



Rep. Anna Moeller

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1 AMENDMENT TO HOUSE BILL 3596

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3596, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Wetlands Protection Act.

7 Section 5. Findings and intent. The General Assembly  
8 finds:

9 (1) In 1818, Illinois contained an estimated 8.2 million  
10 acres of wetlands. Based on the Illinois portion of the  
11 National Wetlands Inventory, less than 9% of those original  
12 acres of wetlands remain.

13 (2) As a result of the significant loss in wetland  
14 acreage, there has been a corresponding loss in the functional  
15 values and benefits that wetlands provide.

16 (3) Illinois is bordered by 880 miles of rivers, which are

1 critical to navigation, commerce, recreation, and ecosystem  
2 health at home and downstream to the Gulf of Mexico, and the  
3 health of Illinois rivers is heavily influenced by the health  
4 of the tributaries and streams that flow into them.

5 (4) In Illinois, 9,894 total miles of streams provide  
6 water for surface water intakes, supplying public drinking  
7 water systems that rely at least in part on intermittent,  
8 ephemeral, or headwater streams.

9 (5) Continued loss of Illinois' wetlands and streams may  
10 deprive the People of the State of some or all of the benefits  
11 that they provide, including:

12 (A) reducing flood damages and protecting vulnerable  
13 communities by absorbing, storing, and conveying peak  
14 flows from storms;

15 (B) improving water quality by serving as  
16 sedimentation and filtering basins and as natural  
17 biological treatment areas;

18 (C) providing breeding, nesting, foraging, and  
19 protective habitat for approximately 40% of the State's  
20 threatened and endangered plants and animals, in addition  
21 to other forms of fish, wildlife, game, waterfowl, and  
22 shorebirds;

23 (D) protecting underground water resources and helping  
24 to recharge rivers, streams, and local or regional  
25 underground water supplies;

26 (E) serving as recreational areas for hunting,

1 fishing, boating, hiking, bird watching, photography, and  
2 other uses;

3 (F) providing open space and aesthetic values,  
4 particularly in rapidly developing areas;

5 (G) providing unique educational and research  
6 opportunities because of their high diversity of plants  
7 and animals, their support for a high incidence of  
8 threatened and endangered species, and their function as a  
9 natural buffer for rivers, lakes, and streams;

10 (H) supplying nutrients in freshwater food cycles and  
11 serving as nursery areas and sanctuaries for young fish;  
12 and

13 (I) helping to protect shorelines from the forces of  
14 water erosion.

15 (6) Our changing climate and its more extreme and less  
16 predictable weather patterns heighten the need for some or all  
17 of the benefits that Illinois' wetlands provide, including  
18 flood control, coastal resilience, water quality, aquifer  
19 recharge, habitat, and maintenance of baseflow to recharge  
20 rivers, streams, and local or regional underground water  
21 supplies.

22 (7) Illinois historically relied on the federal Clean  
23 Water Act's permit program administered by the U.S. Army Corps  
24 of Engineers and the U.S. Environmental Protection Agency to  
25 prevent harm to aquatic resources from unauthorized discharges  
26 of dredge or fill material.

1           (8) After rejection of the 1989 Wetlands Delineation  
2 Manual and in light of uncertainty about federal protections  
3 for some "isolated" wetlands, the General Assembly passed the  
4 Interagency Wetland Policy Act of 1989 to protect these  
5 wetlands from State agency actions and achieve no net loss of  
6 wetlands.

7           (9) The Supreme Court's May 25, 2023 decision in Sackett  
8 v. EPA rolled back the scope of waters of the United States,  
9 thereby removing federal Clean Water Act protections for many  
10 waters of the United States, including wetlands that provide  
11 significant flood control protections, such as bottomland  
12 hardwood forested wetlands that are separated from the  
13 Illinois River by levees.

14           (10) It is important for Illinois to adopt protections  
15 under State law to reinstate protections lost by rolling back  
16 the scope of the federal Clean Water Act.

17           Section 10. Definitions. As used in this Act:

18           "Adjacent" means bordering, contiguous, or neighboring.

19           "Adjacent wetlands" includes wetlands separated from  
20 waters of the United States by man-made dikes or barriers,  
21 natural river berms, beach dunes, and other man-made or  
22 natural structures.

23           "Affected property" means any property upon which a  
24 regulated activity is conducted.

25           "Agency" means the Illinois Environmental Protection

1 Agency.

2 "Approved county or district" means a county or special  
3 district with a stormwater program that has been approved  
4 under Section 55 to issue permits under this Act instead of the  
5 Department of Natural Resources.

6 "Approved wetland specialist" means a person who has met  
7 the educational, training, and field experience requirements  
8 that have been adopted, by rule, under this Act or set forth in  
9 an approved county or district code and that assure  
10 knowledgeable wetland delineations using the Corps of  
11 Engineers Wetlands Delineation Manual in a manner that is  
12 consistent with Section 25 of this Act.

13 "Avoidance" means any action that is taken in a manner  
14 that will cause a regulated activity not to occur and that is  
15 consistent with the federal Clean Water Act 404(b)(1)  
16 Guidelines developed by the U.S. Environmental Protection  
17 Agency and the U.S. Army Corps of Engineers.

18 "Bog" means a peat-accumulating wetland that has no  
19 significant inflows or outflows and that supports acidophilic  
20 mosses, particularly sphagnum, resulting in highly acidic  
21 conditions.

22 "Bottomland hardwood" means forested riverine floodplain  
23 forest, including flatwoods in northeastern Illinois, that are  
24 located in the 100-year flood plain of Illinois rivers and  
25 streams and that are at least seasonally flooded.

26 "Class I wetland" means a top tier wetland as indicated by

1 type (such as bog, bottomland hardwood forest, or panne),  
2 designation (such as Ramsar wetland of international  
3 importance), or function (such as threatened or endangered  
4 species habitat or important flood protection) consistent with  
5 Section 25 of this Act. Class I wetlands do not include waters  
6 of the United States.

7 "Class II wetland" means a wetland, including its  
8 contiguous area, that is larger than 0.5 acres and is not a  
9 Class I wetland. Class II wetlands do not include waters of the  
10 United States.

11 "Class III wetland" means a wetland, including its  
12 contiguous area, that is between 0.1 acres and 0.5 acres and is  
13 not a Class I wetland. Class III wetlands do not include waters  
14 of the United States.

15 "Commercial battery energy storage system" means a type of  
16 energy storage system that uses batteries to store and  
17 distribute energy in the form of electricity for the primary  
18 purpose of wholesale or retail sale and is not intended  
19 primarily for use on the property on which the device or  
20 devices reside.

21 "Commercial solar energy facility" means a "commercial  
22 solar energy system" as defined in Section 10-720 of the  
23 Illinois Property Tax Code.

