

SB1951



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1951

Introduced 2/10/2011, by Sen. Christine Radogno

SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Allows a township that employs a professional engineer and a certified public accountant to elect to receive its share of motor fuel tax proceeds directly from the Department of Transportation rather than from the county. Effective immediately.

LRB097 10206 HLH 50402 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in Section 8a, subdivision
8 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and
9 16 of Section 15, all money received by the Department under
10 this Act, including payments made to the Department by member
11 jurisdictions participating in the International Fuel Tax
12 Agreement, shall be deposited in a special fund in the State
13 treasury, to be known as the "Motor Fuel Tax Fund", and shall
14 be used as follows:

15 (a) 2 1/2 cents per gallon of the tax collected on special
16 fuel under paragraph (b) of Section 2 and Section 13a of this
17 Act shall be transferred to the State Construction Account Fund
18 in the State Treasury;

19 (b) \$420,000 shall be transferred each month to the State
20 Boating Act Fund to be used by the Department of Natural
21 Resources for the purposes specified in Article X of the Boat
22 Registration and Safety Act;

23 (c) \$3,500,000 shall be transferred each month to the Grade

1 Crossing Protection Fund to be used as follows: not less than
2 \$12,000,000 each fiscal year shall be used for the construction
3 or reconstruction of rail highway grade separation structures;
4 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in
5 fiscal year 2010 and each fiscal year thereafter shall be
6 transferred to the Transportation Regulatory Fund and shall be
7 accounted for as part of the rail carrier portion of such funds
8 and shall be used to pay the cost of administration of the
9 Illinois Commerce Commission's railroad safety program in
10 connection with its duties under subsection (3) of Section
11 18c-7401 of the Illinois Vehicle Code, with the remainder to be
12 used by the Department of Transportation upon order of the
13 Illinois Commerce Commission, to pay that part of the cost
14 apportioned by such Commission to the State to cover the
15 interest of the public in the use of highways, roads, streets,
16 or pedestrian walkways in the county highway system, township
17 and district road system, or municipal street system as defined
18 in the Illinois Highway Code, as the same may from time to time
19 be amended, for separation of grades, for installation,
20 construction or reconstruction of crossing protection or
21 reconstruction, alteration, relocation including construction
22 or improvement of any existing highway necessary for access to
23 property or improvement of any grade crossing and grade
24 crossing surface including the necessary highway approaches
25 thereto of any railroad across the highway or public road, or
26 for the installation, construction, reconstruction, or

1 maintenance of a pedestrian walkway over or under a railroad
2 right-of-way, as provided for in and in accordance with Section
3 18c-7401 of the Illinois Vehicle Code. The Commission may order
4 up to \$2,000,000 per year in Grade Crossing Protection Fund
5 moneys for the improvement of grade crossing surfaces and up to
6 \$300,000 per year for the maintenance and renewal of 4-quadrant
7 gate vehicle detection systems located at non-high speed rail
8 grade crossings. The Commission shall not order more than
9 \$2,000,000 per year in Grade Crossing Protection Fund moneys
10 for pedestrian walkways. In entering orders for projects for
11 which payments from the Grade Crossing Protection Fund will be
12 made, the Commission shall account for expenditures authorized
13 by the orders on a cash rather than an accrual basis. For
14 purposes of this requirement an "accrual basis" assumes that
15 the total cost of the project is expended in the fiscal year in
16 which the order is entered, while a "cash basis" allocates the
17 cost of the project among fiscal years as expenditures are
18 actually made. To meet the requirements of this subsection, the
19 Illinois Commerce Commission shall develop annual and 5-year
20 project plans of rail crossing capital improvements that will
21 be paid for with moneys from the Grade Crossing Protection
22 Fund. The annual project plan shall identify projects for the
23 succeeding fiscal year and the 5-year project plan shall
24 identify projects for the 5 directly succeeding fiscal years.
25 The Commission shall submit the annual and 5-year project plans
26 for this Fund to the Governor, the President of the Senate, the

1 Senate Minority Leader, the Speaker of the House of
2 Representatives, and the Minority Leader of the House of
3 Representatives on the first Wednesday in April of each year;

