



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

SB1949

Introduced 2/6/2025, by Sen. Laura Ellman

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062.2

Amends the Counties Code. Repeals language that made certain stormwater management provisions applicable to all counties containing an urbanized area, except those counties covered by other provisions of the Code concerning stormwater management, if the question of allowing the county board to establish a stormwater management planning council had been submitted to the electors of the county and approved by a majority of those voting on the question. Specifies that these stormwater management provisions of the Code apply in all counties containing an urbanized area, unless the counties are covered by other provisions of the Code concerning stormwater management.

LRB104 09905 RTM 19975 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing  
5 Section 5-1062.2 as follows:

6 (55 ILCS 5/5-1062.2)

7 Sec. 5-1062.2. Stormwater management.

8 (a) The purpose of this Section is to allow management and  
9 mitigation of the effects of urbanization on stormwater  
10 drainage in all counties not otherwise covered in Section  
11 5-1062, 5-1062.1, or 5-1062.3 ~~the metropolitan counties of~~  
12 ~~Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb,~~  
13 ~~Kendall, and Boone as well as all counties~~ containing all or a  
14 part of an urbanized area and references to "county" in this  
15 Section apply only to those counties. ~~This Section does not~~  
16 ~~apply to counties in the Chicago Metropolitan Agency for~~  
17 ~~Planning that are granted authorities in Section 5 1062.~~ The  
18 purpose of this Section shall be achieved by:

19 (1) Consolidating the existing stormwater management  
20 framework into a united, countywide structure.

21 (2) Setting minimum standards for floodplain and  
22 stormwater management with an emphasis on the use of  
23 cost-effective solutions to flooding problems.

1           (3) Preparing a countywide plan for the management of  
2           stormwater runoff, including the management of natural and  
3           man-made drainageways. The countywide plan may incorporate  
4           watershed plans and shall evaluate and address flooding  
5           problems that exist in urbanized areas that are a result  
6           of urban flooding.

7           ~~(a 5) This Section also applies to all counties not~~  
8           ~~otherwise covered in Section 5 1062, 5 1062.2, or 5 1062.3 if~~  
9           ~~the question of allowing the county board to establish a~~  
10           ~~stormwater management planning council has been submitted to~~  
11           ~~the electors of the county and approved by a majority of those~~  
12           ~~voting on the question.~~

13           (b) A stormwater management planning committee may be  
14           established by county board resolution, with its membership  
15           consisting of equal numbers of county board and municipal  
16           representatives from each county board district, one member  
17           representing drainage districts, and one member representing  
18           soil and water conservation districts and such other members  
19           as may be determined by the stormwater management planning  
20           committee members. If the county has more than 6 county board  
21           districts, however, the county board may by ordinance divide  
22           the county into not less than 6 areas of approximately equal  
23           population, to be used instead of county board districts for  
24           the purpose of determining representation on the stormwater  
25           management planning committee.

26           The county board members shall be appointed by the

1 chairman of the county board. Municipal members from each  
2 county board district or other represented area shall be  
3 appointed by a majority vote of the mayors of those  
4 municipalities that have the greatest percentage of their  
5 respective populations residing in that county board district  
6 or other represented area. The member representing drainage  
7 districts shall be appointed by the drainage district  
8 chairperson or by a majority vote of all drainage district  
9 chairpersons in the county if more than one drainage district  
10 exists in the county. The member representing soil and water  
11 conservation districts shall be appointed by a majority vote  
12 of the soil and water conservation district board or by a  
13 majority vote of all soil and water conservation district  
14 boards in the county if more than one soil and water  
15 conservation district board exists in the county. All  
16 municipal, county board, drainage district, and soil and water  
17 conservation district representatives shall be entitled to a  
18 vote; the other members shall be nonvoting members, unless  
19 authorized to vote by the unanimous consent of the voting  
20 members of the committee; however, Madison, St. Clair, Monroe,  
21 Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone counties  
22 are not required to have a drainage district or a soil and  
23 water conservation representative. A municipality that is  
24 located in more than one county may choose, at the time of  
25 formation of the stormwater management planning committee and  
26 based on watershed boundaries, to participate in the

1 stormwater management planning program of either or both of  
2 the counties. Subcommittees of the stormwater management  
3 planning committee may be established to serve a portion of  
4 the county or a particular drainage basin that has similar  
5 stormwater management needs. The stormwater management  
6 planning committee shall adopt bylaws, by a majority vote of  
7 the county and municipal members, to govern the functions of  
8 the committee and its subcommittees. Officers of the committee  
9 shall include a chair and vice chair, one of whom shall be a  
10 county representative and one a municipal representative.

