



Rep. Daniel J. Burke

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LRB099 09842 MJP 51772 a

1 AMENDMENT TO SENATE BILL 1673

2 AMENDMENT NO. _____. Amend Senate Bill 1673, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Administrative Procedure Act is
6 amended by changing Section 1-5 as follows:

7 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

8 Sec. 1-5. Applicability.

9 (a) This Act applies to every agency as defined in this
10 Act. Beginning January 1, 1978, in case of conflict between the
11 provisions of this Act and the Act creating or conferring power
12 on an agency, this Act shall control. If, however, an agency
13 (or its predecessor in the case of an agency that has been
14 consolidated or reorganized) has existing procedures on July 1,
15 1977, specifically for contested cases or licensing, those
16 existing provisions control, except that this exception

1 respecting contested cases and licensing does not apply if the
2 Act creating or conferring power on the agency adopts by
3 express reference the provisions of this Act. Where the Act
4 creating or conferring power on an agency establishes
5 administrative procedures not covered by this Act, those
6 procedures shall remain in effect.

7 (b) The provisions of this Act do not apply to (i)
8 preliminary hearings, investigations, or practices where no
9 final determinations affecting State funding are made by the
10 State Board of Education, (ii) legal opinions issued under
11 Section 2-3.7 of the School Code, (iii) as to State colleges
12 and universities, their disciplinary and grievance
13 proceedings, academic irregularity and capricious grading
14 proceedings, and admission standards and procedures, and (iv)
15 the class specifications for positions and individual position
16 descriptions prepared and maintained under the Personnel Code.
17 Those class specifications shall, however, be made reasonably
18 available to the public for inspection and copying. The
19 provisions of this Act do not apply to hearings under Section
20 20 of the Uniform Disposition of Unclaimed Property Act.

21 (c) Section 5-35 of this Act relating to procedures for
22 rulemaking does not apply to the following:

23 (1) Rules adopted by the Pollution Control Board that,
24 in accordance with Section 7.2 of the Environmental
25 Protection Act, are identical in substance to federal
26 regulations or amendments to those regulations

1 implementing the following: Sections 3001, 3002, 3003,
2 3004, 3005, and 9003 of the Solid Waste Disposal Act;
3 Section 105 of the Comprehensive Environmental Response,
4 Compensation, and Liability Act of 1980; Sections 307(b),
5 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal
6 Water Pollution Control Act; Sections 1412(b), 1414(c),
7 1417(a), 1421, and 1445(a) of the Safe Drinking Water Act;
8 and Section 109 of the Clean Air Act.

9 (2) Rules adopted by the Pollution Control Board that
10 establish or amend standards for the emission of
11 hydrocarbons and carbon monoxide from gasoline powered
12 motor vehicles subject to inspection under the Vehicle
13 Emissions Inspection Law of 2005 or its predecessor laws.

14 (3) Procedural rules adopted by the Pollution Control
15 Board governing requests for exceptions under Section 14.2
16 of the Environmental Protection Act.

17 (4) The Pollution Control Board's grant, pursuant to an
18 adjudicatory determination, of an adjusted standard for
19 persons who can justify an adjustment consistent with
20 subsection (a) of Section 27 of the Environmental
21 Protection Act.

22 (4.5) The Pollution Control Board's adoption of
23 time-limited water quality standards under Section 38.5 of
24 the Environmental Protection Act.

25 (5) Rules adopted by the Pollution Control Board that
26 are identical in substance to the regulations adopted by

1 the Office of the State Fire Marshal under clause (ii) of
2 paragraph (b) of subsection (3) of Section 2 of the
3 Gasoline Storage Act.

4 (d) Pay rates established under Section 8a of the Personnel
5 Code shall be amended or repealed pursuant to the process set
6 forth in Section 5-50 within 30 days after it becomes necessary
7 to do so due to a conflict between the rates and the terms of a
8 collective bargaining agreement covering the compensation of
9 an employee subject to that Code.

10 (e) Section 10-45 of this Act shall not apply to any
11 hearing, proceeding, or investigation conducted under Section
12 13-515 of the Public Utilities Act.

13 (f) Article 10 of this Act does not apply to any hearing,
14 proceeding, or investigation conducted by the State Council for
15 the State of Illinois created under Section 3-3-11.05 of the
16 Unified Code of Corrections or by the Interstate Commission for
17 Adult Offender Supervision created under the Interstate
18 Compact for Adult Offender Supervision or by the Interstate
19 Commission for Juveniles created under the Interstate Compact
20 for Juveniles.

21 (g) This Act is subject to the provisions of Article XXI of
22 the Public Utilities Act. To the extent that any provision of
23 this Act conflicts with the provisions of that Article XXI, the
24 provisions of that Article XXI control.

25 (Source: P.A. 97-95, eff. 7-12-11; 97-945, eff. 8-10-12;
26 97-1081, eff. 8-24-12; 98-463, eff. 8-16-13.)

