



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3372

Introduced 2/24/2011, by Rep. Mike Fortner

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062

from Ch. 34, par. 5-1062

55 ILCS 5/5-1062.2

Amends the Counties Code. Provides that a county board in a metropolitan county located in the area served by the Northeastern Illinois Planning Commission, or Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, or Boone county, that has adopted a stormwater management plan may adopt a schedule of fees applicable to real property within the county that benefits from the county's stormwater management facilities and activities. Sets forth the circumstances under which a fee schedule may be adopted and the uses for the fees. Caps the fees at the same limit as an authorized stormwater tax that has been approved by referendum in the county. Provides that the county shall give land owners at least 2 years' notice of the fee during which time the county shall provide education on green infrastructure practices and an opportunity to take action to reduce or eliminate the fee. Further provides that a fee waiver shall be included for property owners who have taken actions or put in place facilities that are approved by the county that reduce or eliminate the cost of managing runoff. Provides that the county may enter into intergovernmental agreements with other bodies of government for the joint administration of stormwater management and collection of the fees. Provides that if a county adopts a fee schedule and has existing debt repayments to make, the remainder of that debt may be paid with proceeds from a tax imposed for stormwater management purposes. Effective immediately.

LRB097 10901 KMW 51441 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  
5 Sections 5-1062 and 5-1062.2 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)

7 Sec. 5-1062. 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 metropolitan counties located in the area served by  
11 the Northeastern Illinois Planning Commission, and references  
12 to "county" in this Section shall apply only to those counties.  
13 This Section shall not apply to any county with a population in  
14 excess of 1,500,000, except as provided in subsection (c). The  
15 purpose of this Section shall be achieved by:

16 (1) consolidating the existing stormwater management  
17 framework into a united, countywide structure;

18 (2) setting minimum standards for floodplain and  
19 stormwater management; and

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

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

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

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

9 The principal duties of the committee shall be to develop a  
10 stormwater management plan for presentation to and approval by  
11 the county board, and to direct the plan's implementation and  
12 revision. The committee may retain engineering, legal and  
13 financial advisors and inspection personnel. The committee  
14 shall meet at least quarterly and shall hold at least one  
15 public meeting during the preparation of the plan and prior to  
16 its submittal to the county board.

17 (c) In the preparation of a stormwater management plan, a  
18 county stormwater management planning committee shall  
19 coordinate the planning process with each adjoining county to  
20 ensure that recommended stormwater projects will have no  
21 significant impact on the levels or flows of stormwaters in  
22 inter-county watersheds or on the capacity of existing and  
23 planned stormwater retention facilities. An adopted stormwater  
24 management plan shall identify steps taken by the county to  
25 coordinate the development of plan recommendations with  
26 adjoining counties.

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

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

1 stormwater management plan adopted by ordinance wishes to  
2 protest the proposed county plan provisions, it shall appear at  
3 the hearing and submit in writing specific proposals to the  
4 stormwater management planning committee. After consideration  
5 of the matters raised at the hearing, the committee may amend  
6 or approve the plan and recommend it to the county board for  
7 adoption.

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

24 (f) The county board may prescribe by ordinance reasonable  
25 rules and regulations for floodplain management and for  
26 governing the location, width, course and release rate of all

1 stormwater runoff channels, streams and basins in the county,  
2 in accordance with the adopted stormwater management plan.  
3 These rules and regulations shall, at a minimum, meet the  
4 standards for floodplain management established by the Office  
5 of Water Resources and the requirements of the Federal  
6 Emergency Management Agency for participation in the National  
7 Flood Insurance Program.