11 The principal duties of the committee shall be to develop  
12 a stormwater management plan for presentation to and approval  
13 by the county board, and to direct the plan's implementation  
14 and revision. The committee may retain engineering, legal, and  
15 financial advisors and inspection personnel. The committee  
16 shall meet at least quarterly and shall hold at least one  
17 public meeting during the preparation of the plan and prior to  
18 its submittal to the county board. The committee may make  
19 grants to: (1) units of local government; (2) not-for-profit  
20 organizations; and (3) landowners. In order for a municipality  
21 located partially or wholly within a mapped floodplain to  
22 receive grant moneys, the municipality must be a member in the  
23 Federal Emergency Management Agency's National Flood Insurance  
24 Program. A municipality receiving grant moneys must have  
25 adopted an ordinance requiring actions consistent with the  
26 stormwater management plan. Use of the grant money must be

1 consistent with the stormwater management plan.

2 The committee shall not have or exercise any power of  
3 eminent domain.

4 (c) In the preparation of a stormwater management plan, a  
5 county stormwater management planning committee shall  
6 coordinate the planning process with each adjoining county to  
7 ensure that recommended stormwater projects will have no  
8 significant impact on the levels or flows of stormwaters in  
9 inter-county watersheds or on the capacity of existing and  
10 planned stormwater retention facilities. An adopted stormwater  
11 management plan shall identify steps taken by the county to  
12 coordinate the development of plan recommendations with  
13 adjoining counties.

14 (d) The stormwater management committee may not enforce  
15 any rules or regulations that would interfere with (i) any  
16 power granted by the Illinois Drainage Code (70 ILCS 605/) to  
17 operate, construct, maintain, or improve drainage systems or  
18 (ii) the ability to operate, maintain, or improve the drainage  
19 systems used on or by land or a facility used for production  
20 agriculture purposes, as defined in the Use Tax Act (35 ILCS  
21 105/), except newly constructed buildings and newly installed  
22 impervious paved surfaces. Disputes regarding an exception  
23 shall be determined by a mutually agreed upon arbitrator paid  
24 by the disputing party or parties.

25 (e) Before the stormwater management planning committee  
26 recommends to the county board a stormwater management plan

1 for the county or a portion thereof, it shall submit the plan  
2 to the Office of Water Resources of the Department of Natural  
3 Resources for review and recommendations. The Office, in  
4 reviewing the plan, shall consider such factors as impacts on  
5 the levels or flows in rivers and streams and the cumulative  
6 effects of stormwater discharges on flood levels. The Office  
7 of Water Resources shall determine whether the plan or  
8 ordinances enacted to implement the plan complies with the  
9 requirements of subsection (f). Within a period not to exceed  
10 60 days, the review comments and recommendations shall be  
11 submitted to the stormwater management planning committee for  
12 consideration. Any amendments to the plan shall be submitted  
13 to the Office for review.

14 (f) Prior to recommending the plan to the county board,  
15 the stormwater management planning committee shall hold at  
16 least one public hearing thereon and shall afford interested  
17 persons an opportunity to be heard. The hearing shall be held  
18 in the county seat. Notice of the hearing shall be published at  
19 least once no less than 15 days in advance of the hearing in a  
20 newspaper of general circulation published in the county. The  
21 notice shall state the time and place of the hearing and the  
22 place where copies of the proposed plan will be accessible for  
23 examination by interested parties. If an affected municipality  
24 having a stormwater management plan adopted by ordinance  
25 wishes to protest the proposed county plan provisions, it  
26 shall appear at the hearing and submit in writing specific

1 proposals to the stormwater management planning committee.  
2 After consideration of the matters raised at the hearing, the  
3 committee may amend or approve the plan and recommend it to the  
4 county board for adoption.

5 The county board may enact the proposed plan by ordinance.  
6 If the proposals for modification of the plan made by an  
7 affected municipality having a stormwater management plan are  
8 not included in the proposed county plan, and the municipality  
9 affected by the plan opposes adoption of the county plan by  
10 resolution of its corporate authorities, approval of the  
11 county plan shall require an affirmative vote of at least  
12 two-thirds of the county board members present and voting. If  
13 the county board wishes to amend the county plan, it shall  
14 submit in writing specific proposals to the stormwater  
15 management planning committee. If the proposals are not  
16 approved by the committee, or are opposed by resolution of the  
17 corporate authorities of an affected municipality having a  
18 municipal stormwater management plan, amendment of the plan  
19 shall require an affirmative vote of at least two-thirds of  
20 the county board members present and voting.

