



Sen. William R. Haine

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LRB096 17788 JDS 38592 a

1 AMENDMENT TO SENATE BILL 2556

2 AMENDMENT NO. _____. Amend Senate Bill 2556, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Environmental Protection Act is amended by
6 adding Sections 3.102 and 3.103 as follows:

7 (415 ILCS 5/3.102 new)

8 Sec. 3.102. 100-year flood. "100-year flood" means a flood
9 that has a 1% or greater chance of recurring in any given year
10 or a flood of a magnitude equaled or exceeded once in 100 years
11 on the average over a significantly longer period.

12 (415 ILCS 5/3.103 new)

13 Sec. 3.103. 100-year floodplain. "100-year floodplain"
14 means the lowland and relatively flat areas adjoining inland
15 and coastal waters, including flood-prone areas of offshore

1 islands, that are inundated by a 100-year flood. For the
2 purposes of this Act, including for the purposes of granting
3 permit and license applications filed or pending prior to the
4 effective date of this amendatory Act of the 96th General
5 Assembly, an area shall be deemed by operation of law not to be
6 within the 100-year floodplain if the area lies within an area
7 protected by a federal levee and is located in a flood
8 prevention district established in accordance with the Flood
9 Prevention District Act; provided, however, that an area that
10 lies within a flood prevention district established in
11 accordance with the Flood Prevention District Act shall not be
12 excluded by operation of law from the 100-year floodplain if
13 the area is not protected by a federal levee and, according to
14 the currently adopted federal flood insurance rate map, the
15 area is subject to inundation by a 100-year flood as a result
16 of the flooding of bodies of water other than the Mississippi
17 River.

18 Section 10. The Livestock Management Facilities Act is
19 amended by adding Section 10.3 as follows:

20 (510 ILCS 77/10.3 new)

21 Sec. 10.3. 100-year floodplain. "100-year floodplain"
22 means the lowland and relatively flat areas adjoining inland
23 and coastal waters, including flood-prone areas of offshore
24 islands, that are inundated by a flood that has a 1% or greater

1 chance of recurring in any given year or a flood of a magnitude
2 equalled or exceeded once in 100 years on the average over a
3 significantly long period. For the purposes of this Act,
4 including for the purposes of granting permit and license
5 applications filed or pending prior to the effective date of
6 this amendatory Act of the 96th General Assembly, an area shall
7 be deemed by operation of law not to be within the 100-year
8 floodplain if the area lies within an area protected by a
9 federal levee and is located in a flood prevention district
10 established in accordance with the Flood Prevention District
11 Act; provided, however, that an area that lies within a flood
12 prevention district established in accordance with the Flood
13 Prevention District Act shall not be excluded by operation of
14 law from the 100-year floodplain if the area is not protected
15 by a federal levee and, according to the currently adopted
16 federal flood insurance rate map, the area is subject to
17 inundation by a 100-year flood as a result of the flooding of
18 bodies of water other than the Mississippi River.

19 Section 15. The Rivers, Lakes, and Streams Act is amended
20 by adding Section 18h and by changing Sections 18f and 18g as
21 follows:

22 (615 ILCS 5/18f) (from Ch. 19, par. 65f)

23 Sec. 18f.

24 (a) The Department of Natural Resources shall define

1 100-year floodplains ~~flood plains~~ within the State of Illinois
2 on a township by township basis and may issue permits for any
3 construction within such 100-year floodplains ~~flood plains~~ on
4 or after the effective date of this amendatory Act of 1971. The
5 Department shall publish and distribute suitable reports,
6 together with mapping and hydrologic exhibits pertaining to
7 100-year floodplains ~~flood plains~~ defined and established
8 under this Act. In defining applicable 100-year floodplains
9 ~~flood plains~~, the Department shall cooperate with, and shall
10 consider planning and zoning requirements of, regional
11 planning agencies created by statute, counties, municipalities
12 and other units of government. A period of thirty days shall be
13 allowed for any agency to submit written comments to the
14 Department regarding any proposed 100-year floodplain ~~flood~~
15 ~~plain~~ area. If such agency fails to return comments to the
16 Department within the specified time period the Department may
17 proceed with the publication and institution of the 100-year
18 floodplain ~~flood plain~~ permit procedure. The Department is
19 charged with the planning, development, and evaluation of the
20 most economic combination of retention storage, channel
21 improvement, and floodplain ~~flood plain~~ preservation in
22 defining and establishing 100-year floodplain ~~flood plain~~
23 areas. All construction undertaken on a defined 100-year
24 floodplain ~~flood plain~~ subsequent to the effective date of this
25 amendatory Act, without benefit of a permit from the Department
26 of Natural Resources, shall be unlawful and the Department, may

1 in its discretion, proceed to obtain injunctive relief for
2 abatement or removal of such unlawful construction. The
3 Department, in its discretion, may make such investigations and
4 conduct such hearings as may be necessary to the performance of
5 its duties under this amendatory Act of 1971. Activity of the
6 Department under this Section shall be limited to townships
7 related to projects of the Department authorized by the General
8 Assembly. The report of the Department shall be considered a
9 final administrative decision and subject to judicial review in
10 accordance with the provision of the Administrative Review Law.

