



Filed: 4/29/2010

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LRB096 06644 RLJ 40764 a

1 AMENDMENT TO SENATE BILL 580

2 AMENDMENT NO. _____. Amend Senate Bill 580 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Water Commission Act of 1985 is amended by
5 changing Section 4 and by adding Sections 0.001, 0.001a, and
6 0.001b as follows:

7 (70 ILCS 3720/0.001 new)

8 Sec. 0.001. Commissioners; terms; vacancies. Effective
9 January 1, 2011, the terms of office of the chairperson and all
10 commissioners of water commissions appointed pursuant to this
11 Act shall terminate and the commission shall be reconstituted.

12 (a) The commissioners shall be appointed as follows:

13 (1) A chairperson, who shall also serve in the capacity
14 of a commissioner, shall be appointed by the chairperson of
15 the county board of the home county with the advice and
16 consent of the county board.

1 (2) One commissioner from each county board district
2 within the home county shall be appointed by the
3 chairperson of the county board of the home county with the
4 advice and consent of the county board.

5 (3) One commissioner from each county board district
6 within the home county shall be appointed by the majority
7 vote of the mayors of those included municipalities that
8 have the greatest percentage of their respective
9 populations residing within such county board district of
10 the home county. A vice-chairperson of the commission shall
11 be appointed from the commissioners appointed pursuant to
12 this paragraph by a majority vote of these commissioners.

13 (b) All commissioners shall be residents of the home county
14 or a resident of an included municipality.

15 (c) The initial commissioners appointed pursuant to
16 subsection (a) shall serve the following terms:

17 (1) The chairperson shall serve for a term of 6 years.

18 (2) At the first meeting of the commission held after
19 January 1, 2011, the commissioners appointed pursuant to
20 paragraph (2) of subsection (a) shall determine publicly by
21 lot one-third of their members to serve for a term of 2
22 years, one-third of their members to serve for a term of 4
23 years, and one-third of their members to serve for a term
24 of 6 years, any odd number of commissioners so determined
25 by dividing into thirds to serve 6-year terms.

26 (3) At the first meeting of the commission held after

1 January 1, 2011, the commissioners and the
2 vice-chairperson appointed pursuant to paragraph (3) of
3 subsection (a) shall determine publicly by lot one-third of
4 their members to serve for a term of 2 years, one-third of
5 their members to serve for a term of 4 years, and one-third
6 of their members to serve for a term of 6 years, any odd
7 number of commissioners so determined by dividing into
8 thirds to serve 6-year terms.

9 The successor commissioners shall serve for a term of 6
10 years or until their successors have been appointed and
11 qualified in the same manner as the original appointments.

12 (d) A commissioner shall be eligible for reappointment upon
13 the expiration of his or her term. A vacancy in the office of a
14 commissioner shall be filled for the balance of the unexpired
15 term by appointment and with the qualifications as to residency
16 in the same manner as the original appointment was made.

17 (e) A commissioner may be a member of the governing board,
18 an officer, or an employee of the county or any unit of local
19 government located within the county.

20 (70 ILCS 3720/0.001a new)

21 Sec. 0.001a. Officers. A water commission established
22 pursuant to this Act shall, by majority vote of the water
23 commissioners, appoint a general manager, a finance director,
24 and a treasurer. The appointment of the general manager,
25 finance director, and treasurer is subject to the advice and

1 consent of the county board of the home county in which the
2 county water commission is located. The positions of finance
3 director and treasurer shall be filled by persons with the
4 necessary financial background and experience to monitor and
5 report on water commission financial matters and budgeting.

6 (70 ILCS 3720/0.001b new)

7 Sec. 0.001b. Powers and duties. A water commission has the
8 power and duty to:

9 (1) establish and define the responsibilities of the
10 commission and its committees;

11 (2) establish and define the responsibilities of the
12 commission's management and staff;

13 (3) establish a finance committee to conduct monthly
14 meetings to supervise staff's handling of financial
15 matters and budgeting;

16 (4) require the finance director and treasurer to
17 report to the finance committee the status of all
18 commission funds and obligations;

19 (5) require the treasurer to report to the commission
20 any improper or unnecessary expenditures, budgetary
21 errors, or accounting irregularities;

22 (6) require commission staff to document and comply
23 with standard accounting policies, procedures, and
24 controls to ensure accurate reporting to the finance
25 committee and commission and to identify improper or

1 unnecessary expenditures, budgetary errors, or accounting
2 irregularities;

