

1 AN ACT concerning stormwater management.

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 Section 5-1062 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  
9 and mitigation of the effects of urbanization on stormwater  
10 drainage in Madison County, St. Clair County, and Monroe  
11 County and in metropolitan counties located in the area  
12 served by the Northeastern Illinois Planning Commission, and  
13 references to "county" in this Section shall apply only to  
14 those counties. This Section shall not apply to any county  
15 with a population in excess of 1,500,000, except as provided  
16 in subsection (c). The purpose of this Section shall be  
17 achieved by:

- 18 (1) consolidating the existing stormwater
- 19 management framework into a united, countywide structure;
- 20 (2) setting minimum standards for floodplain and
- 21 stormwater management; and
- 22 (3) preparing a countywide plan for the management
- 23 of stormwater runoff, including the management of natural
- 24 and man-made drainageways. The countywide plan may
- 25 incorporate watershed plans.

26 (b) A stormwater management planning committee shall be  
27 established by county board resolution, with its membership  
28 consisting of equal numbers of county board and municipal  
29 representatives from each county board district, and such  
30 other members as may be determined by the county and  
31 municipal members. However, if the county has more than 6

1 county board districts, the county board may by ordinance  
2 divide the county into not less than 6 areas of approximately  
3 equal population, to be used instead of county board  
4 districts for the purpose of determining representation on  
5 the stormwater management planning committee.

6 The county board members shall be appointed by the  
7 chairman of the county board. Municipal members from each  
8 county board district or other represented area shall be  
9 appointed by a majority vote of the mayors of those  
10 municipalities which have the greatest percentage of their  
11 respective populations residing in such county board district  
12 or other represented area. All municipal and county board  
13 representatives shall be entitled to a vote; the other  
14 members shall be nonvoting members, unless authorized to vote  
15 by the unanimous consent of the municipal and county board  
16 representatives. A municipality that is located in more than  
17 one county may choose, at the time of formation of the  
18 stormwater management planning committee and based on  
19 watershed boundaries, to participate in the stormwater  
20 management planning program of either or both of the  
21 counties. Subcommittees of the stormwater management planning  
22 committee may be established to serve a portion of the county  
23 or a particular drainage basin that has similar stormwater  
24 management needs. The stormwater management planning  
25 committee shall adopt by-laws, by a majority vote of the  
26 county and municipal members, to govern the functions of the  
27 committee and its subcommittees. Officers of the committee  
28 shall include a chair and vice chair, one of whom shall be a  
29 county representative and one a municipal representative.

30 The principal duties of the committee shall be to develop  
31 a stormwater management plan for presentation to and approval  
32 by the county board, and to direct the plan's implementation  
33 and revision. The committee may retain engineering, legal and  
34 financial advisors and inspection personnel. The committee

1 shall meet at least quarterly and shall hold at least one  
2 public meeting during the preparation of the plan and prior  
3 to its submittal to the county board.

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

14 (d) Before the stormwater management planning committee  
15 recommends to the county board a stormwater management plan  
16 for the county or a portion thereof, it shall submit the plan  
17 to the Office of Water Resources of the Department of Natural  
18 Resources and, if the plan is for a county or a portion of a  
19 county in the area served by the Northeastern Illinois  
20 Planning Commission, to the Northeastern Illinois Planning  
21 Commission for review and recommendations. The Office, and  
22 the Commission, or both, in reviewing the plan, shall  
23 consider such factors as impacts on the levels or flows in  
24 rivers and streams and the cumulative effects of stormwater  
25 discharges on flood levels. The Office of Water Resources  
26 shall determine whether the plan or ordinances enacted to  
27 implement the plan complies with the requirements of  
28 subsection (f). Within a period not to exceed 60 days, the  
29 review comments and recommendations shall be submitted to the  
30 stormwater management planning committee for consideration.  
31 Any amendments to the plan shall be submitted to the Office  
32 and, if the plan is for a county in the area served by the  
33 Northeastern Illinois Planning Commission, the Commission for  
34 review.

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

18 The county board may enact the proposed plan by  
19 ordinance. If the proposals for modification of the plan  
20 made by an affected municipality having a stormwater  
21 management plan are not included in the proposed county plan,  
22 and the municipality affected by the plan opposes adoption of  
23 the county plan by resolution of its corporate authorities,  
24 approval of the county plan shall require an affirmative vote  
25 of at least two-thirds of the county board members present  
26 and voting. If the county board wishes to amend the county  
27 plan, it shall submit in writing specific proposals to the  
28 stormwater management planning committee. If the proposals  
29 are not approved by the committee, or are opposed by  
30 resolution of the corporate authorities of an affected  
31 municipality having a municipal stormwater management plan,  
32 amendment of the plan shall require an affirmative vote of at  
33 least two-thirds of the county board members present and  
34 voting.