24 "Contiguous area" means the portion of a wetland that  
25 extends beyond the property boundary of the affected property.

26 "Corps of Engineers" means the U.S. Army Corps of

1 Engineers.

2 "Corps of Engineers Wetlands Delineation Manual" means the  
3 1987 U.S. Army Corps of Engineers, Wetlands Delineation  
4 Manual, Research Program Technical Report Y-87-1, and any  
5 applicable Regional Supplements thereto in effect May 24,  
6 2023.

7 "Cypress swamp" means forested, permanent, or  
8 semi-permanent bodies of water, with species assemblages  
9 characteristic of the Gulf of Mexico and Southeastern Coastal  
10 Plains and including bald cypress, which are typically found  
11 in far southern Illinois.

12 "Department" means the Department of Natural Resources.

13 "Director" means the Director of Natural Resources.

14 "Discharge" means any addition of dredged or fill material  
15 into, including redeposit of dredged material other than  
16 incidental fallback within, State jurisdictional wetlands.

17 "Dredged material" means material that is excavated or  
18 dredged from waters of the U.S. and waters of the State.

19 "Fen" means a wetland fed by an alkaline water source,  
20 such as a calcareous spring or seep.

21 "Fill material" means material placed in a State  
22 jurisdictional wetland where the material has the effect of  
23 replacing any portion of a State jurisdictional wetland with  
24 dry land or changing the bottom elevation of any portion of a  
25 State jurisdictional wetland.

26 "General permit" means a permit issued by an approved

1 county or district, or the Department, in a manner that is  
2 authorized under Section 40 of this Act. "General permit"  
3 includes a U.S. Army Corps of Engineers nationwide permit.

4 "High-Quality Aquatic Resources" or "HQAR" means  
5 high-quality aquatic resources consistent with the guidelines  
6 of the Chicago District of the U.S. Army Corps of Engineers or  
7 approved county or district codes.

8 "Individual permit" means a permit issued by the  
9 Department under Section 25 of this Act after case-specific  
10 sequenced review (avoidance, minimization, mitigation) of the  
11 proposed project and certification of compliance with State  
12 water quality standards.

13 "In lieu fee mitigation" means a payment to an approved in  
14 lieu fee program made by a permittee to satisfy a mitigation  
15 requirement in accordance with this Act and implementing  
16 rules.

17 "Maintenance" means work to repair and keep in good  
18 working order existing structures in wetlands, including  
19 emergency reconstruction of recently damaged parts of  
20 currently serviceable structures, including dikes, dams,  
21 levees, groins, riprap, breakwaters, causeways, and bridge  
22 abutments or approaches, and transportation structures.

23 "Maintenance" does not include any modification that changes  
24 the character, scope, or size of the original fill design but  
25 such a modification may be eligible to use Nationwide Permit  
26 3, Maintenance.

1 "Metropolitan Water Reclamation District" or "district"  
2 means a special district organized under the Metropolitan  
3 Water Reclamation District Act.

4 "Minimization" means reducing, as much as practicable, the  
5 adverse environmental impact of an unavoidable regulated  
6 activity in a manner that is consistent with this Act and the  
7 federal Clean Water Act 404(b)(1) Guidelines developed by the  
8 U.S. Environmental Protection Agency and the U.S. Army Corps  
9 of Engineers.

10 "Mitigation" means the restoration, establishment,  
11 enhancement, or protection and maintenance of wetlands and  
12 other aquatic resources for the purpose of compensating for  
13 unavoidable adverse impacts that remain after all appropriate  
14 and practicable avoidance and minimization have been achieved.  
15 Mitigation must be consistent with the requirements of this  
16 Act. Mitigation may include wetlands creation if authorized by  
17 the Department in situations in which other mitigation is  
18 impractical and the likelihood of success is high. Wetland  
19 creation is restricted to areas that are currently  
20 non-wetlands.

21 "Mitigation bank" means a site, or suite of sites, where  
22 aquatic resources, such as wetlands, streams, wetland buffers,  
23 and riparian areas, are restored, established, enhanced, or  
24 preserved for the purpose of providing compensatory mitigation  
25 for impacts authorized by permits under this Act.

26 "Nationwide permit" means a nationwide permit issued by

1 the U.S. Army Corps of Engineers as of the effective date of  
2 this Act.

3 "Navigable water" means traditionally navigable waters  
4 that were historically navigable, are presently navigable, or  
5 are susceptible to future navigable use. Navigable water also  
6 includes interstate waters (including interstate wetlands),  
7 impoundments of traditionally navigable waters and interstate  
8 waters (including interstate wetlands), and tributaries.

9 "Ordinary high water mark" means that line on the shore  
10 established by the fluctuations of water and indicated by  
11 physical characteristics, such as a clear, natural line  
12 impressed on the bank, shelving, changes in the character of  
13 soil, destruction of terrestrial vegetation, the presence of  
14 litter and debris, or other appropriate means that consider  
15 the characteristics of the surrounding areas.

16 "Panne" means wet interdunal flats located near Lake  
17 Michigan. "Panne" includes dune and swale wetlands.

18 "Permit" means a written authorization issued by the  
19 Department of Natural Resources under this Act and  
20 implementing rules. "Permit" includes general permits and  
21 individual permits.

22 "Person" means an individual, partnership, co-partnership,  
23 firm, company, limited liability company, corporation,  
24 association, joint-stock company, trust, estate, political  
25 subdivision, state or federal agency or other legal entity, or  
26 its legal representative, employee, agent or assigns.

1 "Preconstruction notification" means notice that a  
2 permittee must provide the Department before undertaking an  
3 activity authorized by a general permit.

4 "Prior converted cropland" means a wetland that was  
5 converted to agricultural use before December 23, 1985, that  
6 had an agricultural commodity produced on it at least once  
7 before December 23, 1985, that remains available for  
8 agricultural commodity production, and that, as of December  
9 23, 1985, did not support woody vegetation and met the  
10 following hydrologic criteria for a farmed wetland: (i)  
11 inundation was less than 15 consecutive days during the  
12 growing season or 10% of the growing season, whichever is  
13 less, in most years (50% chance or more); and (ii) if a  
14 pothole, ponding was less than 7 consecutive days during the  
15 growing season in most years (50% chance or more) and  
16 saturation was less than 14 consecutive days during the  
17 growing season most years (50% chance or more). However, if  
18 the prior converted cropland is changed out of agricultural  
19 use (including conservation) and the area reverts to a  
20 wetland, the area may become subject to this Act under Section  
21 15.

22 "Regulated activity" means the discharge of dredged or  
23 fill material into a State jurisdictional wetland subject to  
24 this Act.

