

1 AMENDMENT TO SENATE BILL 1946

2 AMENDMENT NO. _____. Amend Senate Bill 1946 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Local Mass Transit District Act is
5 amended by changing Section 5.01 as follows:

6 (70 ILCS 3610/5.01) (from Ch. 111 2/3, par. 355.01)

7 Sec. 5.01. Metro East Mass Transit District; use and
8 occupation taxes.

9 (a) The Board of Trustees of any Metro East Mass Transit
10 District may, by ordinance adopted with the concurrence of
11 two-thirds of the then trustees, impose throughout the
12 District any or all of the taxes and fees provided in this
13 Section. All taxes and fees imposed under this Section shall
14 be used only for public mass transportation systems, and the
15 amount used to provide mass transit service to unserved areas
16 of the District shall be in the same proportion to the total
17 proceeds as the number of persons residing in the unserved
18 areas is to the total population of the District. Except as
19 otherwise provided in this Act, taxes imposed under this
20 Section and civil penalties imposed incident thereto shall be
21 collected and enforced by the State Department of Revenue.
22 The Department shall have the power to administer and enforce

1 the taxes and to determine all rights for refunds for
2 erroneous payments of the taxes.

3 (b) The Board may impose a Metro East Mass Transit
4 District Retailers' Occupation Tax upon all persons engaged
5 in the business of selling tangible personal property at
6 retail in the district at a rate of 1/4 of 1%, or as
7 authorized under subsection (d-5) of this Section, of the
8 gross receipts from the sales made in the course of such
9 business within the district. The tax imposed under this
10 Section and all civil penalties that may be assessed as an
11 incident thereof shall be collected and enforced by the State
12 Department of Revenue. The Department shall have full power
13 to administer and enforce this Section; to collect all taxes
14 and penalties so collected in the manner hereinafter
15 provided; and to determine all rights to credit memoranda
16 arising on account of the erroneous payment of tax or penalty
17 hereunder. In the administration of, and compliance with,
18 this Section, the Department and persons who are subject to
19 this Section shall have the same rights, remedies,
20 privileges, immunities, powers and duties, and be subject to
21 the same conditions, restrictions, limitations, penalties,
22 exclusions, exemptions and definitions of terms and employ
23 the same modes of procedure, as are prescribed in Sections 1,
24 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect
25 to all provisions therein other than the State rate of tax),
26 2c, 3 (except as to the disposition of taxes and penalties
27 collected), 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,
28 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13, and 14 of the
29 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
30 Penalty and Interest Act, as fully as if those provisions
31 were set forth herein.

32 Persons subject to any tax imposed under the Section may
33 reimburse themselves for their seller's tax liability
34 hereunder by separately stating the tax as an additional

1 charge, which charge may be stated in combination, in a
2 single amount, with State taxes that sellers are required to
3 collect under the Use Tax Act, in accordance with such
4 bracket schedules as the Department may prescribe.

5 Whenever the Department determines that a refund should
6 be made under this Section to a claimant instead of issuing a
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the warrant to be drawn for the
9 amount specified, and to the person named, in the
10 notification from the Department. The refund shall be paid
11 by the State Treasurer out of the Metro East Mass Transit
12 District tax fund established under paragraph (g) of this
13 Section.

14 If a tax is imposed under this subsection (b), a tax
15 shall also be imposed under subsections (c) and (d) of this
16 Section.

17 For the purpose of determining whether a tax authorized
18 under this Section is applicable, a retail sale, by a
19 producer of coal or other mineral mined in Illinois, is a
20 sale at retail at the place where the coal or other mineral
21 mined in Illinois is extracted from the earth. This
22 paragraph does not apply to coal or other mineral when it is
23 delivered or shipped by the seller to the purchaser at a
24 point outside Illinois so that the sale is exempt under the
25 Federal Constitution as a sale in interstate or foreign
26 commerce.

27 Nothing in this Section shall be construed to authorize
28 the Metro East Mass Transit District to impose a tax upon the
29 privilege of engaging in any business which under the
30 Constitution of the United States may not be made the subject
31 of taxation by this State.

