



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB0072

Introduced 1/16/2013, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.380 rep.	
225 ILCS 52/Act rep.	
415 ILCS 5/17	from Ch. 111 1/2, par. 1017
415 ILCS 5/22.2	from Ch. 111 1/2, par. 1022.2
415 ILCS 5/22.8	from Ch. 111 1/2, par. 1022.8
615 ILCS 5/14a	from Ch. 19, par. 61a

Amends the State Finance Act. Repeals the Industrial Hygiene Regulatory and Enforcement Fund. Repeals the Industrial Hygienists Licensure Act. Amends the Environmental Protection Act. Provides for the transfer of funds from the Industrial Hygiene Regulatory and Enforcement Fund to the Environmental Protection Permit and Inspection Fund. Provides that a community water supply that is exempt from regulation under the Public Water Supply Operations Act does not have to register a person who is in charge of the community water supply in order to be exempt from the Illinois Pollution Control Board's mandatory chlorination requirements. Recognizes Certified Industrial Hygienists certified by the American Board of Industrial Hygiene as environmental professionals who may, among other things, conduct Phase I and Phase II Environmental Audits. Amends the Rivers, Lakes, and Streams Act. Requires the Environmental Protection Agency to report on the water quality of Lake Michigan every 2 years or at the direction of the Governor (rather than every year or at the direction of the Governor). Effective immediately, except that the repeal of the Industrial Hygiene Regulatory and Enforcement Fund takes place on January 1, 2014.

LRB098 02802 JDS 32810 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 (30 ILCS 105/5.380 rep.)

5 Section 3. The State Finance Act is amended by repealing
6 Section 5.380.

7 (225 ILCS 52/Act rep.)

8 Section 5. The Industrial Hygienists Licensure Act is
9 repealed.

10 Section 10. The Environmental Protection Act is amended by
11 changing Sections 17, 22.2, and 22.8 as follows:

12 (415 ILCS 5/17) (from Ch. 111 1/2, par. 1017)

13 Sec. 17. Rules; chlorination requirements.

14 (a) The Board may adopt regulations governing the location,
15 design, construction, and continuous operation and maintenance
16 of public water supply installations, changes or additions
17 which may affect the continuous sanitary quality, mineral
18 quality, or adequacy of the public water supply, pursuant to
19 Title VII of this Act.

20 (b) The Agency shall exempt from any mandatory chlorination
21 requirement of the Board any community water supply which meets

1 all of the following conditions:

2 (1) The population of the community served is not more
3 than 5,000;

4 (2) Has as its only source of raw water one or more
5 properly constructed wells into confined geologic
6 formations not subject to contamination;

7 (3) Has no history of persistent or recurring
8 contamination, as indicated by sampling results which show
9 violations of finished water quality requirements, for the
10 most recent five-year period;

11 (4) Does not provide any raw water treatment other than
12 fluoridation;

13 (5) Has an active program approved by the Agency to
14 educate water supply consumers on preventing the entry of
15 contaminants into the water system;

16 (6) Has a certified operator of the proper class, or ~~if~~
17 ~~it~~ is an exempt community ~~public~~ water supply, under the
18 Public Water Supply Operations Act ~~has a registered person~~
19 ~~responsible in charge of operation of the public water~~
20 ~~supply;~~

21 (7) Submits samples for microbiological analysis at
22 twice the frequency specified in the Board regulations; and

23 (8) A unit of local government seeking to exempt its
24 public water supply from the chlorination requirement
25 under this subsection (b) on or after September 9, 1983
26 shall be required to receive the approval of the voters of

1 such local government. The proposition to exempt the
 2 community water supply from the mandatory chlorination
 3 requirement shall be placed on the ballot if the governing
 4 body of the local government adopts an ordinance or
 5 resolution directing the clerk of the local government to
 6 place such question on the ballot. The clerk shall cause
 7 the election officials to place the proposition on the
 8 ballot at the next election at which such proposition may
 9 be voted upon if a certified copy of the adopted ordinance
 10 or resolution is filed in his office at least 90 days
 11 before such election. The proposition shall also be placed
 12 on the ballot if a petition containing the signatures of at
 13 least 10% of the eligible voters residing in the local
 14 government is filed with the clerk at least 90 days before
 15 the next election at which the proposition may be voted
 16 upon. The proposition shall be in substantially the
 17 following form:

18 -----

19 Shall the community
 20 water supply of (specify YES
 21 the unit of local government)
 22 be exempt from the mandatory -----
 23 chlorination requirement NO
 24 of the State of Illinois?

25 -----

26 If the majority of the voters of the local government

1 voting therein vote in favor of the proposition, the community
2 water supply of that local government shall be exempt from the
3 mandatory chlorination requirement, provided that the other
4 requirements under this subsection (b) are met. If the majority
5 of the vote is against such proposition, the community water
6 supply may not be exempt from the mandatory chlorination
7 requirement.

8 Agency decisions regarding exemptions under this
9 subsection may be appealed to the Board pursuant to the
10 provisions of Section 40(a) of this Act.

11 (c) Any supply showing contamination in its distribution
12 system (including finished water storage) may be required to
13 chlorinate until the Agency has determined that the source of
14 contamination has been removed and all traces of contamination
15 in the distribution system have been eliminated. Standby
16 chlorination equipment may be required by the Agency if a
17 supply otherwise exempt from chlorination shows frequent or
18 gross episodes of contamination.