25 "Renewable energy facility" means (i) a commercial solar  
26 energy facility or commercial battery energy storage system;

1 or (ii) supporting facilities. "Supporting facilities" means,  
2 for purposes of this definition, transmission lines,  
3 substations, access roads, meteorological towers, storage  
4 containers, and equipment associated with the generation and  
5 storage of electricity by a commercial solar energy facility.

6 "Supporting facilities" includes utility-owned  
7 interconnections and upgrades necessary to connect a renewable  
8 energy facility to the grid.

9 "Significant nexus" means connectivity or nexus to  
10 maintaining the chemical, physical, or biological integrity of  
11 navigable waters.

12 "State jurisdictional wetland" means a wetland that is  
13 protected by the requirements of this Act and is identified  
14 consistent with Department rules adopted under Section 40 of  
15 this Act. State jurisdictional wetlands are adjacent to or  
16 otherwise have a significant nexus to maintaining the  
17 chemical, physical, or biological integrity of navigable  
18 waters. "State jurisdictional wetland" does not include waters  
19 of the United States, including waters delineated as waters of  
20 the United States under the federal Clean Water Act.

21 "Threatened or endangered species" means those species  
22 that have been designated as threatened or endangered under  
23 the Illinois Endangered Species Protection Act and those  
24 species that have been listed as threatened or endangered  
25 under the federal Endangered Species Act.

26 "Upland" means non-wetland, dry land.

1 "Voluntary aquatic habitat restoration project" means  
2 activities that are voluntarily undertaken (not as required  
3 mitigation) to restore, reestablish, rehabilitate, or enhance  
4 altered, degraded, or former aquatic habitats that result in a  
5 net increase in aquatic habitat functions and services  
6 consistent with historic, pre-disturbance functions and  
7 services of the aquatic habitat.

8 "Wetlands" means those areas that are inundated or  
9 saturated by surface or groundwater at a frequency and  
10 duration sufficient to support, and that under normal  
11 circumstances do support, a prevalence of vegetation typically  
12 adapted for life in saturated soil conditions. "Wetlands"  
13 includes areas that are delineated in accordance with the  
14 Corps of Engineers Wetlands Delineation Manual.

15 Section 15. Exemptions.

16 (a) Consistent with Section 404(f) of the federal Clean  
17 Water Act, as long as they do not have as their purpose  
18 bringing a wetland into a use to which it was not previously  
19 subject where the flow or circulation of navigable waters may  
20 be impaired or the reach of such waters be reduced and do not  
21 entail discharge of toxic pollutants consistent with Section  
22 307 of the Clean Water Act, the following activities are not  
23 prohibited by or otherwise subject to regulation under this  
24 Act:

25 (1) Normal farming, silviculture, and ranching

1 activities, including plowing, seeding, cultivating, minor  
2 drainage, and harvesting for the production of food,  
3 fiber, and forest products, or upland soil and water  
4 conservation practices.

5 (2) Maintenance, including emergency reconstruction of  
6 recently damaged parts, of currently serviceable  
7 structures, such as dikes, dams, levees, groins, riprap,  
8 breakwaters, causeways, bridge abutments or approaches,  
9 and transportation structures. Maintenance does not  
10 include any modification that changes the character,  
11 scope, or size of the original fill design. Emergency  
12 reconstruction must occur within a reasonable period of  
13 time after damage occurs in order to qualify for this  
14 exemption.

15 (3) Construction or maintenance of farm or stock ponds  
16 or irrigation ditches, or the maintenance (but not  
17 construction) of drainage ditches. Discharge associated  
18 with siphons, pumps, headgates, wingwalls, weirs,  
19 diversion structures, and such other facilities as are  
20 appurtenant and functionally related to irrigation and  
21 ditches are included in this definition.

22 (4) Construction of temporary sedimentation basins on  
23 a construction site which does not include any regulated  
24 activities within a wetland. As used in this paragraph,  
25 the term "construction site" means any site involving the  
26 erection of buildings, roads, and other discrete

1 structures and the installation of support facilities  
2 necessary for construction and utilization of such  
3 structures. "Construction site" also includes any other  
4 land areas which involve land-disturbing excavation  
5 activities, including quarrying or other mining  
6 activities, where an increase in the runoff of sediment is  
7 controlled through the use of temporary sedimentation  
8 basins.

9 (5) Construction or maintenance of farm roads or  
10 forest roads or temporary roads for moving mining  
11 equipment, where such roads are constructed and  
12 maintained, in accordance with best management practices,  
13 to assure that flow and circulation patterns and chemical  
14 and biological characteristics of the wetland are not  
15 impaired, that the reach of the wetland is not reduced,  
16 and that any adverse effect on the aquatic environment  
17 will be otherwise minimized.

18 (6) Activities for the placement of pilings for linear  
19 projects, including bridges, elevated walkways, and power  
20 line structures in accordance with best management  
21 practices, to assure that the flow and circulation  
22 patterns and chemical and biological characteristics of  
23 the wetland are not impaired, that the reach of the  
24 wetland is not reduced, and that any adverse effect on the  
25 aquatic environment will be otherwise minimized.

26 (b) Any exemption that is authorized by and pertaining to

1 wetlands that are subject to regulation under the federal  
2 Clean Water Act, or regulations promulgated thereunder, at the  
3 time of enactment of this Act, shall also be an exemption for  
4 the purpose of this Act.

5 (c) The following are exempt from regulation as State  
6 jurisdictional wetlands under this Act:

7 (1) Waste treatment systems, including treatment ponds  
8 or lagoons designed to meet the requirements of the  
9 federal Clean Water Act and comply with State water  
10 quality standards.

11 (2) Prior converted cropland unless there has been a  
12 change in use out of agricultural or conservation use and  
13 the area reverts to a wetland.

14 (3) Ditches (including roadside ditches) excavated  
15 wholly in and draining only dry land and that do not carry  
16 a relatively permanent flow of water.

17 (4) An artificially irrigated area that would revert  
18 to upland if the irrigation ceased. This shall also  
19 include the pumping of water for purposes of waterfowl  
20 hunting or creating waterfowl habitat.

21 (5) An artificial lake or pond created by excavating  
22 or diking upland to collect and retain water and which is  
23 used exclusively for such purposes as stock watering,  
24 irrigation, settling basins, or rice growing.

25 (6) Artificial reflecting or swimming pools or other  
26 small ornamental bodies of water created by excavating or

1 diking dry land to retain water for primarily aesthetic  
2 reasons.

3 (7) A water-filled depression created in dry land  
4 incidental to construction activity and pits excavated in  
5 dry land for the purpose of obtaining fill, sand, or  
6 gravel unless and until the construction or excavation  
7 operation is abandoned and the resulting water body meets  
8 the definition of "waters of the State" consistent with  
9 the Environmental Protection Act, including Section 3.550  
10 of the Environmental Protection Act.

