



Sen. David Koehler

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09500SB2033sam001

LRB095 18793 HLH 46945 a

1 AMENDMENT TO SENATE BILL 2033

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2033 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by adding Section  
5 5-1062.3 as follows:

6 (55 ILCS 5/5-1062.3 new)

7 Sec. 5-1062.3. Stormwater management; Peoria.

8 (a) The purpose of this Section is to allow management and  
9 mitigation of the effects of urbanization on stormwater  
10 drainage in Peoria County and references to "county" in this  
11 Section apply only to that county. The purpose of this Section  
12 shall be achieved by:

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

15 (2) Setting minimum standards for floodplain and  
16 stormwater management.

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.

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

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

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

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

26 The committee shall not have or exercise any power of

1 eminent domain.

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

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

23 (e) Before the stormwater management planning committee  
24 recommends to the county board a stormwater management plan for  
25 the county or a portion thereof, it shall submit the plan to  
26 the Office of Water Resources of the Department of Natural

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

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

1 or approve the plan and recommend it to the county board for  
2 adoption.

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

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

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

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

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

10 Votes shall be recorded as Yes or No.

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

1 (i).

2 (k) If the county has adopted a county stormwater  
3 management plan under this Section it may, after 10 days  
4 written notice receiving consent of the owner or occupant,  
5 enter upon any lands or waters within the county for the  
6 purpose of inspecting stormwater facilities or causing the  
7 removal of any obstruction to an affected watercourse. If  
8 consent is denied or cannot be reasonably obtained, the county  
9 ordinance shall provide a process or procedure for an  
10 administrative warrant to be obtained. The county shall be  
11 responsible for any damages 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) The 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 Section 99. Effective date. This Act takes effect upon  
15 becoming law."