



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2033

Introduced 2/7/2008, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062.2

Amends the Counties Code. Adds Peoria County to the list of counties that may establish a stormwater management planning committee. Provides that the county board may adopt a schedule of fees to mitigate the effects of stormwater runoff (instead of increased stormwater runoff resulting from new development). Provides that the county board shall provide for a credit or reduction in fees for certain stormwater facilities regardless of whether the developer was required to construct the facility. Provides that developers are exempt from the fees if the new development satisfied onsite retention or detention pursuant to any other local ordinance addressing erosion, sediment, or stormwater control and certain Illinois Environmental Protection Agency regulations at the time of the dedication of public infrastructure. Effective immediately.

LRB095 18793 HLH 44919 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Section
5 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 the metropolitan counties of Madison, St. Clair,
11 Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, Peoria,
12 and Boone and references to "county" in this Section apply only
13 to those counties. This Section does not apply to counties in
14 the Northeastern Illinois Planning Commission that are granted
15 authorities in Section 5-1062. The purpose of this Section
16 shall be achieved by:

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

19 (2) Setting minimum standards for floodplain and
20 stormwater management.

21 (3) Preparing a countywide plan for the management of
22 stormwater runoff, including the management of natural and
23 man-made drainageways. The countywide plan may incorporate

1 watershed plans.

2 (b) A stormwater management planning committee may be
3 established by county board resolution, with its membership
4 consisting of equal numbers of county board and municipal
5 representatives from each county board district, and such other
6 members as may be determined by the county and municipal
7 members. If the county has more than 6 county board districts,
8 however, the county board may by ordinance divide the county
9 into not less than 6 areas of approximately equal population,
10 to be used instead of county board districts for the purpose of
11 determining representation on the stormwater management
12 planning committee.

13 The county board members shall be appointed by the chairman
14 of the county board. Municipal members from each county board
15 district or other represented area shall be appointed by a
16 majority vote of the mayors of those municipalities that have
17 the greatest percentage of their respective populations
18 residing in that county board district or other represented
19 area. All municipal and county board representatives shall be
20 entitled to a vote; the other members shall be nonvoting
21 members, unless authorized to vote by the unanimous consent of
22 the municipal and county board representatives. A municipality
23 that is located in more than one county may choose, at the time
24 of formation of the stormwater management planning committee
25 and based on watershed boundaries, to participate in the
26 stormwater management planning program of either or both of the

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

10 The principal duties of the committee shall be to develop a
11 stormwater management plan for presentation to and approval by
12 the county board, and to direct the plan's implementation and
13 revision. The committee may retain engineering, legal, and
14 financial advisors and inspection personnel. The committee
15 shall meet at least quarterly and shall hold at least one
16 public meeting during the preparation of the plan and prior to
17 its submittal to the county board. The committee may make
18 grants to units of local government that have adopted an
19 ordinance requiring actions consistent with the stormwater
20 management plan and to landowners for the purposes of
21 stormwater management, including special projects; use of the
22 grant money must be consistent with the stormwater management
23 plan.

24 The committee shall not have or exercise any power of
25 eminent domain.

26 (c) In the preparation of a stormwater management plan, a

1 county stormwater management planning committee shall
2 coordinate the planning process with each adjoining county to
3 ensure that recommended stormwater projects will have no
4 significant impact on the levels or flows of stormwaters in
5 inter-county watersheds or on the capacity of existing and
6 planned stormwater retention facilities. An adopted stormwater
7 management plan shall identify steps taken by the county to
8 coordinate the development of plan recommendations with
9 adjoining counties.

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

21 (e) Before the stormwater management planning committee
22 recommends to the county board a stormwater management plan for
23 the county or a portion thereof, it shall submit the plan to
24 the Office of Water Resources of the Department of Natural
25 Resources for review and recommendations. The Office, in
26 reviewing the plan, shall consider such factors as impacts on

1 the levels or flows in rivers and streams and the cumulative
2 effects of stormwater discharges on flood levels. The Office of
3 Water Resources shall determine whether the plan or ordinances
4 enacted to implement the plan complies with the requirements of
5 subsection (f). Within a period not to exceed 60 days, the
6 review comments and recommendations shall be submitted to the
7 stormwater management planning committee for consideration.
8 Any amendments to the plan shall be submitted to the Office for
9 review.

