

STORMWATER MANAGEMENT:

What you should know about local authority



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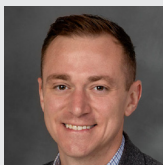


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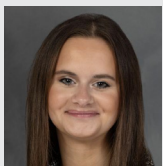


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Our Mission

To improve county Farm Bureau® influence in local government issues and advance county Farm Bureau leaders' awareness, capability, and involvement in local government through information and assistance in understanding and planning on local government issues.

Call to Action

We encourage you to share LINK with county Farm Bureau leadership and membership.

We invite you to share this publication with your local officials. This information may be a LINK to their success.

Upcoming Dates & Events

October 13:

County Resolution Submittal Deadline

November 5:

Statewide Resolutions Committee Meeting

November 17-19:

Illinois Association of County Officials (IACO) Fall Conference:

<https://iaco.memberclicks.net/fall-conference>

December 6-9:

IAA® Annual Meeting



Questions Come Flooding in on Stormwater Management Authority

Large rain events are becoming more frequent. In fact, some areas of our state were impacted by a very wet and rainy planting season this year. Other areas are seeing urban growth with large commercial and industrial development, setting up the perfect storm for flooding and water flow issues. As these scenarios play out, we are getting more questions regarding local authority to manage stormwater. In this edition of LINK, we'll dig into that authority, its progression over time and the pros and cons of adoption.

Counties or municipalities adopt stormwater management authority for the purposes of:

- Managing the flow of water over impervious surfaces such as streets, parking lots and roofs, and directing it into storm drains, pipes, or natural drainage systems.
- Reducing peak flow rates and allowing pollutants to settle out by temporarily holding stormwater in ponds and reservoirs.
- Filtering pollutants from stormwater before it enters waterways with practices such as detention basins.
- Reducing the risk of flooding by managing the volume and rate of water flow.

Stormwater management reduces flood risks by capturing, storing and slowly releasing rainwater and snowmelt, preventing it from overwhelming drainage systems and flooding in urban and residential areas and around the fringes of rural communities.

In these areas, where development happens, water flow can be increased because it cannot penetrate impervious surfaces leading to a faster rate of water flow. Stormwater management practices can slow that runoff and allow it more time to soak in.

Stormwater management practices that remove stormwater quickly, often into waterways, are referred to as "gray infrastructure." They are often considered more traditional, manufactured systems designed to collect and carry stormwater runoff. Examples include pipes, curbs, gutters, storm drains and detention/retention basins. These systems are designed to quickly remove stormwater to help prevent flooding.

A more nature-based practice for stormwater management also exists – known as Green Stormwater Infrastructure (GSI). These use natural systems and practices that imitate natural water cycles that reduce runoff volume. Examples include rain gardens, tree planting, stormwater planters, swales, porous pavements and green roofs.

In Illinois, agriculture is generally exempt from some stormwater management regulations, particularly concerning land used primarily for agricultural activities. However, there are exceptions, especially regarding new construction or alterations to topography on agricultural land. Learn more about the impact on agriculture on page 9.

Green Infrastructure Grants Available through IEPA

On August 5, the Illinois Environmental Protection Agency (IEPA) announced that \$5 million in grant funding is available through the Green Infrastructure Grant Opportunity (GIGO).

This funding may be used to construct green infrastructure that prevents, eliminates, or reduces stormwater runoff prior to release into rivers, streams and lakes. For the purposes of the grant program, green infrastructure includes any stormwater management technique or practice that preserves, restores, mimics or enhances natural hydrology.

Eligible applicants include local watershed groups, land conservancies or trusts, public and private profit

and nonprofit organizations and institutions, units of government, universities and colleges, park districts and other local land managing agencies, soil and water conservation districts, and conservation organizations.

The program provides up to 75% of the approved project costs with the remaining 25% being the responsibility of the grantee.

Applications will be accepted until 1:00 p.m. on November 5, 2025.

More information about the GIGO program is available through [IEPA's website](#).

The Ebb and Flow of Stormwater Management Authority: How Illinois Counties Gained Control Over Stormwater

Stormwater Management Authority Builds Across the State Over Time

In previous issues of LINK, we introduced the concept of county stormwater management authority and its relevance for counties throughout Illinois. In this issue, we explore how that authority came to exist—and the varying powers it grants depending on how and when a county was given the authority to adopt it.

Understanding the Evolution of Stormwater Authority

Illinois law has developed stormwater management authority for counties in five distinct stages, each granting a specific set of powers. Let's walk through how this authority expanded over time and what it means for counties today.

