



Sen. Dave Syverson

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1 AMENDMENT TO HOUSE BILL 832

2 AMENDMENT NO. _____. Amend House Bill 832 as follows:

3 on page 1, by replacing lines 4 and 5 with the following:

4 "Section 5. The Counties Code is amended by changing
5 Sections 5-1006.5 and 6-1002.5 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 retail
13 in the county on the gross receipts from the sales made in the
14 course of business to provide revenue to be used exclusively
15 for public safety or transportation purposes in that county, if
16 a proposition for the tax has been submitted to the electors of
17 that county and approved by a majority of those voting on the
18 question. If imposed, this tax shall be imposed only in
19 one-quarter percent increments. By resolution, the county
20 board may order the proposition to be submitted at any
21 election. If the tax is imposed for transportation purposes for
22 expenditures for public highways or as authorized under the
23 Illinois Highway Code, the county board must publish notice of
24 the existence of its long-range highway transportation plan as

1 required or described in Section 5-301 of the Illinois Highway
2 Code and must make the plan publicly available prior to
3 approval of the ordinance or resolution imposing the tax. If
4 the tax is imposed for transportation purposes for expenditures
5 for passenger rail transportation, the county board must
6 publish notice of the existence of its long-range passenger
7 rail transportation plan and must make the plan publicly
8 available prior to approval of the ordinance or resolution
9 imposing the tax. The county clerk shall certify the question
10 to the proper election authority, who shall submit the
11 proposition at an election in accordance with the general
12 election law.

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

15 "Shall (name of county) be authorized to impose a
16 public safety tax at the rate of upon all persons
17 engaged in the business of selling tangible personal
18 property at retail in the county on gross receipts from the
19 sales made in the course of their business?"

20 For the purposes of the paragraph, "public safety
21 purposes" means crime prevention, detention, fire
22 fighting, police, medical, ambulance, or other emergency
23 services.

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

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

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

33 For the purposes of this paragraph, transportation
34 purposes means construction, maintenance, operation, and

1 improvement of public highways, any other purpose for which
2 a county may expend funds under the Illinois Highway Code,
3 and passenger rail transportation.

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

5 If a majority of the electors voting on the proposition
6 vote in favor of it, the county may impose the tax. A county
7 may not submit more than one proposition authorized by this
8 Section to the electors at any one time.

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

1 terms, and (iii) employ the same modes of procedure as are
2 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
3 1n, 2, 2-5, 2-5.5, 2-10 (in respect to all provisions contained
4 in those Sections other than the State rate of tax), 2-15
5 through 2-70, 2a, 2b, 2c, 3 (except provisions relating to
6 transaction returns and quarter monthly payments), 4, 5, 5a,
7 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
8 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
9 and Section 3-7 of the Uniform Penalty and Interest Act as if
10 those provisions were set forth in this Section.

11 Persons subject to any tax imposed under the authority
12 granted in this Section may reimburse themselves for their
13 sellers' 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 which sellers are required
16 to collect under the Use Tax Act, pursuant to such bracketed
17 schedules as the Department may prescribe.

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

26 (b) If a tax has been imposed under subsection (a), a
27 service occupation tax shall also be imposed at the same rate
28 upon all persons engaged, in the county, in the business of
29 making sales of service, who, as an incident to making those
30 sales of service, transfer tangible personal property within
31 the county as an incident to a sale of service. This tax may
32 not be imposed on sales of food for human consumption that is
33 to be consumed off the premises where it is sold (other than
34 alcoholic beverages, soft drinks, and food prepared for

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

33 Persons subject to any tax imposed under the authority
34 granted in this subsection may reimburse themselves for their

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

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

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

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

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

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

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

1 in interstate or foreign commerce.

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

6 (e-5) If a county imposes a tax under this Section, the
7 county board may, by ordinance, discontinue or lower the rate
8 of the tax or, in addition or alternatively, provide, with
9 respect to the sale or use of motor fuel or specific types of
10 motor fuel, that the tax does not apply. If the county board
11 lowers the tax rate or discontinues the tax, a referendum must
12 be held in accordance with subsection (a) of this Section in
13 order to increase the rate of the tax or to reimpose the
14 discontinued tax.

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

27 (g) When certifying the amount of a monthly disbursement to
28 a county under this Section, the Department shall increase or
29 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 6
32 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" includes,
2 but is not limited to, crime prevention, detention, fire
3 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, maintenance,
6 operation, and improvement of public highways, any other
7 purpose for which a county may expend funds under the Illinois
8 Highway Code, and passenger rail transportation.
9 (Source: P.A. 93-556, eff. 8-20-03.)".