



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB2950

Introduced 2/19/2021, by Rep. Bob Morgan

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1035.1	from Ch. 34, par. 5-1035.1
605 ILCS 5/2-202	from Ch. 121, par. 2-202
605 ILCS 5/5-701.13	from Ch. 121, par. 5-701.13
605 ILCS 5/5-801	from Ch. 121, par. 5-801

Amends the Counties Code. Provides that, in the counties of DuPage, Kane, Lake, Will, and McHenry, proceeds from the County Motor Fuel Tax Law may also be used for operating, constructing, improving, and acquiring land for shared-use paths for nonvehicular public travel, sidewalks, and bike paths. Amends the Illinois Highway Code. Provides that "highway" includes shared-use paths for nonvehicular public travel, sidewalks, and bike paths. Provides that any county may acquire property for the construction, maintenance or operation of any shared-use path for nonvehicular public travel, sidewalk, or bike path within the county. Provides that the county board of a county with a population over 500,000 may also use motor fuel tax funds allotted to it for the construction and maintenance of shared-use paths for nonvehicular public travel, sidewalks, and bike paths. Makes other changes. Effective immediately.

LRB102 04188 RAM 15556 b

1 AN ACT concerning transportation.

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

4 Section 5. The Counties Code is amended by changing  
5 Section 5-1035.1 as follows:

6 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

7 Sec. 5-1035.1. County Motor Fuel Tax Law.

8 (a) The county board of the counties of DuPage, Kane,  
9 Lake, Will, and McHenry may, by an ordinance or resolution  
10 adopted by an affirmative vote of a majority of the members  
11 elected or appointed to the county board, impose a tax upon all  
12 persons engaged in the county in the business of selling motor  
13 fuel, as now or hereafter defined in the Motor Fuel Tax Law, at  
14 retail for the operation of motor vehicles upon public  
15 highways or for the operation of recreational watercraft upon  
16 waterways. The collection of a tax under this Section based on  
17 gallonage of gasoline used for the propulsion of any aircraft  
18 is prohibited, and the collection of a tax based on gallonage  
19 of special fuel used for the propulsion of any aircraft is  
20 prohibited on and after December 1, 2019. Kane County may  
21 exempt diesel fuel from the tax imposed pursuant to this  
22 Section. The initial tax rate may not be less than 4 cents per  
23 gallon of motor fuel sold at retail within the county for the

1 purpose of use or consumption and not for the purpose of resale  
2 and may not exceed 8 cents per gallon of motor fuel sold at  
3 retail within the county for the purpose of use or consumption  
4 and not for the purpose of resale. The proceeds from the tax  
5 shall be used by the county solely for the purposes of  
6 operating, constructing, and improving public highways, ~~and~~  
7 waterways, shared-use paths for nonvehicular public travel,  
8 sidewalks, and bike paths and acquiring real property and  
9 rights-of-way for public highways, ~~and~~ waterways, shared-use  
10 paths for nonvehicular public travel, sidewalks, and bike  
11 paths within the county imposing the tax.

12 (a-5) By June 1, 2020, and by June 1 of each year  
13 thereafter, the Department of Revenue shall determine an  
14 annual rate increase to take effect on July 1 of that calendar  
15 year and continue through June 30 of the next calendar year.  
16 Not later than June 1 of each year, the Department of Revenue  
17 shall publish on its website the rate that will take effect on  
18 July 1 of that calendar year. The rate shall be equal to the  
19 rate in effect increased by an amount equal to the percentage  
20 increase, if any, in the Consumer Price Index for All Urban  
21 Consumers for all items, published by the United States  
22 Department of Labor for the 12 months ending in March of each  
23 year. The rate shall be rounded to the nearest one-tenth of one  
24 cent. Each new rate may not exceed the rate in effect on June  
25 30 of the previous year plus one cent.