Stage 1: Cook County (1970)

Cook County was the first to obtain stormwater management authority, but not by legislation. Instead, its Home Rule status—granted by the 1970 Illinois Constitution—enabled it to independently adopt such powers. Because of this broad constitutional authority, Cook County enjoys nearly unlimited stormwater powers. These are not addressed in detail here due to their unique nature.

Stage 2: The NIPC Counties (Mid-1990s)

The second stage came with statutory authorization in the mid-1990s. This law applied to counties within the jurisdiction of the now-defunct Northeastern Illinois Planning Commission (NIPC): Cook, DuPage, Kane, Lake, McHenry, and Will.

These counties gained the authority to:

- Develop stormwater management plans
- Implement regulations
- Levy associated fees and taxes

Stage 3: Downstate Expansion (2005)

In 2005, the legislature extended stormwater authority to nine additional downstate counties (**Group of Nine**): Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone.

However, the legislation sparked controversy, especially with drainage districts, which resisted efforts to dissolve or override their authority under the new county systems.

Stage 4: DuPage and Peoria Special Provisions (2013)

In 2013, DuPage and Peoria Counties were singled out for special treatment through a unique statutory section. This provision created a hybrid approach to stormwater authority, giving each county a distinct blend of powers.

**Note: DuPage County shows up twice in this listing. It was first included under the CMAP (formerly NIPC) language, then later—in 2013—it joined Peoria County in statutory language singling out those two counties.*

Stage 5: CMAP Update and Full-State Coverage (2018–2019)

The most recent major change came via 2018 legislation, effective in 2019. This law:

- Replaced all references to NIPC with its successor, the Chicago Metropolitan Agency for Planning (CMAP).
- Updated the affected counties list to reflect CMAP's jurisdiction: DuPage, Kane, Kendall, Lake, McHenry, and Will (in addition to Cook).

It also expanded eligibility for stormwater authority statewide by introducing two new pathways:

1. Counties in urbanized areas (as defined then by the U.S. Census) may adopt stormwater authority by county ordinance.
2. All remaining counties may adopt stormwater authority only by public referendum.

*** Note: Kendall County shows up twice. It was first awarded stormwater authority through the 2005 legislation. It later was added to the Chicago area listing of counties when the statute's reference to NIPC was dropped in favor of the more-expansive CMAP.*

Where We Are Today

As of 2019, all 102 Illinois counties have at least one pathway to adopt stormwater management authority. While the core authority to regulate stormwater and raise revenue (via fees or taxes) is now available statewide, the details and powers differ by stage of adoption.

Each of the five legislative stages created distinct rules for implementation—some uniform, some highly specific. Shared powers among counties will be outlined in detail on page 7 of this publication.

If your county has adopted stormwater management authority, please let IFB know by emailing Brenda Matherly at bmatherly@ilfb.org.

Illinois Farm Bureau State Policy on Drainage and Stormwater Management

We support:

1. Requiring money collected for stormwater management be used exclusively for control of runoff in the watershed where it was collected, not in an unrelated watershed.
2. Representation on any county stormwater management commission to have mandated broad-based makeup, including municipal, engineering, agricultural, industrial, commercial, and homeowner voting members.
3. Requiring municipalities to integrate stormwater management control structures and plans into any new or existing development.
4. The use of tax credits, abatements, or incentive payments to property owners who construct, maintain, and use approved stormwater management devices (e.g., catch ponds, lagoons, holding basins, terraces, contour farming, pasture land, timberland).
5. Efforts requiring that new commercial and residential developments be planned for anticipated runoff and constructed with the structures necessary to control it.
6. Encouraging local governmental units to unite to solve stormwater problems stemming from impervious surfaces in watersheds within their jurisdictions so long as the power and authority of drainage districts are not forcibly usurped or diminished. For purposes of stormwater management, farmland would not be considered an impervious surface.
7. Efforts to amend the Soil and Water Conservation District Act to expand the role of the Soil and Water Conservation Districts to address urban wetland and stormwater management problems. The Soil and Water Conservation

Districts should make every effort to coordinate and cooperate with other organizations and agencies within the district to achieve these goals.

8. Amendments to the enabling legislation of stormwater management agencies that would explicitly exempt agricultural land and practices.
9. Reducing the amount of taxes and fees assessed against property for stormwater management purposes by the amount of taxes and fees assessed against that property by a drainage district.

We oppose:

1. Granting any stormwater management authority the power to regulate farmland drainage.
2. The establishment of a county stormwater runoff management planning commission without voter approval.
3. The use of eminent domain by a stormwater commission except for specific and immediate use for stormwater runoff control.
4. The involuntary dissolution of agricultural drainage districts and their administration and taxing levy being assumed by the county stormwater commission.
5. Any efforts to require agriculture to pay for more than its fair share of any taxing plan or any effort to force agricultural lands to receive excessive and unobstructed runoff caused by upstream development that lacks reasonable stormwater management structures.



