



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

SB3399

Introduced 2/4/2026, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

525 ILCS 37/10  
525 ILCS 37/15  
525 ILCS 37/32 new  
30 ILCS 105/5.1038 new

Amends the Illinois Prescribed Burning Act. Requires the Department of Natural Resources, after consulting with the Illinois Prescribed Fire Council and the Department of Insurance, to adopt rules establishing a Prescribed Burn Liability Claims Pilot Program for the purpose of providing, for a period of 6 years after the effective date of the amendatory Act, coverage for losses incurred by eligible persons as a result of prescribed burns conducted in accordance with the Act by certified prescribed burn managers. Sets forth programmatic requirements for the pilot program. Creates the Prescribed Burn Liability Claims Fund. Allows the Department to impose and collect specified premiums and fees to implement and administer the Act and to maintain the solvency of the Fund. Provides that moneys in the Fund shall be expended by the Department for purposes of the Prescribed Burn Liability Claims Pilot Program and its administration and for no other purpose. Allows the Department to contract with any entity to serve as the third-party administrator of the program and to assist in administering the Fund. Provides that the provisions of the amendatory Act shall not be construed to limit the liability of a person who is enrolled in the pilot program for damages in excess of the cap established by the Department by rule. Further provides that the provisions of the amendatory Act shall not be construed to impose liability on the State for any payment of any claim beyond the amount of moneys available in the Fund. Requires the Department to adopt rules. Defines terms. Amends the State Finance Act to make a conforming change. Effective immediately.

LRB104 19829 WRO 33279 b

1 AN ACT concerning conservation.

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

4 Section 5. The Illinois Prescribed Burning Act is amended  
5 by changing Sections 10 and 15 and by adding Section 32 as  
6 follows:

7 (525 ILCS 37/10)

8 Sec. 10. Definitions. As used in this Act:

9 ~~(a) "Prescribed burning" means the planned application of~~  
10 ~~fire to naturally occurring vegetative fuels under specified~~  
11 ~~environmental conditions and following appropriate~~  
12 ~~precautionary measures, which causes the fire to be confined~~  
13 ~~to a predetermined area and accomplish the planned land~~  
14 ~~management objectives.~~

15 ~~(b)~~ "Certified prescribed burn manager" means an  
16 individual who successfully completes an approved training  
17 program and receives proper certification.

18 ~~(c) "Prescription" means a written plan for conducting a~~  
19 ~~prescribed burn.~~

20 ~~(d)~~ "Department" means the Illinois Department of Natural  
21 Resources.

22 "Fund" means the Prescribed Burn Liability Claims Fund  
23 created under Section 32.

1       "Prescribed burn" or "prescribed burning" means the  
2 planned application of fire to naturally occurring vegetative  
3 fuels under specified environmental conditions and following  
4 appropriate precautionary measures, which causes the fire to  
5 be confined to a predetermined area and accomplish the planned  
6 land management objectives.

7       "Prescription" means a written plan for conducting a  
8 prescribed burn.

9       (Source: P.A. 95-108, eff. 8-13-07.)

10       (525 ILCS 37/15)

11       Sec. 15. Requirements; liability.

12       (a) Before conducting a prescribed burn under this Act, a  
13 person shall:

14           (1) obtain the written consent of the landowner;

15           (2) have a written prescription approved by a  
16 certified prescribed burn manager;

17           (3) have at least one certified prescribed burn  
18 manager present on site with a copy of the prescription  
19 while the burn is being conducted;

20           (4) notify the local fire department, county  
21 dispatcher, 911 dispatcher, or other designated emergency  
22 dispatcher on the day of the prescribed burn; and

23           (5) make a reasonable attempt to notify all adjoining  
24 property owners and occupants of the date and time of the  
25 prescribed burn.

1 (b) The property owner and any person conducting a  
2 prescribed burn under this Act shall be liable for any actual  
3 damage or injury caused by the fire or resulting smoke upon  
4 proof of negligence, except as provided under Section 32.

5 (c) Any prescribed burning conducted under this Act:

6 (1) is declared to be in the public interest;

7 (2) does not constitute a public or private nuisance  
8 when conducted in compliance with Section 9 of the  
9 Environmental Protection Act and all other State statutes  
10 and rules applicable to prescribed burning; and

11 (3) is a property right of the property owner if  
12 naturally occurring vegetative fuels are used.

13 (Source: P.A. 95-108, eff. 8-13-07.)

14 (525 ILCS 37/32 new)

15 Sec. 32. Prescribed Burn Liability Claims Pilot Program.

16 (a) The Department shall, after consulting with the  
17 Illinois Prescribed Fire Council and the Department of  
18 Insurance, adopt rules establishing a Prescribed Burn  
19 Liability Claims Pilot Program for the purpose of providing,  
20 for a period of 6 years after the effective date of this  
21 amendatory Act of the 104th General Assembly, coverage for  
22 losses incurred by eligible persons as a result of prescribed  
23 burns conducted in accordance with this Act by certified  
24 prescribed burn managers.