1 Section 10. The Environmental Protection Act is amended by
2 changing Sections 4, 5, 7.5, 29, and 41 and the heading of
3 Title IX and by adding Sections 3.488 and 38.5 as follows:

4 (415 ILCS 5/3.488 new)

5 Sec. 3.488. Time-limited water quality standard.
6 "Time-limited water quality standard" has the meaning ascribed
7 to the term "water quality standards variance" in 40 CFR
8 131.3(o).

9 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

10 Sec. 4. Environmental Protection Agency; establishment;
11 duties.

12 (a) There is established in the Executive Branch of the
13 State Government an agency to be known as the Environmental
14 Protection Agency. This Agency shall be under the supervision
15 and direction of a Director who shall be appointed by the
16 Governor with the advice and consent of the Senate. The term of
17 office of the Director shall expire on the third Monday of
18 January in odd numbered years, provided that he or she shall
19 hold office until a successor is appointed and has qualified.
20 The Director shall receive an annual salary as set by the
21 Compensation Review Board. The Director, in accord with the
22 Personnel Code, shall employ and direct such personnel, and
23 shall provide for such laboratory and other facilities, as may

1 be necessary to carry out the purposes of this Act. In
2 addition, the Director may by agreement secure such services as
3 he or she may deem necessary from any other department, agency,
4 or unit of the State Government, and may employ and compensate
5 such consultants and technical assistants as may be required.

6 (b) The Agency shall have the duty to collect and
7 disseminate such information, acquire such technical data, and
8 conduct such experiments as may be required to carry out the
9 purposes of this Act, including ascertainment of the quantity
10 and nature of discharges from any contaminant source and data
11 on those sources, and to operate and arrange for the operation
12 of devices for the monitoring of environmental quality.

13 (c) The Agency shall have authority to conduct a program of
14 continuing surveillance and of regular or periodic inspection
15 of actual or potential contaminant or noise sources, of public
16 water supplies, and of refuse disposal sites.

17 (d) In accordance with constitutional limitations, the
18 Agency shall have authority to enter at all reasonable times
19 upon any private or public property for the purpose of:

20 (1) Inspecting and investigating to ascertain possible
21 violations of this Act, any rule or regulation adopted
22 under this Act, any permit or term or condition of a
23 permit, or any Board order; or

24 (2) In accordance with the provisions of this Act,
25 taking whatever preventive or corrective action, including
26 but not limited to removal or remedial action, that is

1 necessary or appropriate whenever there is a release or a
2 substantial threat of a release of (A) a hazardous
3 substance or pesticide or (B) petroleum from an underground
4 storage tank.

5 (e) The Agency shall have the duty to investigate
6 violations of this Act, any rule or regulation adopted under
7 this Act, any permit or term or condition of a permit, or any
8 Board order; to issue administrative citations as provided in
9 Section 31.1 of this Act; and to take such summary enforcement
10 action as is provided for by Section 34 of this Act.

11 (f) The Agency shall appear before the Board in any hearing
12 upon a petition for variance or time-limited water quality
13 standard, the denial of a permit, or the validity or effect of
14 a rule or regulation of the Board, and shall have the authority
15 to appear before the Board in any hearing under the Act.

16 (g) The Agency shall have the duty to administer, in accord
17 with Title X of this Act, such permit and certification systems
18 as may be established by this Act or by regulations adopted
19 thereunder. The Agency may enter into written delegation
20 agreements with any department, agency, or unit of State or
21 local government under which all or portions of this duty may
22 be delegated for public water supply storage and transport
23 systems, sewage collection and transport systems, air
24 pollution control sources with uncontrolled emissions of 100
25 tons per year or less and application of algicides to waters of
26 the State. Such delegation agreements will require that the

1 work to be performed thereunder will be in accordance with
2 Agency criteria, subject to Agency review, and shall include
3 such financial and program auditing by the Agency as may be
4 required.

5 (h) The Agency shall have authority to require the
6 submission of complete plans and specifications from any
7 applicant for a permit required by this Act or by regulations
8 thereunder, and to require the submission of such reports
9 regarding actual or potential violations of this Act, any rule
10 or regulation adopted under this Act, any permit or term or
11 condition of a permit, or any Board order, as may be necessary
12 for the purposes of this Act.

13 (i) The Agency shall have authority to make recommendations
14 to the Board for the adoption of regulations under Title VII of
15 the Act.

16 (j) The Agency shall have the duty to represent the State
17 of Illinois in any and all matters pertaining to plans,
18 procedures, or negotiations for interstate compacts or other
19 governmental arrangements relating to environmental
20 protection.

21 (k) The Agency shall have the authority to accept, receive,
22 and administer on behalf of the State any grants, gifts, loans,
23 indirect cost reimbursements, or other funds made available to
24 the State from any source for purposes of this Act or for air
25 or water pollution control, public water supply, solid waste
26 disposal, noise abatement, or other environmental protection

1 activities, surveys, or programs. Any federal funds received by
2 the Agency pursuant to this subsection shall be deposited in a
3 trust fund with the State Treasurer and held and disbursed by
4 him in accordance with Treasurer as Custodian of Funds Act,
5 provided that such monies shall be used only for the purposes
6 for which they are contributed and any balance remaining shall
7 be returned to the contributor.