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

20 (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

21 Sec. 22.2. Hazardous waste; fees; liability.

22 (a) There are hereby created within the State Treasury 2
23 special funds to be known respectively as the "Hazardous Waste
24 Fund" and the "Hazardous Waste Research Fund", constituted from
25 the fees collected pursuant to this Section. In addition to the

1 fees collected under this Section, the Hazardous Waste Fund
2 shall include other moneys made available from any source for
3 deposit into the Fund.

4 (b)(1) On and after January 1, 1989, the Agency shall
5 collect from the owner or operator of each of the following
6 sites a fee in the amount of:

7 (A) 9 cents per gallon or \$18.18 per cubic yard, if
8 the hazardous waste disposal site is located off the
9 site where such waste was produced. The maximum amount
10 payable under this subdivision (A) with respect to the
11 hazardous waste generated by a single generator and
12 deposited in monofills is \$30,000 per year. If, as a
13 result of the use of multiple monofills, waste fees in
14 excess of the maximum are assessed with respect to a
15 single waste generator, the generator may apply to the
16 Agency for a credit.

17 (B) 9 cents or \$18.18 per cubic yard, if the
18 hazardous waste disposal site is located on the site
19 where such waste was produced, provided however the
20 maximum amount of fees payable under this paragraph (B)
21 is \$30,000 per year for each such hazardous waste
22 disposal site.

23 (C) If the hazardous waste disposal site is an
24 underground injection well, \$6,000 per year if not more
25 than 10,000,000 gallons per year are injected, \$15,000
26 per year if more than 10,000,000 gallons but not more

1 than 50,000,000 gallons per year are injected, and
2 \$27,000 per year if more than 50,000,000 gallons per
3 year are injected.

4 (D) 3 cents per gallon or \$6.06 per cubic yard of
5 hazardous waste received for treatment at a hazardous
6 waste treatment site, if the hazardous waste treatment
7 site is located off the site where such waste was
8 produced and if such hazardous waste treatment site is
9 owned, controlled and operated by a person other than
10 the generator of such waste. After treatment at such
11 hazardous waste treatment site, the waste shall not be
12 subject to any other fee imposed by this subsection
13 (b). For purposes of this subsection (b), the term
14 "treatment" is defined as in Section 3.505 but shall
15 not include recycling, reclamation or reuse.

16 (2) The General Assembly shall annually appropriate to
17 the Fund such amounts as it deems necessary to fulfill the
18 purposes of this Act.

19 (3) The Agency shall have the authority to accept,
20 receive, and administer on behalf of the State any moneys
21 made available to the State from any source for the
22 purposes of the Hazardous Waste Fund set forth in
23 subsection (d) of this Section.

24 (4) Of the amount collected as fees provided for in
25 this Section, the Agency shall manage the use of such funds
26 to assure that sufficient funds are available for match

1 towards federal expenditures for response action at sites
2 which are listed on the National Priorities List; provided,
3 however, that this shall not apply to additional monies
4 appropriated to the Fund by the General Assembly, nor shall
5 it apply in the event that the Director finds that revenues
6 in the Hazardous Waste Fund must be used to address
7 conditions which create or may create an immediate danger
8 to the environment or public health or to the welfare of
9 the people of the State of Illinois.

10 (5) Notwithstanding the other provisions of this
11 subsection (b), sludge from a publicly-owned sewage works
12 generated in Illinois, coal mining wastes and refuse
13 generated in Illinois, bottom boiler ash, flyash and flue
14 gas desulphurization sludge from public utility electric
15 generating facilities located in Illinois, and bottom
16 boiler ash and flyash from all incinerators which process
17 solely municipal waste shall not be subject to the fee.

18 (6) For the purposes of this subsection (b), "monofill"
19 means a facility, or a unit at a facility, that accepts
20 only wastes bearing the same USEPA hazardous waste
21 identification number, or compatible wastes as determined
22 by the Agency.

23 (c) The Agency shall establish procedures, not later than
24 January 1, 1984, relating to the collection of the fees
25 authorized by this Section. Such procedures shall include, but
26 not be limited to: (1) necessary records identifying the

1 quantities of hazardous waste received or disposed; (2) the
2 form and submission of reports to accompany the payment of fees
3 to the Agency; and (3) the time and manner of payment of fees
4 to the Agency, which payments shall be not more often than
5 quarterly.

6 (d) Beginning July 1, 1996, the Agency shall deposit all
7 such receipts in the State Treasury to the credit of the
8 Hazardous Waste Fund, except as provided in subsection (e) of
9 this Section. All monies in the Hazardous Waste Fund shall be
10 used by the Agency for the following purposes:

11 (1) Taking whatever preventive or corrective action is
12 necessary or appropriate, in circumstances certified by
13 the Director, including but not limited to removal or
14 remedial action whenever there is a release or substantial
15 threat of a release of a hazardous substance or pesticide;
16 provided, the Agency shall expend no more than \$1,000,000
17 on any single incident without appropriation by the General
18 Assembly.

19 (2) To meet any requirements which must be met by the
20 State in order to obtain federal funds pursuant to the
21 Comprehensive Environmental Response, Compensation and
22 Liability Act of 1980, (P.L. 96-510).

23 (3) In an amount up to 30% of the amount collected as
24 fees provided for in this Section, for use by the Agency to
25 conduct groundwater protection activities, including
26 providing grants to appropriate units of local government

1 which are addressing protection of underground waters
2 pursuant to the provisions of this Act.