11 (8) Swales and erosional features, including gullies,  
12 rills, and small washes, characterized by low volume,  
13 infrequent, or short duration flow.

14 (9) Wetlands created by the construction of stormwater  
15 facilities in upland areas, provided that the facility was  
16 not created for the purpose of wetland mitigation.

17 (d) Any activity with respect to which a county or special  
18 district has an approved program under Section 55 of this Act.

19 Section 20. Applicability.

20 (a) The requirements of this Act apply to all State  
21 jurisdictional wetlands as that term is defined in this Act.  
22 If a wetland ceases to meet that definition because it becomes  
23 subject to regulation under the federal Clean Water Act, it  
24 shall no longer be subject to the provisions of this Act. The  
25 Department may enter into an agreement with the Corps of

1 Engineers to coordinate the permit program under this Act with  
2 the Corps of Engineers permit program under Section 404 of the  
3 federal Clean Water Act.

4 (b) The following are presumed to be adjacent or have a  
5 significant nexus to maintaining the chemical, physical, or  
6 biological integrity of a navigable water and as such are  
7 State jurisdictional wetlands for purposes of this Act:

8 (1) wetlands that are wholly or partially located  
9 within 100 feet of the ordinary high water mark of a  
10 navigable water, interstate water, or tributary;

11 (2) wetlands that are wholly or partially located in  
12 the 100-year floodplain and are within 1,500 feet of the  
13 ordinary high water mark of a navigable water, interstate  
14 water, or tributary;

15 (3) wetlands that are wholly or partially within 1,500  
16 feet of the ordinary high water mark of Lake Michigan; or

17 (4) wetlands that have a visible surface water or a  
18 regular shallow subsurface water connection to a navigable  
19 water.

20 (c) Waters of the United States that satisfy one or more of  
21 the conditions set forth in subsection (b) of this Section are  
22 not State jurisdictional wetlands for the purposes of this  
23 Act.

24 (d) An affected property owner or developer may introduce  
25 information that is relevant to demonstrate that a particular  
26 wetland is not a State jurisdictional wetland, thereby

1 rebutting the presumption in subsection (b). The Department  
2 shall consider information presented to rebut the presumption  
3 and determine whether the presumption has been rebutted. If  
4 the Department determines that the presumption is rebutted and  
5 the wetland is not a jurisdictional wetland for the purpose of  
6 this Act, the wetland shall not be subject to this Act.

7 Section 25. Regulated activities; individual permits;  
8 wetland classification; mitigation; delineation.

9 (a) No person may discharge dredged or fill material into  
10 a State jurisdictional wetland protected by this Act except in  
11 accordance with the terms of an individual or general permit  
12 issued by the Department under this Section or Section 30 of  
13 this Act. This subsection (a) becomes effective on the date  
14 the Department adopts rules under Section 40 of this Act.

15 (b) No permit shall be required under this Act, and the  
16 requirements of the Act shall not apply to, renewable energy  
17 facility construction, maintenance, repair, improvement, or  
18 reconstruction that commenced construction before the  
19 effective date of rules adopted under Section 40 of this Act.  
20 For purposes of this subsection, "commenced construction"  
21 means:

22 (1) to have begun a continuous program of on-site  
23 physical construction, such as the placement, assembly, or  
24 installation of facilities or equipment or the conducting  
25 of site preparation work, including clearing, excavation,

1 or removal of existing structures;

2 (2) to have submitted a binding application or bid to  
3 the Illinois Power Agency to execute a Renewable Energy  
4 Credit Contract under Section 1-75 of the Illinois Power  
5 Agency Act or to have contracted for energy storage  
6 resources, including a contract for the sale and purchase  
7 of Renewable Energy Credits from a brownfield photovoltaic  
8 facility as defined in Section 1-10 of the Illinois Power  
9 Agency Act;

10 (3) to have entered into a binding contractual  
11 agreement for the purchase and sale of electricity; or

12 (4) to have obtained municipal or county siting  
13 approval, a special use permit, or building approval.

14 (c) Wetlands shall be classified as follows:

15 (1) The Department shall classify a wetland as Class I  
16 if the wetland:

17 (A) is or encompasses a bog, bottomland hardwood  
18 forest, fen, panne, or cypress swamp;

19 (B) has been designated a Ramsar wetland of  
20 international importance under the Convention on  
21 Wetlands;

22 (C) is designated for important flood protection  
23 services under paragraph (3);

24 (D) is occupied or suitable habitat for a  
25 threatened or endangered species listed under State or  
26 federal law;

1 (E) has a Floristic Quality Index that is equal to  
2 or greater than 20 or a mean coefficient of  
3 conservatism (Mean C) equal to or greater than 3.5,  
4 determined in accordance with rules adopted by the  
5 Department; or

6 (F) is a High-Quality Aquatic Resource.

7 (2) The Department shall classify a non-Class I  
8 wetland as a Class II wetland if the wetland, including  
9 its contiguous area, is larger than 0.5 acres. However, if  
10 a non-Class I wetland is smaller than 0.5 acres it shall be  
11 designated a Class III wetland. If a Class III wetland is  
12 0.1 acres or smaller, there is no permit required.

13 (3) The Department may, in consultation with the  
14 Illinois Emergency Management Agency and Office of  
15 Homeland Security, the Federal Emergency Management Agency  
16 or local authorities, designate a wetland as a Class I  
17 wetland due to important flood protection services  
18 protecting human life and property if the wetland is no  
19 longer protected under the federal Clean Water Act.

20 (d) Mitigation shall be required in accordance with this  
21 Act for permitted activities and shall be conducted according  
22 to the following preferred order:

23 (1) Discharges impacting Class I wetlands shall be  
24 mitigated through either on-site mitigation or off-site  
25 mitigation at an approved wetland mitigation bank within  
26 the same watershed as the location of the proposed fill.

1 Mitigation shall be in kind, restoring to the maximum  
2 degree practicable, as determined by the Department, both  
3 the type and functions of the wetland that will be  
4 affected by the regulated activity. The mitigation ratio  
5 shall be 5:1 unless the Director, for good cause shown and  
6 on a case-by-case basis, authorizes a higher mitigation  
7 ratio not to exceed 6:1 or a lower mitigation ratio not  
8 less than 4:1. In lieu fee mitigation may be used for  
9 mitigation when there are no available mitigation credits  
10 within the watershed.