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

11 (1) The Agency is hereby designated as water pollution
12 agency for the state for all purposes of the Federal Water
13 Pollution Control Act, as amended; as implementing agency for
14 the State for all purposes of the Safe Drinking Water Act,
15 Public Law 93-523, as now or hereafter amended, except Section
16 1425 of that Act; as air pollution agency for the state for all
17 purposes of the Clean Air Act of 1970, Public Law 91-604,
18 approved December 31, 1970, as amended; and as solid waste
19 agency for the state for all purposes of the Solid Waste
20 Disposal Act, Public Law 89-272, approved October 20, 1965, and
21 amended by the Resource Recovery Act of 1970, Public Law
22 91-512, approved October 26, 1970, as amended, and amended by
23 the Resource Conservation and Recovery Act of 1976, (P.L.
24 94-580) approved October 21, 1976, as amended; as noise control
25 agency for the state for all purposes of the Noise Control Act
26 of 1972, Public Law 92-574, approved October 27, 1972, as

1 amended; and as implementing agency for the State for all
2 purposes of the Comprehensive Environmental Response,
3 Compensation, and Liability Act of 1980 (P.L. 96-510), as
4 amended; and otherwise as pollution control agency for the
5 State pursuant to federal laws integrated with the foregoing
6 laws, for financing purposes or otherwise. The Agency is hereby
7 authorized to take all action necessary or appropriate to
8 secure to the State the benefits of such federal Acts, provided
9 that the Agency shall transmit to the United States without
10 change any standards adopted by the Pollution Control Board
11 pursuant to Section 5(c) of this Act. This subsection (l) of
12 Section 4 shall not be construed to bar or prohibit the
13 Environmental Protection Trust Fund Commission from accepting,
14 receiving, and administering on behalf of the State any grants,
15 gifts, loans or other funds for which the Commission is
16 eligible pursuant to the Environmental Protection Trust Fund
17 Act. The Agency is hereby designated as the State agency for
18 all purposes of administering the requirements of Section 313
19 of the federal Emergency Planning and Community Right-to-Know
20 Act of 1986.

21 Any municipality, sanitary district, or other political
22 subdivision, or any Agency of the State or interstate Agency,
23 which makes application for loans or grants under such federal
24 Acts shall notify the Agency of such application; the Agency
25 may participate in proceedings under such federal Acts.

26 (m) The Agency shall have authority, consistent with

1 Section 5(c) and other provisions of this Act, and for purposes
2 of Section 303(e) of the Federal Water Pollution Control Act,
3 as now or hereafter amended, to engage in planning processes
4 and activities and to develop plans in cooperation with units
5 of local government, state agencies and officers, and other
6 appropriate persons in connection with the jurisdiction or
7 duties of each such unit, agency, officer or person. Public
8 hearings shall be held on the planning process, at which any
9 person shall be permitted to appear and be heard, pursuant to
10 procedural regulations promulgated by the Agency.

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

22 (o) The Agency shall have the authority to issue
23 certificates of competency to persons and laboratories meeting
24 the minimum standards established by the Agency in accordance
25 with Section 4(n) of this Act and to promulgate and enforce
26 regulations relevant to the issuance and use of such

1 certificates. The Agency may enter into formal working
2 agreements with other departments or agencies of state
3 government under which all or portions of this authority may be
4 delegated to the cooperating department or agency.

5 (p) Except as provided in Section 17.7, the Agency shall
6 have the duty to analyze samples as required from each public
7 water supply to determine compliance with the contaminant
8 levels specified by the Pollution Control Board. The maximum
9 number of samples which the Agency shall be required to analyze
10 for microbiological quality shall be 6 per month, but the
11 Agency may, at its option, analyze a larger number each month
12 for any supply. Results of sample analyses for additional
13 required bacteriological testing, turbidity, residual chlorine
14 and radionuclides are to be provided to the Agency in
15 accordance with Section 19. Owners of water supplies may enter
16 into agreements with the Agency to provide for reduced Agency
17 participation in sample analyses.

18 (q) The Agency shall have the authority to provide notice
19 to any person who may be liable pursuant to Section 22.2(f) of
20 this Act for a release or a substantial threat of a release of
21 a hazardous substance or pesticide. Such notice shall include
22 the identified response action and an opportunity for such
23 person to perform the response action.

24 (r) The Agency may enter into written delegation agreements
25 with any unit of local government under which it may delegate
26 all or portions of its inspecting, investigating and

1 enforcement functions. Such delegation agreements shall
2 require that work performed thereunder be in accordance with
3 Agency criteria and subject to Agency review. Notwithstanding
4 any other provision of law to the contrary, no unit of local
5 government shall be liable for any injury resulting from the
6 exercise of its authority pursuant to such a delegation
7 agreement unless the injury is proximately caused by the
8 willful and wanton negligence of an agent or employee of the
9 unit of local government, and any policy of insurance coverage
10 issued to a unit of local government may provide for the denial
11 of liability and the nonpayment of claims based upon injuries
12 for which the unit of local government is not liable pursuant
13 to this subsection (r).

