



Sen. William R. Haine

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09500SB0836sam001

LRB095 05544 RLJ 51328 a

1 AMENDMENT TO SENATE BILL 836

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 836 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. If and only if Senate Bill 2052 of the 95th  
5 General Assembly becomes law, then the Flood Prevention  
6 District Act is amended by changing Sections 5, 10, 20, 25, 30,  
7 35, 40, 45, and 50 as follows:

8 (S.B. 2052eng, 95th G.A., Sec. 5)

9 Sec. 5. Creation; purpose.

10 (a) Madison, Monroe, and St. Clair Counties may each be  
11 designated independently and separately as a flood prevention  
12 district for the purpose of performing emergency levee repair  
13 and flood prevention in order to prevent the loss of life or  
14 property. The county board of any such county may declare an  
15 emergency and create a flood prevention district by the  
16 affirmative vote of the majority of the members of the county

1 board.

2 (b) Two or more flood prevention districts may join  
3 together through an intergovernmental agreement to provide any  
4 services described in this Act, to construct, reconstruct,  
5 repair, or otherwise provide any facilities described in this  
6 Act either within or outside of any district's corporate  
7 limits, to issue bonds, notes, or other evidences of  
8 indebtedness, to pledge the taxes authorized to be imposed  
9 pursuant to Section 25 of this Act to the obligations of any  
10 other district, and to exercise any other power authorized in  
11 this Act, pursuant to the Intergovernmental Cooperation Act.

12 (c) Any district created under this Act shall be dissolved  
13 upon the later of (i) 25 years after the date the district is  
14 created or (ii) the payment of all obligations of the district  
15 issued under Section 20 of this Act and the payment of any  
16 federal reimbursement moneys to the county treasurer under  
17 Section 30 of this Act. A district may be dissolved earlier by  
18 its board of commissioners if all federal reimbursement moneys  
19 have been paid to the county treasurer and all obligations of  
20 the district have been paid, including its obligations related  
21 to bonds issued under Section 20 of this Act and any  
22 obligations incurred pursuant to an intergovernmental  
23 agreement.

24 (Source: 95SB2052eng.)

25 (S.B. 2052eng, 95th G.A., Sec. 10)

1           Sec. 10. Commissioners. The affairs of the district shall  
2 be managed by a board of 3 commissioners who shall be appointed  
3 by the chairman of the county board of the county in which the  
4 district is situated. All initial appointments under this  
5 Section must be made within 90 days after the district is  
6 organized. Of the initial appointments, one commissioner shall  
7 serve for a one-year term, one commissioner shall serve for a  
8 2-year term, and one commissioner shall serve for a 3-year  
9 term, as determined by lot. Their successors shall be appointed  
10 for 3-year terms. A commissioner shall continue to serve as  
11 commissioner until his or her successor is duly appointed. No  
12 commissioner may serve for more than 20 years. All appointments  
13 must be made so that no more than 2 commissioners are from the  
14 same political party at the time of the appointment. With  
15 respect to appointments representing the minority party in the  
16 county, the minority party members of the county board may  
17 submit names for consideration to the chairman of the county  
18 board. Each commissioner must be a legal voter in the district,  
19 and at least one commissioner shall reside or own property that  
20 is located within a floodplain situated in the territory of the  
21 flood protection district. Commissioners shall serve without  
22 compensation, but may be reimbursed for reasonable expenses  
23 incurred in the performance of their duties.

24 (Source: 95SB2052eng.)

25 (S.B. 2052eng, 95th G.A., Sec. 20)

1           Sec. 20. Powers of the district. A district formed under  
2 this Act shall have the following powers:

3           (1) To sue or be sued.

4           (2) To apply for and accept gifts, grants, and loans  
5 from any public agency or private entity.

6           (3) To enter into intergovernmental agreements to  
7 further ensure levee repair, levee construction or  
8 reconstruction, and flood prevention, within or outside of  
9 the district's corporate limits, including agreements with  
10 the United States Army Corps of Engineers or any other  
11 agency or department of the federal government.

12           (4) To undertake evaluation, planning, design,  
13 construction, and related activities that are determined  
14 to be urgently needed to stabilize, repair, restore,  
15 improve, or replace existing levees and other flood control  
16 systems located within or outside of the district's  
17 corporate limits.

18           (5) To address underseepage problems and old and  
19 deteriorating pumps, gates, pipes, electrical controls,  
20 and other infrastructure within or outside of the  
21 district's corporate limits.

22           (6) To conduct evaluations of levees and other flood  
23 control facilities that protect urban areas, including the  
24 performance of floodplain mapping studies.

25           (7) To provide capital moneys for levee or  
26 river-related scientific studies, within or outside of the

1 district's corporate limits, including the construction of  
2 facilities for such purposes.

3 (8) To borrow money or receive money from the United  
4 States Government or any agency thereof, or from any other  
5 public or private source, for the purposes of the District  
6 and to issue indebtedness, including bonds, notes, or other  
7 evidences of indebtedness to evidence such borrowing, and  
8 to pledge and use some or all of the taxes imposed pursuant  
9 to Section 25 of this Act for the repayment of the  
10 indebtedness of the District or any other flood prevention  
11 districts. The District shall direct the county to use  
12 moneys in the County Flood Prevention Occupation Tax Fund  
13 to pay such indebtedness.

14 (9) To enter into agreements with private property  
15 owners.

16 (10) To issue revenue bonds, notes, or other evidences  
17 of indebtedness payable from revenue received from a  
18 ~~retailers' occupation~~ tax imposed under Section 25 of this  
19 Act, and from any other revenue sources available to the  
20 flood prevention district. These bonds may be issued with  
21 maturities not exceeding 25 years from the date of the  
22 bonds, and in such amounts as may be necessary to provide  
23 sufficient funds, together with interest, for the purposes  
24 of the District. These bonds shall bear interest at a rate  
25 of not more than the maximum rate authorized by the Bond  
26 Authorization Act, as amended at the time of the making of

1 the contract of sale, payable semi-annually, may be made  
2 registerable as to principal, and may be made payable and  
3 callable as provided on any date at a price of par and  
4 accrued interest under such terms and conditions as may be  
5 fixed by the ordinance authorizing the issuance of the  
6 bonds. Bonds issued under this Section are negotiable  
7 instruments. In case any officer whose signature appears on  
8 the bonds or coupons ceases to hold that office before the  
9 bonds are delivered, such officer's signature shall  
10 nevertheless be valid and sufficient for all purposes the  
11 same as though such officer had remained in office until  
12 the bonds were delivered. The bonds shall be sold in such  
13 manner and upon such terms as the board of commissioners  
14 shall determine, except that the selling price shall be  
15 such that the interest cost to the District on ~~of~~ the  
16 proceeds of the bonds shall not exceed the maximum rate  
17 authorized by the Bond Authorization Act, as amended at the  
18 time of the making of the contract of sale, payable  
19 semi-annually, computed to maturity according to the  
20 standard table of bond values. Bonds issued by the District  
21 shall not be considered indebtedness for purposes of any  
22 statutory limitation and may be issued in an amount or  
23 amounts, including existing indebtedness, in excess of any  
24 heretofore or hereafter imposed statutory limitation as to  
25 indebtedness. A request to issue revenue bonds by the  
26 District Commission must be submitted for approval to the

1 county board of the county in which the district is  
2 situated. The county board has 30 calendar days to approve  
3 the issuance of such bonds. If the county board does not  
4 approve or disapprove the issuance of the bonds within 30  
5 calendar days after the receipt of such request, the  
6 request shall be deemed approved. The District shall direct  
7 the county to use moneys in the County Flood Prevention  
8 Occupation Tax Fund to pay for bonds issued.

9 (11) To acquire property by gift, grant, or eminent  
10 domain, in accordance with the Eminent Domain Act. Any  
11 action by the District to acquire property by eminent  
12 domain requires the express approval of the county board.