4 (d) of the amount remaining after allocations provided for
5 in subsections (a), (b) and (c), a sufficient amount shall be
6 reserved to pay all of the following:

7 (1) the costs of the Department of Revenue in
8 administering this Act;

9 (2) the costs of the Department of Transportation in
10 performing its duties imposed by the Illinois Highway Code
11 for supervising the use of motor fuel tax funds apportioned
12 to municipalities, counties and road districts;

13 (3) refunds provided for in Section 13, refunds for
14 overpayment of decal fees paid under Section 13a.4 of this
15 Act, and refunds provided for under the terms of the
16 International Fuel Tax Agreement referenced in Section
17 14a;

18 (4) from October 1, 1985 until June 30, 1994, the
19 administration of the Vehicle Emissions Inspection Law,
20 which amount shall be certified monthly by the
21 Environmental Protection Agency to the State Comptroller
22 and shall promptly be transferred by the State Comptroller
23 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
24 Inspection Fund, and for the period July 1, 1994 through
25 June 30, 2000, one-twelfth of \$25,000,000 each month, for
26 the period July 1, 2000 through June 30, 2003, one-twelfth

1 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
2 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
3 July 1 and October 1, or as soon thereafter as may be
4 practical, during the period July 1, 2004 through June 30,
5 2011, for the administration of the Vehicle Emissions
6 Inspection Law of 2005, to be transferred by the State
7 Comptroller and Treasurer from the Motor Fuel Tax Fund into
8 the Vehicle Inspection Fund;

9 (5) amounts ordered paid by the Court of Claims; and

10 (6) payment of motor fuel use taxes due to member
11 jurisdictions under the terms of the International Fuel Tax
12 Agreement. The Department shall certify these amounts to
13 the Comptroller by the 15th day of each month; the
14 Comptroller shall cause orders to be drawn for such
15 amounts, and the Treasurer shall administer those amounts
16 on or before the last day of each month;

17 (e) after allocations for the purposes set forth in
18 subsections (a), (b), (c) and (d), the remaining amount shall
19 be apportioned as follows:

20 (1) Until January 1, 2000, 58.4%, and beginning January
21 1, 2000, 45.6% shall be deposited as follows:

22 (A) 37% into the State Construction Account Fund,
23 and

24 (B) 63% into the Road Fund, \$1,250,000 of which
25 shall be reserved each month for the Department of
26 Transportation to be used in accordance with the

1 provisions of Sections 6-901 through 6-906 of the
2 Illinois Highway Code;

3 (2) Until January 1, 2000, 41.6%, and beginning January
4 1, 2000, 54.4% shall be transferred to the Department of
5 Transportation to be distributed as follows:

6 (A) 49.10% to the municipalities of the State,

7 (B) 16.74% to the counties of the State having
8 1,000,000 or more inhabitants,

9 (C) 18.27% to the counties of the State having less
10 than 1,000,000 inhabitants,

11 (D) 15.89% to the road districts of the State.

12 As soon as may be after the first day of each month the
13 Department of Transportation shall allot to each municipality
14 its share of the amount apportioned to the several
15 municipalities which shall be in proportion to the population
16 of such municipalities as determined by the last preceding
17 municipal census if conducted by the Federal Government or
18 Federal census. If territory is annexed to any municipality
19 subsequent to the time of the last preceding census the
20 corporate authorities of such municipality may cause a census
21 to be taken of such annexed territory and the population so
22 ascertained for such territory shall be added to the population
23 of the municipality as determined by the last preceding census
24 for the purpose of determining the allotment for that
25 municipality. If the population of any municipality was not
26 determined by the last Federal census preceding any

1 apportionment, the apportionment to such municipality shall be
2 in accordance with any census taken by such municipality. Any
3 municipal census used in accordance with this Section shall be
4 certified to the Department of Transportation by the clerk of
5 such municipality, and the accuracy thereof shall be subject to
6 approval of the Department which may make such corrections as
7 it ascertains to be necessary.