14 (s) The Agency shall have authority to take whatever
15 preventive or corrective action is necessary or appropriate,
16 including but not limited to expenditure of monies appropriated
17 from the Build Illinois Bond Fund and the Build Illinois
18 Purposes Fund for removal or remedial action, whenever any
19 hazardous substance or pesticide is released or there is a
20 substantial threat of such a release into the environment. The
21 State, the Director, and any State employee shall be
22 indemnified for any damages or injury arising out of or
23 resulting from any action taken under this subsection. The
24 Director of the Agency is authorized to enter into such
25 contracts and agreements as are necessary to carry out the
26 Agency's duties under this subsection.

1 (t) The Agency shall have authority to distribute grants,
2 subject to appropriation by the General Assembly, to units of
3 local government for financing and construction of wastewater
4 facilities in both incorporated and unincorporated areas. With
5 respect to all monies appropriated from the Build Illinois Bond
6 Fund and the Build Illinois Purposes Fund for wastewater
7 facility grants, the Agency shall make distributions in
8 conformity with the rules and regulations established pursuant
9 to the Anti-Pollution Bond Act, as now or hereafter amended.

10 (u) Pursuant to the Illinois Administrative Procedure Act,
11 the Agency shall have the authority to adopt such rules as are
12 necessary or appropriate for the Agency to implement Section
13 31.1 of this Act.

14 (v) (Blank.)

15 (w) Neither the State, nor the Director, nor the Board, nor
16 any State employee shall be liable for any damages or injury
17 arising out of or resulting from any action taken under
18 subsection (s).

19 (x) (1) The Agency shall have authority to distribute
20 grants, subject to appropriation by the General Assembly,
21 to units of local government for financing and construction
22 of public water supply facilities. With respect to all
23 monies appropriated from the Build Illinois Bond Fund or
24 the Build Illinois Purposes Fund for public water supply
25 grants, such grants shall be made in accordance with rules
26 promulgated by the Agency. Such rules shall include a

1 requirement for a local match of 30% of the total project
2 cost for projects funded through such grants.

3 (2) The Agency shall not terminate a grant to a unit of
4 local government for the financing and construction of
5 public water supply facilities unless and until the Agency
6 adopts rules that set forth precise and complete standards,
7 pursuant to Section 5-20 of the Illinois Administrative
8 Procedure Act, for the termination of such grants. The
9 Agency shall not make determinations on whether specific
10 grant conditions are necessary to ensure the integrity of a
11 project or on whether subagreements shall be awarded, with
12 respect to grants for the financing and construction of
13 public water supply facilities, unless and until the Agency
14 adopts rules that set forth precise and complete standards,
15 pursuant to Section 5-20 of the Illinois Administrative
16 Procedure Act, for making such determinations. The Agency
17 shall not issue a stop-work order in relation to such
18 grants unless and until the Agency adopts precise and
19 complete standards, pursuant to Section 5-20 of the
20 Illinois Administrative Procedure Act, for determining
21 whether to issue a stop-work order.

22 (y) The Agency shall have authority to release any person
23 from further responsibility for preventive or corrective
24 action under this Act following successful completion of
25 preventive or corrective action undertaken by such person upon
26 written request by the person.

1 (z) To the extent permitted by any applicable federal law
2 or regulation, for all work performed for State construction
3 projects which are funded in whole or in part by a capital
4 infrastructure bill enacted by the 96th General Assembly by
5 sums appropriated to the Environmental Protection Agency, at
6 least 50% of the total labor hours must be performed by actual
7 residents of the State of Illinois. For purposes of this
8 subsection, "actual residents of the State of Illinois" means
9 persons domiciled in the State of Illinois. The Department of
10 Labor shall promulgate rules providing for the enforcement of
11 this subsection.

12 (aa) The Agency may adopt rules requiring the electronic
13 submission of any information required to be submitted to the
14 Agency pursuant to any State or federal law or regulation or
15 any court or Board order. Any rules adopted under this
16 subsection (aa) must include, but are not limited to,
17 identification of the information to be submitted
18 electronically.

19 (Source: P.A. 98-72, eff. 7-15-13.)

20 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

21 Sec. 5. Pollution Control Board.

22 (a) There is hereby created an independent board to be
23 known as the Pollution Control Board.

24 Until July 1, 2003 or when all of the new members to be
25 initially appointed under this amendatory Act of the 93rd

1 General Assembly have been appointed by the Governor, whichever
2 occurs later, the Board shall consist of 7 technically
3 qualified members, no more than 4 of whom may be of the same
4 political party, to be appointed by the Governor with the
5 advice and consent of the Senate.

6 The term of each appointed member of the Board who is in
7 office on June 30, 2003 shall terminate at the close of
8 business on that date or when all of the new members to be
9 initially appointed under this amendatory Act of the 93rd
10 General Assembly have been appointed by the Governor, whichever
11 occurs later.