13 (12) To retain professional staff to carry out the  
14 functions of the District. Any flood prevention district  
15 shall employ a Chief Supervisor of Construction and the  
16 Works with appropriate professional qualifications,  
17 including a degree in engineering, construction,  
18 hydrology, or a related field, or an equivalent combination  
19 of education and experience. The Chief Supervisor of  
20 Construction and the Works shall be vested with the  
21 authority to carry out the duties and mission of the Flood  
22 Prevention District, pursuant to the direction and  
23 supervision of the Board of Commissioners. The Chief  
24 Supervisor of Construction and the Works may hire  
25 additional staff as necessary to carry out the duties and  
26 mission of the district, including administrative support

1 personnel. Two or more districts may, through an  
2 intergovernmental agreement, share the services of a Chief  
3 Supervisor of Construction and the Works, support staff, or  
4 both. If 2 districts are adjoining and share a common  
5 federal levee, they must retain the services of the same  
6 person as Chief Supervisor of Construction and the Works.

7 (13) To conduct an audit of any drainage, levee, or  
8 sanitary district within the territory of the flood  
9 prevention district.

10 To reimburse any county for costs advanced by the  
11 county before the formation of a flood prevention district  
12 if the funds were used for any purpose permitted under this  
13 Act.

14 (Source: 95SB2052eng.)

15 (S.B. 2052eng, 95th G.A., Sec. 25)

16 Sec. 25. Flood prevention retailers' and service  
17 occupation taxes ~~Retailers' occupation tax.~~

18 (a) If the Board of Commissioners of a flood prevention  
19 district determines that an emergency situation exists  
20 regarding levee repair or flood prevention, and upon an  
21 ordinance confirming the determination ~~or resolution~~ adopted  
22 by the affirmative vote of a majority of the members of the  
23 county board of the county in which the district is situated,  
24 the county ~~it~~ may impose a flood prevention retailers'  
25 occupation tax upon all persons engaged in the business of



1 selling tangible personal property at retail within the  
2 territory of the district to provide revenue to pay the costs  
3 of providing emergency levee repair and flood prevention and to  
4 secure the payment of bonds, notes, and other evidences of  
5 indebtedness issued under this Act for a period not to exceed  
6 25 years or as required to repay the bonds, notes, and other  
7 evidences of indebtedness issued under this Act ~~issued pursuant~~  
8 ~~to Section 20 of this Act~~. The tax rate shall be 0.25% of the  
9 gross receipts from all taxable sales made in the course of  
10 that business. The tax imposed under this Section and all civil  
11 penalties that may be assessed as an incident thereof shall be  
12 collected and enforced by the State Department of Revenue. The  
13 Department shall have full power to administer and enforce this  
14 Section; to collect all taxes and penalties so collected in the  
15 manner hereinafter provided; and to determine all rights to  
16 credit memoranda arising on account of the erroneous payment of  
17 tax or penalty hereunder.

18 In the administration of and compliance with this  
19 subsection, the Department and persons who are subject to this  
20 subsection (i) have the same rights, remedies, privileges,  
21 immunities, powers, and duties, (ii) are subject to the same  
22 conditions, restrictions, limitations, penalties, and  
23 definitions of terms, and (iii) shall employ the same modes of  
24 procedure as are set forth in Sections 1 through 10, 2 through  
25 2-70 (in respect to all provisions contained in those Sections  
26 other than the State rate of tax), 2a through 2h, 3 (except as

1 to the disposition of taxes and penalties collected), 4, 5, 5a,  
2 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,  
3 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and  
4 all provisions of the Uniform Penalty and Interest Act as if  
5 those provisions were set forth in this subsection.

6 Persons subject to any tax imposed under this Section may  
7 reimburse themselves for their seller's tax liability  
8 hereunder by separately stating the tax as an additional  
9 charge, which charge may be stated in combination in a single  
10 amount with State taxes that sellers are required to collect  
11 under the Use Tax Act, under any bracket schedules the  
12 Department may prescribe.

13 If a tax is imposed under this subsection (a), a tax shall  
14 also be imposed under subsection (b) of this Section.

15 (b) If a tax has been imposed under subsection (a), a flood  
16 prevention service occupation tax shall also be imposed upon  
17 all persons engaged within the territory of the district  
18 ~~engaged~~ in the business of making sales of service, who, as an  
19 incident to making the sales of service, transfer tangible  
20 personal property ~~within the territory of the district~~, either  
21 in the form of tangible personal property or in the form of  
22 real estate as an incident to a sale of service to provide  
23 revenue to pay the costs of providing emergency levee repair  
24 and flood prevention and to secure the payment of bonds, notes,  
25 and other evidences of indebtedness issued under this Act for a  
26 period not to exceed 25 years or as required to repay the

1 bonds, notes, and other evidences of indebtedness. The tax rate  
2 shall be 0.25% of the selling price of all tangible personal  
3 property transferred.

4 The tax imposed under this subsection and all civil  
5 penalties that may be assessed as an incident thereof shall be  
6 collected and enforced by the State Department of Revenue. The  
7 Department shall have full power to administer and enforce this  
8 subsection; to collect all taxes and penalties due hereunder;  
9 to dispose of taxes and penalties collected in the manner  
10 hereinafter provided; and to determine all rights to credit  
11 memoranda arising on account of the erroneous payment of tax or  
12 penalty hereunder.

13 In the administration of and compliance with this  
14 subsection, the Department and persons who are subject to this  
15 subsection shall (i) have the same rights, remedies,  
16 privileges, immunities, powers, and duties, (ii) be subject to  
17 the same conditions, restrictions, limitations, penalties, and  
18 definitions of terms, and (iii) employ the same modes of  
19 procedure as are set forth in Sections 2 (except that the that  
20 reference to State in the definition of supplier maintaining a  
21 place of business in this State means the district), 2a through  
22 2d, 3 through 3-50 (in respect to all provisions contained in  
23 those Sections other than the State rate of tax), 4 (except  
24 that the reference to the State shall be to the district), 5,  
25 7, 8 (except that the jurisdiction to which the tax is a debt  
26 to the extent indicated in that Section 8 is the district), 9

1 (except as to the disposition of taxes and penalties  
2 collected), 10, 11, 12 (except the reference therein to Section  
3 2b of the Retailers' Occupation Tax Act), 13 (except that any  
4 reference to the State means the district), Section 15, 16, 17,  
5 18, 19, and 20 of the Service Occupation Tax Act and all  
6 provisions of the Uniform Penalty and Interest Act, as fully as  
7 if those provisions were set forth herein.

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

15 (c) The taxes ~~This additional tax~~ imposed in subsections  
16 (a) and (b) may not be imposed on personal property titled or  
17 registered with an agency of the State; food for human  
18 consumption that is to be consumed off the premises where it is  
19 sold (other than alcoholic beverages, soft drinks, and food  
20 that has been prepared for immediate consumption);  
21 prescription and non-prescription medicines, drugs, and  
22 medical appliances; modifications to a motor vehicle for the  
23 purpose of rendering it usable by a disabled person; or  
24 insulin, urine testing materials, and syringes and needles used  
25 by diabetics.

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

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

4 (e) The certificate of registration that is issued by the  
5 Department to a retailer under the Retailers' Occupation Tax  
6 Act or a serviceman under the Service Occupation Tax Act  
7 permits the retailer or serviceman to engage in a business that  
8 is taxable without registering separately with the Department  
9 under an ordinance or resolution under this Section.

10 (f) The Department shall immediately pay over to the State  
11 Treasurer, ex officio, as trustee, all taxes and penalties  
12 collected under this Section to be deposited into the Flood  
13 Prevention Occupation Tax Fund, which shall be an  
14 unappropriated trust fund held outside the State treasury.