8 As soon as may be after the first day of each month the
9 Department of Transportation shall allot to each county its
10 share of the amount apportioned to the several counties of the
11 State as herein provided. Each allotment to the several
12 counties having less than 1,000,000 inhabitants shall be in
13 proportion to the amount of motor vehicle license fees received
14 from the residents of such counties, respectively, during the
15 preceding calendar year. The Secretary of State shall, on or
16 before April 15 of each year, transmit to the Department of
17 Transportation a full and complete report showing the amount of
18 motor vehicle license fees received from the residents of each
19 county, respectively, during the preceding calendar year. The
20 Department of Transportation shall, each month, use for
21 allotment purposes the last such report received from the
22 Secretary of State.

23 As soon as may be after the first day of each month, the
24 Department of Transportation shall allot to the several
25 counties their share of the amount apportioned for the use of
26 road districts. The allotment shall be apportioned among the

1 several counties in the State in the proportion which the total
2 mileage of township or district roads in the respective
3 counties bears to the total mileage of all township and
4 district roads in the State. Funds allotted to the respective
5 counties for the use of road districts therein shall be
6 allocated to the several road districts in the county in the
7 proportion which the total mileage of such township or district
8 roads in the respective road districts bears to the total
9 mileage of all such township or district roads in the county.
10 Notwithstanding any other provision of law, on or after the
11 effective date of this amendatory Act of the 97th General
12 Assembly, the township board of any township employing a
13 professional engineer and certified public accountant and
14 encompassing a road district that is entitled to an allotment
15 of funds under this Section may, by resolution of the township
16 board, elect to receive its share of road district funds
17 directly from the Department of Transportation rather than from
18 the county. Copies of the resolution shall be filed with the
19 county clerk of the county in which the township is located and
20 with the Department of Transportation. If such a resolution is
21 filed, the township shall receive funds directly from the
22 Department of Transportation beginning on the first day of the
23 first month to occur not less than 60 days after the resolution
24 is filed with the Department. After July 1 of any year prior to
25 2011, no allocation shall be made for any road district unless
26 it levied a tax for road and bridge purposes in an amount which

1 will require the extension of such tax against the taxable
2 property in any such road district at a rate of not less than
3 either .08% of the value thereof, based upon the assessment for
4 the year immediately prior to the year in which such tax was
5 levied and as equalized by the Department of Revenue or, in
6 DuPage County, an amount equal to or greater than \$12,000 per
7 mile of road under the jurisdiction of the road district,
8 whichever is less. Beginning July 1, 2011 and each July 1
9 thereafter, an allocation shall be made for any road district
10 if it levied a tax for road and bridge purposes. In counties
11 other than DuPage County, if the amount of the tax levy
12 requires the extension of the tax against the taxable property
13 in the road district at a rate that is less than 0.08% of the
14 value thereof, based upon the assessment for the year
15 immediately prior to the year in which the tax was levied and
16 as equalized by the Department of Revenue, then the amount of
17 the allocation for that road district shall be a percentage of
18 the maximum allocation equal to the percentage obtained by
19 dividing the rate extended by the district by 0.08%. In DuPage
20 County, if the amount of the tax levy requires the extension of
21 the tax against the taxable property in the road district at a
22 rate that is less than the lesser of (i) 0.08% of the value of
23 the taxable property in the road district, based upon the
24 assessment for the year immediately prior to the year in which
25 such tax was levied and as equalized by the Department of
26 Revenue, or (ii) a rate that will yield an amount equal to

1 \$12,000 per mile of road under the jurisdiction of the road
2 district, then the amount of the allocation for the road
3 district shall be a percentage of the maximum allocation equal
4 to the percentage obtained by dividing the rate extended by the
5 district by the lesser of (i) 0.08% or (ii) the rate that will
6 yield an amount equal to \$12,000 per mile of road under the
7 jurisdiction of the road district.