8 (g) For the purposes of implementing this Section and for  
9 the development, design, planning, construction, operation,  
10 and maintenance of stormwater facilities provided for in ~~In~~  
11 accordance with, and if recommended in, the adopted stormwater  
12 management plan, a ~~the~~ county board that has established a  
13 stormwater management planning committee pursuant to this  
14 Section or has participated in a stormwater management planning  
15 process may adopt a schedule of fees applicable to all real  
16 property within the county which benefits from the county's  
17 stormwater management facilities and activities, and as may be  
18 necessary to mitigate the effects of increased stormwater  
19 runoff resulting from new development and redevelopment. The  
20 total amount of the fees assessed must bear a reasonable  
21 relationship to the actual costs of the county in the  
22 preparation, administration, and implementation of the ~~shall~~  
23 not exceed the cost of satisfying the onsite stormwater  
24 retention or detention requirements of the adopted stormwater  
25 management plan, construction and maintenance of related  
26 facilities, enforcement of any ordinances adopted pursuant

1 thereto, and management of the runoff from the property. The  
2 individual fees must bear a reasonable relationship to the  
3 portion of the cost to the county of managing the runoff from  
4 the property. The fees shall be used to finance activities  
5 undertaken by the county or its included municipalities to  
6 mitigate the effects of urban stormwater runoff by providing  
7 and maintaining ~~regional~~ stormwater collection, retention, or  
8 detention, and treatment facilities and improving water bodies  
9 impacted by stormwater runoff, as identified in the county  
10 plan. In establishing, maintaining, or replacing the  
11 facilities, the county shall not duplicate facilities operated  
12 by other governmental bodies within its corporate boundaries.  
13 The schedule of fees established by the county board shall  
14 include a procedure for a full or partial fee waiver for  
15 property owners who have taken actions or put in place  
16 facilities that reduce or eliminate the cost to the county of  
17 providing stormwater management services to their property,  
18 with a preference for facilities that reduce the volume,  
19 temperature, velocity, and pollutant load of the stormwater  
20 managed by the county, such as systems that infiltrate,  
21 evapotranspire, or harvest stormwater for reuse, known as  
22 "green infrastructure." In exercising this authority, the  
23 county shall give land owners at least 2 years' notice of the  
24 fee during which time the county shall provide education on  
25 green infrastructure practices and an opportunity to take  
26 action to reduce or eliminate the fee. All such fees collected



1 by the county shall be held in a separate fund, and shall be  
2 expended only in the watershed within which they were  
3 collected. The county may enter into intergovernmental  
4 agreements with other government bodies for the joint  
5 administration of stormwater management and the collection of  
6 the fees authorized in this Section.

7 A fee schedule authorized by this subsection shall not be  
8 adopted unless (i) at least part of the county has been  
9 declared by a presidential proclamation after July 1, 1986, to  
10 be a disaster area as a result of flooding; (ii) a referendum  
11 has been passed approving a stormwater tax as provided in  
12 subsection (h) of this Section; or (iii) the question of the  
13 adoption of a fee schedule with the same limit as the  
14 authorized stormwater tax has been approved in a referendum by  
15 a majority of those voting on the question.

16 (h) In the alternative, the ~~For the purpose of implementing~~  
17 ~~this Section and for the development, design, planning,~~  
18 ~~construction, operation and maintenance of stormwater~~  
19 ~~facilities provided for in the stormwater management plan, a~~  
20 ~~county board that has established a stormwater management~~  
21 ~~planning committee pursuant to this Section~~ may cause an annual  
22 tax of not to exceed 0.20% of the value, as equalized or  
23 assessed by the Department of Revenue, of all taxable property  
24 in the county to be levied upon all the taxable property in the  
25 county. The tax shall be in addition to all other taxes  
26 authorized by law to be levied and collected in the county and

1 shall be in addition to the maximum tax rate authorized by law  
2 for general county purposes. The 0.20% limitation provided in  
3 this Section may be increased or decreased by referendum in  
4 accordance with the provisions of Sections 18-120, 18-125, and  
5 18-130 of the Property Tax Code.

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

11 If a county adopts a fee schedule and has existing debt  
12 repayments to make, the remainder of that debt may be paid with  
13 proceeds from a tax imposed for stormwater management purposes.

