



Sen. Linda Holmes

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10400SB1449sam002

LRB104 06279 RTM 26782 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 State Finance Act is amended by adding
5 Section 5.1030 as follows:

6 (30 ILCS 105/5.1030 new)

7 Sec. 5.1030. The Special Forest Preserve District
8 Retailers' and Service Occupation Tax Fund.

9 Section 10. The Downstate Forest Preserve District Act is
10 amended by adding Section 13.9 as follows:

11 (70 ILCS 805/13.9 new)

12 Sec. 13.9. Kendall County Forest Preserve District
13 retailers' and service occupation tax.

14 (a) The Board of the Kendall County Forest Preserve

1 District may impose a tax upon all persons engaged in the
2 business of selling, including leasing, tangible personal
3 property, other than personal property titled or registered
4 with an agency of this State's government, at retail in the
5 county on the gross receipts from the sales made in the course
6 of business to provide revenue to be used by the forest
7 preserve district in that county for general forest preserve
8 district purposes, including education, outdoor recreation,
9 maintenance, operations, public safety at the forest
10 preserves, trails, acquiring and restoring land, and any other
11 lawful purposes or programs determined by the board of that
12 district, except as otherwise provided in this Section, if a
13 proposition for the tax has been submitted to the legal voters
14 of that county and approved by a majority of those voting on
15 the question as provided in subsection (d). If imposed, this
16 tax shall be imposed only in 0.25% increments and may not be
17 more than 1%.

18 The tax imposed under this subsection may not be imposed
19 on tangible personal property taxed at the 1% rate under the
20 Retailers' Occupation Tax Act. The tax imposed under this
21 subsection is not imposed on sales of aviation fuel for so long
22 as the revenue use requirements of 49 U.S.C. 47107(b) and 49
23 U.S.C. 47133 are binding on the board.

24 For a tax imposed for forest preserve purposes for
25 expenditures authorized under this Act, the board must publish
26 notice of the operational, capital, or master plan of the

1 district, and must make the plan publicly available, before
2 approval of the ordinance or resolution imposing the tax.

3 If a tax is imposed for specific operational needs,
4 capital projects, or public facilities, then the name of the
5 project may be included in the proposition at the discretion
6 of the board as determined in the enabling resolution. For
7 example, the "XXX Regional Trail", the "YYY Forest Preserve or
8 Multi-Use Facility", or the "ZZZ Natural Area Acquisition or
9 Restoration Project".

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

25 In the administration of and compliance with this
26 subsection, the Department of Revenue and persons who are

1 subject to this subsection shall (i) have the same rights,
2 remedies, privileges, immunities, powers, and duties; (ii) be
3 subject to the same conditions, restrictions, limitations,
4 penalties, and definitions of terms; and (iii) employ the same
5 modes of procedure as are prescribed in Sections 1, 1a, 1a-1,
6 1d, 1e, 1f, 1i, 1j, 1j.1, 1j.2, 1k, 1m, 1n, 1o, 1p, 1q, 1r, 1s,
7 2 through 2-70, 2a, 2b, 2c, 2h, 2i, 2j, 3 (except provisions
8 relating to transaction returns and quarter monthly payments),
9 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 5m, 5n, 6,
10 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
11 Retailers' Occupation Tax Act and the Uniform Penalty and
12 Interest Act as if those provisions were set forth in this
13 subsection.

14 Persons subject to any tax imposed under this subsection
15 may reimburse themselves for their sellers' tax liability by
16 separately stating the tax as an additional charge. The charge
17 may be stated in combination, in a single amount, with State
18 tax which sellers are required to collect under the Use Tax Act
19 in accordance with the bracketed schedules as the Department
20 of Revenue may prescribe.

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

1 shall be paid by the State Treasurer out of the Special Forest
2 Preserve District Retailers' and Service Occupation Tax Fund.

3 (b) If a tax has been imposed under subsection (a), then a
4 service occupation tax shall also be imposed upon all persons
5 in the county engaged in the business of making sales of
6 service, at the same rate of tax as imposed under subsection
7 (a) of the selling price of all tangible personal property
8 transferred by the servicemen, including transfers by lease as
9 an incident to a sale of service. The tax imposed under this
10 subsection may not be imposed on tangible personal property
11 taxed at the 1% rate under the Service Occupation Tax Act.