25 (b) The rules adopted by the Department to establish the

1 Prescribed Burn Liability Claims Pilot Program shall, at a  
2 minimum, establish:

3 (1) procedures for certified prescribed burn managers  
4 to apply for coverage under the program following payment  
5 of a premium or fee set by the Department;

6 (2) premiums or fees for enrollment in the program;

7 (3) requirements for incident reports following  
8 prescribed burns;

9 (4) procedures for the submission of claims for  
10 coverage through the program;

11 (5) claim eligibility criteria that, at a minimum,  
12 provide that a claim is eligible for payment from the Fund  
13 only if:

14 (A) the claim results from a prescribed burn  
15 conducted by a certified prescribed burn manager in  
16 accordance with this Act and rules adopted under this Act  
17 after the date upon which the certified prescribed burn  
18 manager enrolls in the program;

19 (B) the claim is made for actual damages incurred  
20 by the claimant as a result of property damage,  
21 personal injury, or death caused by either:

22 (i) a prescribed burn conducted in accordance  
23 with the requirements of this Act by a certified  
24 prescribed burn manager who is enrolled in the  
25 program; or

26 (ii) smoke from such a prescribed burn;

1           (C) the claim is submitted within 30 days after  
2           either the date upon which the prescribed burn was  
3           completed, as determined by the certified prescribed  
4           burn manager, or the date upon which the claimant  
5           suffers damages that are reimbursable through the  
6           program, whichever is sooner; and

7           (D) the claim is investigated and verified as a  
8           valid claim by the Department or by a third-party  
9           administrator acting on behalf of the Department;

10          (6) provisions capping claim reimbursement for losses  
11          arising from any one prescribed burn at \$1,000,000;

12          (7) a process for the prioritization of claims for  
13          payment and the adjustment of premiums if the eligible  
14          claims on the Fund exceed the amounts available in the  
15          Fund; and

16          (8) procedures for a claimant on the Fund to contest  
17          any claims that are denied.

18          (c) The Prescribed Burn Liability Claims Fund is hereby  
19          created as a special fund in the State treasury and shall  
20          consist of premiums and fees collected under this Act; gifts,  
21          grants, and donations that may be received for crediting to  
22          the Fund; and any other money that the General Assembly  
23          appropriates or transfers into the Fund. All interest and  
24          income earned on moneys deposited into the Fund shall be  
25          credited to the Fund. The Department may seek, accept, and  
26          expend gifts, grants, or donations from private or public

1 sources to implement this Section. Subject to appropriation,  
2 moneys in the Fund shall be expended by the Department for  
3 purposes of the Prescribed Burn Liability Claims Pilot Program  
4 and its administration and for no other purpose. Moneys in the  
5 Fund shall be under the control of the Department, but a  
6 third-party administrator may, subject to the written approval  
7 of the Department and consistent with this Act and rules  
8 adopted under this Act, direct payments for claims from the  
9 Fund.

10 (d) The Department may, by rule, impose and collect  
11 premiums and fees it deems necessary to implement and  
12 administer this Act and to maintain the solvency of the Fund,  
13 including, but not limited to:

14 (1) a reasonable continuing education fee for  
15 certified prescribed burn managers; and

16 (2) a fee or premium for a certified prescribed burn  
17 manager to enroll for coverage under the program.

18 Premiums and fees collected pursuant to this Section shall  
19 be deposited into the Fund.

20 (e) The Department may contract with any entity, including  
21 another State agency, such as the Department of Insurance, to  
22 serve as the third-party administrator of the program and to  
23 assist in administering the Fund, including, but not limited  
24 to, managing and operating the Fund, adjusting claims made on  
25 the Fund, and paying eligible claims from the Fund consistent  
26 with this Act and rules adopted under this Act. A third-party

1 administrator with whom the Department contracts under this  
2 subsection is prohibited from settling or adjusting claims for  
3 the Fund while acting as a nonadministrative claimant against  
4 the Fund.

5 (f) This Section shall not be construed to limit the  
6 liability of a person who is enrolled in the pilot program for  
7 damages in excess of the cap established by the Department by  
8 rule under paragraph (6) of subsection (b).

9 (g) This Section shall not be interpreted to impose  
10 liability on the State for any payment of any claim beyond the  
11 amount of moneys available in the Fund.

12 (h) The Department shall adopt rules to implement and  
13 administer this Section.

14 Section 10. The State Finance Act is amended by adding  
15 Section 5.1038 as follows:

16 (30 ILCS 105/5.1038 new)

17 Sec. 5.1038. The Prescribed Burn Liability Claims Fund.

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