

1 AN ACT concerning county taxes.

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 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
8 For Public Safety or Transportation.

9 (a) The county board of any county may impose a tax upon  
10 all persons engaged in the business of selling tangible  
11 personal property, other than personal property titled or  
12 registered with an agency of this State's government, at  
13 retail in the county on the gross receipts from the sales  
14 made in the course of business to provide revenue to be used  
15 exclusively for public safety or transportation purposes in  
16 that county, if a proposition for the tax has been submitted  
17 to the electors of that county and approved by a majority of  
18 those voting on the question. If imposed, this tax shall be  
19 imposed only in one-quarter percent increments. By  
20 resolution, the county board may order the proposition to be  
21 submitted at any election. If the tax is imposed for  
22 transportation purposes for expenditures for public highways  
23 or as authorized under the Illinois Highway Code, the county  
24 board must publish notice of the existence of its long-range  
25 highway transportation plan as required or described in  
26 Section 5-301 of the Illinois Highway Code and must make the  
27 plan publicly available prior to approval of the ordinance or  
28 resolution imposing the tax. If the tax is imposed for  
29 transportation purposes for expenditures for passenger rail  
30 transportation, the county board must publish notice of the  
31 existence of its long-range passenger rail transportation

1 plan and must make the plan publicly available prior to  
 2 approval of the ordinance or resolution imposing the tax. The  
 3 county clerk shall certify the question to the proper  
 4 election authority, who shall submit the proposition at an  
 5 election in accordance with the general election law.

6 (1) The proposition for public safety purposes  
 7 shall be in substantially the following form:

8 "Shall (name of county) be authorized to impose a  
 9 public safety tax at the rate of .... upon all persons  
 10 engaged in the business of selling tangible personal  
 11 property at retail in the county on gross receipts from  
 12 the sales made in the course of their business ~~to be used~~  
 13 ~~for crime prevention, detention, and other public safety~~  
 14 ~~purposes?"~~

15 For the purposes of the paragraph, "public safety  
 16 purposes" means crime prevention, detention, fire  
 17 fighting, police, medical, ambulance, or other emergency  
 18 services.

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

20 (2) The proposition for transportation purposes  
 21 shall be in substantially the following form:

22 "Shall (name of county) be authorized to impose a  
 23 tax at the rate of (insert rate) upon all persons engaged  
 24 in the business of selling tangible personal property at  
 25 retail in the county on gross receipts from the sales  
 26 made in the course of their business to be used for  
 27 transportation purposes?

28 For the purposes of this paragraph, transportation  
 29 purposes means construction, maintenance, operation, and  
 30 improvement of public highways, any other purpose for  
 31 which a county may expend funds under the Illinois  
 32 Highway Code, and passenger rail transportation.

33 The votes shall be recorded as "Yes" or "No".

34 If a majority of the electors voting on the proposition

1 vote in favor of it, the county may impose the tax. A county  
2 may not submit more than one proposition authorized by this  
3 Section to the electors at any one time.

4 This additional tax may not be imposed on the sales of  
5 food for human consumption that is to be consumed off the  
6 premises where it is sold (other than alcoholic beverages,  
7 soft drinks, and food which has been prepared for immediate  
8 consumption) and prescription and non-prescription medicines,  
9 drugs, medical appliances and insulin, urine testing  
10 materials, syringes, and needles used by diabetics. The tax  
11 imposed by a county under this Section and all civil  
12 penalties that may be assessed as an incident of the tax  
13 shall be collected and enforced by the Illinois Department of  
14 Revenue and deposited into a special fund created for that  
15 purpose. The certificate of registration that is issued by  
16 the Department to a retailer under the Retailers' Occupation  
17 Tax Act shall permit the retailer to engage in a business  
18 that is taxable without registering separately with the  
19 Department under an ordinance or resolution under this  
20 Section. The Department has full power to administer and  
21 enforce this Section, to collect all taxes and penalties due  
22 under this Section, to dispose of taxes and penalties so  
23 collected in the manner provided in this Section, and to  
24 determine all rights to credit memoranda arising on account  
25 of the erroneous payment of a tax or penalty under this  
26 Section. In the administration of and compliance with this  
27 Section, the Department and persons who are subject to this  
28 Section shall (i) have the same rights, remedies, privileges,  
29 immunities, powers, and duties, (ii) be subject to the same  
30 conditions, restrictions, limitations, penalties, and  
31 definitions of terms, and (iii) employ the same modes of  
32 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,  
33 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to  
34 all provisions contained in those Sections other than the

1 State rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except  
2 provisions relating to transaction returns and quarter  
3 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
4 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13  
5 of the Retailers' Occupation Tax Act and Section 3-7 of the  
6 Uniform Penalty and Interest Act as if those provisions were  
7 set forth in this Section.

