provisions, it shall appear at
3 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 (f) 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 These rules and regulations shall, at a minimum, meet the
4 standards for floodplain management established by the Office
5 of Water Resources and the requirements of the Federal
6 Emergency Management Agency for participation in the National
7 Flood Insurance Program.

8 (g) In accordance with, and if recommended in, the adopted
9 stormwater management plan, the county board may adopt a
10 schedule of fees as may be necessary to mitigate the effects of
11 increased stormwater runoff resulting from new development.
12 The fees shall not exceed the cost of satisfying the onsite
13 stormwater retention or detention requirements of the adopted
14 stormwater management plan. The fees shall be used to finance
15 activities undertaken by the county or its included
16 municipalities to mitigate the effects of urban stormwater
17 runoff by providing regional stormwater retention or detention
18 facilities, as identified in the county plan. All such fees
19 collected by the county shall be held in a separate fund, and
20 shall be expended only in the watershed within which they were
21 collected.

22 (h) For the purpose of implementing this Section and for
23 the development, design, planning, construction, operation and
24 maintenance of stormwater facilities provided for in the
25 stormwater management plan, a county board that has established
26 a stormwater management planning committee pursuant to this

1 Section may cause an annual tax of not to exceed 0.20% of the
2 value, as equalized or assessed by the Department of Revenue,
3 of all taxable property in the county to be levied upon all the
4 taxable property in the county. The tax shall be in addition to
5 all other taxes authorized by law to be levied and collected in
6 the county and shall be in addition to the maximum tax rate
7 authorized by law for general county purposes. The 0.20%
8 limitation provided in this Section may be increased or
9 decreased by referendum in accordance with the provisions of
10 Sections 18-120, 18-125, and 18-130 of the Property Tax Code.

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

16 However, unless at least part of the county has been
17 declared after July 1, 1986 by presidential proclamation to be
18 a disaster area as a result of flooding, the tax authorized by
19 this subsection (h) shall not be levied until the question of
20 its adoption, either for a specified period or indefinitely,
21 has been submitted to the electors thereof and approved by a
22 majority of those voting on the question. This question may be
23 submitted at any election held in the county after the adoption
24 of a resolution by the county board providing for the
25 submission of the question to the electors of the county. The
26 county board shall certify the resolution and proposition to

1 the proper election officials, who shall submit the proposition
 2 at an election in accordance with the general election law. If
 3 a majority of the votes cast on the question is in favor of the
 4 levy of the tax, it may thereafter be levied in the county for
 5 the specified period or indefinitely, as provided in the
 6 proposition. The question shall be put in substantially the
 7 following form:

8 -----

9 Shall an annual tax be levied
 10 for stormwater management purposes YES
 11 (for a period of not more than
 12 years) at a rate not exceeding -----
 13% of the equalized assessed
 14 value of the taxable property of NO
 15 County?

16 -----

17 (i) Upon the creation and implementation of a county
 18 stormwater management plan, the county may petition the circuit
 19 court to dissolve any or all drainage districts created
 20 pursuant to the Illinois Drainage Code or predecessor Acts
 21 which are located entirely within the area of the county
 22 covered by the plan.

23 However, any active drainage district implementing a plan
 24 that is consistent with and at least as stringent as the county
 25 stormwater management plan may petition the stormwater
 26 management planning committee for exception from dissolution.

1 Upon filing of the petition, the committee shall set a date for
2 hearing not less than 2 weeks, nor more than 4 weeks, from the
3 filing thereof, and the committee shall give at least one
4 week's notice of the hearing in one or more newspapers of
5 general circulation within the district, and in addition shall
6 cause a copy of the notice to be personally served upon each of
7 the trustees of the district. At the hearing, the committee
8 shall hear the district's petition and allow the district
9 trustees and any interested parties an opportunity to present
10 oral and written evidence. The committee shall render its
11 decision upon the petition for exception from dissolution based
12 upon the best interests of the residents of the district. In
13 the event that the exception is not allowed, the district may
14 file a petition within 30 days of the decision with the circuit
15 court. In that case, the notice and hearing requirements for
16 the court shall be the same as herein provided for the
17 committee. The court shall likewise render its decision of
18 whether to dissolve the district based upon the best interests
19 of residents of the district.

20 The dissolution of any drainage district shall not affect
21 the obligation of any bonds issued or contracts entered into by
22 the district nor invalidate the levy, extension or collection
23 of any taxes or special assessments upon the property in the
24 former drainage district. All property and obligations of the
25 former drainage district shall be assumed and managed by the
26 county, and the debts of the former drainage district shall be

1 discharged as soon as practicable.

2 If a drainage district lies only partly within a county
3 that adopts a county stormwater management plan, the county may
4 petition the circuit court to disconnect from the drainage
5 district that portion of the district that lies within that
6 county. The property of the drainage district within the
7 disconnected area shall be assumed and managed by the county.
8 The county shall also assume a portion of the drainage
9 district's debt at the time of disconnection, based on the
10 portion of the value of the taxable property of the drainage
11 district which is located within the area being disconnected.

12 The operations of any drainage district that continues to
13 exist in a county that has adopted a stormwater management plan
14 in accordance with this Section shall be in accordance with the
15 adopted plan.

16 (j) Any county that has adopted a county stormwater
17 management plan under this Section may, after 10 days written
18 notice to the owner or occupant, enter upon any lands or waters
19 within the county for the purpose of inspecting stormwater
20 facilities or causing the removal of any obstruction to an
21 affected watercourse. The county shall be responsible for any
22 damages occasioned thereby.

23 (k) Upon petition of the municipality, and based on a
24 finding of the stormwater management planning committee, the
25 county shall not enforce rules and regulations adopted by the
26 county in any municipality located wholly or partly within the

1 county that has a municipal stormwater management ordinance
2 that is consistent with and at least as stringent as the county
3 plan and ordinance, and is being enforced by the municipal
4 authorities.

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

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

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

20 (o) Pursuant to paragraphs (g) and (i) of Section 6 of
21 Article VII of the Illinois Constitution, this Section
22 specifically denies and limits the exercise of any power which
23 is inconsistent herewith by home rule units in any county with
24 a population of less than 1,500,000 in the area served by the
25 Northeastern Illinois Planning Commission. This Section does
26 not prohibit the concurrent exercise of powers consistent

1 herewith.

2 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)