32 (c) If a tax has been imposed under subsection (b), a
33 Metro East Mass Transit District Service Occupation Tax shall
34 also be imposed upon all persons engaged, in the district, in

1 the business of making sales of service, who, as an incident
2 to making those sales of service, transfer tangible personal
3 property within the District, either in the form of tangible
4 personal property or in the form of real estate as an
5 incident to a sale of service. The tax rate shall be 1/4%, or
6 as authorized under subsection (d-5) of this Section, of the
7 selling price of tangible personal property so transferred
8 within the district. The tax imposed under this paragraph
9 and all civil penalties that may be assessed as an incident
10 thereof shall be collected and enforced by the State
11 Department of Revenue. The Department shall have full power
12 to administer and enforce this paragraph; to collect all
13 taxes and penalties due hereunder; to dispose of taxes and
14 penalties so collected in the manner hereinafter provided;
15 and to determine all rights to credit memoranda arising on
16 account of the erroneous payment of tax or penalty hereunder.
17 In the administration of, and compliance with this paragraph,
18 the Department and persons who are subject to this paragraph
19 shall have the same rights, remedies, privileges, immunities,
20 powers and duties, and be subject to the same conditions,
21 restrictions, limitations, penalties, exclusions, exemptions
22 and definitions of terms and employ the same modes of
23 procedure as are prescribed in Sections 1a-1, 2 (except that
24 the reference to State in the definition of supplier
25 maintaining a place of business in this State shall mean the
26 Authority), 2a, 3 through 3-50 (in respect to all provisions
27 therein other than the State rate of tax), 4 (except that the
28 reference to the State shall be to the Authority), 5, 7, 8
29 (except that the jurisdiction to which the tax shall be a
30 debt to the extent indicated in that Section 8 shall be the
31 District), 9 (except as to the disposition of taxes and
32 penalties collected, and except that the returned merchandise
33 credit for this tax may not be taken against any State tax),
34 10, 11, 12 (except the reference therein to Section 2b of the

1 Retailers' Occupation Tax Act), 13 (except that any reference
2 to the State shall mean the District), the first paragraph of
3 Section 15, 16, 17, 18, 19 and 20 of the Service Occupation
4 Tax Act and Section 3-7 of the Uniform Penalty and Interest
5 Act, as fully as if those provisions were set forth herein.

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

14 Whenever the Department determines that a refund should
15 be made under this paragraph to a claimant instead of issuing
16 a credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the warrant to be drawn for the
18 amount specified, and to the person named, in the
19 notification from the Department. The refund shall be paid
20 by the State Treasurer out of the Metro East Mass Transit
21 District tax fund established under paragraph (g) of this
22 Section.

23 Nothing in this paragraph shall be construed to authorize
24 the District to impose a tax upon the privilege of engaging
25 in any business which under the Constitution of the United
26 States may not be made the subject of taxation by the State.

27 (d) If a tax has been imposed under subsection (b), a
28 Metro East Mass Transit District Use Tax shall also be
29 imposed upon the privilege of using, in the district, any
30 item of tangible personal property that is purchased outside
31 the district at retail from a retailer, and that is titled or
32 registered with an agency of this State's government, at a
33 rate of 1/4%, or as authorized under subsection (d-5) of this
34 Section, of the selling price of the tangible personal

1 property within the District, as "selling price" is defined
2 in the Use Tax Act. The tax shall be collected from persons
3 whose Illinois address for titling or registration purposes
4 is given as being in the District. The tax shall be
5 collected by the Department of Revenue for the Metro East
6 Mass Transit District. The tax must be paid to the State, or
7 an exemption determination must be obtained from the
8 Department of Revenue, before the title or certificate of
9 registration for the property may be issued. The tax or
10 proof of exemption may be transmitted to the Department by
11 way of the State agency with which, or the State officer with
12 whom, the tangible personal property must be titled or
13 registered if the Department and the State agency or State
14 officer determine that this procedure will expedite the
15 processing of applications for title or registration.

16 The Department shall have full power to administer and
17 enforce this paragraph; to collect all taxes, penalties and
18 interest due hereunder; to dispose of taxes, penalties and
19 interest so collected in the manner hereinafter provided; and
20 to determine all rights to credit memoranda or refunds
21 arising on account of the erroneous payment of tax, penalty
22 or interest hereunder. In the administration of, and
23 compliance with, this paragraph, the Department and persons
24 who are subject to this paragraph shall have the same rights,
25 remedies, privileges, immunities, powers and duties, and be
26 subject to the same conditions, restrictions, limitations,
27 penalties, exclusions, exemptions and definitions of terms
28 and employ the same modes of procedure, as are prescribed in
29 Sections 2 (except the definition of "retailer maintaining a
30 place of business in this State"), 3 through 3-80 (except
31 provisions pertaining to the State rate of tax, and except
32 provisions concerning collection or refunding of the tax by
33 retailers), 4, 11, 12, 12a, 14, 15, 19 (except the portions
34 pertaining to claims by retailers and except the last

1 paragraph concerning refunds), 20, 21 and 22 of the Use Tax
2 Act and Section 3-7 of the Uniform Penalty and Interest Act,
3 that are not inconsistent with this paragraph, as fully as if
4 those provisions were set forth herein.

