



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3242

Introduced 2/24/2011, by Rep. Richard Morthland

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4
415 ILCS 5/7

from Ch. 111 1/2, par. 1004
from Ch. 111 1/2, par. 1007

Amends the Environmental Protection Act. Authorizes the Agency to collect and solicit citizen complaints alleging a violation of the Act, any rule adopted under the Act, a permit granted by the Agency, or a condition of a permit via telephone, website, fax, mail, e-mail, or any other reasonable means. Provides that the Agency may accept citizen complaints that are anonymous and unaccompanied by the name and mailing address of the complainant, except that, for complaints alleging a violation arising out of agricultural production, the complainant must provide his or her name and mailing address. Sets forth that the Agency must keep the name and address of the complainant confidential, subject to certain penalties. Exempts the name and address of these complainants from public disclosure under provisions of the Act authorizing reasonable public inspection. Defines "agricultural production". Effective immediately.

LRB097 06701 JDS 46788 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 5. The Environmental Protection Act is amended by
5 changing Sections 4 and 7 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 The Agency's duty to investigate under this Act may include
9 the authority to collect and solicit citizen complaints
10 alleging a violation of the Act, any rule adopted under the
11 Act, a permit granted by the Agency, or a condition of the
12 permit. The Agency may collect and solicit complaints via
13 telephone, website, fax, mail, e-mail, or any other reasonable
14 means. The Agency may accept citizen complaints that are
15 anonymous and unaccompanied by the name and mailing address of
16 the complainant, except that, for complaints alleging a
17 violation arising out of agricultural production, the
18 complainant must provide his or her name and mailing address.
19 The Agency shall keep the name and address of complainants
20 confidential as provided in Section 7 of this Act and subject
21 to the penalty provisions of Section 44 of this Act. As used in
22 this paragraph, "agricultural production" means the production
23 for commercial purposes of crops, livestock, and livestock and
24 aquatic products, but not the processing of such crops,
25 livestock, or livestock or aquatic products by persons who are
26 not producing them.

1 (f) The Agency shall appear before the Board in any hearing
2 upon a petition for variance, the denial of a permit, or the
3 validity or effect of a rule or regulation of the Board, and
4 shall have the authority to appear before the Board in any
5 hearing under the Act.

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

21 (h) The Agency shall have authority to require the
22 submission of complete plans and specifications from any
23 applicant for a permit required by this Act or by regulations
24 thereunder, and to require the submission of such reports
25 regarding actual or potential violations of this Act, any rule
26 or regulation adopted under this Act, any permit or term or

1 condition of a permit, or any Board order, as may be necessary
2 for the purposes of this Act.

3 (i) The Agency shall have authority to make recommendations
4 to the Board for the adoption of regulations under Title VII of
5 the Act.

6 (j) The Agency shall have the duty to represent the State
7 of Illinois in any and all matters pertaining to plans,
8 procedures, or negotiations for interstate compacts or other
9 governmental arrangements relating to environmental
10 protection.

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

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

1 (1) The Agency is hereby designated as water pollution
2 agency for the state for all purposes of the Federal Water
3 Pollution Control Act, as amended; as implementing agency for
4 the State for all purposes of the Safe Drinking Water Act,
5 Public Law 93-523, as now or hereafter amended, except Section
6 1425 of that Act; as air pollution agency for the state for all
7 purposes of the Clean Air Act of 1970, Public Law 91-604,
8 approved December 31, 1970, as amended; and as solid waste
9 agency for the state for all purposes of the Solid Waste
10 Disposal Act, Public Law 89-272, approved October 20, 1965, and
11 amended by the Resource Recovery Act of 1970, Public Law
12 91-512, approved October 26, 1970, as amended, and amended by
13 the Resource Conservation and Recovery Act of 1976, (P.L.
14 94-580) approved October 21, 1976, as amended; as noise control
15 agency for the state for all purposes of the Noise Control Act
16 of 1972, Public Law 92-574, approved October 27, 1972, as
17 amended; and as implementing agency for the State for all
18 purposes of the Comprehensive Environmental Response,
19 Compensation, and Liability Act of 1980 (P.L. 96-510), as
20 amended; and otherwise as pollution control agency for the
21 State pursuant to federal laws integrated with the foregoing
22 laws, for financing purposes or otherwise. The Agency is hereby
23 authorized to take all action necessary or appropriate to
24 secure to the State the benefits of such federal Acts, provided
25 that the Agency shall transmit to the United States without
26 change any standards adopted by the Pollution Control Board

1 pursuant to Section 5(c) of this Act. This subsection (l) of
2 Section 4 shall not be construed to bar or prohibit the
3 Environmental Protection Trust Fund Commission from accepting,
4 receiving, and administering on behalf of the State any grants,
5 gifts, loans or other funds for which the Commission is
6 eligible pursuant to the Environmental Protection Trust Fund
7 Act. The Agency is hereby designated as the State agency for
8 all purposes of administering the requirements of Section 313
9 of the federal Emergency Planning and Community Right-to-Know
10 Act of 1986.

