

SB3414



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3414

Introduced 2/7/2012, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

415 ILCS 5/27

from Ch. 111 1/2, par. 1027

Amends the Environmental Protection Act. Specifies that economic harm or hardship alone may serve as the basis for the Illinois Pollution Control Board to adopt emergency rules under the Illinois Administrative Procedure Act. Effective immediately

LRB097 17987 JDS 63210 b

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 Section 27 as follows:

6 (415 ILCS 5/27) (from Ch. 111 1/2, par. 1027)

7 Sec. 27. Rulemaking.

8 (a) The Board may adopt substantive regulations as
9 described in this Act. Any such regulations may make different
10 provisions as required by circumstances for different
11 contaminant sources and for different geographical areas; may
12 apply to sources outside this State causing, contributing to,
13 or threatening environmental damage in Illinois; may make
14 special provision for alert and abatement standards and
15 procedures respecting occurrences or emergencies of pollution
16 or on other short-term conditions constituting an acute danger
17 to health or to the environment; and may include regulations
18 specific to individual persons or sites. In promulgating
19 regulations under this Act, the Board shall take into account
20 the existing physical conditions, the character of the area
21 involved, including the character of surrounding land uses,
22 zoning classifications, the nature of the existing air quality,
23 or receiving body of water, as the case may be, and the

1 technical feasibility and economic reasonableness of measuring
2 or reducing the particular type of pollution. The generality of
3 this grant of authority shall only be limited by the
4 specifications of particular classes of regulations elsewhere
5 in this Act.

6 No charge shall be established or assessed by the Board or
7 Agency against any person for emission of air contaminants from
8 any source, for discharge of water contaminants from any
9 source, or for the sale, offer or use of any article.

10 Any person filing with the Board a written proposal for the
11 adoption, amendment, or repeal of regulations shall provide
12 information supporting the requested change and shall at the
13 same time file a copy of such proposal with the Agency and the
14 Department of Natural Resources. To aid the Board and to assist
15 the public in determining which facilities will be affected,
16 the person filing a proposal shall describe, to the extent
17 reasonably practicable, the universe of affected sources and
18 facilities and the economic impact of the proposed rule.

19 (b) Except as provided below and in Section 28.2, before
20 the adoption of any proposed rules not relating to
21 administrative procedures within the Agency or the Board, or
22 amendment to existing rules not relating to administrative
23 procedures within the Agency or the Board, the Board shall:

24 (1) request that the Department of Commerce and
25 Economic Opportunity conduct a study of the economic impact
26 of the proposed rules. The Department may within 30 to 45

1 days of such request produce a study of the economic impact
2 of the proposed rules. At a minimum, the economic impact
3 study shall address (A) economic, environmental, and
4 public health benefits that may be achieved through
5 compliance with the proposed rules, (B) the effects of the
6 proposed rules on employment levels, commercial
7 productivity, the economic growth of small businesses with
8 100 or less employees, and the State's overall economy, and
9 (C) the cost per unit of pollution reduced and the
10 variability in cost based on the size of the facility and
11 the percentage of company revenues expected to be used to
12 implement the proposed rules; and

13 (2) conduct at least one public hearing on the economic
14 impact of those new rules. At least 20 days before the
15 hearing, the Board shall notify the public of the hearing
16 and make the economic impact study, or the Department of
17 Commerce and Economic Opportunity's explanation for not
18 producing an economic impact study, available to the
19 public. Such public hearing may be held simultaneously or
20 as a part of any Board hearing considering such new rules.

21 In adopting any such new rule, the Board shall, in its
22 written opinion, make a determination, based upon the evidence
23 in the public hearing record, including but not limited to the
24 economic impact study, as to whether the proposed rule has any
25 adverse economic impact on the people of the State of Illinois.

26 (c) On proclamation by the Governor, pursuant to Section 8

1 of the Illinois Emergency Services and Disaster Act of 1975,
2 that a disaster emergency exists, or when the Board finds that
3 a severe public health emergency exists, the Board may, in
4 relation to any proposed regulation, order that such regulation
5 shall take effect without delay and the Board shall proceed
6 with the hearings and studies required by this Section while
7 the regulation continues in effect.

8 When the Board finds that a situation exists which
9 reasonably constitutes a threat to the public interest, safety,
10 or welfare, the Board may adopt regulations pursuant to and in
11 accordance with Section 5-45 of the Illinois Administrative
12 Procedure Act. For purposes of this subsection (c), significant
13 economic harm or hardship may constitute a threat to the public
14 interest, safety, or welfare.

15 (d) To the extent consistent with any deadline for adoption
16 of any regulations mandated by State or federal law, prior to
17 initiating any hearing on a regulatory proposal, the Board may
18 assign a qualified hearing officer who may schedule a
19 prehearing conference between the proponents and any or all of
20 the potentially affected persons. The notice requirements of
21 Section 28 shall not apply to such prehearing conferences. The
22 purposes of such conference shall be to maximize understanding
23 of the intent and application of the proposal, to reach
24 agreement on aspects of the proposal, if possible, and to
25 attempt to identify and limit the issues of disagreement among
26 the participants to promote efficient use of time at hearing.

1 No record need be kept of the prehearing conference, nor shall
2 any participant or the Board be bound by any discussions
3 conducted at the prehearing conference. However, with the
4 consent of all participants in the prehearing conference, a
5 prehearing order delineating issues to be heard, agreed facts,
6 and other matters may be entered by the hearing officer. Such
7 an order will not be binding on nonparticipants in the
8 prehearing conference.

9 (Source: P.A. 94-793, eff. 5-19-06.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.