3 (4) To fund the development and implementation of the
4 model pesticide collection program under Section 19.1 of
5 the Illinois Pesticide Act.

6 (5) To the extent the Agency has received and deposited
7 monies in the Fund other than fees collected under
8 subsection (b) of this Section, to pay for the cost of
9 Agency employees for services provided in reviewing the
10 performance of response actions pursuant to Title XVII of
11 this Act.

12 (6) In an amount up to 15% of the fees collected
13 annually under subsection (b) of this Section, for use by
14 the Agency for administration of the provisions of this
15 Section.

16 (e) The Agency shall deposit 10% of all receipts collected
17 under subsection (b) of this Section, but not to exceed
18 \$200,000 per year, in the State Treasury to the credit of the
19 Hazardous Waste Research Fund established by this Act. Pursuant
20 to appropriation, all monies in such Fund shall be used by the
21 University of Illinois for the purposes set forth in this
22 subsection.

23 The University of Illinois may enter into contracts with
24 business, industrial, university, governmental or other
25 qualified individuals or organizations to assist in the
26 research and development intended to recycle, reduce the volume

1 of, separate, detoxify or reduce the hazardous properties of
2 hazardous wastes in Illinois. Monies in the Fund may also be
3 used by the University of Illinois for technical studies,
4 monitoring activities, and educational and research activities
5 which are related to the protection of underground waters.
6 Monies in the Hazardous Waste Research Fund may be used to
7 administer the Illinois Health and Hazardous Substances
8 Registry Act. Monies in the Hazardous Waste Research Fund shall
9 not be used for any sanitary landfill or the acquisition or
10 construction of any facility. This does not preclude the
11 purchase of equipment for the purpose of public demonstration
12 projects. The University of Illinois shall adopt guidelines for
13 cost sharing, selecting, and administering projects under this
14 subsection.

15 (f) Notwithstanding any other provision or rule of law, and
16 subject only to the defenses set forth in subsection (j) of
17 this Section, the following persons shall be liable for all
18 costs of removal or remedial action incurred by the State of
19 Illinois or any unit of local government as a result of a
20 release or substantial threat of a release of a hazardous
21 substance or pesticide:

22 (1) the owner and operator of a facility or vessel from
23 which there is a release or substantial threat of release
24 of a hazardous substance or pesticide;

25 (2) any person who at the time of disposal, transport,
26 storage or treatment of a hazardous substance or pesticide

1 owned or operated the facility or vessel used for such
2 disposal, transport, treatment or storage from which there
3 was a release or substantial threat of a release of any
4 such hazardous substance or pesticide;

5 (3) any person who by contract, agreement, or otherwise
6 has arranged with another party or entity for transport,
7 storage, disposal or treatment of hazardous substances or
8 pesticides owned, controlled or possessed by such person at
9 a facility owned or operated by another party or entity
10 from which facility there is a release or substantial
11 threat of a release of such hazardous substances or
12 pesticides; and

13 (4) any person who accepts or accepted any hazardous
14 substances or pesticides for transport to disposal,
15 storage or treatment facilities or sites from which there
16 is a release or a substantial threat of a release of a
17 hazardous substance or pesticide.

18 Any monies received by the State of Illinois pursuant to
19 this subsection (f) shall be deposited in the State Treasury to
20 the credit of the Hazardous Waste Fund.

21 In accordance with the other provisions of this Section,
22 costs of removal or remedial action incurred by a unit of local
23 government may be recovered in an action before the Board
24 brought by the unit of local government under subsection (i) of
25 this Section. Any monies so recovered shall be paid to the unit
26 of local government.

1 (g) (1) No indemnification, hold harmless, or similar
2 agreement or conveyance shall be effective to transfer from
3 the owner or operator of any vessel or facility or from any
4 person who may be liable for a release or substantial
5 threat of a release under this Section, to any other person
6 the liability imposed under this Section. Nothing in this
7 Section shall bar any agreement to insure, hold harmless or
8 indemnify a party to such agreements for any liability
9 under this Section.

10 (2) Nothing in this Section, including the provisions
11 of paragraph (g) (1) of this Section, shall bar a cause of
12 action that an owner or operator or any other person
13 subject to liability under this Section, or a guarantor,
14 has or would have, by reason of subrogation or otherwise
15 against any person.

16 (h) For purposes of this Section:

17 (1) The term "facility" means:

18 (A) any building, structure, installation,
19 equipment, pipe or pipeline including but not limited
20 to any pipe into a sewer or publicly owned treatment
21 works, well, pit, pond, lagoon, impoundment, ditch,
22 landfill, storage container, motor vehicle, rolling
23 stock, or aircraft; or

24 (B) any site or area where a hazardous substance
25 has been deposited, stored, disposed of, placed, or
26 otherwise come to be located.