5 Whenever the Department determines that a refund should
6 be made under this paragraph to a claimant instead of issuing
7 a credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the order to be drawn for the
9 amount specified, and to the person named, in the
10 notification from the Department. The refund shall be paid by
11 the State Treasurer out of the Metro East Mass Transit
12 District tax fund established under paragraph (g) of this
13 Section.

14 (d-5) (A) The county board of any county participating
15 in the Metro East Mass Transit District may authorize, by
16 ordinance, a referendum on the question of whether the tax
17 rates for the Metro East Mass Transit District Retailers'
18 Occupation Tax, the Metro East Mass Transit District Service
19 Occupation Tax, and the Metro East Mass Transit District Use
20 Tax for the District should be increased from 0.25% to 0.75%.
21 Upon adopting the ordinance, the county board shall certify
22 the proposition to the proper election officials who shall
23 submit the proposition to the voters of the District at the
24 next election, in accordance with the general election law.

25 The proposition shall be in substantially the following
26 form:

27 Shall the tax rates for the Metro East Mass Transit
28 District Retailers' Occupation Tax, the Metro East Mass
29 Transit District Service Occupation Tax, and the Metro
30 East Mass Transit District Use Tax be increased from
31 0.25% to 0.75%?

32 (B) Two thousand five hundred electors of any Metro East
33 Mass Transit District may petition the Chief Judge of the
34 Circuit Court, or any judge of that Circuit designated by the

1 Chief Judge, in which that District is located to cause to be
 2 submitted to a vote of the electors the question whether the
 3 tax rates for the Metro East Mass Transit District Retailers'
 4 Occupation Tax, the Metro East Mass Transit District Service
 5 Occupation Tax, and the Metro East Mass Transit District Use
 6 Tax for the District should be increased from 0.25% to 0.75%.

7 Upon submission of such petition the court shall set a
 8 date not less than 10 nor more than 30 days thereafter for a
 9 hearing on the sufficiency thereof. Notice of the filing of
 10 such petition and of such date shall be given in writing to
 11 the District and the County Clerk at least 7 days before the
 12 date of such hearing.

13 If such petition is found sufficient, the court shall
 14 enter an order to submit that proposition at the next
 15 election, in accordance with general election law.

16 The form of the petition shall be in substantially the
 17 following form: To the Circuit Court of the County of (name
 18 of county):

19 We, the undersigned electors of the (name of transit
 20 district), respectfully petition your honor to submit to
 21 a vote of the electors of (name of transit district) the
 22 following proposition:

23 Shall the tax rates for the Metro East Mass Transit
 24 District Retailers' Occupation Tax, the Metro East Mass
 25 Transit District Service Occupation Tax, and the Metro
 26 East Mass Transit District Use Tax be increased from
 27 0.25% to 0.75%?

28	Name	Address, with Street and Number.
29
30

31 (C) The votes shall be recorded as "YES" or "NO". If a
 32 majority of all votes cast on the proposition are for the
 33 increase in the tax rates, the Metro East Mass Transit
 34 District shall begin imposing the increased rates in the

1 District, and the Department of Revenue shall begin
2 collecting the increased amounts, as provided under this
3 Section. An ordinance imposing or discontinuing a tax
4 hereunder or effecting a change in the rate thereof shall be
5 adopted and a certified copy thereof filed with the
6 Department on or before the first day of October, whereupon
7 the Department shall proceed to administer and enforce this
8 Section as of the first day of January next following the
9 adoption and filing, or on or before the first day of April,
10 whereupon the Department shall proceed to administer and
11 enforce this Section as of the first day of July next
12 following the adoption and filing.

13 (D) If the voters have approved a referendum under this
14 subsection, before November 1, 1994, to increase the tax rate
15 under this subsection, the Metro East Mass Transit District
16 Board of Trustees may adopt by a majority vote an ordinance
17 at any time before January 1, 1995 that excludes from the
18 rate increase tangible personal property that is titled or
19 registered with an agency of this State's government. The
20 ordinance excluding titled or registered tangible personal
21 property from the rate increase must be filed with the
22 Department at least 15 days before its effective date. At any
23 time after adopting an ordinance excluding from the rate
24 increase tangible personal property that is titled or
25 registered with an agency of this State's government, the
26 Metro East Mass Transit District Board of Trustees may adopt
27 an ordinance applying the rate increase to that tangible
28 personal property. The ordinance shall be adopted, and a
29 certified copy of that ordinance shall be filed with the
30 Department, on or before October 1, whereupon the Department
31 shall proceed to administer and enforce the rate increase
32 against tangible personal property titled or registered with
33 an agency of this State's government as of the following
34 January 1. After December 31, 1995, any reimposed rate