12 Beginning on July 1, 2003 or when all of the new members to
13 be initially appointed under this amendatory Act of the 93rd
14 General Assembly have been appointed by the Governor, whichever
15 occurs later, the Board shall consist of 5 technically
16 qualified members, no more than 3 of whom may be of the same
17 political party, to be appointed by the Governor with the
18 advice and consent of the Senate. Members shall have verifiable
19 technical, academic, or actual experience in the field of
20 pollution control or environmental law and regulation.

21 Of the members initially appointed pursuant to this
22 amendatory Act of the 93rd General Assembly, one shall be
23 appointed for a term ending July 1, 2004, 2 shall be appointed
24 for terms ending July 1, 2005, and 2 shall be appointed for
25 terms ending July 1, 2006. Thereafter, all members shall hold
26 office for 3 years from the first day of July in the year in

1 which they were appointed, except in case of an appointment to
2 fill a vacancy. In case of a vacancy in the office when the
3 Senate is not in session, the Governor may make a temporary
4 appointment until the next meeting of the Senate, when he or
5 she shall nominate some person to fill such office; and any
6 person so nominated, who is confirmed by the Senate, shall hold
7 the office during the remainder of the term.

8 Members of the Board shall hold office until their
9 respective successors have been appointed and qualified. Any
10 member may resign from office, such resignation to take effect
11 when a successor has been appointed and has qualified.

12 Board members shall be paid \$37,000 per year or an amount
13 set by the Compensation Review Board, whichever is greater, and
14 the Chairman shall be paid \$43,000 per year or an amount set by
15 the Compensation Review Board, whichever is greater. Each
16 member shall devote his or her entire time to the duties of the
17 office, and shall hold no other office or position of profit,
18 nor engage in any other business, employment, or vocation. Each
19 member shall be reimbursed for expenses necessarily incurred
20 and shall make a financial disclosure upon appointment.

21 Each Board member may employ one secretary and one
22 assistant, and the Chairman one secretary and 2 assistants. The
23 Board also may employ and compensate hearing officers to
24 preside at hearings under this Act, and such other personnel as
25 may be necessary. Hearing officers shall be attorneys licensed
26 to practice law in Illinois.

1 The Board may have an Executive Director; if so, the
2 Executive Director shall be appointed by the Governor with the
3 advice and consent of the Senate. The salary and duties of the
4 Executive Director shall be fixed by the Board.

5 The Governor shall designate one Board member to be
6 Chairman, who shall serve at the pleasure of the Governor.

7 The Board shall hold at least one meeting each month and
8 such additional meetings as may be prescribed by Board rules.
9 In addition, special meetings may be called by the Chairman or
10 by any 2 Board members, upon delivery of 24 hours written
11 notice to the office of each member. All Board meetings shall
12 be open to the public, and public notice of all meetings shall
13 be given at least 24 hours in advance of each meeting. In
14 emergency situations in which a majority of the Board certifies
15 that exigencies of time require the requirements of public
16 notice and of 24 hour written notice to members may be
17 dispensed with, and Board members shall receive such notice as
18 is reasonable under the circumstances.

19 If there is no vacancy on the Board, 4 members of the Board
20 shall constitute a quorum to transact business; otherwise, a
21 majority of the Board shall constitute a quorum to transact
22 business, and no vacancy shall impair the right of the
23 remaining members to exercise all of the powers of the Board.
24 Every action approved by a majority of the members of the Board
25 shall be deemed to be the action of the Board. The Board shall
26 keep a complete and accurate record of all its meetings.

1 (b) The Board shall determine, define and implement the
2 environmental control standards applicable in the State of
3 Illinois and may adopt rules and regulations in accordance with
4 Title VII of this Act.

5 (c) The Board shall have authority to act for the State in
6 regard to the adoption of standards for submission to the
7 United States under any federal law respecting environmental
8 protection. Such standards shall be adopted in accordance with
9 Title VII of the Act and upon adoption shall be forwarded to
10 the Environmental Protection Agency for submission to the
11 United States pursuant to subsections (l) and (m) of Section 4
12 of this Act. Nothing in this paragraph shall limit the
13 discretion of the Governor to delegate authority granted to the
14 Governor under any federal law.

15 (d) The Board shall have authority to conduct proceedings
16 upon complaints charging violations of this Act, any rule or
17 regulation adopted under this Act, any permit or term or
18 condition of a permit, or any Board order; upon administrative
19 citations; upon petitions for variances, ~~or~~ adjusted
20 standards, or time-limited water quality standards; upon
21 petitions for review of the Agency's final determinations on
22 permit applications in accordance with Title X of this Act;
23 upon petitions to remove seals under Section 34 of this Act;
24 and upon other petitions for review of final determinations
25 which are made pursuant to this Act or Board rule and which
26 involve a subject which the Board is authorized to regulate.

1 The Board may also conduct other proceedings as may be provided
2 by this Act or any other statute or rule.

3 (e) In connection with any proceeding pursuant to
4 subsection (b) or (d) of this Section, the Board may subpoena
5 and compel the attendance of witnesses and the production of
6 evidence reasonably necessary to resolution of the matter under
7 consideration. The Board shall issue such subpoenas upon the
8 request of any party to a proceeding under subsection (d) of
9 this Section or upon its own motion.