1 (2) The term "owner or operator" means:

2 (A) any person owning or operating a vessel or
3 facility;

4 (B) in the case of an abandoned facility, any
5 person owning or operating the abandoned facility or
6 any person who owned, operated, or otherwise
7 controlled activities at the abandoned facility
8 immediately prior to such abandonment;

9 (C) in the case of a land trust as defined in
10 Section 2 of the Land Trustee as Creditor Act, the
11 person owning the beneficial interest in the land
12 trust;

13 (D) in the case of a fiduciary (other than a land
14 trustee), the estate, trust estate, or other interest
15 in property held in a fiduciary capacity, and not the
16 fiduciary. For the purposes of this Section,
17 "fiduciary" means a trustee, executor, administrator,
18 guardian, receiver, conservator or other person
19 holding a facility or vessel in a fiduciary capacity;

20 (E) in the case of a "financial institution",
21 meaning the Illinois Housing Development Authority and
22 that term as defined in Section 2 of the Illinois
23 Banking Act, that has acquired ownership, operation,
24 management, or control of a vessel or facility through
25 foreclosure or under the terms of a security interest
26 held by the financial institution or under the terms of

1 an extension of credit made by the financial
2 institution, the financial institution only if the
3 financial institution takes possession of the vessel
4 or facility and the financial institution exercises
5 actual, direct, and continual or recurrent managerial
6 control in the operation of the vessel or facility that
7 causes a release or substantial threat of a release of
8 a hazardous substance or pesticide resulting in
9 removal or remedial action;

10 (F) In the case of an owner of residential
11 property, the owner if the owner is a person other than
12 an individual, or if the owner is an individual who
13 owns more than 10 dwelling units in Illinois, or if the
14 owner, or an agent, representative, contractor, or
15 employee of the owner, has caused, contributed to, or
16 allowed the release or threatened release of a
17 hazardous substance or pesticide. The term
18 "residential property" means single family residences
19 of one to 4 dwelling units, including accessory land,
20 buildings, or improvements incidental to those
21 dwellings that are exclusively used for the
22 residential use. For purposes of this subparagraph
23 (F), the term "individual" means a natural person, and
24 shall not include corporations, partnerships, trusts,
25 or other non-natural persons.

26 (G) In the case of any facility, title or control

1 of which was conveyed due to bankruptcy, foreclosure,
2 tax delinquency, abandonment, or similar means to a
3 unit of State or local government, any person who
4 owned, operated, or otherwise controlled activities at
5 the facility immediately beforehand.

6 (H) The term "owner or operator" does not include a
7 unit of State or local government which acquired
8 ownership or control through bankruptcy, tax
9 delinquency, abandonment, or other circumstances in
10 which the government acquires title by virtue of its
11 function as sovereign. The exclusion provided under
12 this paragraph shall not apply to any State or local
13 government which has caused or contributed to the
14 release or threatened release of a hazardous substance
15 from the facility, and such a State or local government
16 shall be subject to the provisions of this Act in the
17 same manner and to the same extent, both procedurally
18 and substantively, as any nongovernmental entity,
19 including liability under Section 22.2(f).

20 (i) The costs and damages provided for in this Section may
21 be imposed by the Board in an action brought before the Board
22 in accordance with Title VIII of this Act, except that Section
23 33(c) of this Act shall not apply to any such action.

24 (j) (1) There shall be no liability under this Section for a
25 person otherwise liable who can establish by a preponderance of
26 the evidence that the release or substantial threat of release

1 of a hazardous substance and the damages resulting therefrom
2 were caused solely by:

3 (A) an act of God;

4 (B) an act of war;

5 (C) an act or omission of a third party other than an
6 employee or agent of the defendant, or other than one whose
7 act or omission occurs in connection with a contractual
8 relationship, existing directly or indirectly, with the
9 defendant (except where the sole contractual arrangement
10 arises from a published tariff and acceptance for carriage
11 by a common carrier by rail), if the defendant establishes
12 by a preponderance of the evidence that (i) he exercised
13 due care with respect to the hazardous substance concerned,
14 taking into consideration the characteristics of such
15 hazardous substance, in light of all relevant facts and
16 circumstances, and (ii) he took precautions against
17 foreseeable acts or omissions of any such third party and
18 the consequences that could foreseeably result from such
19 acts or omissions; or

20 (D) any combination of the foregoing paragraphs.

21 (2) There shall be no liability under this Section for any
22 release permitted by State or federal law.

23 (3) There shall be no liability under this Section for
24 damages as a result of actions taken or omitted in the course
25 of rendering care, assistance, or advice in accordance with
26 this Section or the National Contingency Plan pursuant to the

1 Comprehensive Environmental Response, Compensation and
2 Liability Act of 1980 (P.L. 96-510) or at the direction of an
3 on-scene coordinator appointed under such plan, with respect to
4 an incident creating a danger to public health or welfare or
5 the environment as a result of any release of a hazardous
6 substance or a substantial threat thereof. This subsection
7 shall not preclude liability for damages as the result of gross
8 negligence or intentional misconduct on the part of such
9 person. For the purposes of the preceding sentence, reckless,
10 willful, or wanton misconduct shall constitute gross
11 negligence.

12 (4) There shall be no liability under this Section for any
13 person (including, but not limited to, an owner of residential
14 property who applies a pesticide to the residential property or
15 who has another person apply a pesticide to the residential
16 property) for response costs or damages as the result of the
17 storage, handling and use, or recommendation for storage,
18 handling and use, of a pesticide consistent with:

19 (A) its directions for storage, handling and use as
20 stated in its label or labeling;

21 (B) its warnings and cautions as stated in its label or
22 labeling; and

23 (C) the uses for which it is registered under the
24 Federal Insecticide, Fungicide and Rodenticide Act and the
25 Illinois Pesticide Act.

26 (4.5) There shall be no liability under subdivision (f)(1)

1 of this Section for response costs or damages as the result of
2 a release of a pesticide from an agrichemical facility site if
3 the Agency has received notice from the Department of
4 Agriculture pursuant to Section 19.3 of the Illinois Pesticide
5 Act, the owner or operator of the agrichemical facility is
6 proceeding with a corrective action plan under the Agrichemical
7 Facility Response Action Program implemented under that
8 Section, and the Agency has provided a written endorsement of a
9 corrective action plan.

