

SB0345



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0345

Introduced 2/7/2007, by Sen. William E. Peterson

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.5

Amends the Counties Code. In a Section that authorizes a county to impose a sales tax for public safety or transportation purposes, revises the language of the referendum imposing the tax and the additional language that appears below the question. Allows the county to include a sunset provision for the tax.

LRB095 07281 HLH 27419 b

A BILL FOR

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 Counties Code is amended by changing Section
5 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 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

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

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

16 "To pay for public safety purposes, shall (name of
17 county) be authorized to impose an increase on its share of
18 local sales taxes by (insert rate)?"

19 As additional information on the ballot below the
20 question may appear the following:

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

24 The county board may also opt to establish a sunset
25 provision at which time the additional sales tax would
26 cease being collected, if not terminated earlier by a vote

1 of the county board. If the county board votes to include a
2 sunset provision, the proposition for public safety
3 purposes shall be in substantially the following form:

4 "To pay for public safety purposes, shall (name of
5 county) be authorized to impose an increase on its share of
6 local sales taxes by (insert rate) for a period not to
7 exceed (insert number of years)?"

8 As additional information on the ballot below the
9 question may appear the following:

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

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

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

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

26 (2) The proposition for transportation purposes shall

1 be in substantially the following form:

2 "To pay for improvements to roads and other
3 transportation purposes, shall (name of county) be
4 authorized to impose an increase on its share of local
5 sales taxes by (insert rate)?"

6 As additional information on the ballot below the
7 question may appear the following:

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

11 The county board may also opt to establish a sunset
12 provision at which time the additional sales tax would
13 cease being collected, if not terminated earlier by a vote
14 of the county board. If the county board votes to include a
15 sunset provision, the proposition for transportation
16 purposes shall be in substantially the following form:

17 "To pay for road improvements and other transportation
18 purposes, shall (name of county) be authorized to impose an
19 increase on its share of local sales taxes by (insert rate)
20 for a period not to exceed (insert number of years)?"

21 As additional information on the ballot below the
22 question may appear the following:

23 "This would mean that a consumer would pay an
24 additional (insert amount) in sales tax for every \$100 of
25 tangible personal property bought at retail. If imposed,
26 the additional tax would cease being collected at the end

1 of (insert number of years), if not terminated earlier by a
2 vote of the county board."

3 ~~"Shall (name of county) be authorized to impose a tax~~
4 ~~at the rate of (insert rate) upon all persons engaged in~~
5 ~~the business of selling tangible personal property at~~
6 ~~retail in the county on gross receipts from the sales made~~
7 ~~in the course of their business to be used for~~
8 ~~transportation purposes?~~

9 For the purposes of this paragraph, transportation
10 purposes means construction, maintenance, operation, and
11 improvement of public highways, any other purpose for which
12 a county may expend funds under the Illinois Highway Code,
13 and passenger rail transportation.

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

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

19 This additional tax may not be imposed on the sales of food
20 for human consumption that is to be consumed off the premises
21 where it is sold (other than alcoholic beverages, soft drinks,
22 and food which has been prepared for immediate consumption) and
23 prescription and non-prescription medicines, drugs, medical
24 appliances and insulin, urine testing materials, syringes, and
25 needles used by diabetics. The tax imposed by a county under
26 this Section and all civil penalties that may be assessed as an

1 incident of the tax shall be collected and enforced by the
2 Illinois Department of Revenue and deposited into a special
3 fund created for that purpose. The certificate of registration
4 that is issued by the Department to a retailer under the
5 Retailers' Occupation Tax Act shall permit the retailer to
6 engage in a business that is taxable without registering
7 separately with the Department under an ordinance or resolution
8 under this Section. The Department has full power to administer
9 and enforce this Section, to collect all taxes and penalties
10 due under this Section, to dispose of taxes and penalties so
11 collected in the manner provided in this Section, and to
12 determine all rights to credit memoranda arising on account of
13 the erroneous payment of a tax or penalty under this Section.
14 In the administration of and compliance with this Section, the
15 Department and persons who are subject to this Section shall
16 (i) have the same rights, remedies, privileges, immunities,
17 powers, and duties, (ii) be subject to the same conditions,
18 restrictions, limitations, penalties, and definitions of
19 terms, and (iii) employ the same modes of procedure as are
20 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
21 1n, 2 through 2-70 (in respect to all provisions contained in
22 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
23 (except provisions relating to transaction returns and quarter
24 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
25 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of
26 the Retailers' Occupation Tax Act and Section 3-7 of the