11 (b) For the purposes of this Section, including for the
12 purposes of granting permit and license applications filed or
13 pending prior to the effective date of this amendatory Act of
14 the 96th General Assembly, "100-year floodplain" means the
15 lowland and relatively flat areas adjoining inland and coastal
16 waters, including flood-prone areas of offshore islands, that
17 are inundated by a flood that has a 1% or greater chance of
18 recurring in any given year or a flood of a magnitude equalled
19 or exceeded once in 100 years on the average over a
20 significantly long period. For the purposes of this Section, an
21 area shall be deemed by operation of law not to be within the
22 100-year floodplain if the area lies within an area protected
23 by a federal levee and is located in a flood prevention
24 district established in accordance with the Flood Prevention
25 District Act; provided, however, that an area that lies within
26 a flood prevention district established in accordance with the

1 Flood Prevention District Act shall not be excluded by
2 operation of law from the 100-year floodplain if the area is
3 not protected by a federal levee and, according to the
4 currently adopted federal flood insurance rate map, the area is
5 subject to inundation by a 100-year flood as a result of the
6 flooding of bodies of water other than the Mississippi River.

7 (Source: P.A. 89-445, eff. 2-7-96.)

8 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

9 Sec. 18g. (a) The Department of Natural Resources shall
10 define the 100-year floodway within metropolitan counties
11 located in the area served by the Northeastern Illinois
12 Planning Commission, except for the part of that area which is
13 within any city with a population exceeding 1,500,000. In
14 defining the 100-year floodway, the Department may rely on
15 published data and maps which have been prepared by the
16 Department itself, by the Illinois State Water Survey of the
17 University of Illinois, by federal, State or local governmental
18 agencies, or by any other private or public source which it
19 determines to be reliable and appropriate.

20 (b) The Department may issue permits for construction that
21 is an appropriate use of the designated 100-year floodway in
22 such metropolitan counties. If a unit of local government has
23 adopted an ordinance that establishes minimum standards for
24 appropriate use of the floodway that are at least as
25 restrictive as those established by the Department and this

1 Section, and the unit of local government has adequate staff to
2 enforce the ordinance, the Department may delegate to such unit
3 of local government the authority to issue permits for
4 construction that is an appropriate use of the floodway within
5 its jurisdiction.

6 (c) No person may engage in any new construction within the
7 100-year floodway as designated by the Department in such
8 metropolitan counties, unless such construction relates to an
9 appropriate use of the floodway. No unit of local government,
10 including home rule units, in such metropolitan counties may
11 issue any building permit or other apparent authorization for
12 any prohibited new construction within the 100-year floodway.

13 (d) For the purpose of this Section, including for the
14 purposes of granting permit and license applications filed or
15 pending prior to the effective date of this amendatory Act of
16 the 96th General Assembly":

17 (1) "100-year floodway" means the channel and that
18 portion of the 100-year floodplain adjacent to a stream or
19 watercourse which is needed to store and convey the
20 100-year frequency flood discharge without a significant
21 increase in stage.

22 (1.5) "100-year floodplain" means the lowland and
23 relatively flat areas adjoining inland and coastal waters,
24 including flood-prone areas of offshore islands, that are
25 inundated by a flood that has a 1% or greater chance of
26 recurring in any given year or a flood of a magnitude

1 equalled or exceeded once in 100 years on the average over
2 a significantly long period.

3 (2) "New construction" means the construction of any
4 new building or structure or the placement of any fill or
5 material, but does not include the repair, remodeling or
6 maintenance of buildings or structures in existence on the
7 effective date of this amendatory Act of 1987.

8 (3) "Appropriate use of the floodway" means use for (i)
9 flood control structures, dikes, dams and other public
10 works or private improvements relating to the control of
11 drainage, flooding or erosion; (ii) structures or
12 facilities relating to the use of, or requiring access to,
13 the water or shoreline, including pumping and treatment
14 facilities, and facilities and improvements related to
15 recreational boats, commercial shipping and other
16 functionally dependent uses; and (iii) any other purposes
17 which the Department determines, by rule, to be appropriate
18 to the 100-year floodway, and the periodic inundation of
19 which will not pose a danger to the general health and
20 welfare of the user, or require the expenditure of public
21 funds or the provision of public resources or disaster
22 relief services. Appropriate use of the floodway does not
23 include construction of a new building unless such building
24 is a garage, storage shed or other structure accessory to
25 an existing building and such building does not increase
26 flood stages.

1 (4) "Person" includes natural persons, corporations,
2 associations, governmental entities, and all other legal
3 entities.

4 (e) All construction undertaken on a designated 100-year
5 floodway in such metropolitan counties, without benefit of a
6 permit from the Department of Natural Resources, shall be
7 unlawful and the Department or any affected unit of local
8 government may, in its discretion, proceed to obtain injunctive
9 relief for abatement or removal of such unlawful construction.
10 The Department, in its discretion, may make such investigations
11 and conduct such hearings and adopt such rules as may be
12 necessary to the performance of its duties under this Section.

13 (f) This Section does not limit any power granted to the
14 Department by any other Act.

15 (g) This Section does not limit the concurrent exercise by
16 any unit of local government of any power consistent herewith.

17 (h) This Section does not apply to any city with a
18 population exceeding 1,500,000.

19 (Source: P.A. 95-728, eff. date - See Sec. 999.)

20 (615 ILCS 5/18h new)

21 Sec. 18h. Conflicts with Executive Order 2006-5. To the
22 extent that Executive Order 2006-5 is inconsistent with the
23 provisions of this amendatory Act of the 96th General Assembly,
24 the provisions of this amendatory Act shall govern.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".