



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5900

Introduced 2/16/2012, 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 in the same manner as all earlier payments. Effective immediately.

LRB097 20410 KMW 65891 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. The total amount of the  
20 fees assessed must bear a reasonable relationship to the actual  
21 costs of the county in the preparation, administration, and  
22 implementation of the shall not exceed the cost of satisfying  
23 the onsite stormwater retention or detention requirements of  
24 the adopted stormwater management plan, construction and  
25 maintenance of stormwater facilities, and other activities  
26 related to the management of the runoff from the property. The

1 individual fees must be specifically and uniquely attributable  
2 to the portion of the actual cost to the county of managing the  
3 runoff from the property. The fees shall be used to finance  
4 activities undertaken by the county or its included  
5 municipalities to mitigate the effects of urban stormwater  
6 runoff by providing and maintaining ~~regional~~ stormwater  
7 collection, retention, ~~or~~ detention, and treatment facilities  
8 and improving water bodies impacted by stormwater runoff, as  
9 identified in the county plan. In establishing, maintaining, or  
10 replacing the facilities, the county shall not duplicate  
11 facilities operated by other governmental bodies within its  
12 corporate boundaries. The schedule of fees established by the  
13 county board shall include a procedure for a full or partial  
14 fee waiver for property owners who have taken actions or put in  
15 place facilities that reduce or eliminate the cost to the  
16 county of providing stormwater management services to their  
17 property, including but not limited to facilities that reduce  
18 the volume, temperature, velocity, and pollutant load of the  
19 stormwater managed by the county, such as systems that  
20 infiltrate, evapotranspire, or harvest stormwater for reuse,  
21 known as "green infrastructure". The county board may also  
22 offer tax or fee rebates or incentive payments to property  
23 owners who construct, maintain, and use approved green  
24 infrastructure stormwater management devices or any other  
25 methods that reduce or eliminate the cost to the county of  
26 providing stormwater management services to the property. In



1 exercising this authority, the county shall provide notice to  
2 the municipalities within their jurisdictions of any fees  
3 proposed under this Section and seek the input of each  
4 municipality with respect to the calculation of the fees. The  
5 county shall also give property owners at least 2 years' notice  
6 of the fee during which time the county shall provide education  
7 on green infrastructure practices and an opportunity to take  
8 action to reduce or eliminate the fee. All such fees collected  
9 by the county shall be held in a separate fund, and shall be  
10 expended only in the watershed within which they were  
11 collected. The county may enter into intergovernmental  
12 agreements with other government bodies for the joint  
13 administration of stormwater management and the collection of  
14 the fees authorized in this Section.

15 A fee schedule authorized by this subsection must have the  
16 same limit as the lesser of the 0.20% property value provided  
17 for in subsection (h) of this Section and the maximum tax  
18 currently allowable in the county under State law. The fee  
19 schedule shall not be adopted unless (i) at least part of the  
20 county has been declared by a presidential proclamation after  
21 July 1, 1986 and before December 31, 1987, to be a disaster  
22 area as a result of flooding; (ii) a referendum has been passed  
23 approving a stormwater tax as provided in subsection (h) of  
24 this Section; or (iii) the question of the adoption of a fee  
25 schedule with the same limit as the authorized stormwater tax  
26 has been approved in a referendum by a majority of those voting

1 on the question.

2 (h) In the alternative, the ~~For the purpose of implementing~~  
3 ~~this Section and for the development, design, planning,~~  
4 ~~construction, operation and maintenance of stormwater~~  
5 ~~facilities provided for in the stormwater management plan, a~~  
6 county board ~~that has established a stormwater management~~  
7 ~~planning committee pursuant to this Section~~ may cause an annual  
8 tax of not to exceed 0.20% of the value, as equalized or  
9 assessed by the Department of Revenue, of all taxable property  
10 in the county to be levied upon all the taxable property in the  
11 county. The tax shall be in addition to all other taxes  
12 authorized by law to be levied and collected in the county and  
13 shall be in addition to the maximum tax rate authorized by law  
14 for general county purposes. The 0.20% limitation provided in  
15 this Section may be increased or decreased by referendum in  
16 accordance with the provisions of Sections 18-120, 18-125, and  
17 18-130 of the Property Tax Code.

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

23 If a county adopts a fee schedule pursuant to this Section  
24 it may not also levy a tax under this subsection, except that  
25 if the county has existing debt repayments to make on a  
26 stormwater project, the remainder of that debt may be paid in

1 the same manner as all earlier payments.

