



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3743

Introduced 2/9/2024, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

70 ILCS 805/13.9 new
30 ILCS 105/5.1015 new

Amends the Downstate Forest Preserve District Act. Allows the board of a forest preserve district to establish a special forest preserve district retailers' occupation tax and service occupation tax after referendum of the voters. Allows the tax to be used exclusively for general purposes, including education, outdoor recreation, maintenance, operations, public safety at the forest preserves, trails, acquiring and restoring land, and any other lawful purposes or programs determined by the board of that district. Includes referendum language and additional ballot informational language. Incorporates provisions from the Retailers' Occupation Tax Act to implement the tax. Amends the State Finance Act to create the Special Forest Preserve Retailers' and Service Occupation Tax Fund. Effective immediately.

LRB103 38521 AWJ 68657 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 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. Special forest preserve districts retailers'
8 and service occupation tax.

9 (a) The board of any district may impose a tax upon all
10 persons engaged in the business of selling tangible personal
11 property, other than personal property titled or registered
12 with an agency of this State's government, at retail in the
13 district on the gross receipts from the sales made in the
14 course of business to provide revenue to be used for general
15 forest district purposes, including education, outdoor
16 recreation, maintenance, operations, public safety at the
17 forest preserves, trails, acquiring and restoring land, and
18 any other lawful purposes or programs determined by the board
19 of that district, except as otherwise provided in this
20 Section, if a proposition for the tax has been submitted to the
21 electors of that district and approved by a majority of those
22 voting on the question. If imposed, this tax shall be imposed
23 only in 0.25% increments. By resolution, the board may order

1 the proposition to be submitted at any election.

2 For a tax imposed for forest preserve purposes for
3 expenditures authorized under this Act, the board must publish
4 notice of the operational, capital, or master plan of the
5 district, and must make the plan publicly available prior to
6 approval of the ordinance or resolution imposing the tax.

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

14 The county clerk shall certify the question to the proper
15 election authority, who shall submit the proposition at an
16 election in accordance with the general election law.

17 The proposition for forest preserve purposes shall be in
18 substantially the following form:

19 "To pay for (forest preserve purposes), shall (name of
20 district) be authorized to impose an increase on its share
21 of local sales taxes by (insert rate)?"

22 The following additional information shall appear on the
23 ballot below the question:

24 "This would mean that a consumer would pay an
25 additional (insert amount) in sales tax for every \$100 of
26 tangible personal property bought at retail."

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

7 "To pay for (forest preserve purposes), shall (name of
8 district) be authorized to impose an increase on its share
9 of local sales taxes by (insert rate) for a period not to
10 exceed (insert number of years)?"

11 The following additional information shall appear on the
12 ballot below the question:

13 "This would mean that a consumer would pay an
14 additional (insert amount) in sales tax for every \$100 of
15 tangible personal property bought at retail. If imposed,
16 the additional tax would cease being collected at the end
17 of (insert number of years), if not terminated earlier by
18 a vote of the (name of district) board."

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

20 If a majority of the electors voting on the proposition
21 vote in favor of it, the district may impose the tax.

22 A district may not submit more than one proposition
23 authorized by this Section to the electors at any one time.

24 The board shall impose the tax upon all persons engaged in
25 the business of selling tangible personal property, other than
26 personal property titled or registered with an agency of this

1 State's government, at retail in the district on the gross
2 receipts from the sales made in the course of business.

3 (b) The tax imposed by the board under this Section 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 to a retailer under the Retailers' Occupation Tax
8 Act shall permit the retailer to engage in a business that is
9 taxable without registering separately with the Department
10 under an ordinance or resolution under this Section. The
11 Department has full power to administer and enforce this
12 Section, to collect all taxes and penalties due under this
13 Section, to dispose of taxes and penalties so collected in the
14 manner provided in this Section, and to determine all rights
15 to credit memoranda arising on account of the erroneous
16 payment of a tax or penalty under this Section. In the
17 administration of and compliance with this Section, the
18 Department and persons who are subject to this Section shall
19 (i) have the same rights, remedies, privileges, immunities,
20 powers, and duties; (ii) be subject to the same conditions,
21 restrictions, limitations, penalties, and definitions of
22 terms; and (iii) employ the same modes of procedure as are
23 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
24 1n, 2, 2-5, 2-5.5, 2-10 (in respect to all provisions
25 contained in those Sections other than the State rate of tax),
26 2-12, 2-15 through 2-70, 2a, 2b, 2c, 3 (except provisions

1 relating to transaction returns and quarter monthly payments,
2 and except that the retailer's discount is not allowed for
3 taxes paid on aviation fuel that are subject to the revenue use
4 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133) and
5 Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,
6 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
7 Retailers' Occupation Tax Act and the Uniform Penalty and
8 Interest Act as if those provisions were set forth in this
9 Section.