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

15 Whenever the Department determines that a refund should  
16 be made under this Section to a claimant instead of issuing a  
17 credit memorandum, the Department shall notify the State  
18 Comptroller, who shall cause the order to be drawn for the  
19 amount specified and to the person named in the notification  
20 from the Department. The refund shall be paid by the State  
21 Treasurer out of the County Public Safety or Transportation  
22 Retailers' Occupation Tax Fund.

23 (b) If a tax has been imposed under subsection (a), a  
24 service occupation tax shall also be imposed at the same rate  
25 upon all persons engaged, in the county, in the business of  
26 making sales of service, who, as an incident to making those  
27 sales of service, transfer tangible personal property within  
28 the county as an incident to a sale of service. This tax may  
29 not be imposed on sales of food for human consumption that is  
30 to be consumed off the premises where it is sold (other than  
31 alcoholic beverages, soft drinks, and food prepared for  
32 immediate consumption) and prescription and non-prescription  
33 medicines, drugs, medical appliances and insulin, urine  
34 testing materials, syringes, and needles used by diabetics.

1 The tax imposed under this subsection and all civil penalties  
2 that may be assessed as an incident thereof shall be  
3 collected and enforced by the Department of Revenue. The  
4 Department has full power to administer and enforce this  
5 subsection; to collect all taxes and penalties due hereunder;  
6 to dispose of taxes and penalties so collected in the manner  
7 hereinafter provided; and to determine all rights to credit  
8 memoranda arising on account of the erroneous payment of tax  
9 or penalty hereunder. In the administration of, and  
10 compliance with this subsection, the Department and persons  
11 who are subject to this paragraph shall (i) have the same  
12 rights, remedies, privileges, immunities, powers, and duties,  
13 (ii) be subject to the same conditions, restrictions,  
14 limitations, penalties, exclusions, exemptions, and  
15 definitions of terms, and (iii) employ the same modes of  
16 procedure as are prescribed in Sections 2 (except that the  
17 reference to State in the definition of supplier maintaining  
18 a place of business in this State shall mean the county), 2a,  
19 2b, 2c, 3 through 3-50 (in respect to all provisions therein  
20 other than the State rate of tax), 4 (except that the  
21 reference to the State shall be to the county), 5, 7, 8  
22 (except that the jurisdiction to which the tax shall be a  
23 debt to the extent indicated in that Section 8 shall be the  
24 county), 9 (except as to the disposition of taxes and  
25 penalties collected), 10, 11, 12 (except the reference  
26 therein to Section 2b of the Retailers' Occupation Tax Act),  
27 13 (except that any reference to the State shall mean the  
28 county), Section 15, 16, 17, 18, 19 and 20 of the Service  
29 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
30 Interest Act, as fully as if those provisions were set forth  
31 herein.

32 Persons subject to any tax imposed under the authority  
33 granted in this subsection may reimburse themselves for their  
34 serviceman's tax liability by separately stating the tax as

1 an additional charge, which charge may be stated in  
2 combination, in a single amount, with State tax that  
3 servicemen are authorized to collect under the Service Use  
4 Tax Act, in accordance with such bracket schedules as the  
5 Department may prescribe.

6 Whenever the Department determines that a refund should  
7 be made under this subsection to a claimant instead of  
8 issuing a credit memorandum, the Department shall notify the  
9 State Comptroller, who shall cause the warrant to be drawn  
10 for the amount specified, and to the person named, in the  
11 notification from the Department. The refund shall be paid  
12 by the State Treasurer out of the County Public Safety or  
13 Transportation Retailers' Occupation Fund.

14 Nothing in this subsection shall be construed to  
15 authorize the county to impose a tax upon the privilege of  
16 engaging in any business which under the Constitution of the  
17 United States may not be made the subject of taxation by the  
18 State.

