



Sen. Linda Holmes

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10400SB1449sam001

LRB104 06279 RTM 26334 a

1 AMENDMENT TO SENATE BILL 1449

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1449 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Downstate Forest Preserve District Act is  
5 amended by adding Section 13.9 as follows:

6 (70 ILCS 805/13.9 new)

7 Sec. 13.9. Kendall County Forest Preserve District  
8 retailers' and service occupation tax.

9 (a) The Board of the Kendall County Forest Preserve  
10 District may impose a tax upon all persons engaged in the  
11 business of selling, including leasing, tangible personal  
12 property, other than personal property titled or registered  
13 with an agency of this State's government, at retail in the  
14 county on the gross receipts from the sales made in the course  
15 of business to provide revenue to be used by the forest  
16 preserve district in that county for general forest preserve

1 district purposes, including education, outdoor recreation,  
2 maintenance, operations, public safety at the forest  
3 preserves, trails, acquiring and restoring land, and any other  
4 lawful purposes or programs determined by the board of that  
5 district, except as otherwise provided in this Section, if a  
6 proposition for the tax has been submitted to the legal voters  
7 of that county and approved by a majority of those voting on  
8 the question as provided in subsection (d). If imposed, this  
9 tax shall be imposed only in 0.25% increments.

10 The tax imposed under this subsection may not be imposed  
11 on tangible personal property taxed at the 1% rate under the  
12 Retailers' Occupation Tax Act or food for human consumption  
13 that is to be consumed off the premises where it is sold. The  
14 tax imposed under this subsection is not imposed on sales of  
15 aviation fuel for so long as the revenue use requirements of 49  
16 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the board.

17 For a tax imposed for forest preserve purposes for  
18 expenditures authorized under this Act, the board must publish  
19 notice of the operational, capital, or master plan of the  
20 district, and must make the plan publicly available, before  
21 approval of the ordinance or resolution imposing the tax.

22 If a tax is imposed for specific operational needs,  
23 capital projects, or public facilities, then the name of the  
24 project may be included in the proposition at the discretion  
25 of the board as determined in the enabling resolution. For  
26 example, the "XXX Regional Trail", the "YYY Forest Preserve or

1 Multi-Use Facility", or the "ZZZ Natural Area Acquisition or  
2 Restoration Project".

3 The tax imposed by the board under this subsection and all  
4 civil penalties that may be assessed as an incident of the tax  
5 shall be collected and enforced by the Department of Revenue.  
6 The certificate of registration that is issued by the  
7 Department of Revenue to a retailer under the Retailers'  
8 Occupation Tax Act shall permit the retailer to engage in a  
9 business that is taxable without registering separately with  
10 the Department of Revenue under an ordinance or resolution  
11 adopted under this subsection. The Department of Revenue shall  
12 administer and enforce this subsection, collect all taxes and  
13 penalties due under this subsection, dispose of taxes and  
14 penalties so collected in the manner provided in this  
15 subsection, and determine all rights to credit memoranda  
16 arising on account of the erroneous payment of a tax or penalty  
17 under this subsection.

18 In the administration of and compliance with this  
19 subsection, the Department of Revenue and persons who are  
20 subject to this subsection shall (i) have the same rights,  
21 remedies, privileges, immunities, powers, and duties; (ii) be  
22 subject to the same conditions, restrictions, limitations,  
23 penalties, and definitions of terms; and (iii) employ the same  
24 modes of procedure as are prescribed in Sections 1, 1a, 1a-1,  
25 1d, 1e, 1f, 1i, 1j, 1j.1, 1j.2, 1k, 1m, 1n, 1o, 1p, 1q, 1r, 1s,  
26 2 through 2-70, 2a, 2b, 2c, 2h, 2i, 2j, 3 (except provisions

1 relating to transaction returns and quarter monthly payments),  
2 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 5m, 5n, 6,  
3 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the  
4 Retailers' Occupation Tax Act and the Uniform Penalty and  
5 Interest Act as if those provisions were set forth in this  
6 subsection.