21 (g) The county board may prescribe by ordinance reasonable  
22 rules and regulations for floodplain or stormwater management  
23 and for governing the location, width, course, and release  
24 rate of all stormwater runoff channels, streams, and basins in  
25 the county, in accordance with the adopted stormwater  
26 management plan. Land, facilities, and drainage district

1 facilities used for production agriculture as defined in  
2 subsection (d) shall not be subjected to regulation by the  
3 county board or stormwater management committee under this  
4 Section for floodplain management and for governing location,  
5 width, course, maintenance, and release rate of stormwater  
6 runoff channels, streams and basins, or water discharged from  
7 a drainage district. These rules and regulations shall, at a  
8 minimum, meet the standards for floodplain management  
9 established by the Office of Water Resources and the  
10 requirements of the Federal Emergency Management Agency for  
11 participation in the National Flood Insurance Program. The  
12 Commission may not impose more stringent regulations regarding  
13 water quality on entities discharging in accordance with a  
14 valid National Pollution Discharge Elimination System permit  
15 issued under the Environmental Protection Act.

16 (h) In accordance with, and if recommended in, the adopted  
17 stormwater management plan, the county board may adopt a  
18 schedule of reasonable fees as may be necessary to mitigate  
19 the effects of increased stormwater runoff resulting from new  
20 development based on actual costs. The fees shall not exceed  
21 the cost of satisfying the onsite stormwater retention or  
22 detention requirements of the adopted stormwater management  
23 plan. The fees shall be used to finance activities undertaken  
24 by the county or its included municipalities to mitigate the  
25 effects of urban stormwater runoff by providing regional  
26 stormwater retention or detention facilities, as identified in

1 the county plan. The county board shall provide for a credit or  
2 reduction in fees for any onsite retention, detention,  
3 drainage district assessments, or other similar stormwater  
4 facility that the developer is required to construct  
5 consistent with the stormwater management ordinance. All these  
6 fees collected by the county shall be held in a separate fund,  
7 and shall be expended only in the watershed within which they  
8 were collected.

9 (i) For the purpose of implementing this Section and for  
10 the development, design, planning, construction, operation,  
11 and maintenance of stormwater facilities provided for in the  
12 stormwater management plan, a county board that has  
13 established a stormwater management planning committee  
14 pursuant to this Section may cause an annual tax of not to  
15 exceed 0.20% of the value, as equalized or assessed by the  
16 Department of Revenue, of all taxable property in the county  
17 to be levied upon all the taxable property in the county or  
18 occupation and use taxes of 1/10 of one cent. The property tax  
19 shall be in addition to all other taxes authorized by law to be  
20 levied and collected in the county and shall be in addition to  
21 the maximum tax rate authorized by law for general county  
22 purposes. The 0.20% limitation provided in this Section may be  
23 increased or decreased by referendum at a general election in  
24 accordance with the provisions of Sections 18-120, 18-125, and  
25 18-130 of the Property Tax Code (35 ILCS 200/).

26 Any revenues generated as a result of ownership or

1 operation of facilities or land acquired with the tax funds  
2 collected pursuant to this subsection shall be held in a  
3 separate fund and be used either to abate such property tax or  
4 for implementing this Section.

5 However, the tax authorized by this subsection shall not  
6 be levied until the question of its adoption, either for a  
7 specified period or indefinitely, has been submitted to the  
8 electors thereof and approved by a majority of those voting on  
9 the question. This question may be submitted at any general  
10 election held in the county after the adoption of a resolution  
11 by the county board providing for the submission of the  
12 question to the electors of the county. The county board shall  
13 certify the resolution and proposition to the proper election  
14 officials, who shall submit the proposition at an election in  
15 accordance with the general election law. If a majority of the  
16 votes cast on the question is in favor of the levy of the tax,  
17 it may thereafter be levied in the county for the specified  
18 period or indefinitely, as provided in the proposition. The  
19 question shall be put in substantially the following form:

20 Shall an annual tax be levied for stormwater  
21 management purposes (for a period of not more than .....  
22 years) at a rate not exceeding .....% of the equalized  
23 assessed value of the taxable property of ..... County?

24 Or this question may be submitted at any general election held  
25 in the county after the adoption of a resolution by the county  
26 board providing for the submission of the question to the

1 electors of the county to authorize use and occupation taxes  
2 of 1/10 of one cent:

3           Shall use and occupation taxes be raised for  
4 stormwater management purposes (for a period of not more  
5 than ..... years) at a rate of 1/10 of one cent for taxable  
6 goods in ..... County?