2       However, unless at least part of the county has been  
3 declared after July 1, 1986 by presidential proclamation to be  
4 a disaster area as a result of flooding, the tax authorized by  
5 this subsection (h) shall not be levied until the question of  
6 its adoption, either for a specified period or indefinitely,  
7 has been submitted to the electors thereof and approved by a  
8 majority of those voting on the question. This question may be  
9 submitted at any election held in the county after the adoption  
10 of a resolution by the county board providing for the  
11 submission of the question to the electors of the county. The  
12 county board shall certify the resolution and proposition to  
13 the proper election officials, who shall submit the proposition  
14 at an election in accordance with the general election law. If  
15 a majority of the votes cast on the question is in favor of the  
16 levy of the tax, it may thereafter be levied in the county for  
17 the specified period or indefinitely, as provided in the  
18 proposition. The question shall be put in substantially the  
19 following form:

20 -----

21	Shall an annual tax be levied	
22	for stormwater management purposes	YES
23	(for a period of not more than	
24	..... years) at a rate not exceeding	-----
25	.....% of the equalized assessed	
26	value of the taxable property of	NO

1 ..... County?

2 -----

3 The following question may be submitted at any election  
4 held in the county after the adoption of a resolution by the  
5 county board providing for the submission of the question to  
6 the electors of the county to authorize adoption of a schedule  
7 of fees applicable to all real property within the county:

8 Shall the county board be authorized to adopt a  
9 schedule of fees, at a rate not exceeding that of the  
10 stormwater management tax, applicable to all real property  
11 for preparation, administration, and implementation of an  
12 adopted stormwater management plan, construction and  
13 maintenance of related facilities, and management of the  
14 runoff from the property?

15 Votes shall be recorded as Yes or No.

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

22 However, any active drainage district implementing a plan  
23 that is consistent with and at least as stringent as the county  
24 stormwater management plan may petition the stormwater  
25 management planning committee for exception from dissolution.  
26 Upon filing of the petition, the committee shall set a date for

1 hearing not less than 2 weeks, nor more than 4 weeks, from the  
2 filing thereof, and the committee shall give at least one  
3 week's notice of the hearing in one or more newspapers of  
4 general circulation within the district, and in addition shall  
5 cause a copy of the notice to be personally served upon each of  
6 the trustees of the district. At the hearing, the committee  
7 shall hear the district's petition and allow the district  
8 trustees and any interested parties an opportunity to present  
9 oral and written evidence. The committee shall render its  
10 decision upon the petition for exception from dissolution based  
11 upon the best interests of the residents of the district. In  
12 the event that the exception is not allowed, the district may  
13 file a petition within 30 days of the decision with the circuit  
14 court. In that case, the notice and hearing requirements for  
15 the court shall be the same as herein provided for the  
16 committee. The court shall likewise render its decision of  
17 whether to dissolve the district based upon the best interests  
18 of residents of the district.

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

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

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

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

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

1 that is consistent with and at least as stringent as the county  
2 plan and ordinance, and is being enforced by the municipal  
3 authorities.

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

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

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

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

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

2 (55 ILCS 5/5-1062.2)

3 Sec. 5-1062.2. Stormwater management.

4 (a) The purpose of this Section is to allow management and  
5 mitigation of the effects of urbanization on stormwater  
6 drainage in the metropolitan counties of Madison, St. Clair,  
7 Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone  
8 and references to "county" in this Section apply only to those  
9 counties, except that the counties of Champaign, Macon, McLean,  
10 Peoria, Rock Island, Sangamon, Tazewell, Vermilion, and  
11 Winnebago are authorized to adopt a schedule of fees as  
12 outlined in subsection (h) of this Section. This Section does  
13 not apply to any other counties in the State, including those  
14 located in the area served by the Northeastern Illinois  
15 Planning Commission that are granted authorities in Section  
16 5-1062. The purpose of this Section 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  
24 watershed plans.

25 (b) A stormwater management planning committee may be



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

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

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

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

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

24 (c) In the preparation of a stormwater management plan, a  
25 county stormwater management planning committee shall  
26 coordinate the planning process with each adjoining county to

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

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

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

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

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

25 The county board may enact the proposed plan by ordinance.  
26 If the proposals for modification of the plan made by an

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

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

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

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

1 management plan, construction and maintenance of stormwater  
2 facilities, and other activities related to the management of  
3 the runoff from the property. The individual fees must be  
4 specifically and uniquely attributable to the portion of the  
5 actual cost to the county of managing the runoff from the  
6 property. The fees shall be used to finance activities  
7 undertaken by the county or its included municipalities to  
8 mitigate the effects of urban stormwater runoff by providing  
9 and maintaining ~~regional~~ stormwater collection, retention, ~~or~~  
10 detention, and treatment facilities and improving water bodies  
11 impacted by stormwater runoff, as identified in the county  
12 plan. In establishing, maintaining, or replacing such  
13 facilities, the county shall not duplicate facilities operated  
14 by other governmental bodies within its corporate boundaries.  
15 The schedule of fees established by the county board shall  
16 include a procedure for a full or partial fee waiver for  
17 property owners who have taken actions or put in place  
18 facilities that reduce or eliminate the cost to the county of  
19 providing stormwater management services to their property,  
20 including but not limited to facilities that reduce the volume,  
21 temperature, velocity, and pollutant load of the stormwater  
22 managed by the county, such as systems that infiltrate,  
23 evapotranspire, or harvest stormwater for reuse, known as  
24 "green infrastructure". The county board may also offer tax or  
25 fee rebates or incentive payments to property owners who  
26 construct, maintain, and use approved green infrastructure