Navigating County Stormwater Authority

With the most recent Stormwater Authority Law in 2019, all Illinois counties now have access to stormwater regulatory powers. The state legislature doled out additional powers to specific sets of counties over the decades—largely based on population size—and in some cases to individual counties. This has resulted in non-uniform sets of powers available to counties across the state.

To see which groups of counties have access to the non-uniform powers, refer to the chart on page 7.

To be able to exercise these powers, the county must first adopt this authority. For about a quarter of Illinois counties, this requires only the passage of an ordinance by the county board. For the other counties—generally, those with lower populations—the board must first put the question to referendum and gain voter approval.

In broad terms, counties may regulate drainage within the county, but must respect drainage powers exercised by municipalities, so long as the municipal regulations are at least as stringent as those required by the county.

Land used for production agriculture is not subject to regulation by county stormwater authority that would restrict farm drainage. However, newly constructed farm buildings and impervious surfaces are subject to both regulation and applicable fees.

Once the authority is established, all counties hold uniform powers to:

- Consolidate existing stormwater framework into a united structure
- Set minimum standards for stormwater management
- Regulate location, width, course and release rate of channels and basins
- Prepare a countywide plan for natural and man-made drainageways
- Establish a stormwater management planning committee (SMPC)
- Approve, modify or reject a plan proposed by the SMPC
- Make grants to: (1) units of local government; (2) not-for-profit organizations; and (3) landowners
- Hold a public hearing on proposed plan
- Issue general obligation bonds
- Impose a property tax up to 0.20 percent by referendum, which may be increased or decreased by referendum
- Adopt a schedule of fees*

*** NOTE:** Peoria County may establish fees only by referendum and only as an alternative to property taxes. Most counties may establish a one-tenth of one cent sales tax in lieu of property taxes.

This publication gives general guidance on the applicability of powers, but other variables can apply to individual counties.

If your county considers this option, look into the specifics of the law that apply in your individual case.

Urbanized Areas: Something to Consider

In the 2018 stormwater management legislation, effective in 2019, counties added under this authority were not mentioned by name. Instead, that authority was extended to all counties that contain “all or a part of an urbanized area.”

Under this law, urbanized area is defined as “a statistical geographic entity consisting of a densely settled core created from census tracts or blocks and contiguous qualifying territory that together have a minimum population of at least 50,000 persons and has been delineated as an urbanized area by the United States Census Bureau after the most recent decennial census.”

Prior to the 2020 U.S. Census, two types of urban areas were identified:

- Urbanized areas: a population of 50,000 or more.
- Urban clusters: at least 2,500 but fewer than 50,000 people.

The 2020 U.S. Census Bureau removed the urbanized area definition and no longer distinguishes between different types of urban areas.

We will leave you with this question. When presented with the adoption or approval of local stormwater management, does the U.S. Census Bureau’s recent decision to remove the key words and definition of “urbanized area” impact that statewide authority?

Non-Uniform Stormwater Powers Available to Illinois Counties

(Refer to article on page 4 to identify counties included in each grouping.)

COUNTIES INCLUDED	CMAP	Group of Nine	DuPage & Peoria	Urbanized Area	All Others
POWERS					
Adoption of authority by ordinance (Others must adopt by referendum)	✓	✓	✓	✓	✗
Stormwater Management Planning Committee (SMPC) must include a representative from the Soil and Water Conservation District (SWCD) and a representative from drainage districts within the county.	✗	✗	✗	✓	✓
SMPC must submit plan to IDNR	✗	✓	✓	✓	✓
May impose a one-tenth cent sales tax by referendum in lieu of property tax.	✗	✓	✗	✓	✓
Must offer abatements or incentive payments	✗	✓	✓	✓	✓
May petition the circuit court to dissolve any or all drainage districts.	✓	✗	✓	✗	✗
May exercise eminent domain	✓	✗	✗	✗	✗
May regulate drainage on land used for production agriculture	✓	✗	✗	✗	✗

Steering Stormwater Management: The Structure, Role and Variation of Stormwater Management Planning Committees

With the authority granted to counties to adopt stormwater management, comes the requirement to establish a Stormwater Management Planning Committee (SMPC).

Purpose of the SMPC:

Work with local governments and the public to reduce flooding, protect property and natural resources, improve water quality and support the natural and man-made drainage systems.

