



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2460

Introduced 2/17/2015, by Rep. Ron Sandack

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062.3

Amends the Counties Code. Provides that DuPage County is no longer subject to a Section which allows management and mitigation of the effects of urbanization on stormwater drainage. Effective immediately.

LRB099 07199 AWJ 27293 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (55 ILCS 5/5-1062.3)

7 Sec. 5-1062.3. Stormwater management; ~~DuPage and Peoria~~
8 County Counties.

9 (a) The purpose of this Section is to allow management and
10 mitigation of the effects of urbanization on stormwater
11 drainage in the metropolitan county ~~counties~~ of ~~DuPage and~~
12 Peoria, and references to "county" in this Section applies
13 ~~apply~~ only to Peoria County ~~those counties~~. This Section does
14 not apply to a municipality that only partially lies within
15 Peoria County ~~one of these counties~~ and, on the effective date
16 of this amendatory Act of the 98th General Assembly, is served
17 by an existing Section in the Counties Code regarding
18 stormwater management. The purpose of this Section shall be
19 achieved by:

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

22 (2) setting minimum standards for floodplain and
23 stormwater management; and

1 (3) preparing a countywide plan for the management of
2 stormwater runoff, including the management of natural and
3 man-made drainageways. The countywide plan may incorporate
4 watershed plans.

5 (b) A stormwater management planning committee may be
6 established:

7 (1) by county board resolution, with its membership
8 consisting of equal numbers of county board and municipal
9 representatives from each county board district, and such
10 other members as may be determined by the county and
11 municipal members; ~~or. If the county has more than 6 county~~
12 ~~board districts, however, the~~

13 (2) by county board ~~may by~~ ordinance dividing ~~divide~~
14 the county into not less than 6 areas of approximately
15 equal population, ~~to be used instead of county board~~
16 ~~districts~~ for the purpose of determining representation on
17 the stormwater management planning committee.

18 The county board members shall be appointed by the chairman
19 of the county board. Municipal members from each county board
20 district or other represented area shall be appointed by a
21 majority vote of the mayors of those municipalities that have
22 the greatest percentage of their respective populations
23 residing in that county board district or other represented
24 area. All municipal and county board representatives shall be
25 entitled to a vote; the other members shall be nonvoting
26 members, unless authorized to vote by the unanimous consent of

1 the municipal and county board representatives. A municipality
2 that is located in more than one county may choose, at the time
3 of formation of the stormwater management planning committee
4 and based on watershed boundaries, to participate in the
5 stormwater management planning program of either county as long
6 as it is served by an existing Section in the Counties Code
7 regarding stormwater management. Subcommittees of the
8 stormwater management planning committee may be established to
9 serve a portion of the county or a particular drainage basin
10 that has similar stormwater management needs. The stormwater
11 management planning committee shall adopt bylaws, by a majority
12 vote of the county and municipal members, to govern the
13 functions of the committee and its subcommittees. Officers of
14 the committee shall include a chair and vice chair, one of whom
15 shall be a county representative and one a municipal
16 representative.

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

1 management plan and to landowners for the purposes of
2 stormwater management, including special projects; use of the
3 grant money must be consistent with the stormwater management
4 plan.

5 The committee shall not have or exercise any power of
6 eminent domain.

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

17 (d) The stormwater management committee may not enforce any
18 rules or regulations that would interfere with (i) any power
19 granted by the Illinois Drainage Code (70 ILCS 605/) to
20 operate, construct, maintain, or improve drainage systems or
21 (ii) the ability to operate, maintain, or improve the drainage
22 systems used on or by land or a facility used for production
23 agriculture purposes, as defined in the Use Tax Act (35 ILCS
24 105/), except newly constructed buildings and newly installed
25 impervious paved surfaces. Disputes regarding an exception
26 shall be determined by a mutually agreed upon arbitrator paid

1 by the disputing party or parties.

2 (e) Before the stormwater management planning committee
3 recommends to the county board a stormwater management plan for
4 the county or a portion thereof, it shall submit the plan to
5 the Office of Water Resources of the Department of Natural
6 Resources for review and recommendations. The Office, in
7 reviewing the plan, shall consider such factors as impacts on
8 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 for
16 review.