7 Persons subject to any tax imposed under this subsection  
8 may reimburse themselves for their sellers' tax liability by  
9 separately stating the tax as an additional charge. The charge  
10 may be stated in combination, in a single amount, with State  
11 tax which sellers are required to collect under the Use Tax Act  
12 in accordance with the bracketed schedules as the Department  
13 of Revenue may prescribe.

14 If the Department of Revenue determines that a refund  
15 should be made under this subsection to a claimant instead of  
16 issuing a credit memorandum, then the Department of Revenue  
17 shall notify the State Comptroller, who shall cause the order  
18 to be drawn for the amount specified and to the person named in  
19 the notification from the Department of Revenue. The refund  
20 shall be paid by the State Treasurer out of the Special Forest  
21 Preserve District Retailers' and Service Occupation Tax Fund.

22 (b) If a tax has been imposed under subsection (a), then a  
23 service occupation tax shall also be imposed at the same rate  
24 upon all persons in the county engaged in the business of  
25 making sales of service, who, as an incident to making those  
26 sales of service, transfer tangible personal property,

1 including transfers by lease, within the county as an incident  
2 to a sale of service. The tax imposed under this subsection may  
3 not be imposed on tangible personal property taxed at the 1%  
4 rate under the Service Occupation Tax Act.

5 The tax imposed under this subsection is not imposed on  
6 sales of aviation fuel for so long as the revenue use  
7 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are  
8 binding on the board. The tax imposed under this subsection  
9 and all civil penalties that may be assessed as an incident  
10 thereof shall be collected and enforced by the Department of  
11 Revenue. The Department of Revenue shall administer and  
12 enforce this subsection; collect all taxes and penalties due  
13 hereunder; dispose of taxes and penalties so collected in the  
14 manner hereinafter provided; and determine all rights to  
15 credit memoranda arising on account of the erroneous payment  
16 of tax or penalty hereunder.

17 In the administration of, and compliance with this  
18 subsection, the Department of Revenue and persons who are  
19 subject to this subsection shall (i) have the same rights,  
20 remedies, privileges, immunities, powers, and duties; (ii) be  
21 subject to the same conditions, restrictions, limitations,  
22 penalties, exclusions, exemptions, and definitions of terms;  
23 and (iii) employ the same modes of procedure as are prescribed  
24 in Sections 2 (except that the reference to State in the  
25 definition of supplier maintaining a place of business in this  
26 State shall mean the district), 2a, 2b, 2c, 2d, 3 through 3-50

1 (in respect to all provisions therein other than the State  
2 rate of tax), 4 (except that the reference to the State shall  
3 be to the district), 5, 7, 8 (except that the jurisdiction to  
4 which the tax shall be a debt to the extent indicated in that  
5 Section 8 shall be the district), 9 (except as to the  
6 disposition of taxes and penalties collected), 10, 11, 12  
7 (except the reference therein to Section 2b of the Retailers'  
8 Occupation Tax Act), 13 (except that any reference to the  
9 State shall mean the district), Sections 15, 16, 17, 18, 19 and  
10 20 of the Service Occupation Tax Act and the Uniform Penalty  
11 and Interest Act, as fully as if those provisions were set  
12 forth herein.

13 Persons subject to any tax imposed under this subsection  
14 may reimburse themselves for their serviceman's tax liability  
15 by separately stating the tax as an additional charge, which  
16 charge may be stated in combination, in a single amount, with  
17 State tax that servicemen are authorized to collect under the  
18 Service Use Tax Act, in accordance with such bracket schedules  
19 as the Department of Revenue may prescribe.