10 (4.6) There shall be no liability under subdivision (f) (1)
11 of this Section for response costs or damages as the result of
12 a substantial threat of a release of a pesticide from an
13 agrichemical facility site if the Agency has received notice
14 from the Department of Agriculture pursuant to Section 19.3 of
15 the Illinois Pesticide Act and the owner or operator of the
16 agrichemical facility is proceeding with a corrective action
17 plan under the Agrichemical Facility Response Action Program
18 implemented under that Section.

19 (5) Nothing in this subsection (j) shall affect or modify
20 in any way the obligations or liability of any person under any
21 other provision of this Act or State or federal law, including
22 common law, for damages, injury, or loss resulting from a
23 release or substantial threat of a release of any hazardous
24 substance or for removal or remedial action or the costs of
25 removal or remedial action of such hazardous substance.

26 (6) (A) The term "contractual relationship", for the

1 purpose of this subsection includes, but is not limited to,
2 land contracts, deeds or other instruments transferring title
3 or possession, unless the real property on which the facility
4 concerned is located was acquired by the defendant after the
5 disposal or placement of the hazardous substance on, in, or at
6 the facility, and one or more of the circumstances described in
7 clause (i), (ii), or (iii) of this paragraph is also
8 established by the defendant by a preponderance of the
9 evidence:

10 (i) At the time the defendant acquired the facility the
11 defendant did not know and had no reason to know that any
12 hazardous substance which is the subject of the release or
13 threatened release was disposed of on, in or at the
14 facility.

15 (ii) The defendant is a government entity which
16 acquired the facility by escheat, or through any other
17 involuntary transfer or acquisition, or through the
18 exercise of eminent domain authority by purchase or
19 condemnation.

20 (iii) The defendant acquired the facility by
21 inheritance or bequest.

22 In addition to establishing the foregoing, the defendant
23 must establish that he has satisfied the requirements of
24 subparagraph (C) of paragraph (1) of this subsection (j).

25 (B) To establish the defendant had no reason to know, as
26 provided in clause (i) of subparagraph (A) of this paragraph,

1 the defendant must have undertaken, at the time of acquisition,
2 all appropriate inquiry into the previous ownership and uses of
3 the property consistent with good commercial or customary
4 practice in an effort to minimize liability. For purposes of
5 the preceding sentence, the court shall take into account any
6 specialized knowledge or experience on the part of the
7 defendant, the relationship of the purchase price to the value
8 of the property if uncontaminated, commonly known or reasonably
9 ascertainable information about the property, the obviousness
10 of the presence or likely presence of contamination at the
11 property, and the ability to detect such contamination by
12 appropriate inspection.

13 (C) Nothing in this paragraph (6) or in subparagraph (C) of
14 paragraph (1) of this subsection shall diminish the liability
15 of any previous owner or operator of such facility who would
16 otherwise be liable under this Act. Notwithstanding this
17 paragraph (6), if the defendant obtained actual knowledge of
18 the release or threatened release of a hazardous substance at
19 such facility when the defendant owned the real property and
20 then subsequently transferred ownership of the property to
21 another person without disclosing such knowledge, such
22 defendant shall be treated as liable under subsection (f) of
23 this Section and no defense under subparagraph (C) of paragraph
24 (1) of this subsection shall be available to such defendant.

25 (D) Nothing in this paragraph (6) shall affect the
26 liability under this Act of a defendant who, by any act or

1 omission, caused or contributed to the release or threatened
2 release of a hazardous substance which is the subject of the
3 action relating to the facility.

4 (E)(i) Except as provided in clause (ii) of this
5 subparagraph (E), a defendant who has acquired real property
6 shall have established a rebuttable presumption against all
7 State claims and a conclusive presumption against all private
8 party claims that the defendant has made all appropriate
9 inquiry within the meaning of subdivision (6)(B) of this
10 subsection (j) if the defendant proves that immediately prior
11 to or at the time of the acquisition:

12 (I) the defendant obtained a Phase I Environmental
13 Audit of the real property that meets or exceeds the
14 requirements of this subparagraph (E), and the Phase I
15 Environmental Audit did not disclose the presence or likely
16 presence of a release or a substantial threat of a release
17 of a hazardous substance or pesticide at, on, to, or from
18 the real property; or

19 (II) the defendant obtained a Phase II Environmental
20 Audit of the real property that meets or exceeds the
21 requirements of this subparagraph (E), and the Phase II
22 Environmental Audit did not disclose the presence or likely
23 presence of a release or a substantial threat of a release
24 of a hazardous substance or pesticide at, on, to, or from
25 the real property.