11 Any municipality, sanitary district, or other political
12 subdivision, or any Agency of the State or interstate Agency,
13 which makes application for loans or grants under such federal
14 Acts shall notify the Agency of such application; the Agency
15 may participate in proceedings under such federal Acts.

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

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

12 (o) The Agency shall have the authority to issue
13 certificates of competency to persons and laboratories meeting
14 the minimum standards established by the Agency in accordance
15 with Section 4(n) of this Act and to promulgate and enforce
16 regulations relevant to the issuance and use of such
17 certificates. The Agency may enter into formal working
18 agreements with other departments or agencies of state
19 government under which all or portions of this authority may be
20 delegated to the cooperating department or agency.

21 (p) Except as provided in Section 17.7, the Agency shall
22 have the duty to analyze samples as required from each public
23 water supply to determine compliance with the contaminant
24 levels specified by the Pollution Control Board. The maximum
25 number of samples which the Agency shall be required to analyze
26 for microbiological quality shall be 6 per month, but the

1 Agency may, at its option, analyze a larger number each month
2 for any supply. Results of sample analyses for additional
3 required bacteriological testing, turbidity, residual chlorine
4 and radionuclides are to be provided to the Agency in
5 accordance with Section 19. Owners of water supplies may enter
6 into agreements with the Agency to provide for reduced Agency
7 participation in sample analyses.

8 (q) The Agency shall have the authority to provide notice
9 to any person who may be liable pursuant to Section 22.2(f) of
10 this Act for a release or a substantial threat of a release of
11 a hazardous substance or pesticide. Such notice shall include
12 the identified response action and an opportunity for such
13 person to perform the response action.

14 (r) The Agency may enter into written delegation agreements
15 with any unit of local government under which it may delegate
16 all or portions of its inspecting, investigating and
17 enforcement functions. Such delegation agreements shall
18 require that work performed thereunder be in accordance with
19 Agency criteria and subject to Agency review. Notwithstanding
20 any other provision of law to the contrary, no unit of local
21 government shall be liable for any injury resulting from the
22 exercise of its authority pursuant to such a delegation
23 agreement unless the injury is proximately caused by the
24 willful and wanton negligence of an agent or employee of the
25 unit of local government, and any policy of insurance coverage
26 issued to a unit of local government may provide for the denial

1 of liability and the nonpayment of claims based upon injuries
2 for which the unit of local government is not liable pursuant
3 to this subsection (r).

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

17 (t) The Agency shall have authority to distribute grants,
18 subject to appropriation by the General Assembly, to units of
19 local government for financing and construction of wastewater
20 facilities in both incorporated and unincorporated areas. With
21 respect to all monies appropriated from the Build Illinois Bond
22 Fund and the Build Illinois Purposes Fund for wastewater
23 facility grants, the Agency shall make distributions in
24 conformity with the rules and regulations established pursuant
25 to the Anti-Pollution Bond Act, as now or hereafter amended.

26 (u) Pursuant to the Illinois Administrative Procedure Act,

1 the Agency shall have the authority to adopt such rules as are
2 necessary or appropriate for the Agency to implement Section
3 31.1 of this Act.

4 (v) (Blank.)

5 (w) Neither the State, nor the Director, nor the Board, nor
6 any State employee shall be liable for any damages or injury
7 arising out of or resulting from any action taken under
8 subsection (s).

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

19 (2) The Agency shall not terminate a grant to a unit of
20 local government for the financing and construction of
21 public water supply facilities unless and until the Agency
22 adopts rules that set forth precise and complete standards,
23 pursuant to Section 5-20 of the Illinois Administrative
24 Procedure Act, for the termination of such grants. The
25 Agency shall not make determinations on whether specific
26 grant conditions are necessary to ensure the integrity of a

1 project or on whether subagreements shall be awarded, with
2 respect to grants for the financing and construction of
3 public water supply facilities, unless and until the Agency
4 adopts rules that set forth precise and complete standards,
5 pursuant to Section 5-20 of the Illinois Administrative
6 Procedure Act, for making such determinations. The Agency
7 shall not issue a stop-work order in relation to such
8 grants unless and until the Agency adopts precise and
9 complete standards, pursuant to Section 5-20 of the
10 Illinois Administrative Procedure Act, for determining
11 whether to issue a stop-work order.

