

# SB2824



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2824

Introduced 2/13/2018, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

615 ILCS 5/29a

from Ch. 19, par. 78

Amends the Rivers, Lakes, and Streams Act. Provides that when considering whether to issue a permit for construction or maintenance or repair of a levee or flood wall under a provision in the Act, the Department of Natural Resources shall consider the flood discharge that would just overtop a levee or flood wall when conducting a worst-case scenario analysis. Defines "worst-case scenario analysis". Effective immediately.

LRB100 17387 LNS 32552 b

A BILL FOR

1 AN ACT concerning transportation.

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

4 Section 5. The Rivers, Lakes, and Streams Act is amended by  
5 changing Section 29a as follows:

6 (615 ILCS 5/29a) (from Ch. 19, par. 78)

7 Sec. 29a. Construction permits; maintenance and repairs;  
8 clear cutting.

9 (a) After July 1, 1985, no person, State agency, or unit of  
10 local government shall undertake construction in a public body  
11 of water or in a stream without a permit from the Department of  
12 Natural Resources. No permit shall be required in a stream  
13 which is not a public body of water, draining less than one  
14 square mile in an urban area or less than ten square miles in a  
15 rural area. No permits shall be required for field tile  
16 systems, tile outlet structures, terraces, water and sediment  
17 control basins, grade stabilization structures, or grassed  
18 waterways which do not obstruct flood flows. Any artificially  
19 improved stream channel, drainage ditch, levee, or pumping  
20 station existing in serviceable condition on July 1, 1985 may  
21 be maintained and repaired to preserve design capacity and  
22 function without a permit. Maintenance and repair of improved  
23 channels, ditches or levees shall follow accepted practices to

1 reduce, as practical, scour, erosion, sedimentation, escape of  
2 loose material and debris, disturbance of adjacent trees and  
3 vegetation, and obstruction of flood flows.

4 (b) No person, State agency, or unit of local government,  
5 except (i) a unit of local government with a population greater  
6 than 500,000 and (ii) a commercial or industrial facility, the  
7 operation of which falls under the regulatory jurisdiction of  
8 the United States Army Corps of Engineers or the United States  
9 Coast Guard under Section 10 of the Federal Rivers and Harbors  
10 Act, may clear cut trees within 15 yards of waters listed by  
11 the Department under Section 5 as navigable, except as follows:

12 (1) for the purpose of improving, maintaining,  
13 repairing, constructing, or reconstructing any highway,  
14 road, bridge, culvert, drainage structure, drainage  
15 facility, or grade separation under the jurisdiction of the  
16 Illinois Department of Transportation or any municipality,  
17 public water facility, road district, highway  
18 commissioner, or drainage district;

19 (2) for maintenance and improvement of drainage of or  
20 on agricultural land; and

21 (3) for the purpose of improving, maintaining,  
22 repairing, constructing, or reconstructing any facility  
23 for the distribution, transmission, or generation of  
24 electricity.

25 For the purpose of this subsection, "clear cutting" means  
26 the complete removal of mature or established trees covering an

1 area of 400 square yards or more of which leaves less than 50%  
2 of the existing forest cover. "Clear cutting" does not include  
3 any of the following:

4 (1) The removal of brush or woody debris.

5 (2) The selective cutting of diseased, dying, or dead  
6 trees.

7 (3) The selective cutting of individual trees for the  
8 purpose of home construction.

9 (4) The selective cutting of individual trees that pose  
10 a threat to private property.

11 (5) The clearing of trees for restoration purposes to  
12 include:

13 (i) removal of non-native tree species and the  
14 subsequent reestablishment of native tree species;

15 (ii) thinning of trees for the purposes of  
16 encouraging the growth of preferential tree species;

17 (iii) restoration of wetlands, prairies, or other  
18 natural areas that will not cause or contribute to  
19 streambank destabilization.

20 (6) The removal of trees or woody vegetation pursuant  
21 to any State or Federal conservation plan contracts, or  
22 when approved by the U.S. Army Corps of Engineers and the  
23 Department.

24 The Department of Natural Resources may adopt rules for the  
25 administration of this subsection and shall adopt rules  
26 permitting a municipality with a population of 500,000 or less

1 to petition the Department of Natural Resources to permit clear  
2 cutting to accommodate necessary socioeconomic development  
3 projects.

4 (c) When considering whether to issue a permit for  
5 construction or maintenance or repair of a levee or flood wall  
6 under this Section, the Department of Natural Resources shall  
7 consider the flood discharge that would just overtop a levee or  
8 flood wall when conducting a worst-case scenario analysis.

9 For purposes of this subsection, "worst-case scenario  
10 analysis" means the calculation of the maximum increases in  
11 flood heights, velocities, and damages a project would cause  
12 due to conveyance and storage losses, considering both the  
13 project alone and the combined effects of other existing  
14 construction and reasonably anticipated obstructive  
15 construction on similarly situated properties in the locality.

16 (Source: P.A. 91-907, eff. 1-1-01.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.