10 (f) The Board may prescribe reasonable fees for permits
11 required pursuant to this Act. Such fees in the aggregate may
12 not exceed the total cost to the Agency for its inspection and
13 permit systems. The Board may not prescribe any permit fees
14 which are different in amount from those established by this
15 Act.

16 (Source: P.A. 95-331, eff. 8-21-07.)

17 (415 ILCS 5/7.5) (from Ch. 111 1/2, par. 1007.5)

18 Sec. 7.5. Filing Fees.

19 (a) The Board shall collect filing fees as prescribed in this
20 Act. The fees shall be deposited in the Pollution Control Board
21 Fund. The filing fees shall be as follows:

22 Petition for site-specific regulation, \$75.

23 Petition for variance, \$75.

24 Petition for review of permit, \$75.

25 Petition to contest local government decision pursuant to

1 Section 40.1, §75.

2 Petition for an adjusted standard, pursuant to Section
3 28.1, §75.

4 Petition for a time-limited water quality standard, \$75 per
5 petitioner.

6 (b) A person who has filed a petition for a variance from a
7 water quality standard and paid the filing fee set forth in
8 subsection (a) of this Section for that petition and whose
9 variance petition is thereafter converted into a petition for a
10 time-limited water quality standard under Section 38.5 of this
11 Act shall not be required to pay a separate filing fee upon the
12 conversion of the variance petition into a petition for a
13 time-limited water quality standard.

14 (Source: P.A. 85-1440.)

15 (415 ILCS 5/29) (from Ch. 111 1/2, par. 1029)

16 Sec. 29. (a) Any person adversely affected or threatened by
17 any rule or regulation of the Board may obtain a determination
18 of the validity or application of such rule or regulation by
19 petition for review under Section 41 of this Act.

20 (b) Action by the Board in adopting any regulation for
21 which judicial review could have been obtained under Section 41
22 of this Act shall not be subject to review regarding the
23 regulation's validity or application in any subsequent
24 proceeding under Title VIII, Title IX or Section 40 of this
25 Act.

1 (c) This Section does not apply to orders entered by the
2 Board pursuant to Section 38.5 of this Act. Final orders
3 entered by the Board pursuant to Section 38.5 of this Act are
4 subject to judicial review under subsection (j) of that
5 Section. Interim orders entered by the Board pursuant to
6 Section 38.5 are not subject to judicial review under this
7 Section or Section 38.5.

8 (Source: P.A. 85-1048.)

9 (415 ILCS 5/Tit. IX heading)

10 TITLE IX: VARIANCES AND TIME-LIMITED WATER QUALITY STANDARDS

11 (415 ILCS 5/38.5 new)

12 Sec. 38.5. Time-limited water quality standards.

13 (a) To the extent consistent with the Federal Water
14 Pollution Control Act, rules adopted by the United States
15 Environmental Protection Agency under that Act, this Section,
16 and rules adopted by the Board under this Section, the Board
17 may adopt, and may conduct non-adjudicatory proceedings to
18 adopt, a time-limited water quality standard for a watershed or
19 one or more of the following:

20 (1) water bodies;

21 (2) waterbody segments; or

22 (3) dischargers.

23 (b) A time-limited water quality standard may be sought by:

24

1 (1) persons who file with the Board a petition for a
2 time-limited water quality standard under this Section;
3 and

4 (2) persons who have a petition for a variance from a
5 water quality standard under Section 35 of this Act
6 converted into a petition for a time-limited water quality
7 standard under subsection (c) of this Section.

8 (c) Any petition for a variance from a water quality
9 standard under Section 35 of this Act that was filed with the
10 Board before the effective date of this amendatory Act of the
11 99th General Assembly and that has not been disposed of by the
12 Board shall be converted, by operation of law, into a petition
13 for a time-limited water quality standard under this Section on
14 the effective date of this amendatory Act of the 99th General
15 Assembly.

16 (d) The Board's hearings concerning the adoption of
17 time-limited water quality standards shall be open to the
18 public and must be held in compliance with 40 CFR 131.14,
19 including, but not limited to, the public notice and
20 participation requirements referenced in 40 CFR 25 and 40 CFR
21 131.20(b); this Section; and rules adopted by the Board under
22 this Section.

23 (e) Within 21 days after any petition for a time-limited
24 water quality standard is filed with the Board under this
25 Section, or within 21 days after the effective date of this
26 amendatory Act of the 99th General Assembly in the case of a

1 petition for time-limited water quality standard created under
2 subsection (c) of this Section, the Agency shall file with the
3 Board a response that:

4 (1) identifies the discharger or classes of
5 dischargers affected by the water quality standard from
6 which relief is sought;

7 (2) identifies the watershed, water bodies, or
8 waterbody segments affected by the water quality standard
9 from which relief is sought;

10 (3) identifies the appropriate type of time-limited
11 water quality standard, based on factors, such as the
12 nature of the pollutant, the condition of the affected
13 water body, and the number and type of dischargers; and

14 (4) recommends, for the purposes of subsection (h),
15 prompt deadlines for the classes of dischargers to file a
16 substantially compliant petition.