11 (2) Discharges impacting Class II wetlands shall be  
12 mitigated through either on-site mitigation or off-site  
13 mitigation at an approved wetland mitigation bank within  
14 the same watershed as the location of the proposed fill.  
15 Mitigation shall be in kind, restoring to the maximum  
16 degree practicable as determined by the Department, both  
17 the type and functions of the wetland that will be  
18 affected by the regulated activity. The mitigation ratio  
19 shall be 3:1 unless the Director, for good cause shown and  
20 on a case-by-case basis, authorizes a higher mitigation  
21 ratio not to exceed 3.5:1 or a lower mitigation ratio not  
22 less than 2.5:1. In lieu fee mitigation may be used for  
23 mitigation when there are no available mitigation credits  
24 within the watershed.

25 (3) Discharges impacting Class III wetlands shall be  
26 mitigated through either participation in an approved

1 wetland mitigation bank or an approved in-lieu fee  
2 program, unless the Department for good cause requires in  
3 kind on-site mitigation or off-site mitigation at an  
4 approved mitigation bank. The mitigation ratio shall be  
5 1.5:1 for compensation through an approved wetland  
6 mitigation bank and 2:1 for compensation through an  
7 approved in-lieu fee program. The Director, for good cause  
8 shown and on a case-by-case basis, may authorize a higher  
9 or lower mitigation ratio.

10 (e) Persons seeking a permit are responsible for wetland  
11 delineation and classification made by or under the  
12 supervision of an approved wetland specialist. Wetland  
13 delineations shall be made in accordance with the Corps of  
14 Engineers Wetlands Delineation Manual. Classifications shall  
15 be in accordance with this Section or an approved program  
16 under Section 55. Delineations by the Corps of Engineers, by  
17 approved counties, or by Corps of Engineers approved agencies  
18 shall be honored. Delineation is not required under a general  
19 permit if the person seeking a permit has reason to believe  
20 that the project will be conducted in a State jurisdictional  
21 wetland and the activity otherwise fully complies with the  
22 requirements of the general permit and this Act.

23 (f) Persons seeking an individual permit shall provide the  
24 Department with a complete application, including, at a  
25 minimum, the following items: (i) a map of the area that will  
26 be affected by the activity, including wetland and water

1 boundaries for the areas affected and the existing uses and  
2 structures; (ii) a wetland delineation made in accordance with  
3 the Corps of Engineers Wetlands Delineation Manual by or under  
4 the supervision of an approved wetland specialist and this  
5 Section; (iii) a description of the proposed activity,  
6 including its purpose, the location and dimensions of any  
7 structures, grading or fills, drainage, roads, sewers and  
8 water supply, parking lots, stormwater facilities, discharge  
9 of pollutants and on-site waste disposal; (iv) a description  
10 of any public benefit to be derived from the proposed project;  
11 (v) a description of avoidance, minimization, and mitigation,  
12 including a mitigation plan; and (vi) the names and addresses  
13 of adjacent landowners as determined by the current tax  
14 assessment rolls. The Department shall notify the applicant  
15 within 20 business days if the permit application is  
16 incomplete and provide a reasonable time for the applicant to  
17 correct deficiencies in the permit application. Within 90  
18 business days of receipt of a complete permit application, the  
19 Department shall either issue the permit, deny the permit, or  
20 issue the permit with conditions. All individual permit  
21 decisions are subject to public comment. If a public hearing  
22 is held, the deadline to make a permit determination is  
23 extended by 45 business days.

24 (g) The Department shall evaluate individual permit  
25 requests through the following sequence: (i) avoidance of  
26 impacts to aquatic resources if a less environmentally

1     damaging practicable alternative exists; (ii) minimization of  
2     unavoidable impacts by taking appropriate and practicable  
3     steps such as reduction of the footprint of the fill; (iii)  
4     compensatory mitigation for any remaining impacts to aquatic  
5     resources in accordance with this Act. The Department shall  
6     not issue an individual permit pursuant to this Section unless  
7     the Agency has certified to the Department that the proposed  
8     activity will not cause or contribute to a violation of a State  
9     water quality standard. The Agency shall, within 80 business  
10    days of receipt of a complete application, approve, deny, or  
11    approve with conditions the water quality certification. The  
12    applicant for a permit may mutually agree to extend the 80-day  
13    deadline up to an additional 80 business days in which the  
14    Agency must take final action on the water quality  
15    certification under this paragraph. If the Agency does not  
16    approve, deny, or approve with conditions the water quality  
17    certification within the extended time period, the  
18    certification requirements shall be waived and the Department  
19    may issue its permit decision consistent with the sections of  
20    this Act.

21       (h) Upon request by an applicant, the Department may issue  
22    an after-the-fact permit if the Department determines that the  
23    activities covered by the after-the-fact permit were  
24    undertaken and conducted in response to emergency  
25    circumstances that constituted an imminent threat to persons,  
26    public infrastructure, personal property, or uninterrupted

1 utility service. The request for an after-the-fact permit must  
2 be made as soon as reasonably possible after the event. The  
3 Department shall require compensatory mitigation. If the  
4 Department for good cause shown denies an after-the-fact  
5 permit, the applicant shall be in violation of this Act.  
6 However, the applicant and Department may, through mutual  
7 agreement, provide for compensatory mitigation, restoration,  
8 or other measures to resolve the violation. In such an  
9 instance, the applicant may appeal the denial of an  
10 after-the-fact permit consistent with the appeals procedures  
11 in this Act.

12 (i) The permit applicant and the Department may waive or  
13 extend the permit deadlines in this Section through mutual  
14 agreement. If the Department is unable to comply with the  
15 permit deadlines and they are not waived or extended through  
16 mutual agreement, the permit application will be denied  
17 without prejudice.

18 Section 30. General permits.

19 (a) Notwithstanding Section 25, any person who intends to  
20 conduct a regulated activity within the State may do so in  
21 accordance with a general permit issued by the Department  
22 under this Section. A general permit pre-authorizes a category  
23 of activities that are similar in nature and impact on water  
24 quality, will have only minimal adverse effects when performed  
25 separately, will have minimal cumulative impacts on water

1 quality provided the permittee complies with all of the  
2 conditions of the general permit, and will not cause or  
3 contribute to a violation of State water quality standards.

4 (b) Permits for all categories of activities, subject to  
5 the same permit limitations and conditions, that are the  
6 subject of a nationwide permit issued by the Corps of  
7 Engineers, in effect on the date of the enactment of this Act,  
8 are adopted as general permits covering regulated activities  
9 subject to this Act. Notwithstanding the foregoing, all such  
10 permits will include a preconstruction notification  
11 requirement and compensatory mitigation, unless the permit  
12 states compensatory mitigation is not required because the  
13 work is designed to improve water quality or, with respect to  
14 voluntary aquatic habitat restoration, to provide net increase  
15 in wetland function. In any case, a preconstruction  
16 notification and compensatory mitigation are not required for  
17 impacts less than 0.1 acres.