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

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

25 (c) If a tax has been imposed under subsection (a), then a
26 service occupation tax shall also be imposed at the same rate

1 upon all persons in the district engaged in the business of
2 making sales of service, who, as an incident to making those
3 sales of service, transfer tangible personal property within
4 the district as an incident to a sale of service. The tax
5 imposed under this Section and all civil penalties that may be
6 assessed as an incident thereof shall be collected and
7 enforced by the Department of Revenue. The Department has full
8 power to administer and enforce this Section; to collect all
9 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. In the
13 administration of, and compliance with this Section, the
14 Department and persons who are subject to this paragraph shall
15 (i) have the same rights, remedies, privileges, immunities,
16 powers, and duties; (ii) be subject to the same conditions,
17 restrictions, limitations, penalties, exclusions, exemptions,
18 and definitions of terms; and (iii) employ the same modes of
19 procedure as are prescribed in Sections 2 (except that the
20 reference to State in the definition of supplier maintaining a
21 place of business in this State shall mean the district), 2a,
22 2b, 2c, 3 through 3-50 (in respect to all provisions therein
23 other than the State rate of tax), 4 (except that the reference
24 to the State shall be to the district), 5, 7, 8 (except that
25 the jurisdiction to which the tax shall be a debt to the extent
26 indicated in that Section 8 shall be the district), 9 (except

1 as to the disposition of taxes and penalties collected, and
2 except that the retailer's discount is not allowed for taxes
3 paid on aviation fuel that are subject to the revenue use
4 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133), 10,
5 11, 12 (except the reference therein to Section 2b of the
6 Retailers' Occupation Tax Act), 13 (except that any reference
7 to the State shall mean the district), Sections 15, 16, 17, 18,
8 19 and 20 of the Service Occupation Tax Act and the Uniform
9 Penalty and Interest Act, as fully as if those provisions were
10 set forth herein.

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

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

1 Nothing in this subsection shall be construed to authorize
2 the board to impose a tax upon the privilege of engaging in any
3 business that under the Constitution of the United States may
4 not be made the subject of taxation by the State.

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

12 As soon as possible after the first day of each month and
13 upon certification of the Department of Revenue, the
14 Comptroller shall order transferred, and the Treasurer shall
15 transfer, to the STAR Bonds Revenue Fund the local sales tax
16 increment, as defined in the Innovation Development and
17 Economy Act, collected under this Section during the second
18 preceding calendar month for sales within a STAR bond
19 district. The Department shall make this certification only if
20 the district imposes a tax on real property as provided in the
21 definition of "local sales taxes" under the Innovation
22 Development and Economy Act.

23 After the monthly transfer to the STAR Bonds Revenue Fund,
24 on or before the 25th day of each calendar month, the
25 Department shall prepare and certify to the Comptroller the
26 disbursement of the stated sums of money to the district from

1 which retailers have paid taxes or penalties to the Department
2 during the second preceding calendar month. The amount to be
3 paid to the district shall be the amount collected under this
4 Section during the second preceding calendar month by the
5 Department plus an amount the Department determines is
6 necessary to offset any amounts that were erroneously paid to
7 a different taxing body, and not including (i) an amount equal
8 to the amount of refunds made during the second preceding
9 calendar month by the Department on behalf of the district;
10 (ii) any amount that the Department determines is necessary to
11 offset any amounts that were payable to a different taxing
12 body but were erroneously paid to the District; (iii) any
13 amounts that are transferred to the STAR Bonds Revenue Fund,
14 and (iv) 1.5% of the remainder, which the Department shall
15 transfer into the Tax Compliance and Administration Fund. The
16 Department, at the time of each monthly disbursement to the
17 district, shall prepare and certify to the State Comptroller
18 the amount to be transferred into the Tax Compliance and
19 Administration Fund under this subsection. Within 10 days
20 after receipt by the 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 Comptroller by the Department, the Comptroller shall
24 cause the orders to be drawn for the respective amounts in
25 accordance with directions contained in the certification.

26 (e) For the purpose of determining whether a tax

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

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

14 (g) An ordinance imposing a tax under this Section shall
15 be certified by the board and filed with the Department of
16 Revenue either (i) after the first day of October but on or
17 before the first day of April, whereupon the Department shall
18 proceed to administer and enforce the tax as of the first day
19 of July next following the filing; or (ii) after the first day
20 of April but on or before the first day of October, whereupon
21 the Department shall proceed to administer and enforce the tax
22 as of the first day of January next following the filing.

23 (h) When certifying the amount of a monthly disbursement
24 to the district under this Section, the Department shall
25 increase or decrease the amounts by an amount necessary to
26 offset any misallocation of previous disbursements. The offset

1 amount shall be the amount erroneously disbursed within the
2 previous 6 months from the time a misallocation is discovered.

3 Section 10. The State Finance Act is amended by adding
4 Section 5.1015 as follows:

5 (30 ILCS 105/5.1015 new)

6 Sec. 5.1015. The Special Forest Preserve Retailers' and
7 Service Occupation Tax Fund.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.