15 On or before the 25th day of each calendar month, the  
16 Department shall prepare and certify to the Comptroller the  
17 ~~that~~ disbursement of stated sums of money to the counties from  
18 which retailers or servicemen have paid taxes or penalties to  
19 the Department during the second preceding calendar month. The  
20 amount to be paid to each county is equal to the amount (not  
21 including credit memoranda) collected from the county under  
22 this Section during the second preceding calendar month by the  
23 Department, (i) less 2% of that amount, which shall be  
24 deposited into the Tax Compliance and Administration Fund and  
25 shall be used by the Department in administering and enforcing  
26 the provisions of this Section on behalf of the county, (ii)

1 plus an amount that the Department determines is necessary to  
2 offset any amounts that were erroneously paid to a different  
3 taxing body; (iii) less an amount equal to the amount of  
4 refunds made during the second preceding calendar month by the  
5 Department on behalf of the county; and (iv) less any amount  
6 that the Department determines is necessary to offset any  
7 amounts that were payable to a different taxing body but were  
8 erroneously paid to the county. When certifying the amount of a  
9 monthly disbursement to a county under this Section, the  
10 Department shall increase or decrease the amounts by an amount  
11 necessary to offset any miscalculation of previous  
12 disbursements within the previous 6 months from the time a  
13 miscalculation is discovered.

14 Within 10 days after receipt by the Comptroller from the  
15 Department of the disbursement certification to the counties  
16 provided for in this Section, the Comptroller shall cause the  
17 orders to be drawn for the respective amounts in accordance  
18 with directions contained in the certification.

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

26 (g) If a county ~~flood prevention district board~~ imposes a

1 tax under this Section, then the county board shall, by  
2 ordinance, discontinue the tax upon the payment of all ~~bonded~~  
3 indebtedness of the flood prevention district ~~District~~. The tax  
4 shall not be discontinued until all ~~bonded~~ indebtedness of the  
5 District has been paid.

6 (h) Any ordinance imposing the tax under this Section, or  
7 any ordinance that discontinues the tax, must be certified by  
8 the county clerk and filed with the Illinois Department of  
9 Revenue either (i) on or before the first day of April,  
10 whereupon the Department shall proceed to administer and  
11 enforce the tax or change in the rate as of the first day of  
12 July next following the filing; or (ii) on or before the first  
13 day of October, whereupon the Department shall proceed to  
14 administer and enforce the tax or change in the rate as of the  
15 first day of January next following the filing.

16 (j) County Flood Prevention Occupation Tax Fund. All  
17 proceeds received by a county from a tax distribution under  
18 this Section must be maintained in a special fund known as the  
19 [name of county] flood prevention occupation tax fund. The  
20 county shall, at the direction of the flood prevention  
21 district, use moneys in the fund to pay the costs of providing  
22 emergency levee repair and flood prevention and to pay bonds,  
23 notes, and other evidence of indebtedness issued under this  
24 Act.

25 (k) ~~(j)~~ This Section may be cited as the Flood Prevention  
26 Occupation Tax Law.

1 (Source: 95SB2052eng.)

2 (S.B. 2052eng, 95th G.A., Sec. 30)

3 Sec. 30. Disbursement of federal funds.

4 (a) Any reimbursements for the construction of flood  
5 protection facilities shall be appropriated to each county  
6 flood prevention district in accordance with the location of  
7 the specific facility for which the federal appropriation is  
8 made.

9 (b) If there are federal reimbursements to a county flood  
10 prevention district for construction of flood protection  
11 facilities that were built using the proceeds of bonds, notes,  
12 or other evidences of indebtedness ~~revenues~~ authorized by this  
13 Act, those funds shall be used for early retirement of such  
14 bonds, notes, or other evidences of indebtedness issued in  
15 accordance with this Act.

16 (c) When all bonds, notes, or other evidences of  
17 indebtedness ~~bond obligations~~ of the District have been paid,  
18 any remaining federal reimbursement moneys shall be remitted to  
19 the county treasurer for deposit into a special fund for the  
20 continued long-term maintenance of federal levees and flood  
21 protection facilities, pursuant to the direction of the county  
22 board.

23 (Source: 95SB2052eng.)

24 (S.B. 2052eng, 95th G.A., Sec. 35)



1           Sec. 35. Financial audit of the District ~~Commission~~. A  
2 financial audit of the District ~~Commission~~ shall be conducted  
3 annually by a certified public accountant (CPA) that is  
4 licensed at the time of the audit by the Illinois Department of  
5 Financial and Professional Regulation. The CPA shall meet all  
6 of the general standards concerning qualifications,  
7 independence, due professional care, and quality control as  
8 required by the Government Auditing Standards, 1994 Revision,  
9 Chapter 3, including the requirements for continuing  
10 professional education and external peer review. The financial  
11 audit is to be performed in accordance with generally accepted  
12 auditing standards issued by the American Institute of  
13 Certified Public Accountants (AICPA) for field work and  
14 reporting, generally accepted government auditing standards  
15 (GAGAS) and AICPA Statements on Auditing Standards (SAS)  
16 current at the time the audit is commenced. The audit shall be  
17 made publicly available and sent to the county board chairman  
18 of the county in which the district is situated and to the  
19 Illinois Secretary of State.

20       (Source: 95SB2052eng.)

21           (S.B. 2052eng, 95th G.A., Sec. 40)

22           Sec. 40. Budget of the District ~~Commission~~. The District  
23 ~~Commission~~ shall adopt an annual budget by August 31 of each  
24 year for the fiscal year beginning October 1. Such budget shall  
25 include expected revenues by source and expenditures by project

1 or by function for the following year. The budget must be  
2 approved by the county board of the county in which the  
3 district is situated prior to any expenditure by the District  
4 ~~Commission~~ for the fiscal year beginning October 1. The county  
5 board must approve or disapprove the budget of the District  
6 ~~commission~~ within 30 calendar days after the budget is received  
7 by the county board. If the county board does not act to  
8 approve or disapprove the budget within 30 calendar days of  
9 receipt, it shall stand as approved.

10 In addition, the District ~~Commission~~ shall submit an annual  
11 report to the county board by August 31 of each year detailing  
12 the activities of the district. This report must also include  
13 any information submitted to the flood prevention district by a  
14 drainage, levee, or sanitary district in accordance with  
15 Section 4-45 of the Illinois Drainage Code or Section 2-2 of  
16 the Metro-East Sanitary District Act.

17 (Source: 95SB2052eng.)

18 (S.B. 2052eng, 95th G.A., Sec. 45)

19 Sec. 45. Procurement. The District ~~Commission~~ shall  
20 conduct all procurements in accordance with the requirements of  
21 the Local Government Professional Services Selection Act and  
22 any competitive bid requirements contained in Section 5-1022 of  
23 the Counties Code.

24 (Source: 95SB2052eng.)

1 (S.B. 2052eng, 95th G.A., Sec. 50)

2 Sec. 50. Contracts for construction. A request for any  
3 construction contract of more than \$10,000 by the District  
4 ~~Commission~~ must be submitted for approval to the county board  
5 of the county in which the district is situated. The county  
6 board has 30 calendar days to approve the construction  
7 contract. If the county board does not approve or disapprove  
8 the construction contract within 30 calendar days after the  
9 receipt of such request, the request shall be deemed approved.

10 (Source: 95SB2052eng.)

11 Section 10. If and only if Senate Bill 2052 of the 95th  
12 General Assembly becomes law, then the Intergovernmental  
13 Cooperation Act is amended by changing Section 3.9 as follows:

14 (5 ILCS 220/3.9)

15 Sec. 3.9. Flood prevention. Two or more county flood  
16 prevention districts may enter into an intergovernmental  
17 agreement to provide any services authorized in the Flood  
18 Prevention District Act, to construct, reconstruct, repair, or  
19 otherwise provide any facilities described in that Act either  
20 within or outside of any district's corporate limits, to issue  
21 bonds, notes, or other evidences of indebtedness, to pledge the  
22 taxes authorized to be imposed pursuant to Section 25 of that  
23 Act to the obligations of any other district, and to exercise  
24 any other power authorized in that Act.