1 Uniform Penalty and Interest Act as if those provisions were
2 set forth in this Section.

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

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

18 (b) If a tax has been imposed under subsection (a), a
19 service occupation tax shall also be imposed at the same rate
20 upon all persons engaged, in the county, in the business of
21 making sales of service, who, as an incident to making those
22 sales of service, transfer tangible personal property within
23 the county as an incident to a sale of service. This tax may
24 not be imposed on sales of food for human consumption that is
25 to be consumed off the premises where it is sold (other than
26 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,

1 12 (except the reference therein to Section 2b of the
2 Retailers' Occupation Tax Act), 13 (except that any reference
3 to the State shall mean the county), Section 15, 16, 17, 18, 19
4 and 20 of the Service Occupation Tax Act and Section 3-7 of the
5 Uniform Penalty and Interest Act, as fully as if those
6 provisions were set forth herein.

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

15 Whenever the Department determines that a refund should be
16 made under this subsection to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the warrant 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 Fund.

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

1 (c) The Department shall immediately pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected under this Section to be deposited into the County
4 Public Safety or Transportation Retailers' Occupation Tax
5 Fund, which shall be an unappropriated trust fund held outside
6 of the State treasury. On or before the 25th day of each
7 calendar month, the Department shall prepare and certify to the
8 Comptroller the disbursement of stated sums of money to the
9 counties from which retailers have paid taxes or penalties to
10 the Department during the second preceding calendar month. The
11 amount to be paid to each county, and deposited by the county
12 into its special fund created for the purposes of this Section,
13 shall be the amount (not including credit memoranda) collected
14 under this Section during the second preceding calendar month
15 by the Department plus an amount the Department determines is
16 necessary to offset any amounts that were erroneously paid to a
17 different taxing body, and not including (i) an amount equal to
18 the amount of refunds made during the second preceding calendar
19 month by the Department on behalf of the county and (ii) any
20 amount that the Department determines is necessary to offset
21 any amounts that were payable to a different taxing body but
22 were erroneously paid to the county. Within 10 days after
23 receipt by the Comptroller of the disbursement certification to
24 the counties provided for in this Section to be given to the
25 Comptroller by the Department, the Comptroller shall cause the
26 orders to be drawn for the respective amounts in accordance

1 with directions contained in the certification.

2 In addition to the disbursement required by the preceding
3 paragraph, an allocation shall be made in March of each year to
4 each county that received more than \$500,000 in disbursements
5 under the preceding paragraph in the preceding calendar year.
6 The allocation shall be in an amount equal to the average
7 monthly distribution made to each such county under the
8 preceding paragraph during the preceding calendar year
9 (excluding the 2 months of highest receipts). The distribution
10 made in March of each year subsequent to the year in which an
11 allocation was made pursuant to this paragraph and the
12 preceding paragraph shall be reduced by the amount allocated
13 and disbursed under this paragraph in the preceding calendar
14 year. The Department shall prepare and certify to the
15 Comptroller for disbursement the allocations made in
16 accordance with this paragraph.

17 (d) For the purpose of determining the local governmental
18 unit whose tax is applicable, a retail sale by a producer of
19 coal or another mineral mined in Illinois is a sale at retail
20 at the place where the coal or other mineral mined in Illinois
21 is extracted from the earth. This paragraph does not apply to
22 coal or another mineral when it is delivered or shipped by the
23 seller to the purchaser at a point outside Illinois so that the
24 sale is exempt under the United States Constitution as a sale
25 in interstate or foreign commerce.

26 (e) Nothing in this Section shall be construed to authorize

1 a county to impose a tax upon the privilege of engaging in any
2 business that under the Constitution of the United States may
3 not be made the subject of taxation by this State.

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

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

22 (g) When certifying the amount of a monthly disbursement to
23 a county under this Section, the Department shall increase or
24 decrease the amounts by an amount necessary to offset any
25 miscalculation of previous disbursements. The offset amount
26 shall be the amount erroneously disbursed within the previous 6

1 months from the time a miscalculation is discovered.

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

4 (i) For purposes of this Section, "public safety" includes,
5 but is not limited to, crime prevention, detention, fire
6 fighting, police, medical, ambulance, or other emergency
7 services. For the purposes of this Section, "transportation"
8 includes, but is not limited to, the construction, maintenance,
9 operation, and improvement of public highways, any other
10 purpose for which a county may expend funds under the Illinois
11 Highway Code, and passenger rail transportation.

12 (Source: P.A. 93-556, eff. 8-20-03; 94-781, eff. 5-19-06.)