14 However, unless at least part of the county has been  
15 declared after July 1, 1986 by presidential proclamation to be  
16 a disaster area as a result of flooding, the tax authorized by  
17 this subsection (h) shall not be levied until the question of  
18 its adoption, either for a specified period or indefinitely,  
19 has been submitted to the electors thereof and approved by a  
20 majority of those voting on the question. This question may be  
21 submitted at any election held in the county after the adoption  
22 of a resolution by the county board providing for the  
23 submission of the question to the electors of the county. The  
24 county board shall certify the resolution and proposition to  
25 the proper election officials, who shall submit the proposition  
26 at an election in accordance with the general election law. If

1 a majority of the votes cast on the question is in favor of the  
 2 levy of the tax, it may thereafter be levied in the county for  
 3 the specified period or indefinitely, as provided in the  
 4 proposition. The question shall be put in substantially the  
 5 following form:

6 -----  
 7 Shall an annual tax be levied  
 8 for stormwater management purposes YES  
 9 (for a period of not more than  
 10 ..... years) at a rate not exceeding -----  
 11 .....% of the equalized assessed  
 12 value of the taxable property of NO  
 13 ..... County?  
 14 -----

15 (i) Upon the creation and implementation of a county  
 16 stormwater management plan, the county may petition the circuit  
 17 court to dissolve any or all drainage districts created  
 18 pursuant to the Illinois Drainage Code or predecessor Acts  
 19 which are located entirely within the area of the county  
 20 covered by the plan.

21 However, any active drainage district implementing a plan  
 22 that is consistent with and at least as stringent as the county  
 23 stormwater management plan may petition the stormwater  
 24 management planning committee for exception from dissolution.  
 25 Upon filing of the petition, the committee shall set a date for  
 26 hearing not less than 2 weeks, nor more than 4 weeks, from the

1 filing thereof, and the committee shall give at least one  
2 week's notice of the hearing in one or more newspapers of  
3 general circulation within the district, and in addition shall  
4 cause a copy of the notice to be personally served upon each of  
5 the trustees of the district. At the hearing, the committee  
6 shall hear the district's petition and allow the district  
7 trustees and any interested parties an opportunity to present  
8 oral and written evidence. The committee shall render its  
9 decision upon the petition for exception from dissolution based  
10 upon the best interests of the residents of the district. In  
11 the event that the exception is not allowed, the district may  
12 file a petition within 30 days of the decision with the circuit  
13 court. In that case, the notice and hearing requirements for  
14 the court shall be the same as herein provided for the  
15 committee. The court shall likewise render its decision of  
16 whether to dissolve the district based upon the best interests  
17 of residents of the district.

18 The dissolution of any drainage district shall not affect  
19 the obligation of any bonds issued or contracts entered into by  
20 the district nor invalidate the levy, extension or collection  
21 of any taxes or special assessments upon the property in the  
22 former drainage district. All property and obligations of the  
23 former drainage district shall be assumed and managed by the  
24 county, and the debts of the former drainage district shall be  
25 discharged as soon as practicable.

26 If a drainage district lies only partly within a county

1 that adopts a county stormwater management plan, the county may  
2 petition the circuit court to disconnect from the drainage  
3 district that portion of the district that lies within that  
4 county. The property of the drainage district within the  
5 disconnected area shall be assumed and managed by the county.  
6 The county shall also assume a portion of the drainage  
7 district's debt at the time of disconnection, based on the  
8 portion of the value of the taxable property of the drainage  
9 district which is located within the area being disconnected.

10 The operations of any drainage district that continues to  
11 exist in a county that has adopted a stormwater management plan  
12 in accordance with this Section shall be in accordance with the  
13 adopted plan.

14 (j) Any county that has adopted a county stormwater  
15 management plan under this Section may, after 10 days written  
16 notice to the owner or occupant, enter upon any lands or waters  
17 within the county for the purpose of inspecting stormwater  
18 facilities or causing the removal of any obstruction to an  
19 affected watercourse. The county shall be responsible for any  
20 damages occasioned thereby.

21 (k) Upon petition of the municipality, and based on a  
22 finding of the stormwater management planning committee, the  
23 county shall not enforce rules and regulations adopted by the  
24 county in any municipality located wholly or partly within the  
25 county that has a municipal stormwater management ordinance  
26 that is consistent with and at least as stringent as the county

1 plan and ordinance, and is being enforced by the municipal  
2 authorities.