1 (Source: 95SB2052eng.)

2 Section 20. If and only if Senate Bill 2052 of the 95th  
3 General Assembly becomes law, then the Use Tax Act is amended  
4 by changing Section 2 as follows:

5 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

6 Sec. 2. "Use" means the exercise by any person of any right  
7 or power over tangible personal property incident to the  
8 ownership of that property, except that it does not include the  
9 sale of such property in any form as tangible personal property  
10 in the regular course of business to the extent that such  
11 property is not first subjected to a use for which it was  
12 purchased, and does not include the use of such property by its  
13 owner for demonstration purposes: Provided that the property  
14 purchased is deemed to be purchased for the purpose of resale,  
15 despite first being used, to the extent to which it is resold  
16 as an ingredient of an intentionally produced product or  
17 by-product of manufacturing. "Use" does not mean the  
18 demonstration use or interim use of tangible personal property  
19 by a retailer before he sells that tangible personal property.  
20 For watercraft or aircraft, if the period of demonstration use  
21 or interim use by the retailer exceeds 18 months, the retailer  
22 shall pay on the retailers' original cost price the tax imposed  
23 by this Act, and no credit for that tax is permitted if the  
24 watercraft or aircraft is subsequently sold by the retailer.

1 "Use" does not mean the physical incorporation of tangible  
2 personal property, to the extent not first subjected to a use  
3 for which it was purchased, as an ingredient or constituent,  
4 into other tangible personal property (a) which is sold in the  
5 regular course of business or (b) which the person  
6 incorporating such ingredient or constituent therein has  
7 undertaken at the time of such purchase to cause to be  
8 transported in interstate commerce to destinations outside the  
9 State of Illinois: Provided that the property purchased is  
10 deemed to be purchased for the purpose of resale, despite first  
11 being used, to the extent to which it is resold as an  
12 ingredient of an intentionally produced product or by-product  
13 of manufacturing.

14 "Watercraft" means a Class 2, Class 3, or Class 4  
15 watercraft as defined in Section 3-2 of the Boat Registration  
16 and Safety Act, a personal watercraft, or any boat equipped  
17 with an inboard motor.

18 "Purchase at retail" means the acquisition of the ownership  
19 of or title to tangible personal property through a sale at  
20 retail.

21 "Purchaser" means anyone who, through a sale at retail,  
22 acquires the ownership of tangible personal property for a  
23 valuable consideration.

24 "Sale at retail" means any transfer of the ownership of or  
25 title to tangible personal property to a purchaser, for the  
26 purpose of use, and not for the purpose of resale in any form

1 as tangible personal property to the extent not first subjected  
2 to a use for which it was purchased, for a valuable  
3 consideration: Provided that the property purchased is deemed  
4 to be purchased for the purpose of resale, despite first being  
5 used, to the extent to which it is resold as an ingredient of  
6 an intentionally produced product or by-product of  
7 manufacturing. For this purpose, slag produced as an incident  
8 to manufacturing pig iron or steel and sold is considered to be  
9 an intentionally produced by-product of manufacturing. "Sale  
10 at retail" includes any such transfer made for resale unless  
11 made in compliance with Section 2c of the Retailers' Occupation  
12 Tax Act, as incorporated by reference into Section 12 of this  
13 Act. Transactions whereby the possession of the property is  
14 transferred but the seller retains the title as security for  
15 payment of the selling price are sales.

16 "Sale at retail" shall also be construed to include any  
17 Illinois florist's sales transaction in which the purchase  
18 order is received in Illinois by a florist and the sale is for  
19 use or consumption, but the Illinois florist has a florist in  
20 another state deliver the property to the purchaser or the  
21 purchaser's donee in such other state.

22 Nonreusable tangible personal property that is used by  
23 persons engaged in the business of operating a restaurant,  
24 cafeteria, or drive-in is a sale for resale when it is  
25 transferred to customers in the ordinary course of business as  
26 part of the sale of food or beverages and is used to deliver,

1 package, or consume food or beverages, regardless of where  
2 consumption of the food or beverages occurs. Examples of those  
3 items include, but are not limited to nonreusable, paper and  
4 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
5 containers, utensils, straws, placemats, napkins, doggie bags,  
6 and wrapping or packaging materials that are transferred to  
7 customers as part of the sale of food or beverages in the  
8 ordinary course of business.

9 The purchase, employment and transfer of such tangible  
10 personal property as newsprint and ink for the primary purpose  
11 of conveying news (with or without other information) is not a  
12 purchase, use or sale of tangible personal property.

13 "Selling price" means the consideration for a sale valued  
14 in money whether received in money or otherwise, including  
15 cash, credits, property other than as hereinafter provided, and  
16 services, but not including the value of or credit given for  
17 traded-in tangible personal property where the item that is  
18 traded-in is of like kind and character as that which is being  
19 sold, and shall be determined without any deduction on account  
20 of the cost of the property sold, the cost of materials used,  
21 labor or service cost or any other expense whatsoever, but does  
22 not include interest or finance charges which appear as  
23 separate items on the bill of sale or sales contract nor  
24 charges that are added to prices by sellers on account of the  
25 seller's tax liability under the "Retailers' Occupation Tax  
26 Act", or on account of the seller's duty to collect, from the

1 purchaser, the tax that is imposed by this Act, or, except as  
2 otherwise provided with respect to any cigarette tax imposed by  
3 a home rule unit, on account of the seller's tax liability  
4 under any local occupation tax administered by the Department,  
5 or, except as otherwise provided with respect to any cigarette  
6 tax imposed by a home rule unit on account of the seller's duty  
7 to collect, from the purchasers, the tax that is imposed under  
8 any local use tax administered by the Department ~~or on account~~  
9 ~~of the seller's tax liability under Section 8-11-1 of the~~  
10 ~~Illinois Municipal Code, as heretofore and hereafter amended,~~  
11 ~~or on account of the seller's tax liability under the "County~~  
12 ~~Retailers' Occupation Tax Act".~~ Effective December 1, 1985,  
13 "selling price" shall include charges that are added to prices  
14 by sellers on account of the seller's tax liability under the  
15 Cigarette Tax Act, on account of the seller's duty to collect,  
16 from the purchaser, the tax imposed under the Cigarette Use Tax  
17 Act, and on account of the seller's duty to collect, from the  
18 purchaser, any cigarette tax imposed by a home rule unit.

19 The phrase "like kind and character" shall be liberally  
20 construed (including but not limited to any form of motor  
21 vehicle for any form of motor vehicle, or any kind of farm or  
22 agricultural implement for any other kind of farm or  
23 agricultural implement), while not including a kind of item  
24 which, if sold at retail by that retailer, would be exempt from  
25 retailers' occupation tax and use tax as an isolated or  
26 occasional sale.



1 "Department" means the Department of Revenue.

2 "Person" means any natural individual, firm, partnership,  
3 association, joint stock company, joint adventure, public or  
4 private corporation, limited liability company, or a receiver,  
5 executor, trustee, guardian or other representative appointed  
6 by order of any court.

7 "Retailer" means and includes every person engaged in the  
8 business of making sales at retail as defined in this Section.

9 A person who holds himself or herself out as being engaged  
10 (or who habitually engages) in selling tangible personal  
11 property at retail is a retailer hereunder with respect to such  
12 sales (and not primarily in a service occupation)  
13 notwithstanding the fact that such person designs and produces  
14 such tangible personal property on special order for the  
15 purchaser and in such a way as to render the property of value  
16 only to such purchaser, if such tangible personal property so  
17 produced on special order serves substantially the same  
18 function as stock or standard items of tangible personal  
19 property that are sold at retail.