17 (f) 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 and no less than 15 days in advance of the hearing in a
23 newspaper of general circulation published in the county. The
24 notice shall state the time and place of the hearing and the
25 place where copies of the proposed plan will be accessible for
26 examination by interested parties. If an affected municipality

1 having a stormwater management plan adopted by ordinance wishes
2 to protest the proposed county plan provisions, it shall appear
3 at 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 (g) 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 Land, facilities, and drainage district facilities used for
4 production agriculture as defined in subsection (d) shall not
5 be subjected to regulation by the county board or stormwater
6 management committee under this Section for floodplain
7 management and for governing location, width, course,
8 maintenance, and release rate of stormwater runoff channels,
9 streams and basins, or water discharged from a drainage
10 district. These rules and regulations shall, at a minimum, meet
11 the standards for floodplain management established by the
12 Office of Water Resources and the requirements of the Federal
13 Emergency Management Agency for participation in the National
14 Flood Insurance Program. ~~With respect to DuPage County only,~~
15 ~~the Chicago Metropolitan Agency for Planning may not impose~~
16 ~~more stringent regulations regarding water quality on entities~~
17 ~~discharging in accordance with a valid National Pollution~~
18 ~~Discharge Elimination System permit issued under the~~
19 ~~Environmental Protection Act.~~

20 (h) For the purpose of implementing this Section and for
21 the development, design, planning, construction, operation,
22 and maintenance of stormwater facilities provided for in the
23 adopted stormwater management plan, a county board that has
24 established a stormwater management planning committee
25 pursuant to this Section or has participated in a stormwater
26 management planning process may adopt a schedule of fees

1 applicable to all real property within the county which
2 benefits from the county's stormwater management facilities
3 and activities, and as may be necessary to mitigate the effects
4 of increased stormwater runoff resulting from development. The
5 total amount of the fees assessed must be specifically and
6 uniquely attributable to the actual costs of the county in the
7 preparation, administration, and implementation of the adopted
8 stormwater management plan, construction and maintenance of
9 stormwater facilities, and other activities related to the
10 management of the runoff from the property. The individual fees
11 must be specifically and uniquely attributable to the portion
12 of the actual cost to the county of managing the runoff from
13 the property. The fees shall be used to finance activities
14 undertaken by the county or its included municipalities to
15 mitigate the effects of urban stormwater runoff by providing
16 and maintaining stormwater collection, retention, detention,
17 and particulate treatment facilities, and improving water
18 bodies impacted by stormwater runoff, as identified in the
19 county plan. In establishing, maintaining, or replacing such
20 facilities, the county shall not duplicate facilities operated
21 by other governmental bodies within its corporate boundaries.
22 The schedule of fees established by the county board shall
23 include a procedure for a full or partial fee waiver for
24 property owners who have taken actions or put in place
25 facilities that reduce or eliminate the cost to the county of
26 providing stormwater management services to their property.

1 The county board may also offer tax or fee rebates or incentive
2 payments to property owners who construct, maintain, and use
3 approved green infrastructure stormwater management devices or
4 any other methods that reduce or eliminate the cost to the
5 county of providing stormwater management services to the
6 property, including but not limited to facilities that reduce
7 the volume, temperature, velocity, and pollutant load of the
8 stormwater managed by the county, such as systems that
9 infiltrate, evapotranspire, or harvest stormwater for reuse,
10 known as "green infrastructure". In exercising this authority,
11 the county shall provide notice to the municipalities within
12 its jurisdiction of any fees proposed under this Section and
13 seek the input of each municipality with respect to the
14 calculation of the fees. The county shall also give property
15 owners at least 2 years' notice of the fee, during which time
16 the county shall provide education on green infrastructure
17 practices and an opportunity to take action to reduce or
18 eliminate the fee. All these fees collected by the county shall
19 be held in a separate fund, and shall be expended only in the
20 watershed within which they were collected. The county may
21 enter into intergovernmental agreements with other government
22 bodies for the joint administration of stormwater management
23 and the collection of the fees authorized in this Section.

24 A fee schedule authorized by this subsection must have the
25 same limit as the authorized stormwater tax. ~~The In Peoria~~
26 ~~County only,~~ the fee schedule shall not be adopted unless (i) a

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

6 (i) In the alternative to a fee imposed under subsection
7 (h), the county board may cause an annual tax of not to exceed
8 0.20% of the value, as equalized or assessed by the Department
9 of Revenue, of all taxable property in the county to be levied
10 upon all the taxable property in the county. The property tax
11 shall be in addition to all other taxes authorized by law to be
12 levied and collected in the county and shall be in addition to
13 the maximum tax rate authorized by law for general county
14 purposes. The 0.20% limitation provided in this Section may be
15 increased or decreased by referendum in accordance with the
16 provisions of Sections 18-120, 18-125, and 18-130 of the
17 Property Tax Code (35 ILCS 200/).