20 If the Department of Revenue determines that a refund  
21 should be made under this subsection to a claimant instead of  
22 issuing a credit memorandum, then the Department of Revenue  
23 shall notify the State Comptroller, who shall cause the  
24 warrant to be drawn for the amount specified, and to the person  
25 named, in the notification from the Department of Revenue. The  
26 refund shall be paid by the State Treasurer out of the Special

1 Forest Preserve District Retailers' and Service Occupation Tax  
2 Fund.

3 (c) The tax imposed under this Section applies to leases  
4 of tangible personal property in effect, entered into, or  
5 renewed on or after the effective date of the ordinance  
6 imposing the tax under this Section in the same manner as the  
7 tax under this Section applies to other sales and consistent  
8 with the tax on leases under the Retailers' Occupation Tax Act  
9 and the Service Occupation Tax Act.

10 (d) By resolution, the board may order the proposition for  
11 the imposition of the tax under this Section to be submitted at  
12 any election. The board shall certify the question to the  
13 proper election authority, who shall submit the proposition at  
14 an election in accordance with the general election law.

15 The proposition to impose a tax for forest preserve  
16 purposes shall be in substantially the following form:

17 "Shall the [name of forest preserve district] impose a  
18 Special Forest Preserve District Retailers' Occupation Tax  
19 and Service Occupation Tax (commonly referred to as a  
20 "sales tax") at the rate of [insert a percentage in  
21 increments of 0.25%] in [name of county] for forest  
22 preserve district expenditures in accordance with and  
23 subject to the provisions of Section 13.9 of the Downstate  
24 Forest Preserve District Act?"

25 The following additional information shall appear on the  
26 ballot below the question:

1           "This would mean that a consumer would pay an  
2           additional [insert amount] in sales tax for every \$100 of  
3           tangible personal property bought at retail."

4           The board may also vote to establish a sunset provision at  
5           which time the additional sales tax would cease being  
6           collected, if not terminated earlier by a vote of the board. If  
7           the board votes to include a sunset provision, the proposition  
8           for forest preserve purposes shall be in substantially the  
9           following form:

10           "Shall the [name of forest preserve district] impose a  
11           Special Forest Preserve District Retailers' Occupation Tax  
12           and Service Occupation Tax (commonly referred to as a  
13           "sales tax") at the rate of [insert a percentage in  
14           increments of 0.25%] in [name of county] for a period not  
15           to exceed [insert number of years] for forest preserve  
16           district expenditures in accordance with and subject to  
17           the provisions of Section 13.9 of the Downstate Forest  
18           Preserve District Act?"

19           The following additional information shall appear on the  
20           ballot below the question:

21           "This would mean that a consumer would pay an  
22           additional [insert amount] in sales tax for every \$100 of  
23           tangible personal property bought at retail. If imposed,  
24           the additional tax would cease being collected at the end  
25           of [insert number of years], if not terminated earlier by  
26           a vote of the [name of forest preserve district board]."

1       Votes shall be recorded as "Yes" or "No".

2       If a majority of the legal voters voting on the  
3 proposition vote in favor of it, the district may impose the  
4 tax. A district may not submit more than one proposition  
5 authorized by this Section to the legal voters at any one time.

6       (e) The Department of Revenue shall immediately pay over  
7 to the State Treasurer, ex officio, as trustee, all taxes and  
8 penalties collected under this Section to be deposited into  
9 the Special Forest Preserve District Retailers' and Service  
10 Occupation Tax Fund, a special fund that is created in the  
11 State treasury. Moneys in the Fund shall be disbursed as  
12 provided in this Section.

13       As soon as possible after the first day of each month and  
14 upon certification of the Department of Revenue, the State  
15 Comptroller shall order transferred, and the State Treasurer  
16 shall transfer, to the STAR Bonds Revenue Fund the local sales  
17 tax increment, as defined in the Innovation Development and  
18 Economy Act, collected under this Section during the second  
19 preceding calendar month for sales within a STAR bond  
20 district.