3 (7) require the commission's finance director to
4 provide monthly reports regarding the commission's cash
5 and investment position including whether the commission
6 has sufficient cash and investments to pay its debt
7 service, operating expenses, and capital expenditures and
8 maintain required reserve levels. The information shall
9 include the required funding levels for restricted funds
10 and unrestricted cash and investment balances with
11 comparisons to unrestricted reserves. The information
12 shall also include the type and performance of the
13 commission's investments and description as to whether
14 those investments are in compliance with the commission's
15 investment policies;

16 (8) require the commission's finance director to
17 provide the commission with detailed information
18 concerning the commission's operating performance
19 including the budgeted and actual monthly amounts for water
20 sales, water costs, and other operating expenses;

21 (9) require commission staff to provide the commission
22 with detailed information regarding the progress of
23 capital projects including whether the percentage of
24 completion and costs incurred are timely;

25 (10) require the commission's staff accountant to
26 perform bank reconciliations and general ledger account

1 reconciliations on a monthly basis; the finance director
2 shall review these reconciliations and provide them to the
3 treasurer and the finance committee on a monthly basis;

4 (11) establish policies to ensure the proper
5 segregation of the financial duties performed by
6 employees;

7 (12) restrict access to the established accounting
8 systems and general ledger systems and provide for adequate
9 segregation of duties so that no single person has sole
10 access and control over the accounting system or the
11 general ledger system;

12 (13) require that the finance director review and
13 approve all manual journal entries and supporting
14 documentation; the treasurer shall review and approve the
15 finance director's review and approval of manual journal
16 entries and supporting documentation;

17 (14) require that the finance director closely monitor
18 the progress of construction projects;

19 (15) require that the finance director carefully
20 document any GAAP analysis or communications with GASB and
21 provide full and timely reports for the same to the finance
22 committee; and

23 (16) retain an outside independent auditor to perform a
24 comprehensive audit of the water commission's financial
25 activities for each fiscal year in conformance with the
26 standard practices of the Association of Governmental

1 Auditors; within 30 days after the independent audit is
 2 completed, the results of the audit must be sent to the
 3 county auditor.

4 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

5 Sec. 4. Taxes.

6 (a) The board of commissioners of any county water
 7 commission may, by ordinance, impose throughout the territory
 8 of the commission any or all of the taxes provided in this
 9 Section for its corporate purposes. However, no county water
 10 commission may impose any such tax unless the commission
 11 certifies the proposition of imposing the tax to the proper
 12 election officials, who shall submit the proposition to the
 13 voters residing in the territory at an election in accordance
 14 with the general election law, and the proposition has been
 15 approved by a majority of those voting on the proposition.

16 The proposition shall be in the form provided in Section 5
 17 or shall be substantially in the following form:

18 -----	Shall the (insert corporate
19 name of county water commission)	YES
20 impose (state type of tax or	-----
21 taxes to be imposed) at the	NO
22 rate of 1/4%?	

23 -----

24 Taxes imposed under this Section and civil penalties
 25 imposed incident thereto shall be collected and enforced by the

1 State Department of Revenue. The Department shall have the
2 power to administer and enforce the taxes and to determine all
3 rights for refunds for erroneous payments of the taxes.

4 (b) The board of commissioners may impose a County Water
5 Commission Retailers' Occupation Tax upon all persons engaged
6 in the business of selling tangible personal property at retail
7 in the territory of the commission at a rate of 1/4% of the
8 gross receipts from the sales made in the course of such
9 business within the territory. The tax imposed under this
10 paragraph and all civil penalties that may be assessed as an
11 incident thereof shall be collected and enforced by the State
12 Department of Revenue. The Department shall have full power to
13 administer and enforce this paragraph; to collect all taxes and
14 penalties due hereunder; to dispose of taxes and penalties so
15 collected in the manner hereinafter provided; and to determine
16 all rights to credit memoranda arising on account of the
17 erroneous payment of tax or penalty hereunder. In the
18 administration of, and compliance with, this paragraph, the
19 Department and persons who are subject to this paragraph shall
20 have the same rights, remedies, privileges, immunities, powers
21 and duties, and be subject to the same conditions,
22 restrictions, limitations, penalties, exclusions, exemptions
23 and definitions of terms, and employ the same modes of
24 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
25 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
26 therein other than the State rate of tax except that food for

1 human consumption that is to be consumed off the premises where
2 it is sold (other than alcoholic beverages, soft drinks, and
3 food that has been prepared for immediate consumption) and
4 prescription and nonprescription medicine, drugs, medical
5 appliances and insulin, urine testing materials, syringes, and
6 needles used by diabetics, for human use, shall not be subject
7 to tax hereunder), 2c, 3 (except as to the disposition of taxes
8 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,
9 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
10 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
11 Penalty and Interest Act, as fully as if those provisions were
12 set forth herein.