Key Responsibilities:

- **Planning, Policy Development and Oversight**
 - Create and maintain the county's stormwater management plan.
 - Recommend ordinances or regulations related to stormwater and ensure compliance.
 - Oversee stormwater-related projects.

Coordination

- Coordinate between municipalities, townships and drainage districts.

Makeup of the SMPC:

As we've seen throughout much of this publication, the statutory structure and makeup of SMPCs has changed over time and will vary by county.

- Where required by law, work with state agencies like the Illinois Environmental Protection Agency and the Illinois Department of Natural Resources.

Public Input and Information

- Hold public meetings and seek feedback.
- Provide educational tools, resources and maps on local activities, projects and regulations.
- Serve as an advisory body to the county board.
- Meet at least quarterly as a committee.

Funding Support

- Identify and recommend funding through local, state and federal funding options.

Regardless of structure, SMPCs play a critical role in regulating the impact of water flow and land-use development in and around urban, rural and agricultural communities.

In turn, farmers must also play a critical role in engaging in local committees and on issues that impact agriculture.

Counties	Required SMPC Members	Optional SMPC Members	Optional Hired Staff
CMAQ, Group of Nine, DuPage and Peoria Counties	• Equal number of county board & municipal representatives from each county board district	• Representative from drainage districts • Representative from soil & water conservation districts • Land-use planners • Developers • Farmers • Landowners	Professionals in the areas of: • Engineering • Legal counsel • Inspection • Financial planning
Urbanized & All Other Counties	• Equal number of county board & municipal representatives from each county board district • One member representing drainage districts • One member representing soil & water conservation districts	• Land-use planners • Developers • Farmers • Landowners	Professionals in the areas of: • Engineering • Legal counsel • Inspection • Financial planning

**If the county has more than six districts, the county board may divide the county into at least six areas of approximately equal population, instead of using county board districts.*

Between the Rows and the Regulations: Stormwater Management Impact on Agriculture

When considering stormwater management authority, it's important to look at the impact it has on agriculture.

Farmers are the holders and operators of the majority of land in most counties. Therefore, it is logical for them to have concerns about these regulations. Over time, those concerns have helped shape statutory authority.

As a result, the separate acts that have provided counties with stormwater management authority treat farmland differently.

The original law [55 ILCS 5/5 - 1062] affecting the five collar counties (DuPage, Kane, Lake, McHenry and Will) was passed in the early 1990s. That law provides broad authority to regulate drainage practices, even on farmland. Legislation passed in 2013 limited DuPage County's authority to regulate drainage practices on farmland.

Both the 2005 law, affecting nine additional counties; Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall and Boone; and the 2019 law, stretching that authority statewide, limits the impact on agriculture. Under these laws, land and existing buildings used for agriculture are generally not subject to stormwater ordinances and regulations that would restrict agriculture practices and farm drainage.

However, even under these most recent laws, newly-constructed farm buildings and newly-installed, ag-related impervious surfaces are subject to both regulations and applicable fees.

The statutory reference [55 ILCS 5/5-1062.2 and 1062.3] reads as follows:

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

Local Stormwater Management Funding: How Funds Flow According to Laws

When it comes to local dollars, the separate stormwater management acts provide counties with different funding authority:

Counties governed under the original law [55 ILCS 5/5-1062] affecting the five collar counties (DuPage, Kane, Lake, McHenry and Will) may generate funding through:

- An additional property tax up to .20% of the total EAV of property in the county. This must be approved by the voters in a front-door referendum.
- Fees for new development.

Counties governed under the law, [55 ILCS 5/5-1062.2] affecting the nine additional counties (Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall and Boone), counties that contain all or part of an urbanized area and all other counties if approved by referendum may generate funding through:

- An additional property tax up to .20% of the total EAV of property in the county. This must be approved by the voters in a front-door referendum. Property owners may receive property tax abatements, incentive payments and property tax credits for approved stormwater management practices on their property.

- The implementation of a 1/10 of a cent sales tax in lieu of a property tax. This must be approved by the voters in a front-door referendum. Property owners may receive tax rebates or incentive payments for approved stormwater management practices on their property.
- Fees for new development. A credit or reduction in fees shall be offered for on-site stormwater facilities.