26 (b) A tax imposed pursuant to this Section, and all civil

1 penalties that may be assessed as an incident thereof, shall  
2 be administered, collected, and enforced by the Illinois  
3 Department of Revenue in the same manner as the tax imposed  
4 under the Retailers' Occupation Tax Act, as now or hereafter  
5 amended, insofar as may be practicable; except that in the  
6 event of a conflict with the provisions of this Section, this  
7 Section shall control. The Department of Revenue shall have  
8 full power: to administer and enforce this Section; to collect  
9 all taxes and penalties due hereunder; to dispose of taxes and  
10 penalties so collected in the manner hereinafter provided; and  
11 to determine all rights to credit memoranda arising on account  
12 of the erroneous payment of tax or penalty hereunder.

13 (b-5) Persons subject to any tax imposed under the  
14 authority granted in this Section may reimburse themselves for  
15 their seller's tax liability hereunder by separately stating  
16 that tax as an additional charge, which charge may be stated in  
17 combination, in a single amount, with State tax which sellers  
18 are required to collect under the Use Tax Act, pursuant to such  
19 bracket schedules as the Department may prescribe.

20 (c) Whenever the Department determines that a refund shall  
21 be made under this Section to a claimant instead of issuing a  
22 credit memorandum, the Department shall notify the State  
23 Comptroller, who shall cause the order to be drawn for the  
24 amount specified, and to the person named, in the notification  
25 from the Department. The refund shall be paid by the State  
26 Treasurer out of the County Option Motor Fuel Tax Fund.

1           (d) The Department shall forthwith pay over to the State  
2   Treasurer, ex officio, as trustee, all taxes and penalties  
3   collected hereunder, which shall be deposited into the County  
4   Option Motor Fuel Tax Fund, a special fund in the State  
5   Treasury which is hereby created. On or before the 25th day of  
6   each calendar month, the Department shall prepare and certify  
7   to the State Comptroller the disbursement of stated sums of  
8   money to named counties for which taxpayers have paid taxes or  
9   penalties hereunder to the Department during the second  
10   preceding calendar month. The amount to be paid to each county  
11   shall be the amount (not including credit memoranda) collected  
12   hereunder from retailers within the county during the second  
13   preceding calendar month by the Department, but not including  
14   an amount equal to the amount of refunds made during the second  
15   preceding calendar month by the Department on behalf of the  
16   county; less 2% of the balance, which sum shall be retained by  
17   the State Treasurer to cover the costs incurred by the  
18   Department in administering and enforcing the provisions of  
19   this Section. The Department, at the time of each monthly  
20   disbursement to the counties, shall prepare and certify to the  
21   Comptroller the amount so retained by the State Treasurer,  
22   which shall be transferred into the Tax Compliance and  
23   Administration Fund.

24           (e) Nothing in this Section shall be construed to  
25   authorize a county to impose a tax upon the privilege of  
26   engaging in any business which under the Constitution of the

1 United States may not be made the subject of taxation by this  
2 State.

3 (f) Until January 1, 2020, an ordinance or resolution  
4 imposing a tax hereunder or effecting a change in the rate  
5 thereof shall be effective on the first day of the second  
6 calendar month next following the month in which the ordinance  
7 or resolution is adopted and a certified copy thereof is filed  
8 with the Department of Revenue, whereupon the Department of  
9 Revenue shall proceed to administer and enforce this Section  
10 on behalf of the county as of the effective date of the  
11 ordinance or resolution.

12 On and after January 1, 2020, an ordinance or resolution  
13 imposing or discontinuing the tax hereunder or effecting a  
14 change in the rate thereof shall either: (i) be adopted and a  
15 certified copy thereof filed with the Department on or before  
16 the first day of April, whereupon the Department shall proceed  
17 to administer and enforce this Section as of the first day of  
18 July next following the adoption and filing; or (ii) be  
19 adopted and a certified copy thereof filed with the Department  
20 on or before the first day of October, whereupon the  
21 Department shall proceed to administer and enforce this  
22 Section as of the first day of January next following the  
23 adoption and filing.

24 (g) This Section shall be known and may be cited as the  
25 County Motor Fuel Tax Law.