1 increase in effect under this subsection shall no longer
2 apply to tangible personal property titled or registered with
3 an agency of this State's government. Beginning January 1,
4 1996, the Board of Trustees of any Metro East Mass Transit
5 District may never reimpose a previously excluded tax rate
6 increase on tangible personal property titled or registered
7 with an agency of this State's government. After July 1,
8 2003, if the voters have approved a referendum under this
9 subsection to increase the tax rate under this subsection,
10 the Metro East Mass Transit District Board of Trustees may
11 adopt by a majority vote an ordinance that excludes from the
12 rate increase tangible personal property that is titled or
13 registered with an agency of this State's government. The
14 ordinance shall be adopted, and a certified copy of that
15 ordinance shall be filed with the Department, on or before
16 October 1, whereupon the Department shall proceed to
17 administer and enforce the rate increase against tangible
18 personal property titled or registered with an agency of this
19 State's government as of the following January 1, or on or
20 before April 1, whereupon the Department shall proceed to
21 administer and enforce the rate against tangible personal
22 property titled or registered with an agency of this State's
23 government as of the following July 1. The Board of Trustees
24 of any Metro East Mass Transit District may never reimpose a
25 previously excluded tax rate increase on tangible personal
26 property titled or registered with an agency of this State's
27 government.

28 (d-6) If the Board of Trustees of any Metro East Mass
29 Transit District has imposed a rate increase under subsection
30 (d-5) and filed an ordinance with the Department of Revenue
31 excluding titled property from the higher rate, then that
32 Board may, by ordinance adopted with the concurrence of
33 two-thirds of the then trustees, impose throughout the
34 District a fee. The fee on the excluded property shall not

1 exceed \$20 per retail transaction or an amount equal to the
2 amount of tax excluded, whichever is less, on tangible
3 personal property that is titled or registered with an agency
4 of this State's government. Beginning July 1, 2004, the fee
5 shall apply only to titled property that is subject to either
6 the Metro East Mass Transit District Retailers' Occupation
7 Tax or the Metro East Mass Transit District Service
8 Occupation Tax.

9 (d-7) Until June 30, 2004, if a fee has been imposed
10 under subsection (d-6), a fee shall also be imposed upon the
11 privilege of using, in the district, any item of tangible
12 personal property that is titled or registered with any
13 agency of this State's government, in an amount equal to the
14 amount of the fee imposed under subsection (d-6).

15 (d-7.1) Beginning July 1, 2004, any fee imposed by the
16 Board of Trustees of any Metro East Mass Transit District
17 under subsection (d-6) and all civil penalties that may be
18 assessed as an incident of the fees shall be collected and
19 enforced by the State Department of Revenue. Reference to
20 "taxes" in this Section shall be construed to apply to the
21 administration, payment, and remittance of all fees under
22 this Section. For purposes of any fee imposed under
23 subsection (d-6), 4% of the fee, penalty, and interest
24 received by the Department in the first 12 months that the
25 fee is collected and enforced by the Department and 2% of the
26 fee, penalty, and interest following the first 12 months
27 shall be deposited into the Tax Compliance and Administration
28 Fund and shall be used by the Department, subject to
29 appropriation, to cover the costs of the Department. No
30 retailers' discount shall apply to any fee imposed under
31 subsection (d-6).

32 (d-8) No item of titled property shall be subject to
33 both the higher rate approved by referendum, as authorized
34 under subsection (d-5), and any fee imposed under subsection

1 (d-6) or (d-7).

2 (d-9) (Blank). If fees have been imposed under
3 subsections (d-6) and (d-7), the Board shall forward a copy
4 of the ordinance adopting such fees, which shall include all
5 zip codes in whole or in part within the boundaries of the
6 district, to the Secretary of State within thirty days. By
7 the 25th of each month, the Secretary of State shall
8 subsequently provide the Illinois Department of Revenue with
9 a list of identifiable retail transactions subject to the
10 .25% rate occurring within the zip codes which are in whole
11 or in part within the boundaries of the district and a list
12 of title applications for addresses within the boundaries of
13 the district for the previous month.

14 (d-10) (Blank). In the event that a retailer fails to
15 pay applicable fees within 30 days of the date of the
16 transaction, a penalty shall be assessed at the rate of 25%
17 of the amount of fees. Interest on both late fees and
18 penalties shall be assessed at the rate of 1% per month. All
19 fees, penalties, and attorney fees shall constitute a lien on
20 the personal and real property of the retailer.