13 Persons subject to any tax imposed under the authority
14 granted in this paragraph may reimburse themselves for their
15 seller's tax liability hereunder by separately stating the tax
16 as an additional charge, which charge may be stated in
17 combination, in a single amount, with State taxes that sellers
18 are required to collect under the Use Tax Act and under
19 subsection (e) of Section 4.03 of the Regional Transportation
20 Authority Act, in accordance with such bracket schedules as the
21 Department may prescribe.

22 Whenever the Department determines that a refund should be
23 made under this paragraph to a claimant instead of issuing a
24 credit memorandum, the Department shall notify the State
25 Comptroller, who shall cause the warrant to be drawn for the
26 amount specified, and to the person named, in the notification

1 from the Department. The refund shall be paid by the State
2 Treasurer out of a county water commission tax fund established
3 under paragraph (g) of this Section.

4 For the purpose of determining whether a tax authorized
5 under this paragraph is applicable, a retail sale by a producer
6 of coal or other mineral mined in Illinois is a sale at retail
7 at the place where the coal or other mineral mined in Illinois
8 is extracted from the earth. This paragraph does not apply to
9 coal or other mineral when it is delivered or shipped by the
10 seller to the purchaser at a point outside Illinois so that the
11 sale is exempt under the Federal Constitution as a sale in
12 interstate or foreign commerce.

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

15 No tax shall be imposed or collected under this subsection
16 on the sale of a motor vehicle in this State to a resident of
17 another state if that motor vehicle will not be titled in this
18 State.

19 Nothing in this paragraph shall be construed to authorize a
20 county water commission to impose a tax upon the privilege of
21 engaging in any business which under the Constitution of the
22 United States may not be made the subject of taxation by this
23 State.

24 (c) If a tax has been imposed under subsection (b), a
25 County Water Commission Service Occupation Tax shall also be
26 imposed upon all persons engaged, in the territory of the

1 commission, in the business of making sales of service, who, as
2 an incident to making the sales of service, transfer tangible
3 personal property within the territory. The tax rate shall be
4 1/4% of the selling price of tangible personal property so
5 transferred within the territory. The tax imposed under this
6 paragraph and all civil penalties that may be assessed as an
7 incident thereof shall be collected and enforced by the State
8 Department of Revenue. The Department shall have full power to
9 administer and enforce this paragraph; to collect all taxes and
10 penalties due hereunder; to dispose of taxes and penalties so
11 collected in the manner hereinafter provided; and to determine
12 all rights to credit memoranda arising on account of the
13 erroneous payment of tax or penalty hereunder. In the
14 administration of, and compliance with, this paragraph, the
15 Department and persons who are subject to this paragraph shall
16 have the same rights, remedies, privileges, immunities, powers
17 and duties, and be subject to the same conditions,
18 restrictions, limitations, penalties, exclusions, exemptions
19 and definitions of terms, and employ the same modes of
20 procedure, as are prescribed in Sections 1a-1, 2 (except that
21 the reference to State in the definition of supplier
22 maintaining a place of business in this State shall mean the
23 territory of the commission), 2a, 3 through 3-50 (in respect to
24 all provisions therein other than the State rate of tax except
25 that food for human consumption that is to be consumed off the
26 premises where it is sold (other than alcoholic beverages, soft

1 drinks, and food that has been prepared for immediate
2 consumption) and prescription and nonprescription medicines,
3 drugs, medical appliances and insulin, urine testing
4 materials, syringes, and needles used by diabetics, for human
5 use, shall not be subject to tax hereunder), 4 (except that the
6 reference to the State shall be to the territory of the
7 commission), 5, 7, 8 (except that the jurisdiction to which the
8 tax shall be a debt to the extent indicated in that Section 8
9 shall be the commission), 9 (except as to the disposition of
10 taxes and penalties collected and except that the returned
11 merchandise credit for this tax may not be taken against any
12 State tax), 10, 11, 12 (except the reference therein to Section
13 2b of the Retailers' Occupation Tax Act), 13 (except that any
14 reference to the State shall mean the territory of the
15 commission), the first paragraph of Section 15, 15.5, 16, 17,
16 18, 19 and 20 of the Service Occupation Tax Act as fully as if
17 those provisions were set forth herein.