8 Prior to 2011, if any road district has levied a special
9 tax for road purposes pursuant to Sections 6-601, 6-602 and
10 6-603 of the Illinois Highway Code, and such tax was levied in
11 an amount which would require extension at a rate of not less
12 than .08% of the value of the taxable property thereof, as
13 equalized or assessed by the Department of Revenue, or, in
14 DuPage County, an amount equal to or greater than \$12,000 per
15 mile of road under the jurisdiction of the road district,
16 whichever is less, such levy shall, however, be deemed a proper
17 compliance with this Section and shall qualify such road
18 district for an allotment under this Section. Beginning in 2011
19 and thereafter, if any road district has levied a special tax
20 for road purposes under Sections 6-601, 6-602, and 6-603 of the
21 Illinois Highway Code, and the tax was levied in an amount that
22 would require extension at a rate of not less than 0.08% of the
23 value of the taxable property of that road district, as
24 equalized or assessed by the Department of Revenue or, in
25 DuPage County, an amount equal to or greater than \$12,000 per
26 mile of road under the jurisdiction of the road district,

1 whichever is less, that levy shall be deemed a proper
2 compliance with this Section and shall qualify such road
3 district for a full, rather than proportionate, allotment under
4 this Section. If the levy for the special tax is less than
5 0.08% of the value of the taxable property, or, in DuPage
6 County if the levy for the special tax is less than the lesser
7 of (i) 0.08% or (ii) \$12,000 per mile of road under the
8 jurisdiction of the road district, and if the levy for the
9 special tax is more than any other levy for road and bridge
10 purposes, then the levy for the special tax qualifies the road
11 district for a proportionate, rather than full, allotment under
12 this Section. If the levy for the special tax is equal to or
13 less than any other levy for road and bridge purposes, then any
14 allotment under this Section shall be determined by the other
15 levy for road and bridge purposes.

16 Prior to 2011, if a township has transferred to the road
17 and bridge fund money which, when added to the amount of any
18 tax levy of the road district would be the equivalent of a tax
19 levy requiring extension at a rate of at least .08%, or, in
20 DuPage County, an amount equal to or greater than \$12,000 per
21 mile of road under the jurisdiction of the road district,
22 whichever is less, such transfer, together with any such tax
23 levy, shall be deemed a proper compliance with this Section and
24 shall qualify the road district for an allotment under this
25 Section.

26 In counties in which a property tax extension limitation is

1 imposed under the Property Tax Extension Limitation Law, road
2 districts may retain their entitlement to a motor fuel tax
3 allotment or, beginning in 2011, their entitlement to a full
4 allotment if, at the time the property tax extension limitation
5 was imposed, the road district was levying a road and bridge
6 tax at a rate sufficient to entitle it to a motor fuel tax
7 allotment and continues to levy the maximum allowable amount
8 after the imposition of the property tax extension limitation.
9 Any road district may in all circumstances retain its
10 entitlement to a motor fuel tax allotment or, beginning in
11 2011, its entitlement to a full allotment if it levied a road
12 and bridge tax in an amount that will require the extension of
13 the tax against the taxable property in the road district at a
14 rate of not less than 0.08% of the assessed value of the
15 property, based upon the assessment for the year immediately
16 preceding the year in which the tax was levied and as equalized
17 by the Department of Revenue or, in DuPage County, an amount
18 equal to or greater than \$12,000 per mile of road under the
19 jurisdiction of the road district, whichever is less.

20 As used in this Section the term "road district" means any
21 road district, including a county unit road district, provided
22 for by the Illinois Highway Code; and the term "township or
23 district road" means any road in the township and district road
24 system as defined in the Illinois Highway Code. For the
25 purposes of this Section, "township or district road" also
26 includes such roads as are maintained by park districts, forest

1 preserve districts and conservation districts. The Department
2 of Transportation shall determine the mileage of all township
3 and district roads for the purposes of making allotments and
4 allocations of motor fuel tax funds for use in road districts.

5 Payment of motor fuel tax moneys to municipalities and
6 counties shall be made as soon as possible after the allotment
7 is made. The treasurer of the municipality or county may invest
8 these funds until their use is required and the interest earned
9 by these investments shall be limited to the same uses as the
10 principal funds.

11 (Source: P.A. 95-744, eff. 7-18-08; 96-34, eff. 7-13-09; 96-45,
12 eff. 7-15-09; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;
13 96-1024, eff. 7-12-10; 96-1384, eff. 7-29-10; revised 9-2-10.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.