

Proposed Amendments to Illinois Compiled Statutes

1. Amendment to Illinois Counties Code, Section 55 ILCS 5/5-1062

Sec. 5-1062. Stormwater management.

(a) The purpose of this Section is to allow management and mitigation of the effects of urbanization on stormwater drainage in **metropolitan counties located in the area served by the Northeastern Illinois Planning Commission**, and references to "county" in this Section shall apply only to those counties. This Section shall not apply to any county with a population in excess of 1,500,000, except as provided in subsection (c). The purpose of this Section shall be achieved by:

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

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(g) In accordance with, ~~and if recommended in,~~ the adopted stormwater management plan, the county board may adopt a schedule of fees **applicable to all real property within the county which receives benefit from the county's stormwater management facilities and services, and** as may be necessary to mitigate the effects of increased stormwater runoff resulting from new development **and redevelopment**. The **total amount of the fees must bear a reasonable relationship to the actual costs of the county in the administration and implementation of the** ~~shall not exceed the cost of satisfying the onsite stormwater retention or detention requirements of the adopted stormwater management plan~~ **and the enforcement of any ordinance(s) adopted pursuant thereto, and the individual fees must bear a reasonable relationship to the portion of the cost to the county of managing the runoff from the property**. The fees shall be used to finance activities undertaken by the county or its included municipalities to mitigate the effects of urban stormwater runoff by providing **and maintaining regional stormwater collection, retention, or detention and treatment facilities and improving water bodies impacted by stormwater runoff**, as identified in the county plan. **In establishing, maintaining or replacing such facilities, the county shall not duplicate facilities operated by other governmental bodies. The schedule of fees established by the county board shall include a procedure for a full or partial fee waiver for property owners who have taken actions or put in place facilities that reduce or eliminate the cost to the county of managing the runoff from their property, with a preference for facilities that reduce the volume, temperature, velocity and pollutant load of the stormwater managed by the county, such as systems that infiltrate, evapotranspire or harvest stormwater for reuse, known as "green infrastructure."** All such fees collected by the county shall be held in a separate fund, and shall be expended only in the watershed within which they were collected. **The county may enter into intergovernmental agreements with other government bodies for the joint administration of stormwater management and the collection of the fees authorized in this section.**

2. Amendment to Illinois Counties Code, Section 55 ILCS 5/5-1062.2

Sec. 5-1062.2. Stormwater management.

(a) The purpose of this Section is to allow management and mitigation of the effects of urbanization on stormwater **drainage in the metropolitan counties of Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone** and references to "county" in this Section apply only to those counties, **except that any county that is subject to the Illinois General NPDES Permit No. ILR40 (stormwater permit) is authorized to adopt a schedule of fees as outlined in subsection (h) of this Section.** This Section does not apply to **any other** counties in the **State, including those in the** Northeastern Illinois Planning Commission that are granted authorities in Section 5-1062.

The purpose of this Section shall be achieved by:

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

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

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

...

(h) In accordance with, ~~and if recommended in,~~ the adopted stormwater management plan, the county board may adopt a schedule of fees **applicable to all real property within the county which receives benefit from the county's stormwater management facilities and services, and** as may be necessary to mitigate the effects of increased stormwater runoff resulting from new development based on actual costs. The **total amount of the fees must bear a reasonable relationship to the actual costs of the county in the administration and implementation of the** ~~shall not exceed the cost of satisfying the onsite stormwater retention or detention requirements of the adopted stormwater management plan~~ **and the enforcement of any ordinance(s) adopted pursuant thereto, and the individual fees must bear a reasonable relationship to the portion of the cost to the county of managing the runoff from the property.** The fees shall be used to finance activities undertaken by the county or its included municipalities to mitigate the effects of urban stormwater runoff by providing **and maintaining regional stormwater collection, retention, or detention and treatment facilities and improving water bodies impacted by stormwater runoff,** as identified in the county plan. **In establishing, maintaining or replacing such facilities, the county shall not duplicate facilities operated by other governmental bodies. The schedule of fees established by the county board shall include a procedure for a full or partial fee waiver for property owners who have taken actions or put in place facilities that reduce or eliminate the cost to the county of providing stormwater management services to their property, with a preference for facilities that reduce the volume, temperature, velocity and pollutant load of the stormwater managed by the county, such as systems that infiltrate, evapotranspire or harvest stormwater for reuse, known as "green infrastructure."** ~~The county board shall provide for a credit or reduction in fees for any onsite retention, detention, drainage district assessments, or other similar stormwater facility that the developer is required to construct consistent with the stormwater management ordinance.~~ All these fees collected by the county shall be held in a separate fund, and shall be

expended only in the watershed within which they were collected. **The county may enter into intergovernmental agreements with other government bodies for the joint administration of stormwater management and the collection of the fees authorized in this section.**

These amendments will accomplish the following:

1. Provide specific statutory authority, but not a requirement, for counties to adopt fees for stormwater management which do not rely on the establishment of stormwater utilities and are not limited to new development or redevelopment.

If they exercise this authority, counties can establish a dedicated stream of revenue to maintain their stormwater infrastructure independent of the fluctuations in tax revenue in any given year. In addition, counties may base the fee on parameters that reflect the impact of different types of land use on the local hydrology and stormwater infrastructure, which is a more equitable approach than using the property tax base or sales tax revenue.

2. Avoid the argument that the fee is a tax by requiring a fee credit system for the installation of facilities on site that reduce the volume, velocity, temperature and pollutant load of the stormwater runoff, thereby allowing landowners to reduce or eliminate their fees. The provision also encourages the use of green infrastructure to earn the credits, which can provide multiple benefits to the community, including improved water quality, improved air quality, increased groundwater recharge, increased recreational space and wildlife habitat, energy savings, carbon sequestration and increased land values.

3. Ensure that the fees may cover the administration, implementation and enforcement of programs to manage stormwater runoff and the construction, operation and maintenance of facilities that collect, retain, detain and treat stormwater.

4. Establish a flexible but defensible “reasonable relationship” between the actual costs incurred by counties and the amount of the fees, recognizing the fact that costs vary from year to year and a county should be allowed to accumulate some reserve funds for future work.

5. Place these amendments in two statutory sections that cover major urban and urbanizing areas of the state, in order to create a broad authority for the establishment of urban stormwater fee programs.

6. Ensure that counties do not duplicate municipal programs, but allow for the establishment of intergovernmental partnerships with regard to stormwater management and fee collection.

7. Avoid the requirement of a referendum for the issuance of general obligation bonds for implementing the stormwater program.