18 Persons subject to any tax imposed under the authority
19 granted in this paragraph may reimburse themselves for their
20 serviceman's tax liability hereunder by separately stating the
21 tax as an additional charge, which charge may be stated in
22 combination, in a single amount, with State tax that servicemen
23 are authorized to collect under the Service Use Tax Act, and
24 any tax for which servicemen may be liable under subsection (f)
25 of Sec. 4.03 of the Regional Transportation Authority Act, in
26 accordance with such bracket schedules as the Department may

1 prescribe.

2 Whenever the Department determines that a refund should be
3 made under this paragraph to a claimant instead of issuing a
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the warrant to be drawn for the
6 amount specified, and to the person named, in the notification
7 from the Department. The refund shall be paid by the State
8 Treasurer out of a county water commission tax fund established
9 under paragraph (g) of this Section.

10 Nothing in this paragraph shall be construed to authorize a
11 county water commission to impose a tax upon the privilege of
12 engaging in any business which under the Constitution of the
13 United States may not be made the subject of taxation by the
14 State.

15 (d) If a tax has been imposed under subsection (b), a tax
16 shall also imposed upon the privilege of using, in the
17 territory of the commission, any item of tangible personal
18 property that is purchased outside the territory at retail from
19 a retailer, and that is titled or registered with an agency of
20 this State's government, at a rate of 1/4% of the selling price
21 of the tangible personal property within the territory, as
22 "selling price" is defined in the Use Tax Act. The tax shall be
23 collected from persons whose Illinois address for titling or
24 registration purposes is given as being in the territory. The
25 tax shall be collected by the Department of Revenue for a
26 county water commission. The tax must be paid to the State, or

1 an exemption determination must be obtained from the Department
2 of Revenue, before the title or certificate of registration for
3 the property may be issued. The tax or proof of exemption may
4 be transmitted to the Department by way of the State agency
5 with which, or the State officer with whom, the tangible
6 personal property must be titled or registered if the
7 Department and the State agency or State officer determine that
8 this procedure will expedite the processing of applications for
9 title or registration.

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

1 human consumption that is to be consumed off the premises where
2 it is sold (other than alcoholic beverages, soft drinks, and
3 food that has been prepared for immediate consumption) and
4 prescription and nonprescription medicines, drugs, medical
5 appliances and insulin, urine testing materials, syringes, and
6 needles used by diabetics, for human use, shall not be subject
7 to tax hereunder), 4, 11, 12, 12a, 14, 15, 19 (except the
8 portions pertaining to claims by retailers and except the last
9 paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act
10 and Section 3-7 of the Uniform Penalty and Interest Act that
11 are not inconsistent with this paragraph, as fully as if those
12 provisions were set forth herein.

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

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

1 under the tax. A certificate issued under the Use Tax Act or
2 the Service Use Tax Act shall be applicable with regard to any
3 tax imposed under paragraph (c) of this Section.

4 (f) Any ordinance imposing or discontinuing any tax under
5 this Section shall be adopted and a certified copy thereof
6 filed with the Department on or before June 1, whereupon the
7 Department of Revenue shall proceed to administer and enforce
8 this Section on behalf of the county water commission as of
9 September 1 next following the adoption and filing. Beginning
10 January 1, 1992, an ordinance or resolution imposing or
11 discontinuing the tax hereunder shall be adopted and a
12 certified copy thereof filed with the Department on or before
13 the first day of July, whereupon the Department shall proceed
14 to administer and enforce this Section as of the first day of
15 October next following such adoption and filing. Beginning
16 January 1, 1993, an ordinance or resolution imposing or
17 discontinuing the tax hereunder shall be adopted and a
18 certified copy thereof filed with the Department on or before
19 the first day of October, whereupon the Department shall
20 proceed to administer and enforce this Section as of the first
21 day of January next following such adoption and filing.

22 (g) The State Department of Revenue shall, upon collecting
23 any taxes as provided in this Section, pay the taxes over to
24 the State Treasurer as trustee for the commission. The taxes
25 shall be held in a trust fund outside the State Treasury. On or
26 before the 25th day of each calendar month, the State

1 Department of Revenue shall prepare and certify to the
2 Comptroller of the State of Illinois the amount to be paid to
3 the commission, which shall be the then balance in the fund,
4 less any amount determined by the Department to be necessary
5 for the payment of refunds. Within 10 days after receipt by the
6 Comptroller of the certification of the amount to be paid to
7 the commission, the Comptroller shall cause an order to be
8 drawn for the payment for the amount in accordance with the
9 direction in the certification.

10 (h) Beginning June 1, 2016 any tax imposed pursuant to this
11 Section may no longer be imposed or collected, unless a
12 continuation of the tax is approved by the voters at a
13 referendum as set forth in this Section.

14 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."