7 Votes shall be recorded as Yes or No.

8           (i-5) Before a county that establishes a stormwater  
9 management planning council ~~after submission of the question~~  
10 ~~to the electors of the county pursuant to subsection (a 5)~~ may  
11 submit a referendum question to the electors of the county for  
12 an annual tax under subsection (i), the county shall:

13           (1) adopt and enforce a floodplain management  
14 ordinance or a stormwater management ordinance under  
15 subsection (g) that has been approved by the Office of  
16 Water Resources of the Department of Natural Resources;  
17 and

18           (2) designate a certified floodplain manager who has  
19 been certified by the Association of State Floodplain  
20 Managers; however, nothing in this paragraph (2) requires  
21 a county to create a new position or designate another  
22 individual if the county already has a certified  
23 floodplain manager on staff.

24           If a county fails to continually meet any of the  
25 conditions of this subsection (i-5) after approval of a  
26 referendum question for an annual tax, the county may not levy

1 a tax under subsection (i) until they are in full compliance  
2 with this subsection (i-5).

3 (j) For those counties that adopt a property tax in  
4 accordance with the provisions in this Section, the stormwater  
5 management committee shall offer property tax abatements or  
6 incentive payments to property owners who construct, maintain,  
7 and use approved stormwater management devices. For those  
8 counties that adopt use and occupation taxes in accordance  
9 with the provisions of this Section, the stormwater  
10 management committee may offer tax rebates or incentive  
11 payments to property owners who construct, maintain, and use  
12 approved stormwater management devices. The stormwater  
13 management committee is authorized to offer credits to the  
14 property tax, if applicable, based on authorized practices  
15 consistent with the stormwater management plan and approved by  
16 the committee. Expenses of staff of a stormwater management  
17 committee that are expended on regulatory project review may  
18 be no more than 20% of the annual budget of the committee,  
19 including funds raised under subsections (h) and (i).

20 (k) Any county that has adopted a county stormwater  
21 management plan under this Section may, after 10 days written  
22 notice receiving consent of the owner or occupant, enter upon  
23 any lands or waters within the county for the purpose of  
24 inspecting stormwater facilities or causing the removal of any  
25 obstruction to an affected watercourse. If consent is denied  
26 or cannot be reasonably obtained, the county ordinance shall

1 provide a process or procedure for an administrative warrant  
2 to be obtained. The county shall be responsible for any  
3 damages occasioned thereby.

4 (l) Upon petition of the municipality, and based on a  
5 finding of the stormwater management planning committee, the  
6 county shall not enforce rules and regulations adopted by the  
7 county in any municipality located wholly or partly within the  
8 county that has a municipal stormwater management ordinance  
9 that is consistent with and at least as stringent as the county  
10 plan and ordinance, and is being enforced by the municipal  
11 authorities. On issues that the county ordinance is more  
12 stringent as deemed by the committee, the county shall only  
13 enforce rules and regulations adopted by the county on the  
14 more stringent issues and accept municipal permits. The county  
15 shall have no more than 60 days to review permits or the  
16 permits shall be deemed approved.

17 (m) A county may issue general obligation bonds for  
18 implementing any stormwater plan adopted under this Section in  
19 the manner prescribed in Section 5-1012; except that the  
20 referendum requirement of Section 5-1012 does not apply to  
21 bonds issued pursuant to this Section on which the principal  
22 and interest are to be paid entirely out of funds generated by  
23 the taxes and fees authorized by this Section.

24 (n) The powers authorized by this Section may be  
25 implemented by the county board for a portion of the county  
26 subject to similar stormwater management needs.

1           (o) The powers and taxes authorized by this Section are in  
2 addition to the powers and taxes authorized by Division 5-15;  
3 in exercising its powers under this Section, a county shall  
4 not be subject to the restrictions and requirements of that  
5 Division.

6           (p) As used in this Section:

7           "Urban flooding" means the flooding of public and private  
8 land in urban communities that results from stormwater or  
9 snowmelt runoff overwhelming the existing drainage  
10 infrastructure, unrelated to the overflow of any river or  
11 lake, whether or not that land is located in or near a  
12 floodplain.

13           "Urbanized areas" means a statistical geographic entity  
14 consisting of a densely settled core created from census  
15 tracts or blocks and contiguous qualifying territory that  
16 together have a minimum population of at least 50,000 persons  
17 and has been delineated as an urbanized area by the United  
18 States Census Bureau after the most recent decennial census.

19           (Source: P.A. 100-758, eff. 1-1-19.)