



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4583

Introduced 1/21/2022, by Rep. Kambium Buckner

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-2.3

Amends the Municipal Motor Fuel Tax Law in the Illinois Municipal Code. Provides that, for purposes of the Law, a municipality is "in a county with a population of over 3,000,000 inhabitants" if any portion of the territory of the municipality is located in such a county. Provides that, notwithstanding any provision of the Law to the contrary, a municipality whose territory lies partially in a county with a population of over 3,000,000 inhabitants and partially outside such a county may, in the alternative, impose the tax authorized under the Law in only that portion of the municipality that lies in a county with a population of over 3,000,000 inhabitants. Effective immediately.

LRB102 23702 AWJ 32888 b

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Section 8-11-2.3 as follows:

6 (65 ILCS 5/8-11-2.3)

7 Sec. 8-11-2.3. Municipal Motor Fuel Tax Law.  
8 Notwithstanding any other provision of law, in addition to any  
9 other tax that may be imposed, a municipality in a county with  
10 a population of over 3,000,000 inhabitants may also impose, by  
11 ordinance, a tax upon all persons engaged in the municipality  
12 in the business of selling motor fuel, as defined in the Motor  
13 Fuel Tax Law, at retail for the operation of motor vehicles  
14 upon public highways or for the operation of recreational  
15 watercraft upon waterways. The tax may be imposed, in one cent  
16 increments, at a rate not to exceed \$0.03 per gallon of motor  
17 fuel sold at retail within the municipality for the purpose of  
18 use or consumption and not for the purpose of resale. The tax  
19 may not be imposed under this Section on aviation fuel, as  
20 defined in Section 3 of the Retailers' Occupation Tax Act.

21 For purposes of this Section, a municipality is "in a  
22 county with a population of over 3,000,000 inhabitants" if any  
23 portion of the territory of the municipality is located in

1 such a county. Notwithstanding any provisions of this Section  
2 to the contrary, a municipality whose territory lies partially  
3 in a county with a population of over 3,000,000 inhabitants  
4 and partially outside such a county may, in the alternative,  
5 impose the tax authorized under this Section in only that  
6 portion of the municipality that lies in a county with a  
7 population of over 3,000,000 inhabitants.

8 Persons subject to any tax imposed under the authority  
9 granted in this Section may reimburse themselves for their  
10 seller's tax liability hereunder by separately stating that  
11 tax as an additional charge, which charge may be stated in  
12 combination, in a single amount, with State tax which sellers  
13 are required to collect under the Use Tax Act, pursuant to such  
14 bracket schedules as the Department may prescribe.

15 A tax imposed pursuant to this Section, and all civil  
16 penalties that may be assessed as an incident thereof, shall  
17 be administered, collected, and enforced by the Department of  
18 Revenue in the same manner as the tax imposed under the  
19 Retailers' Occupation Tax Act, as now or hereafter amended,  
20 insofar as may be practicable; except that in the event of a  
21 conflict with the provisions of this Section, this Section  
22 shall control. The Department of Revenue shall have full power  
23 to: administer and enforce this Section; collect all taxes and  
24 penalties due hereunder; dispose of taxes and penalties so  
25 collected in the manner hereinafter provided; and determine  
26 all rights to credit memoranda arising on account of the

1 erroneous payment of tax or penalty hereunder.

2 Whenever the Department determines that a refund shall be  
3 made under this Section to a claimant instead of issuing a  
4 credit memorandum, the Department shall notify the State  
5 Comptroller, who shall cause the order to be drawn for the  
6 amount specified, and to the person named, in the notification  
7 from the Department. The refund shall be paid by the State  
8 Treasurer out of the Municipal Motor Fuel Tax Fund.

9 The Department shall immediately pay over to the State  
10 Treasurer, ex officio, as trustee, all taxes and penalties  
11 collected under this Section. Those taxes and penalties shall  
12 be deposited into the Municipal Motor Fuel Tax Fund, a trust  
13 fund created in the State treasury. Moneys in the Municipal  
14 Motor Fuel Tax Fund shall be used to make payments to  
15 municipalities and for the payment of refunds under this  
16 Section.

17 On or before the 25th day of each calendar month, the  
18 Department shall prepare and certify to the State Comptroller  
19 the disbursement of stated sums of money to named  
20 municipalities for which taxpayers have paid taxes or  
21 penalties hereunder to the Department during the second  
22 preceding calendar month. The amount to be paid to each  
23 municipality shall be the amount (not including credit  
24 memoranda) collected under this Section from retailers within  
25 the municipality during the second preceding calendar month by  
26 the Department, plus an amount the Department determines is

1 necessary to offset amounts that were erroneously paid to a  
2 different municipality, and not including an amount equal to  
3 the amount of refunds made during the second preceding  
4 calendar month by the Department on behalf of the  
5 municipality, and not including any amount that the Department  
6 determines is necessary to offset any amounts that were  
7 payable to a different municipality but were erroneously paid  
8 to the municipality, less 1.5% of the remainder, which the  
9 Department shall transfer into the Tax Compliance and  
10 Administration Fund. The Department, at the time of each  
11 monthly disbursement, shall prepare and certify to the State  
12 Comptroller the amount to be transferred into the Tax  
13 Compliance and Administration Fund under this Section. Within  
14 10 days after receipt by the Comptroller of the disbursement  
15 certification to the municipalities and the Tax Compliance and  
16 Administration Fund provided for in this Section to be given  
17 to the Comptroller by the Department, the Comptroller shall  
18 cause the orders to be drawn for the respective amounts in  
19 accordance with the directions contained in the certification.

20 Nothing in this Section shall be construed to authorize a  
21 municipality to impose a tax upon the privilege of engaging in  
22 any business which under the Constitution of the United States  
23 may not be made the subject of taxation by this State.

24 An ordinance or resolution imposing or discontinuing the  
25 tax under this Section or effecting a change in the rate  
26 thereof shall either: (i) be adopted and a certified copy

1       thereof filed with the Department on or before the first day of  
2       April, whereupon the Department shall proceed to administer  
3       and enforce this Section as of the first day of July next  
4       following the adoption and filing; or (ii) be adopted and a  
5       certified copy thereof filed with the Department on or before  
6       the first day of October, whereupon the Department shall  
7       proceed to administer and enforce this Section as of the first  
8       day of January next following the adoption and filing.

9       An ordinance adopted in accordance with the provisions of  
10      this Section in effect before the effective date of this  
11      amendatory Act of the 101st General Assembly shall be deemed  
12      to impose the tax in accordance with the provisions of this  
13      Section as amended by this amendatory Act of the 101st General  
14      Assembly and shall be administered by the Department of  
15      Revenue in accordance with the provisions of this Section as  
16      amended by this amendatory Act of the 101st General Assembly;  
17      provided that, on or before October 1, 2020, the municipality  
18      adopts and files a certified copy of a superseding ordinance  
19      that imposes the tax in accordance with the provisions of this  
20      Section as amended by this amendatory Act of the 101st General  
21      Assembly. If a superseding ordinance is not so adopted and  
22      filed, then the tax imposed in accordance with the provisions  
23      of this Section in effect before the effective date of this  
24      amendatory Act of the 101st General Assembly shall be  
25      discontinued on January 1, 2021.

26      This Section shall be known and may be cited as the

1 Municipal Motor Fuel Tax Law.

2 (Source: P.A. 101-32, eff. 6-28-19; 101-604, eff. 12-13-19.)

3 Section 99. Effective date. This Act takes effect  
4 immediately.