1 (f) The county board may prescribe by ordinance  
2 reasonable rules and regulations for floodplain management  
3 and for governing the location, width, course and release  
4 rate of all stormwater runoff channels, streams and basins in  
5 the county, in accordance with the adopted stormwater  
6 management plan. These rules and regulations shall, at a  
7 minimum, meet the standards for floodplain management  
8 established by the Office of Water Resources and the  
9 requirements of the Federal Emergency Management Agency for  
10 participation in the National Flood Insurance Program.

11 (g) In accordance with, and if recommended in, the  
12 adopted stormwater management plan, the county board may  
13 adopt a schedule of fees as may be necessary to mitigate the  
14 effects of increased stormwater runoff resulting from new  
15 development. The fees shall not exceed the cost of  
16 satisfying the onsite stormwater retention or detention  
17 requirements of the adopted stormwater management plan. The  
18 fees shall be used to finance activities undertaken by the  
19 county or its included municipalities to mitigate the effects  
20 of urban stormwater runoff by providing regional stormwater  
21 retention or detention facilities, as identified in the  
22 county plan. All such fees collected by the county shall be  
23 held in a separate fund, and shall be expended only in the  
24 watershed within which they were collected.

25 (h) For the purpose of implementing this Section and for  
26 the development, design, planning, construction, operation  
27 and maintenance of stormwater facilities provided for in the  
28 stormwater management plan, a county board that has  
29 established a stormwater management planning committee  
30 pursuant to this Section may cause an annual tax of not to  
31 exceed 0.20% of the value, as equalized or assessed by the  
32 Department of Revenue, of all taxable property in the county  
33 to be levied upon all the taxable property in the county.  
34 The tax shall be in addition to all other taxes authorized by

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

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

12 However, unless at least part of the county has been  
 13 declared after July 1, 1986 by presidential proclamation to  
 14 be a disaster area as a result of flooding and is located in  
 15 the area served the the Northeastern Illinois Planning  
 16 Commission, the tax authorized by this subsection (h) shall  
 17 not be levied until the question of its adoption, either for  
 18 a specified period or indefinitely, has been submitted to the  
 19 electors thereof and approved by a majority of those voting  
 20 on the question. This question may be submitted at any  
 21 election held in the county after the adoption of a  
 22 resolution by the county board providing for the submission  
 23 of the question to the electors of the county. The county  
 24 board shall certify the resolution and proposition to the  
 25 proper election officials, who shall submit the proposition  
 26 at an election in accordance with the general election law.  
 27 If a majority of the votes cast on the question is in favor  
 28 of the levy of the tax, it may thereafter be levied in the  
 29 county for the specified period or indefinitely, as provided  
 30 in the proposition. The question shall be put in  
 31 substantially the following form:

32 -----

33 Shall an annual tax be levied  
 34 for stormwater management purposes YES

1 (for a period of not more than  
 2 ..... years) at a rate not exceeding -----  
 3 .....% of the equalized assessed  
 4 value of the taxable property of NO  
 5 ..... County?  
 6 -----

7 (i) Upon the creation and implementation of a county  
 8 stormwater management plan, the county may petition the  
 9 circuit court to dissolve any or all drainage districts  
 10 created pursuant to the Illinois Drainage Code or predecessor  
 11 Acts which are located entirely within the area of the county  
 12 covered by the plan.

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

1 dissolve the district based upon the best interests of  
2 residents of the district.

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

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

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

26 (j) Any county that has adopted a county stormwater  
27 management plan under this Section may, after 10 days written  
28 notice to the owner or occupant, enter upon any lands or  
29 waters within the county for the purpose of inspecting  
30 stormwater facilities or causing the removal of any  
31 obstruction to an affected watercourse. The county shall be  
32 responsible for any damages occasioned thereby.

33 (k) Upon petition of the municipality, and based on a  
34 finding of the stormwater management planning committee, the



1 county shall not enforce rules and regulations adopted by the  
2 county in any municipality located wholly or partly within  
3 the county that has a municipal stormwater management  
4 ordinance that is consistent with and at least as stringent  
5 as the county plan and ordinance, and is being enforced by  
6 the municipal authorities.

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

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

17 (n) The powers and taxes authorized by this Section are  
18 in addition to the powers and taxes authorized by Division  
19 5-15; in exercising its powers under this Section, a county  
20 shall not be subject to the restrictions and requirements of  
21 that Division.

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

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

31 Section 99. Effective date. This Act takes effect upon  
32 becoming law.