1 stormwater management devices or any other methods that reduce  
2 or eliminate the cost to the county of providing stormwater  
3 management services to the property. In exercising this  
4 authority, the county shall provide notice to the  
5 municipalities within their jurisdictions of any fees proposed  
6 under this Section and seek the input of each municipality with  
7 respect to the calculation of the fees. The county shall also  
8 give property owners at least 2 years' notice of the fee during  
9 which time the county shall provide education on green  
10 infrastructure practices and an opportunity to take action to  
11 reduce or eliminate the fee. ~~The county board shall provide for~~  
12 ~~a credit or reduction in fees for any onsite retention,~~  
13 ~~detention, drainage district assessments, or other similar~~  
14 ~~stormwater facility that the developer is required to construct~~  
15 ~~consistent with the stormwater management ordinance.~~ All these  
16 fees collected by the county shall be held in a separate fund,  
17 and shall be expended only in the watershed within which they  
18 were collected. The county may enter into intergovernmental  
19 agreements with other government bodies for the joint  
20 administration of stormwater management and the collection of  
21 the fees authorized in this Section.

22 A fee schedule authorized by this subsection must have the  
23 same limit as the lesser of the 0.20% property value provided  
24 for in subsection (i) of this Section and the maximum tax  
25 currently allowable in the county under State law. The fee  
26 schedule shall not be adopted unless (i) a referendum has been



1 passed approving a stormwater tax as provided in subsection (i)  
2 of this Section; or (ii) the question of the adoption of a fee  
3 schedule with the same limit as the authorized stormwater tax  
4 has been approved in a referendum by a majority of those voting  
5 on the question.

6 (i) In the alternative, the ~~For the purpose of implementing~~  
7 ~~this Section and for the development, design, planning,~~  
8 ~~construction, operation, and maintenance of stormwater~~  
9 ~~facilities provided for in the stormwater management plan, a~~  
10 county board ~~that has established a stormwater management~~  
11 ~~planning committee pursuant to this Section~~ may cause an annual  
12 tax of not to exceed 0.20% of the value, as equalized or  
13 assessed by the Department of Revenue, of all taxable property  
14 in the county to be levied upon all the taxable property in the  
15 county or occupation and use taxes of 1/10 of one cent. The  
16 property tax shall be in addition to all other taxes authorized  
17 by law to be levied and collected in the county and shall be in  
18 addition to the maximum tax rate authorized by law for general  
19 county purposes. The 0.20% limitation provided in this Section  
20 may be increased or decreased by referendum in accordance with  
21 the provisions of Sections 18-120, 18-125, and 18-130 of the  
22 Property Tax Code (35 ILCS 200/).

23 Any revenues generated as a result of ownership or  
24 operation of facilities or land acquired with the tax funds  
25 collected pursuant to this subsection shall be held in a  
26 separate fund and be used either to abate such property tax or

1 for implementing this Section.

2 If a county adopts a fee schedule pursuant to this Section  
3 it may not also levy a tax under this subsection, except that  
4 if that county has existing debt repayments to make on a  
5 stormwater project, the remainder of that debt may be paid in  
6 the same manner as all earlier payments.

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

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

26 Or this question may be submitted at any election held in the

1 county after the adoption of a resolution by the county board  
2 providing for the submission of the question to the electors of  
3 the county to authorize use and occupation taxes of 1/10 of one  
4 cent:

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

9           Votes shall be recorded as Yes or No.

10           The following question may be submitted at any election  
11 held in the county after the adoption of a resolution by the  
12 county board providing for the submission of the question to  
13 the electors of the county to authorize adoption of a schedule  
14 of fees applicable to all real property within the county:

15           Shall the county board be authorized to adopt a  
16 schedule of fees, at a rate not exceeding that of the  
17 stormwater management tax, applicable to all real property  
18 for preparation, administration, and implementation of an  
19 adopted stormwater management plan, construction and  
20 maintenance of related facilities, and management of the  
21 runoff from the property?

22           Votes shall be recorded as Yes or No.

23           (j) For those counties that adopt a property tax in  
24 accordance with the provisions in this Section, the stormwater  
25 management committee shall offer property tax abatements or  
26 incentive payments to property owners who construct, maintain,

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

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

24 (l) Upon petition of the municipality, and based on a  
25 finding of the stormwater management planning committee, the  
26 county shall not enforce rules and regulations adopted by the

1 county in any municipality located wholly or partly within the  
2 county that has a municipal stormwater management ordinance  
3 that is consistent with and at least as stringent as the county  
4 plan and ordinance, and is being enforced by the municipal  
5 authorities. On issues that the county ordinance is more  
6 stringent as deemed by the committee, the county shall only  
7 enforce rules and regulations adopted by the county on the more  
8 stringent issues and accept municipal permits. The county shall  
9 have no more than 60 days to review permits or the permits  
10 shall be deemed approved.

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

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

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

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

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