26 (ii) No presumption shall be created under clause (i) of

1 this subparagraph (E), and a defendant shall be precluded from
2 demonstrating that the defendant has made all appropriate
3 inquiry within the meaning of subdivision (6)(B) of this
4 subsection (j), if:

5 (I) the defendant fails to obtain all Environmental
6 Audits required under this subparagraph (E) or any such
7 Environmental Audit fails to meet or exceed the
8 requirements of this subparagraph (E);

9 (II) a Phase I Environmental Audit discloses the
10 presence or likely presence of a release or a substantial
11 threat of a release of a hazardous substance or pesticide
12 at, on, to, or from real property, and the defendant fails
13 to obtain a Phase II Environmental Audit;

14 (III) a Phase II Environmental Audit discloses the
15 presence or likely presence of a release or a substantial
16 threat of a release of a hazardous substance or pesticide
17 at, on, to, or from the real property;

18 (IV) the defendant fails to maintain a written
19 compilation and explanatory summary report of the
20 information reviewed in the course of each Environmental
21 Audit under this subparagraph (E); or

22 (V) there is any evidence of fraud, material
23 concealment, or material misrepresentation by the
24 defendant of environmental conditions or of related
25 information discovered during the course of an
26 Environmental Audit.

1 (iii) For purposes of this subparagraph (E), the term
2 "environmental professional" means an individual (other than a
3 practicing attorney) who, through academic training,
4 occupational experience, and reputation (such as engineers,
5 industrial hygienists, or geologists) can objectively conduct
6 one or more aspects of an Environmental Audit and who either:

7 (I) maintains at the time of the Environmental Audit
8 and for at least one year thereafter at least \$500,000 of
9 environmental consultants' professional liability
10 insurance coverage issued by an insurance company licensed
11 to do business in Illinois; or

12 (II) is an Illinois licensed professional engineer or a
13 Certified Industrial Hygienist certified by the American
14 Board of Industrial Hygiene ~~an Illinois licensed~~
15 ~~industrial hygienist.~~

16 An environmental professional may employ persons who are
17 not environmental professionals to assist in the preparation of
18 an Environmental Audit if such persons are under the direct
19 supervision and control of the environmental professional.

20 (iv) For purposes of this subparagraph (E), the term "real
21 property" means any interest in any parcel of land, and
22 includes, but is not limited to, buildings, fixtures, and
23 improvements.

24 (v) For purposes of this subparagraph (E), the term "Phase
25 I Environmental Audit" means an investigation of real property,
26 conducted by environmental professionals, to discover the

1 presence or likely presence of a release or a substantial
2 threat of a release of a hazardous substance or pesticide at,
3 on, to, or from real property, and whether a release or a
4 substantial threat of a release of a hazardous substance or
5 pesticide has occurred or may occur at, on, to, or from the
6 real property. Until such time as the United States
7 Environmental Protection Agency establishes standards for
8 making appropriate inquiry into the previous ownership and uses
9 of the facility pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii), the
10 investigation shall comply with the procedures of the American
11 Society for Testing and Materials, including the document known
12 as Standard E1527-97, entitled "Standard Procedures for
13 Environmental Site Assessment: Phase 1 Environmental Site
14 Assessment Process". Upon their adoption, the standards
15 promulgated by USEPA pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii)
16 shall govern the performance of Phase I Environmental Audits.
17 In addition to the above requirements, the Phase I
18 Environmental Audit shall include a review of recorded land
19 title records for the purpose of determining whether the real
20 property is subject to an environmental land use restriction
21 such as a No Further Remediation Letter, Environmental Land Use
22 Control, or Highway Authority Agreement.

23 (vi) For purposes of subparagraph (E), the term "Phase II
24 Environmental Audit" means an investigation of real property,
25 conducted by environmental professionals, subsequent to a
26 Phase I Environmental Audit. If the Phase I Environmental Audit

1 discloses the presence or likely presence of a hazardous
2 substance or a pesticide or a release or a substantial threat
3 of a release of a hazardous substance or pesticide:

4 (I) In or to soil, the defendant, as part of the Phase
5 II Environmental Audit, shall perform a series of soil
6 borings sufficient to determine whether there is a presence
7 or likely presence of a hazardous substance or pesticide
8 and whether there is or has been a release or a substantial
9 threat of a release of a hazardous substance or pesticide
10 at, on, to, or from the real property.

11 (II) In or to groundwater, the defendant, as part of
12 the Phase II Environmental Audit, shall: review
13 information regarding local geology, water well locations,
14 and locations of waters of the State as may be obtained
15 from State, federal, and local government records,
16 including but not limited to the United States Geological
17 Survey, the State Geological Survey of the University of
18 Illinois, and the State Water Survey of the University of
19 Illinois; and perform groundwater monitoring sufficient to
20 determine whether there is a presence or likely presence of
21 a hazardous substance or pesticide, and whether there is or
22 has been a release or a substantial threat of a release of
23 a hazardous substance or pesticide at, on, to, or from the
24 real property.

25 (III) On or to media other than soil or groundwater,
26 the defendant, as part of the Phase II Environmental Audit,

1 shall perform an investigation sufficient to determine
2 whether there is a presence or likely presence of a
3 hazardous substance or pesticide, and whether there is or
4 has been a release or a substantial threat of a release of
5 a hazardous substance or pesticide at, on, to, or from the
6 real property.

7 (vii) The findings of each Environmental Audit prepared
8 under this subparagraph (E) shall be set forth in a written
9 audit report. Each audit report shall contain an affirmation by
10 the defendant and by each environmental professional who
11 prepared the Environmental Audit that the facts stated in the
12 report are true and are made under a penalty of perjury as
13 defined in Section 32-2 of the Criminal Code of 1961. It is
14 perjury for any person to sign an audit report that contains a
15 false material statement that the person does not believe to be
16 true.

17 (viii) The Agency is not required to review, approve, or
18 certify the results of any Environmental Audit. The performance
19 of an Environmental Audit shall in no way entitle a defendant
20 to a presumption of Agency approval or certification of the
21 results of the Environmental Audit.