21       After the monthly transfer to the STAR Bonds Revenue Fund,  
22 on or before the 25th day of each calendar month, the  
23 Department of Revenue shall prepare and certify to the State  
24 Comptroller the disbursement of the stated sums of money to  
25 the district from retailers in the county who have paid taxes  
26 or penalties to the Department of Revenue during the second

1 preceding calendar month. The amount to be paid to the  
2 district shall be the amount collected under this Section  
3 during the second preceding calendar month by the Department  
4 of Revenue plus an amount the Department of Revenue determines  
5 is necessary to offset any amounts that were erroneously paid  
6 to a different taxing body, and not including (i) an amount  
7 equal to the amount of refunds made during the second  
8 preceding calendar month by the Department of Revenue on  
9 behalf of the district; (ii) any amount that the Department of  
10 Revenue determines is necessary to offset any amounts that  
11 were payable to a different taxing body but were erroneously  
12 paid to the district; (iii) any amounts that are transferred  
13 to the STAR Bonds Revenue Fund, and (iv) 1.5% of the remainder,  
14 which the Department of Revenue shall transfer into the Tax  
15 Compliance and Administration Fund. The Department of Revenue,  
16 at the time of each monthly disbursement to the district,  
17 shall prepare and certify to the State Comptroller the amount  
18 to be transferred into the Tax Compliance and Administration  
19 Fund under this subsection. No later than 10 days after  
20 receipt by the State Comptroller of the disbursement  
21 certification to the District and the Tax Compliance and  
22 Administration Fund provided for in this Section to be given  
23 to the State Comptroller by the Department of Revenue, the  
24 State Comptroller shall cause the orders to be drawn for the  
25 respective amounts in accordance with directions contained in  
26 the certification.

1       (f) For the purpose of determining whether a tax  
2 authorized under this Section is applicable, a retail sale by  
3 a producer of coal or another mineral mined in Illinois is a  
4 sale at retail at the place where the coal or other mineral  
5 mined in Illinois is extracted from the earth. This subsection  
6 does not apply to coal or another mineral when it is delivered  
7 or shipped by the seller to the purchaser at a point outside  
8 Illinois so that the sale is exempt under the United States  
9 Constitution as a sale in interstate or foreign commerce.

10       (g) Nothing in this Section shall be construed to  
11 authorize the board to impose a tax upon the privilege of  
12 engaging in any business that under the Constitution of the  
13 United States may not be made the subject of taxation by this  
14 State.

15       (h) The board shall file a certified copy of the ordinance  
16 imposing, increasing the rate of, or discontinuing a tax under  
17 this Section with the Department of Revenue, together with a  
18 certification that the ordinance received referendum approval  
19 in the case of the imposition of or increase in the rate of  
20 such tax, either (i) after October 1 but on or before May 1,  
21 whereupon the Department of Revenue shall proceed to  
22 administer and enforce the imposition of, increase in the rate  
23 of, or discontinuation of the tax as of the July 1 immediately  
24 following the filing; or (ii) after May 1, but on or before  
25 October 1, whereupon the Department of Revenue shall proceed  
26 to administer and enforce the imposition of, increase in the

1 rate of, or discontinuation of the tax as of the January 1  
2 immediately following the filing. If the tax imposed under  
3 this Section is scheduled to sunset by referendum, the board  
4 is required to monitor the sunset date and notify the  
5 Department of Revenue of the sunset by filing a certified copy  
6 of an ordinance that includes the sunset date (i) after  
7 October 1 but on or before May 1, whereupon the Department of  
8 Revenue shall proceed to discontinue the tax as of the July 1  
9 immediately following the filing; or (ii) after May 1 but on or  
10 before October 1, whereupon the Department of Revenue shall  
11 proceed to discontinue the tax as of the January 1 immediately  
12 following the filing.

13 (i) When certifying the amount of a monthly disbursement  
14 to the district under this Section, the Department of Revenue  
15 shall increase or decrease the amounts by an amount necessary  
16 to offset any misallocation of previous disbursements. The  
17 offset amount shall be the amount erroneously disbursed within  
18 the previous 6 months from the time a misallocation is  
19 discovered.

20 Section 10. The State Finance Act is amended by adding  
21 Section 5.1030 as follows:

22 (30 ILCS 105/5.1030 new)

23 Sec. 5.1030. The Special Forest Preserve District  
24 Retailers' and Service Occupation Tax Fund.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".