20 A person whose activities are organized and conducted  
21 primarily as a not-for-profit service enterprise, and who  
22 engages in selling tangible personal property at retail  
23 (whether to the public or merely to members and their guests)  
24 is a retailer with respect to such transactions, excepting only  
25 a person organized and operated exclusively for charitable,  
26 religious or educational purposes either (1), to the extent of

1 sales by such person to its members, students, patients or  
2 inmates of tangible personal property to be used primarily for  
3 the purposes of such person, or (2), to the extent of sales by  
4 such person of tangible personal property which is not sold or  
5 offered for sale by persons organized for profit. The selling  
6 of school books and school supplies by schools at retail to  
7 students is not "primarily for the purposes of" the school  
8 which does such selling. This paragraph does not apply to nor  
9 subject to taxation occasional dinners, social or similar  
10 activities of a person organized and operated exclusively for  
11 charitable, religious or educational purposes, whether or not  
12 such activities are open to the public.

13 A person who is the recipient of a grant or contract under  
14 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
15 serves meals to participants in the federal Nutrition Program  
16 for the Elderly in return for contributions established in  
17 amount by the individual participant pursuant to a schedule of  
18 suggested fees as provided for in the federal Act is not a  
19 retailer under this Act with respect to such transactions.

20 Persons who engage in the business of transferring tangible  
21 personal property upon the redemption of trading stamps are  
22 retailers hereunder when engaged in such business.

23 The isolated or occasional sale of tangible personal  
24 property at retail by a person who does not hold himself out as  
25 being engaged (or who does not habitually engage) in selling  
26 such tangible personal property at retail or a sale through a

1 bulk vending machine does not make such person a retailer  
2 hereunder. However, any person who is engaged in a business  
3 which is not subject to the tax imposed by the "Retailers'  
4 Occupation Tax Act" because of involving the sale of or a  
5 contract to sell real estate or a construction contract to  
6 improve real estate, but who, in the course of conducting such  
7 business, transfers tangible personal property to users or  
8 consumers in the finished form in which it was purchased, and  
9 which does not become real estate, under any provision of a  
10 construction contract or real estate sale or real estate sales  
11 agreement entered into with some other person arising out of or  
12 because of such nontaxable business, is a retailer to the  
13 extent of the value of the tangible personal property so  
14 transferred. If, in such transaction, a separate charge is made  
15 for the tangible personal property so transferred, the value of  
16 such property, for the purposes of this Act, is the amount so  
17 separately charged, but not less than the cost of such property  
18 to the transferor; if no separate charge is made, the value of  
19 such property, for the purposes of this Act, is the cost to the  
20 transferor of such tangible personal property.

21 "Retailer maintaining a place of business in this State",  
22 or any like term, means and includes any of the following  
23 retailers:

- 24 1. A retailer having or maintaining within this State,  
25 directly or by a subsidiary, an office, distribution house,  
26 sales house, warehouse or other place of business, or any

1 agent or other representative operating within this State  
2 under the authority of the retailer or its subsidiary,  
3 irrespective of whether such place of business or agent or  
4 other representative is located here permanently or  
5 temporarily, or whether such retailer or subsidiary is  
6 licensed to do business in this State. However, the  
7 ownership of property that is located at the premises of a  
8 printer with which the retailer has contracted for printing  
9 and that consists of the final printed product, property  
10 that becomes a part of the final printed product, or copy  
11 from which the printed product is produced shall not result  
12 in the retailer being deemed to have or maintain an office,  
13 distribution house, sales house, warehouse, or other place  
14 of business within this State.

15 2. A retailer soliciting orders for tangible personal  
16 property by means of a telecommunication or television  
17 shopping system (which utilizes toll free numbers) which is  
18 intended by the retailer to be broadcast by cable  
19 television or other means of broadcasting, to consumers  
20 located in this State.

21 3. A retailer, pursuant to a contract with a  
22 broadcaster or publisher located in this State, soliciting  
23 orders for tangible personal property by means of  
24 advertising which is disseminated primarily to consumers  
25 located in this State and only secondarily to bordering  
26 jurisdictions.

1           4. A retailer soliciting orders for tangible personal  
2 property by mail if the solicitations are substantial and  
3 recurring and if the retailer benefits from any banking,  
4 financing, debt collection, telecommunication, or  
5 marketing activities occurring in this State or benefits  
6 from the location in this State of authorized installation,  
7 servicing, or repair facilities.

8           5. A retailer that is owned or controlled by the same  
9 interests that own or control any retailer engaging in  
10 business in the same or similar line of business in this  
11 State.

12           6. A retailer having a franchisee or licensee operating  
13 under its trade name if the franchisee or licensee is  
14 required to collect the tax under this Section.

15           7. A retailer, pursuant to a contract with a cable  
16 television operator located in this State, soliciting  
17 orders for tangible personal property by means of  
18 advertising which is transmitted or distributed over a  
19 cable television system in this State.

20           8. A retailer engaging in activities in Illinois, which  
21 activities in the state in which the retail business  
22 engaging in such activities is located would constitute  
23 maintaining a place of business in that state.

24           "Bulk vending machine" means a vending machine, containing  
25 unsorted confections, nuts, toys, or other items designed  
26 primarily to be used or played with by children which, when a

1 coin or coins of a denomination not larger than \$0.50 are  
2 inserted, are dispensed in equal portions, at random and  
3 without selection by the customer.

4 (Source: P.A. 94-1074, eff. 12-26-06.)

5 Section 30. If and only if Senate Bill 2052 of the 95th  
6 General Assembly becomes law, then the Retailers' Occupation  
7 Tax Act is amended by changing Section 1 as follows:

8 (35 ILCS 120/1) (from Ch. 120, par. 440)

9 Sec. 1. Definitions. "Sale at retail" means any transfer of  
10 the ownership of or title to tangible personal property to a  
11 purchaser, for the purpose of use or consumption, and not for  
12 the purpose of resale in any form as tangible personal property  
13 to the extent not first subjected to a use for which it was  
14 purchased, for a valuable consideration: Provided that the  
15 property purchased is deemed to be purchased for the purpose of  
16 resale, despite first being used, to the extent to which it is  
17 resold as an ingredient of an intentionally produced product or  
18 byproduct of manufacturing. For this purpose, slag produced as  
19 an incident to manufacturing pig iron or steel and sold is  
20 considered to be an intentionally produced byproduct of  
21 manufacturing. Transactions whereby the possession of the  
22 property is transferred but the seller retains the title as  
23 security for payment of the selling price shall be deemed to be  
24 sales.

1 "Sale at retail" shall be construed to include any transfer  
2 of the ownership of or title to tangible personal property to a  
3 purchaser, for use or consumption by any other person to whom  
4 such purchaser may transfer the tangible personal property  
5 without a valuable consideration, and to include any transfer,  
6 whether made for or without a valuable consideration, for  
7 resale in any form as tangible personal property unless made in  
8 compliance with Section 2c of this Act.

9 Sales of tangible personal property, which property, to the  
10 extent not first subjected to a use for which it was purchased,  
11 as an ingredient or constituent, goes into and forms a part of  
12 tangible personal property subsequently the subject of a "Sale  
13 at retail", are not sales at retail as defined in this Act:  
14 Provided that the property purchased is deemed to be purchased  
15 for the purpose of resale, despite first being used, to the  
16 extent to which it is resold as an ingredient of an  
17 intentionally produced product or byproduct of manufacturing.

18 "Sale at retail" shall be construed to include any Illinois  
19 florist's sales transaction in which the purchase order is  
20 received in Illinois by a florist and the sale is for use or  
21 consumption, but the Illinois florist has a florist in another  
22 state deliver the property to the purchaser or the purchaser's  
23 donee in such other state.