22 The presence or absence of a disclosure document prepared
23 under the Responsible Property Transfer Act of 1988 shall not
24 be a defense under this Act and shall not satisfy the
25 requirements of subdivision (6) (A) of this subsection (j).

26 (7) No person shall be liable under this Section for

1 response costs or damages as the result of a pesticide release
2 if the Agency has found that a pesticide release occurred based
3 on a Health Advisory issued by the U.S. Environmental
4 Protection Agency or an action level developed by the Agency,
5 unless the Agency notified the manufacturer of the pesticide
6 and provided an opportunity of not less than 30 days for the
7 manufacturer to comment on the technical and scientific
8 justification supporting the Health Advisory or action level.

9 (8) No person shall be liable under this Section for
10 response costs or damages as the result of a pesticide release
11 that occurs in the course of a farm pesticide collection
12 program operated under Section 19.1 of the Illinois Pesticide
13 Act, unless the release results from gross negligence or
14 intentional misconduct.

15 (k) If any person who is liable for a release or
16 substantial threat of release of a hazardous substance or
17 pesticide fails without sufficient cause to provide removal or
18 remedial action upon or in accordance with a notice and request
19 by the Agency or upon or in accordance with any order of the
20 Board or any court, such person may be liable to the State for
21 punitive damages in an amount at least equal to, and not more
22 than 3 times, the amount of any costs incurred by the State of
23 Illinois as a result of such failure to take such removal or
24 remedial action. The punitive damages imposed by the Board
25 shall be in addition to any costs recovered from such person
26 pursuant to this Section and in addition to any other penalty

1 or relief provided by this Act or any other law.

2 Any monies received by the State pursuant to this
3 subsection (k) shall be deposited in the Hazardous Waste Fund.

4 (1) Beginning January 1, 1988, and prior to January 1,
5 2013, the Agency shall annually collect a \$250 fee for each
6 Special Waste Hauling Permit Application and, in addition,
7 shall collect a fee of \$20 for each waste hauling vehicle
8 identified in the annual permit application and for each
9 vehicle which is added to the permit during the annual period.
10 Beginning January 1, 2013, the Agency shall issue 3-year
11 Special Waste Hauling Permits instead of annual Special Waste
12 Hauling Permits and shall collect a \$750 fee for each Special
13 Waste Hauling Permit Application. In addition, beginning
14 January 1, 2013, the Agency shall collect a fee of \$60 for each
15 waste hauling vehicle identified in the permit application and
16 for each vehicle that is added to the permit during the 3-year
17 period. The Agency shall deposit 85% of such fees collected
18 under this subsection in the State Treasury to the credit of
19 the Hazardous Waste Research Fund; and shall deposit the
20 remaining 15% of such fees collected in the State Treasury to
21 the credit of the Environmental Protection Permit and
22 Inspection Fund. The majority of such receipts which are
23 deposited in the Hazardous Waste Research Fund pursuant to this
24 subsection shall be used by the University of Illinois for
25 activities which relate to the protection of underground
26 waters.

1 (l-5) (Blank).

2 (m) (Blank).

3 (n) (Blank).

4 (Source: P.A. 97-220, eff. 7-28-11; 97-1081, eff. 8-24-12.)

5 (415 ILCS 5/22.8) (from Ch. 111 1/2, par. 1022.8)

6 Sec. 22.8. Environmental Protection Permit and Inspection
7 Fund.

8 (a) There is hereby created in the State Treasury a special
9 fund to be known as the Environmental Protection Permit and
10 Inspection Fund. All fees collected by the Agency pursuant to
11 this Section, Section 9.6, 12.2, 16.1, 22.2 (j) (6) (E) (v) (IV),
12 56.4, 56.5, 56.6, and subsection (f) of Section 5 of this Act
13 or pursuant to Section 22 of the Public Water Supply Operations
14 Act and funds collected under subsection (b.5) of Section 42 of
15 this Act shall be deposited into the Fund. In addition to any
16 monies appropriated from the General Revenue Fund, monies in
17 the Fund shall be appropriated by the General Assembly to the
18 Agency in amounts deemed necessary for manifest, permit, and
19 inspection activities and for processing requests under
20 Section 22.2 (j) (6) (E) (v) (IV).

21 The General Assembly may appropriate monies in the Fund
22 deemed necessary for Board regulatory and adjudicatory
23 proceedings.

24 (a-5) As soon as practicable after the effective date of
25 this amendatory Act of the 98th General Assembly but no later

1 than January 1, 2014, the State Comptroller shall direct and
2 the State Treasurer shall transfer all monies in the Industrial
3 Hygiene Regulatory and Enforcement Fund to the Environmental
4 Protection Permit and Inspection Fund to be used in accordance
5 with the terms of the Environmental Protection Permit and
6 Inspection Fund.