18 (c) The Department may, through rulemaking in accordance  
19 with the Illinois Administrative Procedure Act, adopt general  
20 permits covering activities not covered by general permits  
21 under subsection (b) of this Section if the Department  
22 determines that the activities in the category would be  
23 subject to the same permit limitations and conditions and will  
24 cause only minimal adverse environmental effects when  
25 performed separately, will have only minimal cumulative  
26 adverse effect on the environment, will not cause or

1 contribute to a violation of State water quality standards  
2 when performed separately, and will have only a minimal  
3 cumulative adverse effect on water quality. The Department  
4 shall prescribe best management practices for any general  
5 permit issued under this Section. The Department shall include  
6 compensatory mitigation requirements in general permits for  
7 impacts that exceed 0.1 acres.

8 (d) The Department shall adopt a general permit for:

9 (1) construction or maintenance of access roads for  
10 utility lines, substations, or related equipment or  
11 facilities with adequate culverts, bridges, or other  
12 structures to provide freshwater connectivity and passage  
13 for fish or other aquatic life;

14 (2) activities for the purpose of preserving and  
15 enhancing aviation safety or to prevent an airport hazard;  
16 and

17 (3) conservation activities, such as voluntary aquatic  
18 habitat restoration and fish passage.

19 The Department shall develop the general permit under  
20 paragraph (3) in consultation with local, state, and federal  
21 resource agencies, such as the U.S. Fish and Wildlife Service,  
22 and qualified non-profit organizations engaged in aquatic  
23 habitat restoration as a central part of their mission.

24 (e) No general permit adopted under subsection (b), (c),  
25 or (d) of this Section shall be for a period of more than 5  
26 years after the date of its adoption, and the Department shall

1 revoke or modify such a general permit, after opportunity for  
2 public hearing, if the Department determines that the  
3 activities authorized by the general permit have an adverse  
4 impact on the environment, cause or contribute to a violation  
5 of State water quality standards, or are more appropriately  
6 authorized by individual permits.

7 (f) Compliance with the terms of a general permit shall be  
8 deemed compliance with the provisions of this Act if the  
9 applicant:

10 (1) files a preconstruction notification in accordance  
11 with regulations adopted under this Act, including the  
12 specific requirements of the general permit;

13 (2) files all reports required by the general permit;

14 (3) complies with all limitations required by the  
15 general permit; and

16 (4) complies with applicable compensatory mitigation  
17 requirements.

18 (g) The Department may respond to a preconstruction  
19 notification issued under this Section within 30 days after  
20 the Department receives the notice. In any response, the  
21 Department may require the applicant to:

22 (1) provide more information to determine whether the  
23 applicant's proposed regulated activity is covered by the  
24 general permit;

25 (2) file a preconstruction notification for a  
26 different general permit if the Department determines the

1 applicant's proposed activity is not covered by the  
2 general permit for which the notification was filed; or

3 (3) apply for an individual permit if the Department  
4 determines that the proposed activity does not fall within  
5 the scope of any valid general permit.

6 (h) If a person files a preconstruction discharge  
7 notification and receives no response under subsection (g) of  
8 this Section for a general permit that is valid at the time of  
9 the notification but that general permit is later modified,  
10 revoked, or expires, that person may proceed as if that  
11 general permit were still valid for the purposes of the  
12 project for which the preconstruction discharge notification  
13 was filed.

14 (i) The Department may require bonds or letters of credit  
15 in favor of the State, including conditions sufficient to  
16 secure compliance with conditions and limitations of a permit  
17 under this Act.

18 Section 35. In lieu fee program; permittee responsible for  
19 on-site mitigation and mitigation banking.

20 (a) The following entities may establish and operate a  
21 mitigation bank or in lieu fee program consistent with this  
22 Act and rules implementing this Act:

23 (1) State agencies;

24 (2) qualified for-profit and non-profit entities; and

25 (3) units of local government, including, but not

1 limited to, counties, the Metropolitan Water Reclamation  
2 District of Greater Chicago (MWRD), soil and water  
3 conservation districts, and county forest districts.

4 (b) Mitigation banks may be established on public or  
5 private lands and must be located on sites that possess the  
6 physical, chemical, and biological characteristics to support  
7 establishment of the desired aquatic resources and functions,  
8 such as wetland hydrology.

9 A mitigation bank may be approved to provide mitigation  
10 for impacts to wetlands that have been approved by the Corps of  
11 Engineers under Section 404 of the federal Clean Water Act,  
12 for impacts to wetlands under the Illinois Interagency  
13 Wetlands Policy Act of 1989, or for both. A mitigation bank  
14 must be approved by the Department in accordance with this Act  
15 and implementing rules, by an approved county, or by the Corps  
16 of Engineers in accordance with the process established in 33  
17 CFR 332.8 and 40 CFR 230.98.

18 (c) The requirements for mitigation banks shall include a  
19 mitigation bank instrument, long-term management and  
20 protection, monitoring requirements, remedial action  
21 procedures, reporting requirements, and financial assurances,  
22 such as performance bonds.

23 (d) In lieu fee programs must include (i) an agreement  
24 between an operating entity listed in subsection (a) and the  
25 Department that is similar to a mitigation bank instrument,  
26 (ii) a timetable, such as a requirement to use funds to design

1 and implement restoration projects within 3 years, (iii)  
2 accounting requirements, including, but not limited to,  
3 watershed-based accounting, (iv) monitoring requirements, (v)  
4 reporting requirements, and (vi) financial assurances. Any  
5 agency in lieu fee program must have provisions that protect  
6 the integrity of the fund and prevent this funding from being  
7 reassigned to other uses.

8 (e) The permittee is responsible for on-site mitigation as  
9 approved by the Department on a case-by-case basis in  
10 accordance with this Act and implementing rules if (i) on-site  
11 mitigation has a strong likelihood of success, (ii) the  
12 permittee has a Department approved monitoring plan, and (iii)  
13 sufficient financial assurances, such as bonds or letters of  
14 credit in favor of the State, have been provided as required by  
15 the Department to assure long-term success.