24 Nonreusable tangible personal property that is used by  
25 persons engaged in the business of operating a restaurant,  
26 cafeteria, or drive-in is a sale for resale when it is

1 transferred to customers in the ordinary course of business as  
2 part of the sale of food or beverages and is used to deliver,  
3 package, or consume food or beverages, regardless of where  
4 consumption of the food or beverages occurs. Examples of those  
5 items include, but are not limited to nonreusable, paper and  
6 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
7 containers, utensils, straws, placemats, napkins, doggie bags,  
8 and wrapping or packaging materials that are transferred to  
9 customers as part of the sale of food or beverages in the  
10 ordinary course of business.

11 The purchase, employment and transfer of such tangible  
12 personal property as newsprint and ink for the primary purpose  
13 of conveying news (with or without other information) is not a  
14 purchase, use or sale of tangible personal property.

15 A person whose activities are organized and conducted  
16 primarily as a not-for-profit service enterprise, and who  
17 engages in selling tangible personal property at retail  
18 (whether to the public or merely to members and their guests)  
19 is engaged in the business of selling tangible personal  
20 property at retail with respect to such transactions, excepting  
21 only a person organized and operated exclusively for  
22 charitable, religious or educational purposes either (1), to  
23 the extent of sales by such person to its members, students,  
24 patients or inmates of tangible personal property to be used  
25 primarily for the purposes of such person, or (2), to the  
26 extent of sales by such person of tangible personal property



1 which is not sold or offered for sale by persons organized for  
2 profit. The selling of school books and school supplies by  
3 schools at retail to students is not "primarily for the  
4 purposes of" the school which does such selling. The provisions  
5 of this paragraph shall not apply to nor subject to taxation  
6 occasional dinners, socials or similar activities of a person  
7 organized and operated exclusively for charitable, religious  
8 or educational purposes, whether or not such activities are  
9 open to the public.

10 A person who is the recipient of a grant or contract under  
11 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
12 serves meals to participants in the federal Nutrition Program  
13 for the Elderly in return for contributions established in  
14 amount by the individual participant pursuant to a schedule of  
15 suggested fees as provided for in the federal Act is not  
16 engaged in the business of selling tangible personal property  
17 at retail with respect to such transactions.

18 "Purchaser" means anyone who, through a sale at retail,  
19 acquires the ownership of or title to tangible personal  
20 property for a valuable consideration.

21 "Reseller of motor fuel" means any person engaged in the  
22 business of selling or delivering or transferring title of  
23 motor fuel to another person other than for use or consumption.  
24 No person shall act as a reseller of motor fuel within this  
25 State without first being registered as a reseller pursuant to  
26 Section 2c or a retailer pursuant to Section 2a.

1 "Selling price" or the "amount of sale" means the  
2 consideration for a sale valued in money whether received in  
3 money or otherwise, including cash, credits, property, other  
4 than as hereinafter provided, and services, but not including  
5 the value of or credit given for traded-in tangible personal  
6 property where the item that is traded-in is of like kind and  
7 character as that which is being sold, and shall be determined  
8 without any deduction on account of the cost of the property  
9 sold, the cost of materials used, labor or service cost or any  
10 other expense whatsoever, but does not include charges that are  
11 added to prices by sellers on account of the seller's tax  
12 liability under this Act, or on account of the seller's duty to  
13 collect, from the purchaser, the tax that is imposed by the Use  
14 Tax Act, or, except as otherwise provided with respect to any  
15 cigarette tax imposed by a home rule unit, on account of the  
16 seller's tax liability under any local occupation tax  
17 administered by the Department, or, except as otherwise  
18 provided with respect to any cigarette tax imposed by a home  
19 rule unit on account of the seller's duty to collect, from the  
20 purchasers, the tax that is imposed under any local use tax  
21 administered by the Department ~~or on account of the seller's~~  
22 ~~tax liability under Section 8-11-1 of the Illinois Municipal~~  
23 ~~Code, as heretofore and hereafter amended, or on account of the~~  
24 ~~seller's tax liability under the County Retailers' Occupation~~  
25 ~~Tax Act, or on account of the seller's tax liability under the~~  
26 ~~Home Rule Municipal Soft Drink Retailers' Occupation Tax, or on~~

1 ~~account of the seller's tax liability under any tax imposed~~  
2 ~~under the "Regional Transportation Authority Act", approved~~  
3 ~~December 12, 1973.~~ Effective December 1, 1985, "selling price"  
4 shall include charges that are added to prices by sellers on  
5 account of the seller's tax liability under the Cigarette Tax  
6 Act, on account of the sellers' duty to collect, from the  
7 purchaser, the tax imposed under the Cigarette Use Tax Act, and  
8 on account of the seller's duty to collect, from the purchaser,  
9 any cigarette tax imposed by a home rule unit.

10 The phrase "like kind and character" shall be liberally  
11 construed (including but not limited to any form of motor  
12 vehicle for any form of motor vehicle, or any kind of farm or  
13 agricultural implement for any other kind of farm or  
14 agricultural implement), while not including a kind of item  
15 which, if sold at retail by that retailer, would be exempt from  
16 retailers' occupation tax and use tax as an isolated or  
17 occasional sale.

18 "Gross receipts" from the sales of tangible personal  
19 property at retail means the total selling price or the amount  
20 of such sales, as hereinbefore defined. In the case of charge  
21 and time sales, the amount thereof shall be included only as  
22 and when payments are received by the seller. Receipts or other  
23 consideration derived by a seller from the sale, transfer or  
24 assignment of accounts receivable to a wholly owned subsidiary  
25 will not be deemed payments prior to the time the purchaser  
26 makes payment on such accounts.

1 "Department" means the Department of Revenue.

2 "Person" means any natural individual, firm, partnership,  
3 association, joint stock company, joint adventure, public or  
4 private corporation, limited liability company, or a receiver,  
5 executor, trustee, guardian or other representative appointed  
6 by order of any court.

7 The isolated or occasional sale of tangible personal  
8 property at retail by a person who does not hold himself out as  
9 being engaged (or who does not habitually engage) in selling  
10 such tangible personal property at retail, or a sale through a  
11 bulk vending machine, does not constitute engaging in a  
12 business of selling such tangible personal property at retail  
13 within the meaning of this Act; provided that any person who is  
14 engaged in a business which is not subject to the tax imposed  
15 by this Act because of involving the sale of or a contract to  
16 sell real estate or a construction contract to improve real  
17 estate or a construction contract to engineer, install, and  
18 maintain an integrated system of products, but who, in the  
19 course of conducting such business, transfers tangible  
20 personal property to users or consumers in the finished form in  
21 which it was purchased, and which does not become real estate  
22 or was not engineered and installed, under any provision of a  
23 construction contract or real estate sale or real estate sales  
24 agreement entered into with some other person arising out of or  
25 because of such nontaxable business, is engaged in the business  
26 of selling tangible personal property at retail to the extent

1 of the value of the tangible personal property so transferred.  
2 If, in such a transaction, a separate charge is made for the  
3 tangible personal property so transferred, the value of such  
4 property, for the purpose of this Act, shall be the amount so  
5 separately charged, but not less than the cost of such property  
6 to the transferor; if no separate charge is made, the value of  
7 such property, for the purposes of this Act, is the cost to the  
8 transferor of such tangible personal property. Construction  
9 contracts for the improvement of real estate consisting of  
10 engineering, installation, and maintenance of voice, data,  
11 video, security, and all telecommunication systems do not  
12 constitute engaging in a business of selling tangible personal  
13 property at retail within the meaning of this Act if they are  
14 sold at one specified contract price.

