



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1491

Introduced 2/18/2009, by Sen. Louis S. Viverito

SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Makes changes to the allocations of the tax receipts. Provides that a proportional allotment of tax receipts shall be made for any road district based on the rate extended by the district. Sets forth allocation procedures for DuPage County. Provides that if any road district has levied a special tax for road purposes under certain Sections of the Illinois Highway Code, that levy entitles the road district for a full or proportionate allotment depending on the rate of the levy. Sets forth allotment procedures for those instances when a township has transferred money to the road and bridge fund. Sets forth allotment procedures for road districts that are subject to the Property Tax Extension Limitation Law. Deletes a provision that the term "road district" includes park districts, forest preserve districts and conservation districts organized under Illinois law. Effective immediately.

LRB096 03497 HLH 13522 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in Section 8a, subdivision
8 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and
9 16 of Section 15, all money received by the Department under
10 this Act, including payments made to the Department by member
11 jurisdictions participating in the International Fuel Tax
12 Agreement, shall be deposited in a special fund in the State
13 treasury, to be known as the "Motor Fuel Tax Fund", and shall
14 be used as follows:

15 (a) 2 1/2 cents per gallon of the tax collected on special
16 fuel under paragraph (b) of Section 2 and Section 13a of this
17 Act shall be transferred to the State Construction Account Fund
18 in the State Treasury;

19 (b) \$420,000 shall be transferred each month to the State
20 Boating Act Fund to be used by the Department of Natural
21 Resources for the purposes specified in Article X of the Boat
22 Registration and Safety Act;

23 (c) \$2,250,000 shall be transferred each month to the Grade

1 Crossing Protection Fund to be used as follows: not less than
2 \$6,000,000 each fiscal year shall be used for the construction
3 or reconstruction of rail highway grade separation structures;
4 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter
5 shall be transferred to the Transportation Regulatory Fund and
6 shall be accounted for as part of the rail carrier portion of
7 such funds and shall be used to pay the cost of administration
8 of the Illinois Commerce Commission's railroad safety program
9 in connection with its duties under subsection (3) of Section
10 18c-7401 of the Illinois Vehicle Code, with the remainder to be
11 used by the Department of Transportation upon order of the
12 Illinois Commerce Commission, to pay that part of the cost
13 apportioned by such Commission to the State to cover the
14 interest of the public in the use of highways, roads, streets,
15 or pedestrian walkways in the county highway system, township
16 and district road system, or municipal street system as defined
17 in the Illinois Highway Code, as the same may from time to time
18 be amended, for separation of grades, for installation,
19 construction or reconstruction of crossing protection or
20 reconstruction, alteration, relocation including construction
21 or improvement of any existing highway necessary for access to
22 property or improvement of any grade crossing including the
23 necessary highway approaches thereto of any railroad across the
24 highway or public road, or for the installation, construction,
25 reconstruction, or maintenance of a pedestrian walkway over or
26 under a railroad right-of-way, as provided for in and in

1 accordance with Section 18c-7401 of the Illinois Vehicle Code.
2 The Commission shall not order more than \$2,000,000 per year in
3 Grade Crossing Protection Fund moneys for pedestrian walkways.
4 In entering orders for projects for which payments from the
5 Grade Crossing Protection Fund will be made, the Commission
6 shall account for expenditures authorized by the orders on a
7 cash rather than an accrual basis. For purposes of this
8 requirement an "accrual basis" assumes that the total cost of
9 the project is expended in the fiscal year in which the order
10 is entered, while a "cash basis" allocates the cost of the
11 project among fiscal years as expenditures are actually made.
12 To meet the requirements of this subsection, the Illinois
13 Commerce Commission shall develop annual and 5-year project
14 plans of rail crossing capital improvements that will be paid
15 for with moneys from the Grade Crossing Protection Fund. The
16 annual project plan shall identify projects for the succeeding
17 fiscal year and the 5-year project plan shall identify projects
18 for the 5 directly succeeding fiscal years. The Commission
19 shall submit the annual and 5-year project plans for this Fund
20 to the Governor, the President of the Senate, the Senate
21 Minority Leader, the Speaker of the House of Representatives,
22 and the Minority Leader of the House of Representatives on the
23 first Wednesday in April of each year;

24 (d) of the amount remaining after allocations provided for
25 in subsections (a), (b) and (c), a sufficient amount shall be
26 reserved to pay all of the following:

1 (1) the costs of the Department of Revenue in
2 administering this Act;

3 (2) the costs of the Department of Transportation in
4 performing its duties imposed by the Illinois Highway Code
5 for supervising the use of motor fuel tax funds apportioned
6 to municipalities, counties and road districts;

7 (3) refunds provided for in Section 13 of this Act and
8 under the terms of the International Fuel Tax Agreement
9 referenced in Section 14a;

