

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing Section
5 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax
8 For Public Safety, Public Facilities, or Transportation.

9 (a) The county board of any county may impose a tax upon
10 all persons engaged in the business of selling tangible
11 personal property, other than personal property titled or
12 registered with an agency of this State's government, at retail
13 in the county on the gross receipts from the sales made in the
14 course of business to provide revenue to be used exclusively
15 for public safety, public facility, or transportation purposes
16 in that county, if a proposition for the tax has been submitted
17 to the electors of that county and approved by a majority of
18 those voting on the question. If imposed, this tax shall be
19 imposed only in one-quarter percent increments. By resolution,
20 the county board may order the proposition to be submitted at
21 any election. If the tax is imposed for transportation purposes
22 for expenditures for public highways or as authorized under the
23 Illinois Highway Code, the county board must publish notice of

1 the existence of its long-range highway transportation plan as
2 required or described in Section 5-301 of the Illinois Highway
3 Code and must make the plan publicly available prior to
4 approval of the ordinance or resolution imposing the tax. If
5 the tax is imposed for transportation purposes for expenditures
6 for passenger rail transportation, the county board must
7 publish notice of the existence of its long-range passenger
8 rail transportation plan and must make the plan publicly
9 available prior to approval of the ordinance or resolution
10 imposing the tax.

11 If a tax is imposed for public facilities purposes, then
12 the name of the project may be included in the proposition at
13 the discretion of the county board as determined in the
14 enabling resolution. For example, the "XXX Nursing Home" or the
15 "YYY Museum".

16 The county clerk shall certify the question to the proper
17 election authority, who shall submit the proposition at an
18 election in accordance with the general election law.

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

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

24 As additional information on the ballot below the
25 question shall appear the following:

26 "This would mean that a consumer would pay an

1 additional (insert amount) in sales tax for every \$100 of
2 tangible personal property bought at retail."

3 The county board may also opt to establish a sunset
4 provision at which time the additional sales tax would
5 cease being collected, if not terminated earlier by a vote
6 of the county board. If the county board votes to include a
7 sunset provision, the proposition for public safety
8 purposes shall be in substantially the following form:

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

13 As additional information on the ballot below the
14 question shall appear the following:

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

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

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

26 (2) The proposition for transportation purposes shall

1 be in substantially the following form:

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

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

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

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

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

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

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

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

3 For the purposes of this paragraph, transportation
4 purposes means construction, maintenance, operation, and
5 improvement of public highways, any other purpose for which
6 a county may expend funds under the Illinois Highway Code,
7 and passenger rail transportation.

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

9 (3) The proposition for public facilities ~~facility~~
10 purposes shall be in substantially the following form:

11 "To pay for public facilities ~~facility~~ purposes, shall
12 (name of county) be authorized to impose an increase on its
13 share of local sales taxes by (insert rate)?"

14 As additional information on the ballot below the
15 question shall appear the following:

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

19 The county board may also opt to establish a sunset
20 provision at which time the additional sales tax would
21 cease being collected, if not terminated earlier by a vote
22 of the county board. If the county board votes to include a
23 sunset provision, the proposition for public facilities
24 ~~facility~~ purposes shall be in substantially the following
25 form:

26 "To pay for public facilities ~~facility~~ purposes, shall

1 (name of county) be authorized to impose an increase on its
2 share of local sales taxes by (insert rate) for a period
3 not to exceed (insert number of years)?"

4 As additional information on the ballot below the
5 question shall appear the following:

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

12 For purposes of this Section, "public facilities
13 purposes" means the acquisition, development,
14 construction, reconstruction, rehabilitation, improvement,
15 financing, architectural planning, and installation of
16 capital facilities consisting of buildings, structures,
17 and durable equipment and for the acquisition and
18 improvement of real property and interest in real property
19 required, or expected to be required, in connection with
20 the public facilities, for use by the county for the
21 furnishing of governmental services to its citizens,
22 including but not limited to museums and nursing homes.

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

24 If a majority of the electors voting on the proposition
25 vote in favor of it, the county may impose the tax. A county
26 may not submit more than one proposition authorized by this

1 Section to the electors at any one time.

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

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

12 Persons subject to any tax imposed under the authority
13 granted in this Section may reimburse themselves for their
14 sellers' tax liability by separately stating the tax as an
15 additional charge, which charge may be stated in combination,
16 in a single amount, with State tax which sellers are required
17 to collect under the Use Tax Act, pursuant to such bracketed
18 schedules as the Department may prescribe.

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

1 (b) If a tax has been imposed under subsection (a), a
2 service occupation tax shall also be imposed at the same rate
3 upon all persons engaged, in the county, in the business of
4 making sales of service, who, as an incident to making those
5 sales of service, transfer tangible personal property within
6 the county as an incident to a sale of service. This tax may
7 not be imposed on sales of food for human consumption that is
8 to be consumed off the premises where it is sold (other than
9 alcoholic beverages, soft drinks, and food prepared for
10 immediate consumption) and prescription and non-prescription
11 medicines, drugs, medical appliances and insulin, urine
12 testing materials, syringes, and needles used by diabetics. The
13 tax imposed under this subsection and all civil penalties that
14 may be assessed as an incident thereof shall be collected and
15 enforced by the Department of Revenue. The Department has full
16 power to administer and enforce this subsection; to collect all
17 taxes and penalties due hereunder; to dispose of taxes and
18 penalties so collected in the manner hereinafter provided; and
19 to determine all rights to credit memoranda arising on account
20 of the erroneous payment of tax or penalty hereunder. In the
21 administration of, and compliance with this subsection, the
22 Department and persons who are subject to this paragraph shall
23 (i) have the same rights, remedies, privileges, immunities,
24 powers, and duties, (ii) be subject to the same conditions,
25 restrictions, limitations, penalties, exclusions, exemptions,
26 and definitions of terms, and (iii) employ the same modes of