16 Section 40. Rulemaking and reporting.

17 (a) The Department shall adopt rules pursuant to the  
18 Illinois Administrative Procedure Act:

19 (1) to implement Sections 25 and 30 of this Act within  
20 one year after the effective date of this Act, including:

21 (A) rules for the review, issuance, denial, or  
22 issuance with conditions of individual permits; and

23 (B) rules to promulgate, revise, or revoke general  
24 permits;

25 (2) to administer and prioritize use of funding from

1 the Wetlands Protection Fund under Section 60 of this Act;

2 (3) to approve mitigation banks and in lieu fee  
3 programs under Section 35 of this Act, including:

4 (A) criteria that an applicant to operate a  
5 mitigation or in lieu fee program under Section 35 of  
6 this Act shall meet and that are at least as stringent  
7 as the U.S. Army Corps of Engineers requirements set  
8 out in 33 CFR Part 332;

9 (B) requirements for in lieu fee agreements  
10 consistent with subsection (d) of Section 35 of this  
11 Act;

12 (C) priority for mitigation banks and in lieu fee  
13 programs that restore previously existing wetlands and  
14 small streams; and

15 (D) surety provisions for permittee-responsible  
16 on-site mitigation, mitigation banks, and in lieu fee  
17 programs;

18 (4) to establish, within one year after the effective  
19 date of this Act, the procedures under which a  
20 governmental body with a stormwater management program  
21 under Section 5-1062 of the Counties Code or under Section  
22 7h of the Metropolitan Water Reclamation District Act  
23 shall be recognized to have met the conditions of  
24 subsection (b) of Section 55 of this Act;

25 (5) to govern State jurisdictional wetlands  
26 determinations; State jurisdictional wetlands are adjacent

1 to or otherwise have a significant nexus to maintaining  
2 the chemical, physical, or biological integrity of  
3 navigable waters;

4 (6) to establish procedures and standards for  
5 rebutting a significant nexus presumption under Section 20  
6 of this Act;

7 (7) to provide for approval of wetland delineators  
8 consistent with Section 25 of this Act, including  
9 recognition of existing county, special district, or U.S.  
10 Army Corps of Engineers wetland delineator training  
11 programs, approval programs, or both; and

12 (8) to otherwise implement and administer this Act.

13 (b) The Department may provide by rule for any  
14 requirements regarding bonds or letters of credit in favor of  
15 the State, including conditions sufficient to secure  
16 compliance with conditions and limitations of a permit.

17 (c) The Department may consult with the Illinois Water  
18 Plan Task Force.

19 (d) The Department shall seek to create a joint permit  
20 process with the U.S. Army Corps of Engineers.

21 (e) Subject to appropriation, the Department shall do all  
22 of the following:

23 (1) provide a report to the Governor and the Illinois  
24 General Assembly regarding implementation of this Act and  
25 recommendations, including legislative proposals, to  
26 enhance the effectiveness of this Act;

1           (2) provide recommendations to harmonize these  
2 wetlands protections with the Illinois Interagency  
3 Wetlands Policy Act of 1989; and

4           (3) study the impact of federal rollback of protection  
5 for waters beyond wetlands, such as ephemeral streams, in  
6 Illinois and provide recommendations, including possible  
7 legislative proposals, to protect the citizens of Illinois  
8 and waters of the State.

9           Section 45. Appeal of final Department decisions; judicial  
10 review.

11           (a) Any permit applicant who has been denied a permit in  
12 whole or in part, and any person who participated in the permit  
13 proceeding and who is aggrieved by a decision of the  
14 Department to grant a permit in whole or in part, may appeal  
15 the decision to the Director within 60 calendar days of the  
16 date the permit is granted or denied. In all such appeals, the  
17 burden of persuasion shall be on the party appealing the  
18 Department's decision. Appeals shall be in accordance with  
19 administrative rules set out by the Department, including  
20 allowed basis for appeals.

21           (b) A person who is aggrieved by a final decision made  
22 under this Act and who has participated in an appeal to the  
23 Director under subsection (a) of this Section, including  
24 parties that have participated in the permit process if a  
25 permit was granted, may seek judicial review of the Director's

1 decision under the Administrative Review Law.

2 Section 50. Investigation; enforcement.

3 (a) In accordance with constitutional limitations, the  
4 Department shall have authority to enter at all reasonable  
5 times upon any private or public lands for the purpose of  
6 inspecting and investigating to ascertain compliance and  
7 possible violations of this Act, implementing rules, or permit  
8 terms or conditions.

9 (b) The State's Attorney of the county in which the  
10 violation occurred or the Attorney General may, at the request  
11 of the Agency or on his or her own motion, institute a civil  
12 action for a prohibitory or mandatory injunction on or against  
13 a person who violates any provision of this Act, any rule  
14 adopted under this Act, any permit issued under this Act, or  
15 any term or condition of a permit issued under this Act. The  
16 State's Attorney of the county in which the violation occurred  
17 or the Attorney General shall bring an action for an  
18 injunction in the name of the people of the State of Illinois.

19 (c) Any person who violates any provision of this Act, any  
20 rule adopted under this Act, any permit issued under this Act,  
21 or any term or condition of a permit issued under this Act  
22 shall be liable for a civil penalty not to exceed \$10,000 per  
23 day of violation. Any such penalty shall be made payable to the  
24 Wetlands Protection Fund and shall be deposited into that Fund  
25 as provided in Section 60. In assessing a penalty, courts

1 shall consider any matters of record including:

2 (1) the duration and gravity of the violation;

3 (2) the presence or absence of due diligence on the  
4 part of the violator in attempting to comply with the Act;

5 (3) any economic benefits accrued by the violator  
6 through the violation;

7 (4) the likely deterrence effect of the penalty;

8 (5) any history on the part of the violator of past  
9 violations of this Act; and

10 (6) a recommendation by the Department to limit or  
11 waive penalties.

12 (d) All final orders imposing civil penalties under this  
13 Section shall prescribe the time for payment of the penalties.  
14 If any penalty is not paid within the time prescribed,  
15 interest on the penalty, which accrues at the rate set forth in  
16 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
17 shall be paid for the period from the date payment is due until  
18 the date payment is received. However, if the time for payment  
19 is stayed during the pendency of an appeal, interest shall not  
20 accrue during such stay.

21 (e) The Department may terminate a permit if the permittee  
22 violated the terms or conditions of the permit, obtained the  
23 permit by misrepresentation, or failed to disclose relevant  
24 facts.

25 (f) The Attorney General or State's Attorney of the county  
26 where the affected wetland is located, may, upon his or her own

1 motion or upon request of the Department, institute a civil  
2 action in circuit court for an injunction or other appropriate  
3 legal action to restrain a violation of this Act. In the  
4 proceeding, the court shall determine whether a violation of  
5 this Act has been committed, and shall enter any order it  
6 considers necessary to remove the effects of the violation and  
7 to prevent the violation from occurring, continuing or being  
8 renewed in the future. An order may include a requirement that  
9 the violator restore the affected wetland area, including a  
10 provision that, if the violator does not comply by restoring  
11 the wetland within a reasonable time, the Department may  
12 restore the wetland to its condition prior to the violation  
13 and the violator shall be liable to the Department for the cost  
14 of the restoration. However, the Department retains the right  
15 to act to remedy emergency situations, such as threats to  
16 public safety, and the violator shall be liable to the  
17 Department for the cost of the restoration.

