

STATE OF ILLINOIS

POLLUTION CONTROL BOARD

In the Matter of: )  
 ) #R70-1  
REPEAL OF EXEMPTION REGULATIONS )

Opinion of the Board (by Mr. Kissel)

In accordance with the statute, the State of Illinois Pollution Control Board held public hearings on September 2, 1970, in Peoria and on September 3, 1970, in Chicago regarding the repeal of regulations which provide for the exemption of political subdivisions from the Illinois Air Pollution Control Act (since repealed) and the deletion of similar exemption provisions for sanitary districts containing over one million persons from all the regulations of the Sanitary Water Board.

1. Certificates of Exemption.

The Air Pollution Control Act, which was repealed by sec. 50 of the Environmental Protection Act, allowed certificates of exemption to be granted to political subdivisions upon the presentation of the required proof that those political subdivisions had a program of air pollution control at least as stringent as the programs adopted by the Air Pollution Control Board. Certificates of Exemption were granted to the City of Chicago and the Villages of McCook, Bedford Park and Morton Grove.

The only matters retained from the Air Pollution Control Act are those which relate to subjects embraced within the Environmental Protection Act; since no mention of any exemptions is made in the Environmental Protection Act, the old exemptions thereby fall. Further, as may be seen from the opinion prepared by Mr. Lawton and issued by the old Air Pollution Control Board and which was made a part of the record at the Peoria hearing, the legislative history of the Environmental Protection Act indicates that the legislature did not intend that any concept of exemption survive the enactment of the new Act. Under the Act, the Board's jurisdiction is plenary. Any exemptions granted to political subdivisions under the Air Pollution Control Act have therefore been terminated.

2. Sanitary Districts.

Any Sanitary District which had within its territorial limits a human population of one million or more was exempted from the provisions of the Sanitary Water Board Act.

This exemption was partially removed in 1967 when HB 1177 was enacted by the 75th General Assembly. This bill essentially provided that the Sanitary Water Board could adopt water quality standards which would be applicable to the theretofore exempted districts. The new Environmental Protection Act (which repeals, inter alia, the Sanitary Water Board Act) does not contain any exemptions for such sanitary districts. The Act defines "person" as:

". . . any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns."

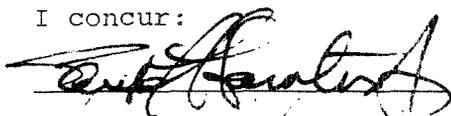
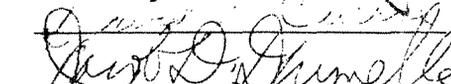
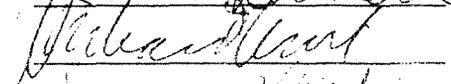
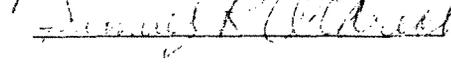
(Emphasis supplied) Section 3(i).

Clearly, the new Act was intended to, and does, cover all sanitary districts within the State of Illinois, and therefore, the regulations exempting any Sanitary District are repealed.

The Metropolitan Sanitary District of Greater Chicago, in its appearance before the Board, urged that the Board adopt special rules and regulations for the District. The present statute makes no provision for exemption regulations; but, upon appropriate request, the Board is willing to entertain hearings on specific regulations which the District may propose. Section 28 of the Environmental Protection Act sets forth the manner in which such a proposal is to be presented to the Board.

October 8, 1970

I concur:

  
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I dissent:

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I, Regina E. Ryan, certify that the Board has approved the above Opinion this 8th. day of October, 1970.

  
Regina E. Ryan  
Clerk of the Board