17 (f) Within 30 days after receipt of a response from the
18 Agency under subsection (e) of this Section, the Board shall
19 enter a final order that establishes the discharger or classes
20 of dischargers that may be covered by the time-limited water
21 quality standard and prompt deadlines by which the discharger
22 and dischargers in the identified classes must, for the
23 purposes of subsection (h), file with the Board either:

24 (1) a petition for a time-limited water quality
25 standard, if the petition has not been previously filed; or

26 (2) an amended petition for a time-limited water

1 quality standard, if the petition has been previously filed
2 and it is necessary to file an amended petition to maintain
3 a stay under paragraph (3) of subsection (h) of this
4 Section.

5 (g) As soon as practicable after entering an order under
6 subsection (f), the Board shall conduct an evaluation of the
7 petition to assess its substantial compliance with 40 CFR
8 131.14, this Section, and rules adopted pursuant to this
9 Section. After the Board determines that a petition is in
10 substantial compliance with those requirements, the Agency
11 shall file a recommendation concerning the petition.

12 (h) (1) The effectiveness of a water quality standard from
13 which relief is sought shall be stayed as to the following
14 persons from the effective date of the water quality standard
15 until the stay is terminated as provided in this subsection:

16 (A) any person who has a petition for a variance
17 seeking relief from a water quality standard under
18 Section 35 of this Act converted into a petition for a
19 time-limited water quality standard under subsection
20 (c) of this Section;

21 (B) any person who files a petition for a
22 time-limited water quality standard within 35 days
23 after the effective date of the water quality standard
24 from which relief is sought; and

25 (C) any person, not covered by subparagraph (B) of
26 this subsection, who is a member of a class of

1 dischargers that is identified in a Board order under
2 subsection (f) that concerns a petition for a
3 time-limited water quality standard that was filed
4 within 35 days after the effective date of the water
5 quality standard from which relief is sought and who
6 files a petition for a time-limited water quality
7 standard before the deadline established for that
8 class under subsection (f) of this Section.

9 (2) If the Board determines that the petition of a
10 person described in paragraph (1) of this subsection is in
11 substantial compliance, then the stay shall continue until
12 the Board:

13 (A) denies the petition and all rights to judicial
14 review of the Board order denying the petition are
15 exhausted; or

16 (B) adopts the time-limited water quality standard
17 and the United States Environmental Protection Agency
18 either:

19 (i) approves the time-limited water quality
20 standard; or

21 (ii) disapproves the time-limited water
22 quality standard for failure to comply with 40 CFR
23 131.14.

24 (3) If the Board determines that the petition of a
25 person described in paragraph (1) of this subsection is not
26 in substantial compliance, then the Board shall enter an

1 interim order that identifies the deficiencies in the
2 petition that must be corrected for the petition to be in
3 substantial compliance. The petitioner must file an
4 amended petition by the deadlines adopted by the Board
5 pursuant to subsection (f), and the Board shall enter,
6 after the applicable Board-established deadline, a final
7 order that determines whether the amended petition is in
8 substantial compliance.

9 (4) If the Board determines that the amended petition
10 described in paragraph (3) of this subsection is in
11 substantial compliance, then the stay shall continue until
12 the Board:

13 (A) denies the petition and all rights to judicial
14 review of the Board order denying the petition are
15 exhausted; or

16 (B) adopts the time-limited water quality standard
17 and the United States Environmental Protection Agency
18 either:

19 (i) approves the time-limited water quality
20 standard; or

21 (ii) disapproves the time-limited water
22 quality standard for failure to comply with 40 CFR
23 131.14.

24 (5) If the Board determines that the amended petition
25 described in paragraph (3) of this subsection is not in
26 substantial compliance by the Board-established deadline,

1 the Board shall deny the petition and the stay shall
2 continue until all rights to judicial review are exhausted.

3 (6) If the Board determines that a petition for a
4 time-limited water quality standard is not in substantial
5 compliance and if the person fails to file, on or before
6 the Board-established deadline, an amended petition, the
7 Board shall dismiss the petition and the stay shall
8 continue until all rights to judicial review are exhausted.

9 (7) If a person other than a person described in
10 paragraph (1) of subsection (h) of this Section files a
11 petition for a time-limited water quality standard, then
12 the effectiveness of the water quality standard from which
13 relief is sought shall not be stayed as to that person.
14 However, the person may seek a time-limited water quality
15 standard from the Board by complying with 40 CFR 131.14,
16 this Section, and rules adopted pursuant to this Section.