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

24 In the administration of, and compliance with this
25 subsection, the Department of Revenue and persons who are
26 subject to this subsection shall (i) have the same rights,

1 remedies, privileges, immunities, powers, and duties; (ii) be
2 subject to the same conditions, restrictions, limitations,
3 penalties, exclusions, exemptions, and definitions of terms;
4 and (iii) employ the same modes of procedure as are prescribed
5 in Sections 2 (except that the reference to State in the
6 definition of supplier maintaining a place of business in this
7 State shall mean the county), 2a, 2b, 2c, 2d, 3 through 3-50
8 (in respect to all provisions therein other than the State
9 rate of tax), 4 (except that the reference to the State shall
10 be to the county), 5, 7, 8 (except that the jurisdiction to
11 which the tax shall be a debt to the extent indicated in that
12 Section 8 shall be the county), 9 (except as to the disposition
13 of taxes and penalties collected), 10, 11, 12 (except the
14 reference therein to Section 2b of the Retailers' Occupation
15 Tax Act), 13 (except that any reference to the State shall mean
16 the county), Sections 15, 16, 17, 18, 19 and 20 of the Service
17 Occupation Tax Act and the Uniform Penalty and Interest Act,
18 as fully as if those provisions were set forth herein.

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

26 If the Department of Revenue determines that a refund

1 should be made under this subsection to a claimant instead of
2 issuing a credit memorandum, then the Department of Revenue
3 shall notify the State Comptroller, who shall cause the
4 warrant to be drawn for the amount specified, and to the person
5 named, in the notification from the Department of Revenue. The
6 refund shall be paid by the State Treasurer out of the Special
7 Forest Preserve District Retailers' and Service Occupation Tax
8 Fund.

9 (c) The tax imposed under this Section applies to leases
10 of tangible personal property in effect, entered into, or
11 renewed on or after the effective date of the ordinance
12 imposing the tax under this Section in the same manner as the
13 tax under this Section applies to other sales and consistent
14 with the tax on leases under the Retailers' Occupation Tax Act
15 and the Service Occupation Tax Act.

16 (d) By resolution, the board may order the proposition for
17 the imposition of the tax under this Section to be submitted at
18 any election. The board shall certify the question to the
19 proper election authority, who shall submit the proposition at
20 an election in accordance with the general election law.

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

23 "Shall the [name of forest preserve district] impose a
24 Special Forest Preserve District Retailers' Occupation Tax
25 and Service Occupation Tax (commonly referred to as a
26 "sales tax") at the rate of [insert a percentage in

1 increments of 0.25%] in [name of county] for forest
2 preserve district expenditures in accordance with and
3 subject to the provisions of Section 13.9 of the Downstate
4 Forest Preserve District Act?"

5 The following additional information shall appear on the
6 ballot below the question:

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

10 The board may also vote to establish a sunset provision at
11 which time the additional sales tax would cease being
12 collected, if not terminated earlier by a vote of the board. If
13 the board votes to include a sunset provision, the proposition
14 for forest preserve purposes shall be in substantially the
15 following form:

16 "Shall the [name of forest preserve district] impose a
17 Special Forest Preserve District Retailers' Occupation Tax
18 and Service Occupation Tax (commonly referred to as a
19 "sales tax") at the rate of [insert a percentage in
20 increments of 0.25%] in [name of county] for a period not
21 to exceed [insert number of years] for forest preserve
22 district expenditures in accordance with and subject to
23 the provisions of Section 13.9 of the Downstate Forest
24 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. If imposed,
4 the additional tax would cease being collected at the end
5 of [insert number of years], if not terminated earlier by
6 a vote of the [name of forest preserve district board]."

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

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

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

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

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

1 certification to the District and the Tax Compliance and
2 Administration Fund provided for in this Section to be given
3 to the State Comptroller by the Department of Revenue, the
4 State Comptroller shall cause the orders to be drawn for the
5 respective amounts in accordance with directions contained in
6 the certification.

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

16 (g) Nothing in this Section shall be construed to
17 authorize the board to impose a tax upon the privilege of
18 engaging in any business that under the Constitution of the
19 United States may not be made the subject of taxation by this
20 State.

21 (h) The board shall file a certified copy of the ordinance
22 imposing, increasing the rate of, or discontinuing a tax under
23 this Section with the Department of Revenue, together with a
24 certification that the ordinance received referendum approval
25 in the case of the imposition of or increase in the rate of the
26 tax, either (i) after October 1 but on or before May 1,

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

19 (i) When certifying the amount of a monthly disbursement
20 to the district under this Section, the Department of Revenue
21 shall increase or decrease the amounts by an amount necessary
22 to offset any misallocation of previous disbursements. The
23 offset amount shall be the amount erroneously disbursed within
24 the previous 6 months from the time a misallocation is
25 discovered.

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