Counties governed under the law [55 ILCS 5/5-1062.3] affecting DuPage and Peoria* Counties may generate funding through:

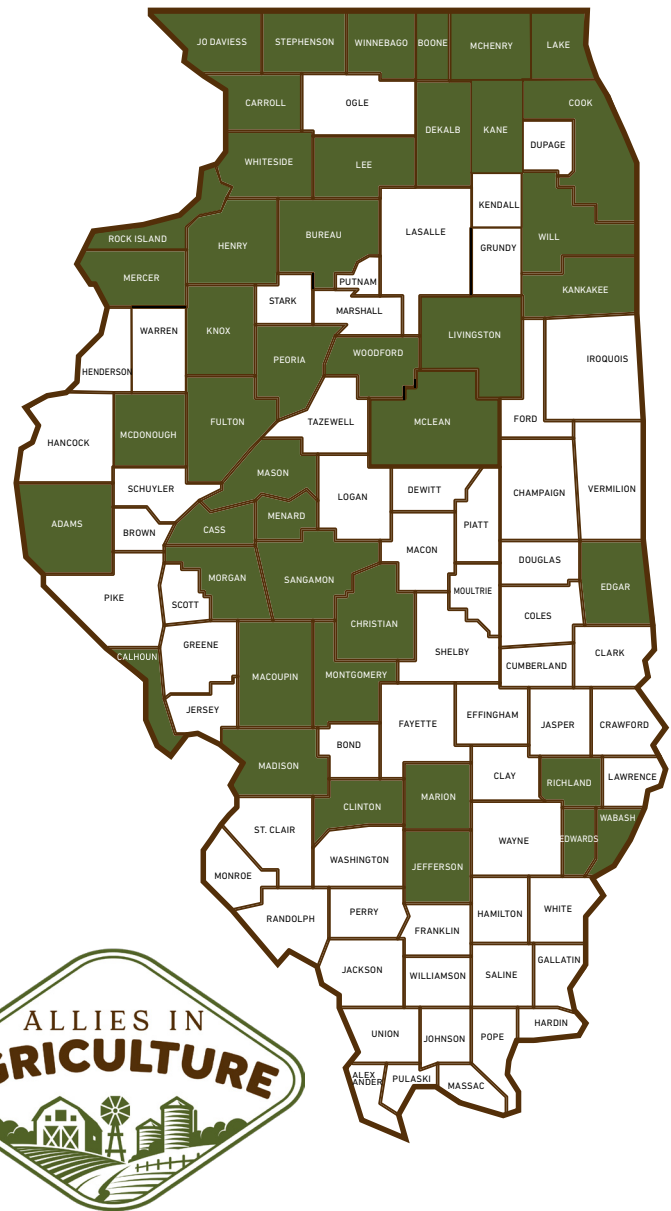
- An additional property tax up to .20% of the total EAV of property in the county. This must be approved by the voters in a front-door referendum.
- Fees on all real property in the county benefiting from stormwater management. Property owners may receive tax or fee rebates or incentive payments for the construction of stormwater management facilities or activities on their property.

* Peoria County may only establish fees by referendum and only as an alternative to property taxes.

Thank You, County Farm Bureaus!

To date, 43 county governments have become Allies in Agriculture by partnering with their county Farm Bureaus to adopt or re-adopt a Pro-Agriculture Resolution during the 2025 – 2026 cycle:

- | | |
|----------------|-----------------|
| 1. Adams | 23. Macoupin |
| 2. Boone | 24. Madison |
| 3. Bureau | 25. Marion |
| 4. Calhoun | 26. Mason |
| 5. Carroll | 27. McDonough |
| 6. Cass | 28. McHenry |
| 7. Christian | 29. McLean |
| 8. Clinton | 30. Menard |
| 9. Cook | 31. Mercer |
| 10. DeKalb | 32. Montgomery |
| 11. Edgar | 33. Morgan |
| 12. Edwards | 34. Peoria |
| 13. Fulton | 35. Richland |
| 14. Henry | 36. Rock Island |
| 15. Jefferson | 37. Sangamon |
| 16. Jo Daviess | 38. Stephenson |
| 17. Kane | 39. Wabash |
| 18. Kankakee | 40. Whiteside |
| 19. Knox | 41. Will |
| 20. Lake | 42. Winnebago |
| 21. Lee | 43. Woodford |
| 22. Livingston | |



Investing in Rural Illinois: \$120K in Grants Available Starting October 1



The 2025-2026 IFB Rural Development Grant program will open for applications this fall on October 1st and will close on December 1st. We anticipate being able to award \$120,000 in grants this cycle thanks to a \$100,000 investment by IFB and a \$20,000 gift from COUNTRY Financial. We will once again allocate a portion of the grant funding to support emergency services projects. The rural development grants webpage at www.ilfb.org/rdgrants will be updated with more details about the 2025-2026 program as we get closer to the application date.

For more information on Allies in Agriculture please visit: www.ilfb.org/ifb-in-action/allies-in-agriculture