7 (b) The Agency shall collect from the owner or operator of
8 any of the following types of hazardous waste disposal sites or
9 management facilities which require a RCRA permit under
10 subsection (f) of Section 21 of this Act, or a UIC permit under
11 subsection (g) of Section 12 of this Act, an annual fee in the
12 amount of:

13 (1) \$35,000 (\$70,000 beginning in 2004) for a hazardous
14 waste disposal site receiving hazardous waste if the
15 hazardous waste disposal site is located off the site where
16 such waste was produced;

17 (2) \$9,000 (\$18,000 beginning in 2004) for a hazardous
18 waste disposal site receiving hazardous waste if the
19 hazardous waste disposal site is located on the site where
20 such waste was produced;

21 (3) \$7,000 (\$14,000 beginning in 2004) for a hazardous
22 waste disposal site receiving hazardous waste if the
23 hazardous waste disposal site is an underground injection
24 well;

25 (4) \$2,000 (\$4,000 beginning in 2004) for a hazardous
26 waste management facility treating hazardous waste by

1 incineration;

2 (5) \$1,000 (\$2,000 beginning in 2004) for a hazardous
3 waste management facility treating hazardous waste by a
4 method, technique or process other than incineration;

5 (6) \$1,000 (\$2,000 beginning in 2004) for a hazardous
6 waste management facility storing hazardous waste in a
7 surface impoundment or pile;

8 (7) \$250 (\$500 beginning in 2004) for a hazardous waste
9 management facility storing hazardous waste other than in a
10 surface impoundment or pile; and

11 (8) Beginning in 2004, \$500 for a large quantity
12 hazardous waste generator required to submit an annual or
13 biennial report for hazardous waste generation.

14 (c) Where two or more operational units are located within
15 a single hazardous waste disposal site, the Agency shall
16 collect from the owner or operator of such site an annual fee
17 equal to the highest fee imposed by subsection (b) of this
18 Section upon any single operational unit within the site.

19 (d) The fee imposed upon a hazardous waste disposal site
20 under this Section shall be the exclusive permit and inspection
21 fee applicable to hazardous waste disposal at such site,
22 provided that nothing in this Section shall be construed to
23 diminish or otherwise affect any fee imposed upon the owner or
24 operator of a hazardous waste disposal site by Section 22.2.

25 (e) The Agency shall establish procedures, no later than
26 December 1, 1984, relating to the collection of the hazardous

1 waste disposal site fees authorized by this Section. Such
2 procedures shall include, but not be limited to the time and
3 manner of payment of fees to the Agency, which shall be
4 quarterly, payable at the beginning of each quarter for
5 hazardous waste disposal site fees. Annual fees required under
6 paragraph (7) of subsection (b) of this Section shall accompany
7 the annual report required by Board regulations for the
8 calendar year for which the report applies.

9 (f) For purposes of this Section, a hazardous waste
10 disposal site consists of one or more of the following
11 operational units:

12 (1) a landfill receiving hazardous waste for disposal;

13 (2) a waste pile or surface impoundment, receiving
14 hazardous waste, in which residues which exhibit any of the
15 characteristics of hazardous waste pursuant to Board
16 regulations are reasonably expected to remain after
17 closure;

18 (3) a land treatment facility receiving hazardous
19 waste; or

20 (4) a well injecting hazardous waste.

21 (g) The Agency shall assess a fee for each manifest
22 provided by the Agency. For manifests provided on or after
23 January 1, 1989 but before July 1, 2003, the fee shall be \$1
24 per manifest. For manifests provided on or after July 1, 2003,
25 the fee shall be \$3 per manifest.

26 (Source: P.A. 93-32, eff. 7-1-03.)

1 Section 15. The Rivers, Lakes, and Streams Act is amended
2 by changing Section 14a as follows:

3 (615 ILCS 5/14a) (from Ch. 19, par. 61a)

4 Sec. 14a. It is the express intention of this legislation
5 that close cooperation shall exist between the Pollution
6 Control Board, the Environmental Protection Agency, and the
7 Department of Natural Resources and that every resource of
8 State government shall be applied to the proper preservation
9 and utilization of the waters of Lake Michigan.

10 The Environmental Protection Agency shall work in close
11 cooperation with the City of Chicago and other affected units
12 of government to: (1) terminate discharge of polluttional waste
13 materials to Lake Michigan from vessels in both intra-state and
14 inter-state navigation, and (2) abate domestic, industrial,
15 and other pollution to assure that Lake Michigan beaches in
16 Illinois are suitable for full body contact sports, meeting
17 criteria of the Pollution Control Board.

18 The Environmental Protection Agency shall regularly
19 conduct water quality and lake bed surveys to evaluate the
20 ecology and the quality of water in Lake Michigan. Results of
21 such surveys shall be made available, without charge, to all
22 interested persons and agencies. It shall be the responsibility
23 of the Director of the Environmental Protection Agency to
24 report biennially ~~annually~~ or at such other times as the

1 Governor shall direct; such report shall provide hydrologic,
2 biologic, and chemical data together with recommendations to
3 the Governor and members of the General Assembly.

4 The requirement for reporting to the General Assembly shall
5 be satisfied by filing copies of the report with the Speaker,
6 the Minority Leader and the Clerk of the House of
7 Representatives and the President, the Minority Leader and the
8 Secretary of the Senate and the Legislative Research Unit, as
9 required by Section 3.1 of "An Act to revise the law in
10 relation to the General Assembly", approved February 25, 1874,
11 as amended, and filing such additional copies with the State
12 Government Report Distribution Center for the General Assembly
13 as is required under paragraph (t) of Section 7 of the State
14 Library Act.

15 In meeting the requirements of this Act, the Pollution
16 Control Board, Environmental Protection Agency and Department
17 of Natural Resources are authorized to be in direct contact
18 with individuals, municipalities, public and private
19 corporations and other organizations which are or may be
20 contributing to the discharge of pollution to Lake Michigan.

21 (Source: P.A. 89-445, eff. 2-7-96.)

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