10 (4) from October 1, 1985 until June 30, 1994, the
11 administration of the Vehicle Emissions Inspection Law,
12 which amount shall be certified monthly by the
13 Environmental Protection Agency to the State Comptroller
14 and shall promptly be transferred by the State Comptroller
15 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
16 Inspection Fund, and for the period July 1, 1994 through
17 June 30, 2000, one-twelfth of \$25,000,000 each month, for
18 the period July 1, 2000 through June 30, 2003, one-twelfth
19 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
20 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
21 July 1 and October 1, or as soon thereafter as may be
22 practical, during the period July 1, 2004 through June 30,
23 2010 ~~2009~~, for the administration of the Vehicle Emissions
24 Inspection Law of 2005, to be transferred by the State
25 Comptroller and Treasurer from the Motor Fuel Tax Fund into
26 the Vehicle Inspection Fund;

1 (5) amounts ordered paid by the Court of Claims; and
2 (6) payment of motor fuel use taxes due to member
3 jurisdictions under the terms of the International Fuel Tax
4 Agreement. The Department shall certify these amounts to
5 the Comptroller by the 15th day of each month; the
6 Comptroller shall cause orders to be drawn for such
7 amounts, and the Treasurer shall administer those amounts
8 on or before the last day of each month;

9 (e) after allocations for the purposes set forth in
10 subsections (a), (b), (c) and (d), the remaining amount shall
11 be apportioned as follows:

12 (1) Until January 1, 2000, 58.4%, and beginning January
13 1, 2000, 45.6% shall be deposited as follows:

14 (A) 37% into the State Construction Account Fund,
15 and

16 (B) 63% into the Road Fund, \$1,250,000 of which
17 shall be reserved each month for the Department of
18 Transportation to be used in accordance with the
19 provisions of Sections 6-901 through 6-906 of the
20 Illinois Highway Code;

21 (2) Until January 1, 2000, 41.6%, and beginning January
22 1, 2000, 54.4% shall be transferred to the Department of
23 Transportation to be distributed as follows:

24 (A) 49.10% to the municipalities of the State,

25 (B) 16.74% to the counties of the State having
26 1,000,000 or more inhabitants,

1 (C) 18.27% to the counties of the State having less
2 than 1,000,000 inhabitants,

3 (D) 15.89% to the road districts of the State.

4 As soon as may be after the first day of each month the
5 Department of Transportation shall allot to each municipality
6 its share of the amount apportioned to the several
7 municipalities which shall be in proportion to the population
8 of such municipalities as determined by the last preceding
9 municipal census if conducted by the Federal Government or
10 Federal census. If territory is annexed to any municipality
11 subsequent to the time of the last preceding census the
12 corporate authorities of such municipality may cause a census
13 to be taken of such annexed territory and the population so
14 ascertained for such territory shall be added to the population
15 of the municipality as determined by the last preceding census
16 for the purpose of determining the allotment for that
17 municipality. If the population of any municipality was not
18 determined by the last Federal census preceding any
19 apportionment, the apportionment to such municipality shall be
20 in accordance with any census taken by such municipality. Any
21 municipal census used in accordance with this Section shall be
22 certified to the Department of Transportation by the clerk of
23 such municipality, and the accuracy thereof shall be subject to
24 approval of the Department which may make such corrections as
25 it ascertains to be necessary.

26 As soon as may be after the first day of each month the

1 Department of Transportation shall allot to each county its
2 share of the amount apportioned to the several counties of the
3 State as herein provided. Each allotment to the several
4 counties having less than 1,000,000 inhabitants shall be in
5 proportion to the amount of motor vehicle license fees received
6 from the residents of such counties, respectively, during the
7 preceding calendar year. The Secretary of State shall, on or
8 before April 15 of each year, transmit to the Department of
9 Transportation a full and complete report showing the amount of
10 motor vehicle license fees received from the residents of each
11 county, respectively, during the preceding calendar year. The
12 Department of Transportation shall, each month, use for
13 allotment purposes the last such report received from the
14 Secretary of State.

15 As soon as may be after the first day of each month, the
16 Department of Transportation shall allot to the several
17 counties their share of the amount apportioned for the use of
18 road districts. The allotment shall be apportioned among the
19 several counties in the State in the proportion which the total
20 mileage of township or district roads in the respective
21 counties bears to the total mileage of all township and
22 district roads in the State. Funds allotted to the respective
23 counties for the use of road districts therein shall be
24 allocated to the several road districts in the county in the
25 proportion which the total mileage of such township or district
26 roads in the respective road districts bears to the total

1 mileage of all such township or district roads in the county.
2 After July 1 of any year prior to 2010, no allocation shall be
3 made for any road district unless it levied a tax for road and
4 bridge purposes in an amount which will require the extension
5 of such tax against the taxable property in any such road
6 district at a rate of not less than either .08% of the value
7 thereof, based upon the assessment for the year immediately
8 prior to the year in which such tax was levied and as equalized
9 by the Department of Revenue or, in DuPage County, an amount
10 equal to or greater than \$12,000 per mile of road under the
11 jurisdiction of the road district, whichever is less. Beginning
12 July 1, 2010 and each July 1 thereafter, an allocation shall be
13 made for any road district if it levied a tax for road and
14 bridge purposes. If the amount of the tax levy, however,
15 requires the extension of the tax against the taxable property
16 in the road district at a rate that is less than 0.08% of the
17 value thereof, based upon the assessment for the year
18 immediately prior to the year in which the tax was levied and
19 as equalized by the Department of Revenue, then the amount of
20 the allocation for the road district shall be a percentage of
21 the maximum allocation equal to the percentage obtained by
22 dividing the rate extended by the district by 0.08%. In DuPage
23 County, however, no allocation shall be made for any road
24 district unless it levied a tax for road and bridge purposes in
25 an amount that will require the extension of that tax against
26 the taxable property in any such road district (i) at a rate of