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 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 at least part of the county has been declared by a
24 presidential proclamation after July 1, 1986 and before
25 December 31, 1987, to be a disaster area as a result of
26 flooding, the tax authorized by this subsection does not

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

17 Shall an annual tax be levied for stormwater management
18 purposes (for a period of not more than years) at a
19 rate not exceeding% of the equalized assessed value
20 of the taxable property of Peoria ~~.....~~ County?

21 Votes shall be recorded as Yes or No.

22 The following question may be submitted at any election
23 held in the county after the adoption of a resolution by the
24 county board providing for the submission of the question to
25 the electors of the county to authorize adoption of a schedule
26 of fees applicable to all real property within the county:

1 Shall the county board be authorized to adopt a
2 schedule of fees, at a rate not exceeding that of the
3 stormwater management tax, applicable to all real property
4 for preparation, administration, and implementation of an
5 adopted stormwater management plan, construction and
6 maintenance of related facilities, and management of the
7 runoff from the property?

8 Votes shall be recorded as Yes or No.

9 If these questions have been approved by a majority of
10 those voting prior to the effective date of this amendatory Act
11 of the 98th General Assembly, this subsection does not apply.

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

25 (k) Upon the creation and implementation of a county
26 stormwater management plan, the county may petition the circuit

1 court to dissolve any or all drainage districts created
2 pursuant to the Illinois Drainage Code or predecessor Acts
3 which are located entirely within the area of the county
4 covered by the plan.

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

1 of residents of the district.

2 The dissolution of any drainage district shall not affect
3 the obligation of any bonds issued or contracts entered into by
4 the district nor invalidate the levy, extension or collection
5 of any taxes or special assessments upon the property in the
6 former drainage district. All property and obligations of the
7 former drainage district shall be assumed and managed by the
8 county, and the debts of the former drainage district shall be
9 discharged as soon as practicable.

10 If a drainage district lies only partly within a county
11 that adopts a county stormwater management plan, the county may
12 petition the circuit court to disconnect from the drainage
13 district that portion of the district that lies within that
14 county. The property of the drainage district within the
15 disconnected area shall be assumed and managed by the county.
16 The county shall also assume a portion of the drainage
17 district's debt at the time of disconnection, based on the
18 portion of the value of the taxable property of the drainage
19 district which is located within the area being disconnected.

20 The operations of any drainage district that continues to
21 exist in a county that has adopted a stormwater management plan
22 in accordance with this Section shall be in accordance with the
23 adopted plan.

24 (1) A ~~Any~~ county that has adopted a county stormwater
25 management plan under this Section may, after 10 days ~~days~~
26 written notice receiving consent of the owner or occupant,

1 enter upon any lands or waters within the county for the
2 purpose of inspecting stormwater facilities or causing the
3 removal of any obstruction to an affected watercourse. If
4 consent is denied or cannot be reasonably obtained, the county
5 ordinance shall provide a process or procedure for an
6 administrative warrant to be obtained. The county shall be
7 responsible for any damages occasioned thereby.

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

22 (n) A county may issue general obligation bonds for
23 implementing any stormwater plan adopted under this Section in
24 the manner prescribed in Section 5-1012; except that the
25 referendum requirement of Section 5-1012 does not apply to
26 bonds issued pursuant to this Section on which the principal

1 and interest are to be paid entirely out of funds generated by
2 the taxes and fees authorized by this Section.

3 (o) A county that has adopted a fee schedule pursuant to
4 this Section may not thereafter issue any bond extensions
5 related to implementing a stormwater management plan.

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

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

14 (r) Stormwater management projects and actions related to
15 stormwater management in a county that has adopted a fee
16 schedule or tax pursuant to this Section prior to the effective
17 date of this amendatory Act of the 98th General Assembly are
18 not altered by this amendatory Act of the 98th General
19 Assembly.

20 (Source: P.A. 98-335, eff. 8-13-13; 98-756, eff. 7-16-14.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.