15 A person who holds himself or herself out as being engaged  
16 (or who habitually engages) in selling tangible personal  
17 property at retail is a person engaged in the business of  
18 selling tangible personal property at retail hereunder with  
19 respect to such sales (and not primarily in a service  
20 occupation) notwithstanding the fact that such person designs  
21 and produces such tangible personal property on special order  
22 for the purchaser and in such a way as to render the property  
23 of value only to such purchaser, if such tangible personal  
24 property so produced on special order serves substantially the  
25 same function as stock or standard items of tangible personal  
26 property that are sold at retail.

1           Persons who engage in the business of transferring tangible  
2 personal property upon the redemption of trading stamps are  
3 engaged in the business of selling such property at retail and  
4 shall be liable for and shall pay the tax imposed by this Act  
5 on the basis of the retail value of the property transferred  
6 upon redemption of such stamps.

7           "Bulk vending machine" means a vending machine, containing  
8 unsorted confections, nuts, toys, or other items designed  
9 primarily to be used or played with by children which, when a  
10 coin or coins of a denomination not larger than \$0.50 are  
11 inserted, are dispensed in equal portions, at random and  
12 without selection by the customer.  
13 (Source: P.A. 92-213, eff. 1-1-02.)

14           Section 35. If and only if Senate Bill 2052 of the 95th  
15 General Assembly becomes law, then the Southwestern Illinois  
16 Development Authority Act is amended by changing Section 3 as  
17 follows:

18           (70 ILCS 520/3) (from Ch. 85, par. 6153)

19           Sec. 3. The following terms, whenever used or referred to  
20 in this Act, shall have the following meanings, except in such  
21 instances where the context may clearly indicate otherwise:

22           (a) "Authority" means the Southwestern Illinois  
23 Development Authority created by this Act.

24           (b) "Governmental agency" means any federal, State or local

1 governmental body, and any agency or instrumentality thereof,  
2 corporate or otherwise.

3 (c) "Person" means any natural person, firm, partnership,  
4 corporation, both domestic and foreign, company, association  
5 or joint stock association and includes any trustee, receiver,  
6 assignee or personal representative thereof.

7 (d) "Revenue bond" means any bond issued by the Authority  
8 the principal and interest of which is payable solely from  
9 revenues or income derived from any project or activity of the  
10 Authority.

11 (e) "Board" means the Southwestern Illinois Development  
12 Authority Board of Directors.

13 (f) "Governor" means the Governor of the State of Illinois.

14 (g) "City" means any city, village, incorporated town or  
15 township within the geographical territory of the Authority.

16 (h) "Industrial project" means (1) a capital project,  
17 including one or more buildings and other structures,  
18 improvements, machinery and equipment whether or not on the  
19 same site or sites now existing or hereafter acquired, suitable  
20 for use by any manufacturing, industrial, research,  
21 transportation or commercial enterprise including but not  
22 limited to use as a factory, mill, processing plant, assembly  
23 plant, packaging plant, fabricating plant, office building,  
24 industrial distribution center, warehouse, repair, overhaul or  
25 service facility, freight terminal, research facility, test  
26 facility, railroad facility, solid waste and wastewater

1 treatment and disposal sites and other pollution control  
2 facilities, resource or waste reduction, recovery, treatment  
3 and disposal facilities, and including also the sites thereof  
4 and other rights in land therefor whether improved or  
5 unimproved, site preparation and landscaping and all  
6 appurtenances and facilities incidental thereto such as  
7 utilities, access roads, railroad sidings, truck docking and  
8 similar facilities, parking facilities, dockage, wharfage,  
9 railroad roadbed, track, trestle, depot, terminal, switching  
10 and signaling equipment or related equipment and other  
11 improvements necessary or convenient thereto; or (2) any land,  
12 buildings, machinery or equipment comprising an addition to or  
13 renovation, rehabilitation or improvement of any existing  
14 capital project.

15 (i) "Housing project" or "residential project" includes a  
16 specific work or improvement undertaken to provide dwelling  
17 accommodations, including the acquisition, construction or  
18 rehabilitation of lands, buildings and community facilities  
19 and in connection therewith to provide nonhousing facilities  
20 which are an integral part of a planned large-scale project or  
21 new community.

22 (j) "Commercial project" means any project, including but  
23 not limited to one or more buildings and other structures,  
24 improvements, machinery and equipment whether or not on the  
25 same site or sites now existing or hereafter acquired, suitable  
26 for use by any retail or wholesale concern, distributorship or



1 agency, any cultural facilities of a for-profit or  
2 not-for-profit type including but not limited to educational,  
3 theatrical, recreational and entertainment, sports facilities,  
4 racetracks, stadiums, convention centers, exhibition halls,  
5 arenas, opera houses and theaters, waterfront improvements,  
6 swimming pools, boat storage, moorage, docking facilities,  
7 restaurants, velodromes, coliseums, sports training  
8 facilities, parking facilities, terminals, hotels and motels,  
9 gymnasiums, medical facilities and port facilities.

10 (k) "Unit of local government" means a unit of local  
11 government, as defined in Section 1 of Article VII of the  
12 Illinois Constitution, and any local public entity as that term  
13 is defined in the Local Governmental and Governmental Employees  
14 Tort Immunity Act and such unit of local government or local  
15 public entity is located within the geographical territory of  
16 the Authority or, for the purposes of the Flood Prevention  
17 District Act, is located within Monroe County, Illinois.

18 (l) "Local government project" means a project or other  
19 undertaking that is authorized or required by law to be  
20 acquired, constructed, reconstructed, equipped, improved,  
21 rehabilitated, replaced, maintained, or otherwise undertaken  
22 in any manner by a unit of local government.

23 (m) "Local government security" means a bond, note, or  
24 other evidence of indebtedness that a unit of local government  
25 is legally authorized to issue for the purpose of financing a  
26 public purpose project or to issue for any other lawful public

1 purpose under any provision of the Illinois Constitution or  
2 laws of this State, whether the obligation is payable from  
3 taxes or revenues, rates, charges, assessments,  
4 appropriations, grants, or any other lawful source or  
5 combination thereof, and specifically includes, without  
6 limitation, obligations under any lease or lease purchase  
7 agreement lawfully entered into by the unit of local government  
8 for the acquisition or use of facilities or equipment.

9 (n) "Project" means an industrial, housing, residential,  
10 commercial, local government, or service project or any  
11 combination thereof provided that all uses shall fall within  
12 one of the categories described above. Any project, of any  
13 nature whatsoever, shall automatically include all site  
14 improvements and new construction involving sidewalks, sewers,  
15 solid waste and wastewater treatment and disposal sites and  
16 other pollution control facilities, resource or waste  
17 reduction, recovery, treatment and disposal facilities, parks,  
18 open spaces, wildlife sanctuaries, streets, highways and  
19 runways.

20 (o) "Lease agreement" shall mean an agreement whereby a  
21 project acquired by the Authority by purchase, gift or lease is  
22 leased to any person or corporation which will use or cause the  
23 project to be used as a project as heretofore defined upon  
24 terms providing for lease rental payments at least sufficient  
25 to pay when due all principal of and interest and premium, if  
26 any, on any bonds, notes or other evidences of indebtedness of

1 the Authority issued with respect to such project, providing  
2 for the maintenance, insurance and operation of the project on  
3 terms satisfactory to the Authority and providing for  
4 disposition of the project upon termination of the lease term,  
5 including purchase options or abandonment of the premises, with  
6 such other terms as may be deemed desirable by the Authority.

7 (p) "Loan agreement" means any agreement pursuant to which  
8 the Authority agrees to loan the proceeds of its bonds, notes  
9 or other evidences of indebtedness issued with respect to a  
10 project to any person or corporation which will use or cause  
11 the project to be used as a project as heretofore defined upon  
12 terms providing for loan repayment installments at least  
13 sufficient to pay when due all principal of and interest and  
14 premium, if any, on any bonds, notes or other evidences of  
15 indebtedness of the Authority issued with respect to the  
16 project, providing for maintenance, insurance and operation of  
17 the project on terms satisfactory to the Authority and  
18 providing for other matters as may be deemed advisable by the  
19 Authority.