17 (i) Each time-limited water quality standard adopted by the
18 Board for more than one discharger shall set forth criteria
19 that may be used by dischargers or classes of dischargers to
20 obtain coverage under the time-limited water quality standard
21 during its duration. Any discharger that has not obtained a
22 time-limited water quality standard may obtain coverage under a
23 Board-approved time-limited water quality standard by
24 satisfying, at the time of the renewal or modification of that
25 person's federal National Pollutant Discharge Elimination
26 System (NPDES) permit or at the time the person files an

1 application for certification under Section 401 of the federal
2 Clean Water Act, the Board-approved criteria for coverage under
3 the time-limited water quality standard.

4 (j) Any person who is adversely affected or threatened by a
5 final Board order entered pursuant to this Section may obtain
6 judicial review of the Board order by filing a petition for
7 review within 35 days after the date the Board order was served
8 on the person affected by the order, under the provisions of
9 the Administrative Review Law, and the rules adopted pursuant
10 thereto, except that review shall be afforded directly in the
11 appellate court for the district in which the cause of action
12 arose and not in the circuit court. For purposes of judicial
13 review under this subsection, a person is deemed to have been
14 served with the Board's final order on the date on which the
15 order is first published by the Board on its website.

16 No challenge to the validity of a final Board order under
17 this Section shall be made in any enforcement proceeding under
18 Title XII of this Act as to any issue that could have been
19 raised in a timely petition for review under this subsection.

20 (k) Not later than 6 months after the effective date of
21 this amendatory Act of the 99th General Assembly, the Agency
22 shall propose, and not later than 9 months thereafter the Board
23 shall adopt, rules that prescribe specific procedures and
24 standards to be used by the Board when adopting time-limited
25 water quality standards. The public notice and participation
26 requirements in 40 CFR 25 and 40 CFR 131.20(b) shall be

1 incorporated into the rules adopted under this subsection.

2 Until the rules adopted under this subsection are
3 effective, the Board may adopt time-limited water quality
4 standards to the full extent allowed under this Section and 40
5 C.F.R. 131.14.

6 (1) Section 5-35 of the Illinois Administrative Procedure
7 Act, Title VII of this Act, and the other Sections in Title IX
8 of this Act do not apply to Board proceedings under this
9 Section.

10 (415 ILCS 5/41) (from Ch. 111 1/2, par. 1041)

11 Sec. 41. Judicial review.

12 (a) Any party to a Board hearing, any person who filed a
13 complaint on which a hearing was denied, any person who has
14 been denied a variance or permit under this Act, any party
15 adversely affected by a final order or determination of the
16 Board, and any person who participated in the public comment
17 process under subsection (8) of Section 39.5 of this Act may
18 obtain judicial review, by filing a petition for review within
19 35 days from the date that a copy of the order or other final
20 action sought to be reviewed was served upon the party affected
21 by the order or other final Board action complained of, under
22 the provisions of the Administrative Review Law, as amended and
23 the rules adopted pursuant thereto, except that review shall be
24 afforded directly in the Appellate Court for the District in
25 which the cause of action arose and not in the Circuit Court.

1 Review of any rule or regulation promulgated by the Board shall
2 not be limited by this section but may also be had as provided
3 in Section 29 of this Act.

4 (b) Any final order of the Board under this Act shall be
5 based solely on the evidence in the record of the particular
6 proceeding involved, and any such final order for permit
7 appeals, enforcement actions and variance proceedings, shall
8 be invalid if it is against the manifest weight of the
9 evidence. Notwithstanding this subsection, the Board may
10 include such conditions in granting a variance and may adopt
11 such rules and regulations as the policies of this Act may
12 require. If an objection is made to a variance condition, the
13 board shall reconsider the condition within not more than 75
14 days from the date of the objection.

15 (c) No challenge to the validity of a Board order shall be
16 made in any enforcement proceeding under Title XII of this Act
17 as to any issue that could have been raised in a timely
18 petition for review under this Section.

19 (d) If there is no final action by the Board within 120
20 days on a request for a variance which is subject to subsection
21 (c) of Section 38 or a permit appeal which is subject to
22 paragraph (a) (3) of Section 40 or paragraph (d) of Section
23 40.2 or Section 40.3, the petitioner shall be entitled to an
24 Appellate Court order under this subsection. If a hearing is
25 required under this Act and was not held by the Board, the
26 Appellate Court shall order the Board to conduct such a

1 hearing, and to make a decision within 90 days from the date of
2 the order. If a hearing was held by the Board, or if a hearing
3 is not required under this Act and was not held by the Board,
4 the Appellate Court shall order the Board to make a decision
5 within 90 days from the date of the order.

6 The Appellate Court shall retain jurisdiction during the
7 pendency of any further action conducted by the Board under an
8 order by the Appellate Court. The Appellate Court shall have
9 jurisdiction to review all issues of law and fact presented
10 upon appeal.

11 (e) This Section does not apply to orders entered by the
12 Board pursuant to Section 38.5 of this Act. Final orders
13 entered by the Board pursuant to Section 38.5 of this Act are
14 subject to judicial review under subsection (j) of that
15 Section. Interim orders entered by the Board pursuant to
16 Section 38.5 are not subject to judicial review under this
17 Section or Section 38.5.

18 (Source: P.A. 99-463, eff. 1-1-16.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.".