3 (l) A county may issue general obligation bonds for  
4 implementing any stormwater plan adopted under this Section in  
5 the manner prescribed in Section 5-1012; except that the  
6 referendum requirement of Section 5-1012 shall not apply to  
7 bonds issued pursuant to this Section on which the principal  
8 and interest are to be paid entirely out of funds generated by  
9 the taxes and fees authorized by this Section.

10 (m) The powers authorized by this Section may be  
11 implemented by the county board for a portion of the county  
12 subject to similar stormwater management needs.

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

18 (o) Pursuant to paragraphs (g) and (i) of Section 6 of  
19 Article VII of the Illinois Constitution, this Section  
20 specifically denies and limits the exercise of any power which  
21 is inconsistent herewith by home rule units in any county with  
22 a population of less than 1,500,000 in the area served by the  
23 Northeastern Illinois Planning Commission. This Section does  
24 not prohibit the concurrent exercise of powers consistent  
25 herewith.

26 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)

1 (55 ILCS 5/5-1062.2)

2 Sec. 5-1062.2. Stormwater management.

3 (a) The purpose of this Section is to allow management and  
4 mitigation of the effects of urbanization on stormwater  
5 drainage in the metropolitan counties of Madison, St. Clair,  
6 Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone  
7 and references to "county" in this Section apply only to those  
8 counties, except that any county that is subject to the  
9 Illinois General NPDES Permit No. ILR40 (stormwater permit), or  
10 with one or more municipality partially or fully within its  
11 borders that is subject to the permit, is authorized to adopt a  
12 schedule of fees as outlined in subsection (h) of this Section.  
13 This Section does not apply to any other counties in the State,  
14 including those located in the area served by the Northeastern  
15 Illinois Planning Commission that are granted authorities in  
16 Section 5-1062. The purpose of this Section shall be achieved  
17 by:

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

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

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

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

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



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

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

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

25 (c) In the preparation of a stormwater management plan, a  
26 county stormwater management planning committee shall

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

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

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

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

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

26 The county board may enact the proposed plan by ordinance.

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

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

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

11 (h) For the purpose of implementing this Section and for  
12 the development, design, planning, construction, operation,  
13 and maintenance of stormwater facilities provided for in ~~In~~  
14 ~~accordance with, and if recommended in,~~ the adopted stormwater  
15 management plan, ~~a~~ the county board that has established a  
16 stormwater management planning committee pursuant to this  
17 Section or has participated in a stormwater management planning  
18 process may adopt a schedule of fees applicable to all real  
19 property within the county which receives benefit from the  
20 county's stormwater management facilities and activities, and  
21 as may be necessary to mitigate the effects of increased  
22 stormwater runoff resulting from new development and  
23 redevelopment based on actual costs. The total amount of the  
24 fees assessed must bear a reasonable relationship to the actual  
25 costs of the county in the preparation, administration, and  
26 implementation of the ~~shall not exceed the cost of satisfying~~

1 ~~the onsite stormwater retention or detention requirements of~~  
2 ~~the~~ adopted stormwater management plan, construction and  
3 maintenance of related facilities, enforcement of any  
4 ordinance adopted pursuant thereto, and management of the  
5 runoff from the property. The individual fees must bear a  
6 reasonable relationship to the portion of the cost to the  
7 county of managing the runoff from the property. The fees shall  
8 be used to finance activities undertaken by the county or its  
9 included municipalities to mitigate the effects of urban  
10 stormwater runoff by providing and maintaining ~~regional~~  
11 stormwater collection, retention, or detention, and treatment  
12 facilities and improving water bodies impacted by stormwater  
13 runoff, as identified in the county plan. In establishing,  
14 maintaining, or replacing such facilities, the county shall not  
15 duplicate facilities operated by other governmental bodies  
16 within its corporate boundaries. The schedule of fees  
17 established by the county board shall include a procedure for a  
18 full or partial fee waiver for property owners who have taken  
19 actions or put in place facilities that reduce or eliminate the  
20 cost to the county of providing stormwater management services  
21 to their property, with a preference for facilities that reduce  
22 the volume, temperature, velocity, and pollutant load of the  
23 stormwater managed by the county, such as systems that  
24 infiltrate, evapotranspire, or harvest stormwater for reuse,  
25 known as "green infrastructure." In exercising this authority,  
26 the county shall give land owners at least 2 years' notice of