12 (y) The Agency shall have authority to release any person
13 from further responsibility for preventive or corrective
14 action under this Act following successful completion of
15 preventive or corrective action undertaken by such person upon
16 written request by the person.

17 (z) To the extent permitted by any applicable federal law
18 or regulation, for all work performed for State construction
19 projects which are funded in whole or in part by a capital
20 infrastructure bill enacted by the 96th General Assembly by
21 sums appropriated to the Environmental Protection Agency, at
22 least 50% of the total labor hours must be performed by actual
23 residents of the State of Illinois. For purposes of this
24 subsection, "actual residents of the State of Illinois" means
25 persons domiciled in the State of Illinois. The Department of
26 Labor shall promulgate rules providing for the enforcement of

1 this subsection.

2 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;
3 96-800, eff. 10-30-09; 96-1000, eff. 7-2-10.)

4 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007)

5 Sec. 7. Public inspection; fees.

6 (a) All files, records, and data of the Agency, the Board,
7 and the Department shall be open to reasonable public
8 inspection and may be copied upon payment of reasonable fees to
9 be established where appropriate by the Agency, the Board, or
10 the Department, except for the following:

11 (i) information which constitutes a trade secret;

12 (ii) information privileged against introduction in
13 judicial proceedings;

14 (iii) internal communications of the several agencies;

15 (iv) information concerning secret manufacturing
16 processes or confidential data submitted by any person
17 under this Act; and -

18 (v) information concerning the name or address of a
19 citizen complainant who has submitted a complaint to the
20 Agency alleging a violation of the Act, any rule adopted
21 under the Act, a permit granted by the Agency, or a
22 condition of the permit.

23 (b) Notwithstanding subsection (a) above, as to
24 information from or concerning persons subject to NPDES permit
25 requirements:

1 (i) effluent data may under no circumstances be kept
2 confidential; and

3 (ii) the Agency, the Board, and the Department may make
4 available to the public for inspection and copying any
5 required records, reports, information, permits, and
6 permit applications obtained from contaminant sources
7 subject to the provisions of Section 12 (f) of this Act;
8 provided that upon a showing satisfactory to the Agency,
9 the Board or the Department, as the case may be, by any
10 person that such information, or any part thereof (other
11 than effluent data) would, if made public, divulge methods
12 or processes entitled to protection as trade secrets of
13 such person, the Agency, the Board, or the Department, as
14 the case may be, shall treat such information as
15 confidential.

16 (c) Notwithstanding any other provision of this Title or
17 any other law to the contrary, all emission data reported to or
18 otherwise obtained by the Agency, the Board or the Department
19 in connection with any examination, inspection or proceeding
20 under this Act shall be available to the public to the extent
21 required by the federal Clean Air Act, as amended.

22 (d) Notwithstanding subsection (a) above, the quantity and
23 identity of substances being placed or to be placed in
24 landfills or hazardous waste treatment, storage or disposal
25 facilities, and the name of the generator of such substances
26 may under no circumstances be kept confidential.

1 (e) Notwithstanding any other provisions of this Title, or
2 any other law to the contrary, any information accorded
3 confidential treatment may be disclosed or transmitted to other
4 officers, employees or authorized representatives of this
5 State or of the United States concerned with or for the
6 purposes of carrying out this Act or federal environmental
7 statutes and regulations; provided, however, that such
8 information shall be identified as confidential by the Agency,
9 the Board, or the Department, as the case may be. Any
10 confidential information disclosed or transmitted under this
11 provision shall be used for the purposes stated herein.

12 (f) Except as provided in this Act neither the Agency, the
13 Board, nor the Department shall charge any fee for the
14 performance of its respective duties under this Act.

15 (g) All files, records and data of the Agency, the Board
16 and the Department shall be made available to the Department of
17 Public Health pursuant to the Illinois Health and Hazardous
18 Substances Registry Act. Expenses incurred in the copying and
19 transmittal of files, records and data requested pursuant to
20 this subsection (g) shall be the responsibility of the
21 Department of Public Health.

22 (Source: P.A. 92-574, eff. 6-26-02.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.