21 (e) A certificate of registration issued by the State
22 Department of Revenue to a retailer under the Retailers'
23 Occupation Tax Act or under the Service Occupation Tax Act
24 shall permit the registrant to engage in a business that is
25 taxed under the tax imposed under paragraphs (b), (c) or (d)
26 of this Section and no additional registration shall be
27 required under the tax. A certificate issued under the Use
28 Tax Act or the Service Use Tax Act shall be applicable with
29 regard to any tax imposed under paragraph (c) of this
30 Section.

31 (f) (Blank). The Board may impose a replacement vehicle
32 tax of \$50 on any passenger car, as defined in Section 1-157
33 of the Illinois Vehicle Code, purchased within the district
34 area by or on behalf of an insurance company to replace a

1 passenger--car--of-an-insured-person-in-settlement-of-a-total
2 loss-claim.--The-tax-imposed-may-not-become-effective--before
3 the--first--day--of--the--month--following-the-passage-of-the
4 ordinance-imposing-the-tax-and-receipt-of-a-certified-copy-of
5 the-ordinance-by-the-Department-of-Revenue.---The--Department
6 of--Revenue--shall--collect--the--tax--for--the--district--in
7 accordance--with--Sections--3-2002-and-3-2003-of-the-Illinois
8 Vehicle-Code.

9 The-Department-shall-immediately-pay-over--to--the--State
10 Treasurer,--ex--officio,--as--trustee,--all--taxes--collected
11 hereunder.--On-or-before-the-25th-day-of-each-calendar-month,
12 the--Department--shall-prepare-and-certify-to-the-Comptroller
13 the-disbursement-of-stated-sums-of-money-to-named--districts,
14 the--districts--to--be--those--from-which-retailers-have-paid
15 taxes-or-penalties-hereunder-to--the--Department--during--the
16 second--preceding--calendar--month.--The-amount-to-be-paid-to
17 each-district-shall-be-the-amount-collected-hereunder--during
18 the--second--preceding-calendar-month-by-the-Department,--less
19 any-amount-determined-by-the-Department-to-be--necessary--for
20 the--payment-of-refunds.--Within-10-days-after-receipt-by-the
21 Comptroller--of--the--disbursement--certification--to--the
22 districts,--provided--for--in-this-Section-to-be-given-to-the
23 Comptroller-by-the-Department,--the--Comptroller--shall--cause
24 the--orders--to--be--drawn--for--the--respective--amounts--in
25 accordance---with---the---directions---contained---in---the
26 certification.

27 (g) Any ordinance imposing or discontinuing any tax
28 under this Section shall be adopted and a certified copy
29 thereof filed with the Department on or before June 1,
30 whereupon the Department of Revenue shall proceed to
31 administer and enforce this Section on behalf of the Metro
32 East Mass Transit District as of September 1 next following
33 such adoption and filing. Beginning January 1, 1992, an
34 ordinance or resolution imposing or discontinuing the tax

1 hereunder shall be adopted and a certified copy thereof filed
2 with the Department on or before the first day of July,
3 whereupon the Department shall proceed to administer and
4 enforce this Section as of the first day of October next
5 following such adoption and filing. Beginning January 1,
6 1993, except as provided in subsection (d-5) of this Section,
7 an ordinance or resolution imposing or discontinuing the tax
8 hereunder shall be adopted and a certified copy thereof filed
9 with the Department on or before the first day of October,
10 whereupon the Department shall proceed to administer and
11 enforce this Section as of the first day of January next
12 following such adoption and filing, or, beginning January 1,
13 2004, on or before the first day of April, whereupon the
14 Department shall proceed to administer and enforce this
15 Section as of the first day of July next following the
16 adoption and filing.

17 (h) Except as provided in subsection (d-7.1), the State
18 Department of Revenue shall, upon collecting any taxes as
19 provided in this Section, pay the taxes over to the State
20 Treasurer as trustee for the District. The taxes shall be
21 held in a trust fund outside the State Treasury. On or before
22 the 25th day of each calendar month, the State Department of
23 Revenue shall prepare and certify to the Comptroller of the
24 State of Illinois the amount to be paid to the District,
25 which shall be the then balance in the fund, less any amount
26 determined by the Department to be necessary for the payment
27 of refunds. Within 10 days after receipt by the Comptroller
28 of the certification of the amount to be paid to the
29 District, the Comptroller shall cause an order to be drawn
30 for payment for the amount in accordance with the direction
31 in the certification.

32 (Source: P.A. 93-590; eff. 1-1-04.)

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.".