1 the fee during which time the county shall provide education on  
2 green infrastructure practices and an opportunity to take  
3 action to reduce or eliminate the fee. ~~The county board shall~~  
4 ~~provide for a credit or reduction in fees for any onsite~~  
5 ~~retention, detention, drainage district assessments, or other~~  
6 ~~similar stormwater facility that the developer is required to~~  
7 ~~construct consistent with the stormwater management ordinance.~~

8 All these fees collected by the county shall be held in a  
9 separate fund, and shall be expended only in the watershed  
10 within which they were collected. The county may enter into  
11 intergovernmental agreements with other government bodies for  
12 the joint administration of stormwater management and the  
13 collection of the fees authorized in this Section.

14 A fee schedule authorized by this subsection shall not be  
15 adopted unless (i) at least part of the county has been  
16 declared by a presidential proclamation after July 1, 1986, to  
17 be a disaster area as a result of flooding; (ii) a referendum  
18 has been passed approving a stormwater tax as provided in  
19 subsection (i) of this Section; or (iii) the question of the  
20 adoption of a fee schedule with the same limit as the  
21 authorized stormwater tax has been approved in a referendum by  
22 a majority of those voting on the question.

23 (i) In the alternative, the ~~For the purpose of implementing~~  
24 ~~this Section and for the development, design, planning,~~  
25 ~~construction, operation, and maintenance of stormwater~~  
26 ~~facilities provided for in the stormwater management plan, a~~

1 county board ~~that has established a stormwater management~~  
2 ~~planning committee pursuant to this Section~~ may cause an annual  
3 tax of not to exceed 0.20% of the value, as equalized or  
4 assessed by the Department of Revenue, of all taxable property  
5 in the county to be levied upon all the taxable property in the  
6 county or occupation and use taxes of 1/10 of one cent. The  
7 property tax shall be in addition to all other taxes authorized  
8 by law to be levied and collected in the county and shall be in  
9 addition to the maximum tax rate authorized by law for general  
10 county purposes. The 0.20% limitation provided in this Section  
11 may be increased or decreased by referendum in accordance with  
12 the provisions of Sections 18-120, 18-125, and 18-130 of the  
13 Property Tax Code (35 ILCS 200/).

14 Any revenues generated as a result of ownership or  
15 operation of facilities or land acquired with the tax funds  
16 collected pursuant to this subsection shall be held in a  
17 separate fund and be used either to abate such property tax or  
18 for implementing this Section.

19 If a county adopts a fee schedule and has existing debt  
20 repayments to make, the remainder of that debt may be paid with  
21 proceeds from a tax imposed for stormwater management purposes.

22 However, the tax authorized by this subsection shall not be  
23 levied until the question of its adoption, either for a  
24 specified period or indefinitely, has been submitted to the  
25 electors thereof and approved by a majority of those voting on  
26 the question. This question may be submitted at any election



1 held in the county after the adoption of a resolution by the  
2 county board providing for the submission of the question to  
3 the electors of the county. The county board shall certify the  
4 resolution and proposition to the proper election officials,  
5 who shall submit the proposition at an election in accordance  
6 with the general election law. If a majority of the votes cast  
7 on the question is in favor of the levy of the tax, it may  
8 thereafter be levied in the county for the specified period or  
9 indefinitely, as provided in the proposition. The question  
10 shall be put in substantially the following form:

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

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

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

24           Votes shall be recorded as Yes or No.

25           (j) For those counties that adopt a property tax in  
26           accordance with the provisions in this Section, the stormwater

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

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

26 (l) Upon petition of the municipality, and based on a

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

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

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

23 (o) The powers and taxes authorized by this Section are in  
24 addition to the powers and taxes authorized by Division 5-15;  
25 in exercising its powers under this Section, a county shall not  
26 be subject to the restrictions and requirements of that

1 Division.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.