26 (Source: P.A. 101-10, eff. 6-5-19; 101-32, eff. 6-28-19;

1 101-275, eff. 8-9-19; 101-604, eff. 12-13-19.)

2 Section 10. The Illinois Highway Code is amended by  
3 changing Sections 2-202, 5-701.13, and 5-801 as follows:

4 (605 ILCS 5/2-202) (from Ch. 121, par. 2-202)

5 Sec. 2-202. Highway-any public way for vehicular travel  
6 which has been laid out in pursuance of any law of this State,  
7 or of the Territory of Illinois, or which has been established  
8 by dedication, or used by the public as a highway for 15 years,  
9 or which has been or may be laid out and connect a subdivision  
10 or platted land with a public highway and which has been  
11 dedicated for the use of the owners of the land included in the  
12 subdivision or platted land where there has been an acceptance  
13 and use under such dedication by such owners, and which has not  
14 been vacated in pursuance of law. The term "highway" includes  
15 rights of way, bridges, drainage structures, signs, guard  
16 rails, protective structures, shared-use paths for  
17 nonvehicular public travel, sidewalks, bike paths, and all  
18 other structures and appurtenances necessary or convenient for  
19 vehicular traffic. A highway in a rural area may be called a  
20 "road", while a highway in a municipal area may be called a  
21 "street".

22 (Source: Laws 1959, p. 196.)

23 (605 ILCS 5/5-701.13) (from Ch. 121, par. 5-701.13)

1           Sec. 5-701.13. Motor fuel tax funds; counties over  
2 500,000. The county board of any county may also use motor fuel  
3 tax funds allotted to it for placing, erecting, and  
4 maintaining signs, or surface markings, or both to indicate  
5 officially designated bicycle routes along county highways. In  
6 addition, the county board of a county with a population over  
7 500,000 may also use motor fuel tax funds allotted to it for  
8 the construction and maintenance of bicycle routes or paths,  
9 shared-use paths for non-vehicular public travel, and  
10 sidewalks within the county, including ~~along county highways~~  
11 ~~or~~ along State highways by agreement with the Department.  
12 (Source: P.A. 88-502; 88-676, eff. 12-14-94.)

13           (605 ILCS 5/5-801) (from Ch. 121, par. 5-801)

14           Sec. 5-801. Any county, in its name, may acquire the fee  
15 simple title, or such lesser interest as may be desired, to any  
16 lands, rights or other property necessary for the  
17 construction, maintenance or operation of any county highway,  
18 township road, ~~or~~ district road, shared-use path for  
19 nonvehicular public travel, sidewalk, or bike path within the  
20 county or necessary for the locating, relocating, widening,  
21 altering, extending or straightening thereof, by purchase or  
22 gift or, if the compensation or damages cannot be agreed upon,  
23 by the exercise of the right of eminent domain under the  
24 eminent domain laws of this State. The county shall not be  
25 required to furnish bond in any eminent domain proceeding.



1           When, in the judgment of the county, it is more practical  
2 and economical to acquire the fee title to inaccessible  
3 remnants of tracts of land from which rights-of-way are being  
4 acquired than to pay for damages to property not taken, the  
5 county may do so by purchase but not by eminent domain  
6 proceedings.

7           When acquiring land for a highway on a new location, and  
8 when a parcel of land one acre or less in area contains a  
9 single family residence, which is in conformance with existing  
10 zoning ordinances, and only a part of said parcel is required  
11 for county highway purposes causing the remainder of the  
12 parcel not to conform with the existing zoning ordinances, or  
13 when the location of the right of way line of the proposed  
14 highway reduces the distance from an existing single family  
15 residence to the right of way line to ten feet or less, the  
16 acquiring agency shall, if the owner so demands, take the  
17 whole parcel by negotiation or condemnation. The part not  
18 needed for highway purposes may be rented, sold or exchanged  
19 by the acquiring agency.

20           (Source: Laws 1967, p. 3206.)

21           Section 99. Effective date. This Act takes effect upon  
22 becoming law.