1 not less than either 0.08% of the value thereof, based upon the
2 assessment for the year immediately prior to the year in which
3 such tax was levied and as equalized by the Department of
4 Revenue, or (ii) in an amount equal to or greater than \$12,000
5 per mile of road under the jurisdiction of the road district,
6 whichever is less.

7 Prior to 2010, if ~~if~~ any road district has levied a special
8 tax for road purposes pursuant to Sections 6-601, 6-602, and
9 6-603 of the Illinois Highway Code, and such tax was levied in
10 an amount which would require extension at a rate of not less
11 than .08% of the value of the taxable property thereof, as
12 equalized or assessed by the Department of Revenue, or, in
13 DuPage County, an amount equal to or greater than \$12,000 per
14 mile of road under the jurisdiction of the road district,
15 whichever is less, such levy shall, however, be deemed a proper
16 compliance with this Section and shall qualify such road
17 district for an allotment under this Section. Beginning in 2010
18 and thereafter, if any road district has levied a special tax
19 for road purposes under Sections 6-601, 6-602, and 6-603 of the
20 Illinois Highway Code, and the tax was levied in an amount that
21 would require extension at a rate of not less than 0.08% of the
22 value of the taxable property thereof, as equalized or assessed
23 by the Department of Revenue or, in DuPage County, an amount
24 equal to or greater than \$12,000 per mile of road under the
25 jurisdiction of the road district, whichever is less, that levy
26 shall be deemed a proper compliance with this Section and shall

1 qualify such road district for a full, rather than
2 proportionate, allotment under this Section. Except in DuPage
3 County, if the levy for the special tax is less than 0.08% of
4 the value of the taxable property and if the levy for the
5 special tax is more than any other levy for road and bridge
6 purposes, then the levy for the special tax qualifies the road
7 district for a proportionate, rather than full, allotment under
8 this Section. If the levy for the special tax is equal to or
9 less than any other levy for road and bridge purposes, then any
10 allotment under this Section shall be determined by the other
11 levy for road and bridge purposes.

12 Prior to 2010, if ~~if~~ a township has transferred to the road
13 and bridge fund money which, when added to the amount of any
14 tax levy of the road district would be the equivalent of a tax
15 levy requiring extension at a rate of at least .08%, or, in
16 DuPage County, an amount equal to or greater than \$12,000 per
17 mile of road under the jurisdiction of the road district,
18 whichever is less, such transfer, together with any such tax
19 levy, shall be deemed a proper compliance with this Section and
20 shall qualify the road district for an allotment under this
21 Section.

22 In counties in which a property tax extension limitation is
23 imposed under the Property Tax Extension Limitation Law, road
24 districts may retain their entitlement to a motor fuel tax
25 allotment or, beginning in 2010, their entitlement to a full
26 allotment if, at the time the property tax extension limitation

1 was imposed, the road district was levying a road and bridge
2 tax at a rate sufficient to entitle it to a motor fuel tax
3 allotment and continues to levy the maximum allowable amount
4 after the imposition of the property tax extension limitation.
5 Any road district may in all circumstances retain its
6 entitlement to a motor fuel tax allotment or, beginning in
7 2010, their entitlement to a full allotment if it levied a road
8 and bridge tax in an amount that will require the extension of
9 the tax against the taxable property in the road district at a
10 rate of not less than 0.08% of the assessed value of the
11 property, based upon the assessment for the year immediately
12 preceding the year in which the tax was levied and as equalized
13 by the Department of Revenue or, in DuPage County, an amount
14 equal to or greater than \$12,000 per mile of road under the
15 jurisdiction of the road district, whichever is less.

16 As used in this Section the term "road district" means any
17 road district, including a county unit road district, provided
18 for by the Illinois Highway Code; and the term "township or
19 district road" means any road in the township and district road
20 system as defined in the Illinois Highway Code. For the
21 purposes of this Section, ~~"road district" also includes park~~
22 ~~districts, forest preserve districts and conservation~~
23 ~~districts organized under Illinois law and~~ "township or
24 district road" also includes such roads as are maintained by
25 park districts, forest preserve districts and conservation
26 districts. The Department of Transportation shall determine

1 the mileage of all township and district roads for the purposes
2 of making allotments and allocations of motor fuel tax funds
3 for use in road districts.

4 Payment of motor fuel tax moneys to municipalities and
5 counties shall be made as soon as possible after the allotment
6 is made. The treasurer of the municipality or county may invest
7 these funds until their use is required and the interest earned
8 by these investments shall be limited to the same uses as the
9 principal funds.

10 (Source: P.A. 94-839, eff. 6-6-06; 95-744, eff. 7-18-08.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.