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

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

17 (g) The county board may prescribe by ordinance reasonable
18 rules and regulations for floodplain management and for
19 governing the location, width, course, and release rate of all
20 stormwater runoff channels, streams, and basins in the county,
21 in accordance with the adopted stormwater management plan.
22 Land, facilities, and drainage district facilities used for
23 production agriculture as defined in subsection (d) shall not
24 be subjected to regulation by the county board or stormwater
25 management committee under this Section for floodplain
26 management and for governing location, width, course,

1 maintenance, and release rate of stormwater runoff channels,
2 streams and basins, or water discharged from a drainage
3 district. These rules and regulations shall, at a minimum, meet
4 the standards for floodplain management established by the
5 Office of Water Resources and the requirements of the Federal
6 Emergency Management Agency for participation in the National
7 Flood Insurance Program. The Commission may not impose more
8 stringent regulations regarding water quality on entities
9 discharging in accordance with a valid National Pollution
10 Discharge Elimination System permit issued under the
11 Environmental Protection Act.

12 (h) In accordance with, and if recommended in, the adopted
13 stormwater management plan, the county board may adopt a
14 schedule of fees as may be necessary to mitigate the effects of
15 ~~increased~~ stormwater runoff ~~resulting from new development~~
16 based on actual costs. The fees shall not exceed the cost of
17 satisfying the onsite stormwater retention or detention
18 requirements of the adopted stormwater management plan. The
19 fees shall be used to finance activities undertaken by the
20 county or its included municipalities to mitigate the effects
21 of urban stormwater runoff by providing regional stormwater
22 retention or detention facilities, as identified in the county
23 plan. The county board shall provide for a credit or reduction
24 in fees for any onsite retention, detention, drainage district
25 assessments, or other similar stormwater facility ~~that the~~
26 ~~developer is required to construct~~ consistent with the

1 stormwater management ordinance. Developers are exempt from
2 any fees under this Section if the new development satisfies
3 onsite retention or detention pursuant to any other local
4 ordinance addressing erosion, sediment, or stormwater control
5 and Illinois Environmental Protection Agency regulations that
6 place the development into compliance with the National
7 Pollutant Discharge Elimination System (NPDES) permit program
8 at the time of the dedication of public infrastructure. All
9 these fees collected by the county shall be held in a separate
10 fund, and shall be expended only in the watershed within which
11 they were collected.

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

1 Sections 18-120, 18-125, and 18-130 of the Property Tax Code
2 (35 ILCS 200/).

3 Any revenues generated as a result of ownership or
4 operation of facilities or land acquired with the tax funds
5 collected pursuant to this subsection shall be held in a
6 separate fund and be used either to abate such property tax or
7 for implementing this Section.

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

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

1 Or this question may be submitted at any election held in the
2 county after the adoption of a resolution by the county board
3 providing for the submission of the question to the electors of
4 the county to authorize use and occupation taxes of 1/10 of one
5 cent:

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

10 Votes shall be recorded as Yes or No.

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

1 under subsections (h) and (i).

2 (k) Any county that has adopted a county stormwater
3 management plan under this Section may, after 10 days written
4 notice receiving consent of the owner or occupant, enter upon
5 any lands or waters within the county for the purpose of
6 inspecting stormwater facilities or causing the removal of any
7 obstruction to an affected watercourse. If consent is denied or
8 cannot be reasonably obtained, the county ordinance shall
9 provide a process or procedure for an administrative warrant to
10 be obtained. The county shall be responsible for any damages
11 occasioned thereby.

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

25 (m) A county may issue general obligation bonds for
26 implementing any stormwater plan adopted under this Section in

1 the manner prescribed in Section 5-1012; except that the
2 referendum requirement of Section 5-1012 does not apply to
3 bonds issued pursuant to this Section on which the principal
4 and interest are to be paid entirely out of funds generated by
5 the taxes and fees authorized by this Section.

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

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

14 (Source: P.A. 94-675, eff. 8-23-05.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.