19 (c) The Department shall immediately pay over to the  
20 State Treasurer, ex officio, as trustee, all taxes and  
21 penalties collected under this Section to be deposited into  
22 the County Public Safety or Transportation Retailers'  
23 Occupation Tax Fund, which shall be an unappropriated trust  
24 fund held outside of the State treasury. On or before the  
25 25th day of each calendar month, the Department shall prepare  
26 and certify to the Comptroller the disbursement of stated  
27 sums of money to the counties from which retailers have paid  
28 taxes or penalties to the Department during the second  
29 preceding calendar month. The amount to be paid to each  
30 county, and deposited by the county into its special fund  
31 created for the purposes of this Section, shall be the amount  
32 (not including credit memoranda) collected under this Section  
33 during the second preceding calendar month by the Department  
34 plus an amount the Department determines is necessary to

1 offset any amounts that were erroneously paid to a different  
2 taxing body, and not including (i) an amount equal to the  
3 amount of refunds made during the second preceding calendar  
4 month by the Department on behalf of the county and (ii) any  
5 amount that the Department determines is necessary to offset  
6 any amounts that were payable to a different taxing body but  
7 were erroneously paid to the county. Within 10 days after  
8 receipt by the Comptroller of the disbursement certification  
9 to the counties provided for in this Section to be given to  
10 the Comptroller by the Department, the Comptroller shall  
11 cause the orders to be drawn for the respective amounts in  
12 accordance with directions contained in the certification.

13 In addition to the disbursement required by the preceding  
14 paragraph, an allocation shall be made in March of each year  
15 to each county that received more than \$500,000 in  
16 disbursements under the preceding paragraph in the preceding  
17 calendar year. The allocation shall be in an amount equal to  
18 the average monthly distribution made to each such county  
19 under the preceding paragraph during the preceding calendar  
20 year (excluding the 2 months of highest receipts). The  
21 distribution made in March of each year subsequent to the  
22 year in which an allocation was made pursuant to this  
23 paragraph and the preceding paragraph shall be reduced by the  
24 amount allocated and disbursed under this paragraph in the  
25 preceding calendar year. The Department shall prepare and  
26 certify to the Comptroller for disbursement the allocations  
27 made in accordance with this paragraph.

28 (d) For the purpose of determining the local  
29 governmental unit whose tax is applicable, a retail sale by a  
30 producer of coal or another mineral mined in Illinois is a  
31 sale at retail at the place where the coal or other mineral  
32 mined in Illinois is extracted from the earth. This  
33 paragraph does not apply to coal or another mineral when it  
34 is delivered or shipped by the seller to the purchaser at a

1 point outside Illinois so that the sale is exempt under the  
2 United States Constitution as a sale in interstate or foreign  
3 commerce.

4 (e) Nothing in this Section shall be construed to  
5 authorize a county to impose a tax upon the privilege of  
6 engaging in any business that under the Constitution of the  
7 United States may not be made the subject of taxation by this  
8 State.

9 (e-5) If a county imposes a tax under this Section, the  
10 county board may, by ordinance, discontinue or lower the rate  
11 of the tax. If the county board lowers the tax rate or  
12 discontinues the tax, a referendum must be held in accordance  
13 with subsection (a) of this Section in order to increase the  
14 rate of the tax or to reimpose the discontinued tax.

15 (f) Beginning April 1, 1998, the results of any election  
16 authorizing a proposition to impose a tax under this Section  
17 or effecting a change in the rate of tax, or any ordinance  
18 lowering the rate or discontinuing the tax, shall be  
19 certified by the county clerk and filed with the Illinois  
20 Department of Revenue either (i) on or before the first day  
21 of April, whereupon the Department shall proceed to  
22 administer and enforce the tax as of the first day of July  
23 next following the filing; or (ii) on or before the first day  
24 of October, whereupon the Department shall proceed to  
25 administer and enforce the tax as of the first day of January  
26 next following the filing.

27 (g) When certifying the amount of a monthly disbursement  
28 to a county under this Section, the Department shall increase  
29 or decrease the amounts by an amount necessary to offset any  
30 miscalculation of previous disbursements. The offset amount  
31 shall be the amount erroneously disbursed within the previous  
32 6 months from the time a miscalculation is discovered.

33 (h) This Section may be cited as the "Special County  
34 Occupation Tax For Public Safety or Transportation Law".



1           (i) For purposes of this Section, "public safety"  
2 includes, but is not limited to, crime prevention, detention,  
3 fire fighting, police, medical, ambulance, or other emergency  
4 services. For the purposes of this Section, "transportation"  
5 includes, but is not limited to, the construction,  
6 maintenance, operation, and improvement of public highways,  
7 any other purpose for which a county may expend funds under  
8 the Illinois Highway Code, and passenger rail transportation.  
9 (Source: P.A. 89-107, eff. 1-1-96; 89-718, eff. 3-7-97;  
10 90-190, eff. 7-24-97; 90-267, eff. 7-30-97; 90-552, eff.  
11 12-12-97; 90-562, eff. 12-16-97; 90-655, eff. 7-30-98;  
12 90-689, eff. 7-31-98.)

13           Section 99. Effective date. This Act takes effect upon  
14 becoming law.