1 procedure as are prescribed in Sections 2 (except that the
2 reference to State in the definition of supplier maintaining a
3 place of business in this State shall mean the county), 2a, 2b,
4 2c, 3 through 3-50 (in respect to all provisions therein other
5 than the State rate of tax), 4 (except that the reference to
6 the State shall be to the county), 5, 7, 8 (except that the
7 jurisdiction to which the tax shall be a debt to the extent
8 indicated in that Section 8 shall be the county), 9 (except as
9 to the disposition of taxes and penalties collected), 10, 11,
10 12 (except the reference therein to Section 2b of the
11 Retailers' Occupation Tax Act), 13 (except that any reference
12 to the State shall mean the county), Section 15, 16, 17, 18, 19
13 and 20 of the Service Occupation Tax Act and Section 3-7 of the
14 Uniform Penalty and Interest Act, as fully as if those
15 provisions were set forth herein.

16 Persons subject to any tax imposed under the authority
17 granted in this subsection may reimburse themselves for their
18 serviceman's tax liability by separately stating the tax as an
19 additional charge, which charge may be stated in combination,
20 in a single amount, with State tax that servicemen are
21 authorized to collect under the Service Use Tax Act, in
22 accordance with such bracket schedules as the Department may
23 prescribe.

24 Whenever the Department determines that a refund should be
25 made under this subsection to a claimant instead of issuing a
26 credit memorandum, the Department shall notify the State

1 Comptroller, who shall cause the warrant to be drawn for the
2 amount specified, and to the person named, in the notification
3 from the Department. The refund shall be paid by the State
4 Treasurer out of the County Public Safety or Transportation
5 Retailers' Occupation Fund.

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

10 (c) 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 County
13 Public Safety or Transportation Retailers' Occupation Tax
14 Fund, which shall be an unappropriated trust fund held outside
15 of the State treasury. On or before the 25th day of each
16 calendar month, the Department shall prepare and certify to the
17 Comptroller the disbursement of stated sums of money to the
18 counties from which retailers have paid taxes or penalties to
19 the Department during the second preceding calendar month. The
20 amount to be paid to each county, and deposited by the county
21 into its special fund created for the purposes of this Section,
22 shall be the amount (not including credit memoranda) collected
23 under this Section during the second preceding calendar month
24 by the Department plus an amount the Department determines is
25 necessary to offset any amounts that were erroneously paid to a
26 different taxing body, and not including (i) an amount equal to

1 the amount of refunds made during the second preceding calendar
2 month by the Department on behalf of the county and (ii) any
3 amount that the Department determines is necessary to offset
4 any amounts that were payable to a different taxing body but
5 were erroneously paid to the county. Within 10 days after
6 receipt by the Comptroller of the disbursement certification to
7 the counties provided for in this Section to be given to the
8 Comptroller by the Department, the Comptroller shall cause the
9 orders to be drawn for the respective amounts in accordance
10 with directions contained in the certification.

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

26 (d) For the purpose of determining the local governmental

1 unit whose tax is applicable, a retail sale by a producer of
2 coal or another mineral mined in Illinois is a sale at retail
3 at the place where the coal or other mineral mined in Illinois
4 is extracted from the earth. This paragraph does not apply to
5 coal or another mineral when it is delivered or shipped by the
6 seller to the purchaser at a point outside Illinois so that the
7 sale is exempt under the United States Constitution as a sale
8 in interstate or foreign commerce.

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

13 (e-5) If a county imposes a tax under this Section, the
14 county board may, by ordinance, discontinue or lower the rate
15 of the tax. If the county board lowers the tax rate or
16 discontinues the tax, a referendum must be held in accordance
17 with subsection (a) of this Section in order to increase the
18 rate of the tax or to reimpose the discontinued tax.

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

1 filing; or (ii) on or before the first day of October,
2 whereupon the Department shall proceed to administer and
3 enforce the tax as of the first day of January next following
4 the filing.

5 (g) When certifying the amount of a monthly disbursement to
6 a county under this Section, the Department shall increase or
7 decrease the amounts by an amount necessary to offset any
8 miscalculation of previous disbursements. The offset amount
9 shall be the amount erroneously disbursed within the previous 6
10 months from the time a miscalculation is discovered.

11 (h) This Section may be cited as the "Special County
12 Occupation Tax For Public Safety, Public Facilities, or
13 Transportation Law".

14 (i) For purposes of this Section, "public safety" includes,
15 but is not limited to, crime prevention, detention, fire
16 fighting, police, medical, ambulance, or other emergency
17 services. For the purposes of this Section, "transportation"
18 includes, but is not limited to, the construction, maintenance,
19 operation, and improvement of public highways, any other
20 purpose for which a county may expend funds under the Illinois
21 Highway Code, and passenger rail transportation. For the
22 purposes of this Section, "public facilities purposes"
23 includes, but is not limited to, the acquisition, development,
24 construction, reconstruction, rehabilitation, improvement,
25 financing, architectural planning, and installation of capital
26 facilities consisting of buildings, structures, and durable

1 equipment and for the acquisition and improvement of real
2 property and interest in real property required, or expected to
3 be required, in connection with the public facilities, for use
4 by the county for the furnishing of governmental services to
5 its citizens, including but not limited to museums and nursing
6 homes.

7 (j) The Department may promulgate rules to implement this
8 amendatory Act of the 95th General Assembly only to the extent
9 necessary to apply the existing rules for the Special County
10 Retailers' Occupation Tax for Public Safety to this new purpose
11 for public facilities.

12 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08;
13 95-1002, eff. 11-20-08.)

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