20 (q) "Financial aid" means the expenditure of Authority  
21 funds or funds provided by the Authority through the issuance  
22 of its revenue bonds, notes or other evidences of indebtedness  
23 for the development, construction, acquisition or improvement  
24 of a project.

25 (r) "Costs incurred in connection with the development,  
26 construction, acquisition or improvement of a project" means

1 the following: the cost of purchase and construction of all  
2 lands and improvements in connection therewith and equipment  
3 and other property, rights, easements and franchises acquired  
4 which are deemed necessary for such construction; financing  
5 charges; interest costs with respect to bonds, notes and other  
6 evidences of indebtedness of the Authority prior to and during  
7 construction and for a period of 6 months thereafter;  
8 engineering and legal expenses; the costs of plans,  
9 specifications, surveys and estimates of costs and other  
10 expenses necessary or incident to determining the feasibility  
11 or practicability of any project, together with such other  
12 expenses as may be necessary or incident to the financing,  
13 insuring, acquisition and construction of a specific project  
14 and the placing of the same in operation.

15 (s) "Terminal" means a public place, station or depot for  
16 receiving and delivering passengers, baggage, mail, freight or  
17 express matter and any combination thereof in connection with  
18 the transportation of persons and property on water or land or  
19 in the air.

20 (t) "Terminal facilities" means all land, buildings,  
21 structures, improvements, equipment and appliances useful in  
22 the operation of public warehouse, storage and transportation  
23 facilities and industrial, manufacturing or commercial  
24 activities for the accommodation of or in connection with  
25 commerce by water or land or in the air or useful as an aid, or  
26 constituting an advantage or convenience to, the safe landing,

1 taking off and navigation of aircraft or the safe and efficient  
2 operation or maintenance of a public airport.

3 (u) "Port facilities" means all public structures, except  
4 terminal facilities as defined herein, that are in, over, under  
5 or adjacent to navigable waters and are necessary for or  
6 incident to the furtherance of water commerce and includes the  
7 widening and deepening of slips, harbors and navigable waters.

8 (v) "Airport" means any locality, either land or water,  
9 which is used or designed for the landing and taking off of  
10 aircraft or for the location of runways, landing fields,  
11 aerodromes, hangars, buildings, structures, airport roadways  
12 and other facilities.

13 (Source: P.A. 85-591; 86-1455.)

14 Section 45. If and only if Senate Bill 2052 of the 95th  
15 General Assembly becomes law, then the Metro-East Sanitary  
16 District Act of 1974 is amended by changing Section 5-1 as  
17 follows:

18 (70 ILCS 2905/5-1) (from Ch. 42, par. 505-1)

19 Sec. 5-1. (a) The board may levy and collect taxes for  
20 corporate purposes. Such taxes shall be levied by ordinance  
21 specifying the purposes for which the same are required, and a  
22 certified copy of such ordinance shall be filed with the county  
23 clerk of the county in which the predecessor district was  
24 organized, on or before the second Tuesday in August, as

1 provided in Section 122 of the Revenue Act of 1939 (superseded  
2 by Section 14-10 of the Property Tax Code). Any excess funds  
3 accumulated prior to January 1, 2008 by the sanitary district  
4 that are collected by levying taxes pursuant to 745 ILCS  
5 10/9-107 may be expended by the sanitary district to maintain,  
6 repair, improve, or construct levees or any part of the levee  
7 system and to provide capital moneys for levee or river-related  
8 scientific studies, including the construction of facilities  
9 for such purposes. After the assessment for the current year  
10 has been equalized by the Department of Revenue, the board  
11 shall, as soon as may be, ascertain and certify to such county  
12 clerk the total value of all taxable property lying within the  
13 corporate limits of such districts in each of the counties in  
14 which the district is situated, as the same is assessed and  
15 equalized for tax purposes for the current year. The county  
16 clerk shall ascertain the rate per cent which, upon the total  
17 valuation of all such property, ascertained as above stated,  
18 would produce a net amount not less than the amount so directed  
19 to be levied; and the clerk shall, without delay, certify under  
20 his signature and seal of office to the county clerk of such  
21 other county, in which a portion of the district is situated  
22 such rate per cent; and it shall be the duty of each of the  
23 county clerks to extend such tax in a separate column upon the  
24 books of the collector or collectors of the county taxes for  
25 the counties, against all property in their respective  
26 counties, within the limits of the district. All taxes so

1 levied and certified shall be collected and enforced in the  
2 same manner, and by the same officers as county taxes, and  
3 shall be paid over by the officers collecting the same, to the  
4 treasurer of the sanitary district, in the manner and at the  
5 time provided by the Property Tax Code. The aggregate amount of  
6 taxes levied for any one year, exclusive of the amount levied  
7 for the payment of bonded indebtedness and interest thereon,  
8 shall not exceed the rate of .20%, or the rate limitation of  
9 the predecessor district in effect on July 1, 1967, or the rate  
10 limitation set by subsection (b) whichever is greater, of  
11 value, as equalized or assessed by the Department of Revenue.  
12 The foregoing limitations upon tax rates may be increased or  
13 decreased under the referendum provisions of the Property Tax  
14 Code.

15 (b) The tax rate limit of the district may be changed to  
16 .478% of the value of property as equalized or assessed by the  
17 Department of Revenue for a period of 5 years and to .312% of  
18 such value thereafter upon the approval of the electors of the  
19 district of such a proposition submitted at any regular  
20 election pursuant to a resolution of the board of commissioners  
21 or submitted at an election for officers of the counties of St.  
22 Clair and Madison in accordance with the general election law  
23 upon a petition signed by not fewer than 10% of the legal  
24 voters in the district, which percentage shall be determined on  
25 the basis of the number of votes cast at the last general  
26 election preceding the filing of such petition specifying the

1 tax rate to be submitted. Such petition shall be filed with the  
 2 executive director of the district not more than 10 months nor  
 3 less than 5 months prior to the election at which the question  
 4 is to be submitted to the voters of the district, and its  
 5 validity shall be determined as provided by the general  
 6 election law. The executive director shall certify the question  
 7 to the proper election officials, who shall submit the question  
 8 to the voters.

9 Notice shall be given in the manner provided by the general  
 10 election law.

11 Referenda initiated under this subsection shall be subject  
 12 to the provisions and limitations of the general election law.

13 The question shall be in substantially the following form:

14 -----  
 15 Shall the maximum tax rate  
 16 for the Metro-East Sanitary  
 17 District be established at YES  
 18 .478% of the equalized assessed  
 19 value for 5 years and then at .312% -----  
 20 of the equalized assessed value  
 21 thereafter, instead of .2168%, the NO  
 22 maximum rate otherwise applicable  
 23 to the next taxes to be extended?  
 24 -----

25 The ballot shall have printed thereon, but not as a part of  
 26 the proposition submitted, an estimate of the approximate



1 amount extendable under the proposed rate and of the  
2 approximate amount extendable under the rate otherwise  
3 applicable to the next taxes to be extended, such amounts being  
4 computed upon the last known equalized assessed value;  
5 provided, that any error, miscalculation or inaccuracy in  
6 computing such amounts shall not invalidate or affect the  
7 validity of any tax rate limit so adopted.

8 If a majority of all ballots cast on such proposition shall  
9 be in favor of the proposition, the tax rate limit so  
10 established shall become effective with the levy next following  
11 the referendum; provided that nothing in this subsection shall  
12 be construed as precluding the extension of taxes at rates less  
13 than that authorized by such referendum.

14 Except as herein otherwise provided, the referenda  
15 authorized by the terms of this subsection shall be conducted  
16 in all respects in the manner provided by the general election  
17 law.

18 (Source: P.A. 88-670, eff. 12-2-94.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law."