18 (g) Any person, other than the Attorney General or the  
19 State's Attorney, may file a complaint with the Illinois  
20 Pollution Control Board against any person allegedly violating  
21 this Act, any rule adopted under this Act, any permit issued  
22 under this Act, or any term or condition of a permit issued  
23 under this Act, or any relevant Board order. The Board shall  
24 have authority to conduct proceedings upon complaints charging  
25 such violations of this Act unless the Board determines that  
26 such complaint is duplicative or frivolous. The Board may

1 impose civil penalties for a violation of this Act as  
2 described in subsection (c).

3 (h) Any penalty assessed under this Act, including costs  
4 of wetland restoration and any restoration requirement, shall  
5 be recorded by the clerk of the court as a lien against the  
6 property and shall not be removed until the penalty is paid or  
7 the restoration is completed.

8 (i) All costs, fees, and expenses in connection with an  
9 enforcement or restoration action shall be assessed as damages  
10 against the violator.

11 (j) Enforcement actions under this Section may be  
12 concurrent or separate.

13 Section 55. County and special district authority.

14 (a) Nothing in this Act preempts or denies the right of any  
15 governmental body with a stormwater management program under  
16 Section 5-1062 of the Counties Code or a special district with  
17 a stormwater program under Section 7h of the Metropolitan  
18 Water Reclamation District Act from controlling or regulating  
19 activities in any wetlands within the jurisdiction of the  
20 governmental body.

21 (b) Upon the request of a governmental body with a  
22 stormwater management program under Section 5-1062 of the  
23 Counties Code or under Section 7h of the Metropolitan Water  
24 Reclamation District Act, the Director shall, within 30  
25 calendar days of receiving the written request or, in the case

1 of subsection (d), within 30 calendar days after the effective  
2 date of this Act, provide a letter of recognition delegating  
3 permitting authority under this Act to the county or special  
4 district stormwater program. Subject to subsection (c), the  
5 letter of recognition shall be provided if the governmental  
6 body's stormwater management program:

7 (1) provides wetlands protections that are consistent  
8 with the scope and intent of this Act and that are at least  
9 as stringent as those in this Act;

10 (2) has an administration and qualified staff to  
11 implement the governmental body's stormwater management  
12 program; and

13 (3) is implementing and enforcing its stormwater  
14 management program.

15 (c) Activities within or affecting wetlands that occur in  
16 the jurisdiction of a governmental body with a stormwater  
17 management program under Section 5-1062 of the Counties Code  
18 or under Section 7h of the Metropolitan Water Reclamation  
19 District Act and that meet the requirements of paragraphs (1),  
20 (2), and (3) of subsection (b) of this Section are deemed to be  
21 in compliance with the requirements of this Act, but must meet  
22 those county or special district stormwater management  
23 requirements, at a minimum. This also applies during the  
24 period that the Department is considering a county's request  
25 under subsection (b), but the requirements of this Act do  
26 apply until the county has requested recognition under

1 subsection (b).

2 (d) Lake, Cook, Kane, McHenry, and DuPage Counties and the  
3 Metropolitan Water Reclamation District of Greater Chicago are  
4 deemed to have requested recognition as of the effective date  
5 of this Act, and their programs are deemed to meet the  
6 requirements of paragraph (b) of this Section.

7 (e) The Director may rescind recognition status, or place  
8 conditions on recognition status, for any county or special  
9 district program as set out in administrative rule, if the  
10 defect with regard to subsection (b) is not resolved. However,  
11 notwithstanding any other provision of this Section, a county  
12 or special district delegation will not be revoked or modified  
13 if the local program remains at least as stringent as it was on  
14 the effective date of this Act.

15 (f) A governmental body with a stormwater management  
16 program under Section 5-1062 of the Counties Code or under  
17 Section 7h of the Metropolitan Water Reclamation District Act  
18 that has obtained recognition by the Director under this  
19 Section shall submit an annual report to the Director.

20 (g) Nothing in this Act shall be construed as a limitation  
21 or preemption of any home rule power.

22 (h) The Department may provide technical assistance and  
23 grant funding under Section 60 to governmental bodies with  
24 approved programs under this Section.

25 Section 60. Wetlands Protection Fund.

1           (a) The Wetlands Protection Fund shall be established as a  
2 special fund in the State treasury, to be managed by the  
3 Department, separate and distinct from the General Revenue  
4 Fund. Any interest earned by the Wetlands Protection Fund  
5 shall be credited to the Fund. The purpose of the Wetlands  
6 Protection Fund is to further wetlands and small streams  
7 protection and management. Its purpose is to supplement, not  
8 supplant, existing Department resources. The Wetlands  
9 Protection Fund may not be used to pay for compensatory  
10 mitigation obligations under this Act.

11           (b) Pursuant to Section 50, all penalties collected by the  
12 Department under this Act shall be deposited into the Wetlands  
13 Protection Fund.

14           (c) The Illinois General Assembly may appropriate  
15 additional moneys to the Wetlands Protection Fund to implement  
16 this Act.

17           (d) The Department shall use the moneys in the Wetlands  
18 Protection Fund to further wetlands and small streams  
19 protection and management. Eligible uses of moneys in the Fund  
20 include:

- 21           (1) providing technical assistance and grant funding  
22 to counties or special districts with approved programs  
23 under Section 55 to restore, preserve, enhance, protect,  
24 or maintain wetlands, streams, and upland buffers,  
25 particularly Class I areas or wetlands, waters, and  
26 buffers that provide floodwater storage and flood risk

1 reduction;

2 (2) supplementing other State, local, or private  
3 funding for non-compensatory wetlands and small streams  
4 restoration, enhancement, preservation and maintenance;

5 (3) providing matching funds for wetland and stream  
6 inventories, mapping, watershed planning and wetland  
7 program development grants; and

8 (4) covering staffing, administrative, and enforcement  
9 costs for the Department to implement this Act.

10 Section 65. Review fee. All inquiries to determine whether  
11 or not the proposed activity requires permit authorization by  
12 the Department under this Act will be reviewed by the  
13 Department free of charge. A permit review fee that is to be  
14 set by the Department by rule is required for all permit  
15 applications under this Act. The Department shall establish a  
16 graduated review fee payment schedule depending on the  
17 intensity of required review and the size of the individual  
18 project. Accordingly, the highest review fees will be charged  
19 for individual permits to authorize major projects. The  
20 Department may, by rule, impose a reasonable fee for wetlands  
21 delineation and classification.

22 Section 90. The State Finance Act is amended by adding  
23 Section 5.1038 as follows:

1 (30 ILCS 105/5.1038 new)

2 Sec. 5.1038. The Wetlands Protection Fund.

3 Section 97. Severability. The provisions of this Act are  
4 severable under Section 1.31 of the Statute on Statutes."