



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**SB3462**

Introduced 2/10/2010, by Sen. Terry Link

#### 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 18134 HLH 33509 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) \$3,500,000 shall be transferred each month to the Grade

1 Crossing Protection Fund to be used as follows: not less than  
2 \$12,000,000 each fiscal year shall be used for the construction  
3 or reconstruction of rail highway grade separation structures;  
4 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in  
5 fiscal year 2010 and each fiscal year thereafter shall be  
6 transferred to the Transportation Regulatory Fund and shall be  
7 accounted for as part of the rail carrier portion of such funds  
8 and shall be used to pay the cost of administration of the  
9 Illinois Commerce Commission's railroad safety program in  
10 connection with its duties under subsection (3) of Section  
11 18c-7401 of the Illinois Vehicle Code, with the remainder to be  
12 used by the Department of Transportation upon order of the  
13 Illinois Commerce Commission, to pay that part of the cost  
14 apportioned by such Commission to the State to cover the  
15 interest of the public in the use of highways, roads, streets,  
16 or pedestrian walkways in the county highway system, township  
17 and district road system, or municipal street system as defined  
18 in the Illinois Highway Code, as the same may from time to time  
19 be amended, for separation of grades, for installation,  
20 construction or reconstruction of crossing protection or  
21 reconstruction, alteration, relocation including construction  
22 or improvement of any existing highway necessary for access to  
23 property or improvement of any grade crossing and grade  
24 crossing surface including the necessary highway approaches  
25 thereto of any railroad across the highway or public road, or  
26 for the installation, construction, reconstruction, or

1 maintenance of a pedestrian walkway over or under a railroad  
2 right-of-way, as provided for in and in accordance with Section  
3 18c-7401 of the Illinois Vehicle Code. The Commission may order  
4 up to \$2,000,000 per year in Grade Crossing Protection Fund  
5 moneys for the improvement of grade crossing surfaces and up to  
6 \$300,000 per year for the maintenance and renewal of 4-quadrant  
7 gate vehicle detection systems located at non-high speed rail  
8 grade crossings. The Commission shall not order more than  
9 \$2,000,000 per year in Grade Crossing Protection Fund moneys  
10 for pedestrian walkways. In entering orders for projects for  
11 which payments from the Grade Crossing Protection Fund will be  
12 made, the Commission shall account for expenditures authorized  
13 by the orders on a cash rather than an accrual basis. For  
14 purposes of this requirement an "accrual basis" assumes that  
15 the total cost of the project is expended in the fiscal year in  
16 which the order is entered, while a "cash basis" allocates the  
17 cost of the project among fiscal years as expenditures are  
18 actually made. To meet the requirements of this subsection, the  
19 Illinois Commerce Commission shall develop annual and 5-year  
20 project plans of rail crossing capital improvements that will  
21 be paid for with moneys from the Grade Crossing Protection  
22 Fund. The annual project plan shall identify projects for the  
23 succeeding fiscal year and the 5-year project plan shall  
24 identify projects for the 5 directly succeeding fiscal years.  
25 The Commission shall submit the annual and 5-year project plans  
26 for this Fund to the Governor, the President of the Senate, the

1 Senate Minority Leader, the Speaker of the House of  
2 Representatives, and the Minority Leader of the House of  
3 Representatives on the first Wednesday in April of each year;

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

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

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

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

16 (4) from October 1, 1985 until June 30, 1994, the  
17 administration of the Vehicle Emissions Inspection Law,  
18 which amount shall be certified monthly by the  
19 Environmental Protection Agency to the State Comptroller  
20 and shall promptly be transferred by the State Comptroller  
21 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
22 Inspection Fund, and for the period July 1, 1994 through  
23 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
24 the period July 1, 2000 through June 30, 2003, one-twelfth  
25 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
26 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each

1 July 1 and October 1, or as soon thereafter as may be  
2 practical, during the period July 1, 2004 through June 30,  
3 2010, for the administration of the Vehicle Emissions  
4 Inspection Law of 2005, to be transferred by the State  
5 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
6 the Vehicle Inspection Fund;

7 (5) amounts ordered paid by the Court of Claims; and

8 (6) payment of motor fuel use taxes due to member  
9 jurisdictions under the terms of the International Fuel Tax  
10 Agreement. The Department shall certify these amounts to  
11 the Comptroller by the 15th day of each month; the  
12 Comptroller shall cause orders to be drawn for such  
13 amounts, and the Treasurer shall administer those amounts  
14 on or before the last day of each month;

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

18 (1) Until January 1, 2000, 58.4%, and beginning January  
19 1, 2000, 45.6% shall be deposited as follows:

20 (A) 37% into the State Construction Account Fund,  
21 and

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

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

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

5                   (B) 16.74% to the counties of the State having  
6           1,000,000 or more inhabitants,

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

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

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

1 municipal census used in accordance with this Section shall be  
2 certified to the Department of Transportation by the clerk of  
3 such municipality, and the accuracy thereof shall be subject to  
4 approval of the Department which may make such corrections as  
5 it ascertains to be necessary.

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

21 As soon as may be after the first day of each month, the  
22 Department of Transportation shall allot to the several  
23 counties their share of the amount apportioned for the use of  
24 road districts. The allotment shall be apportioned among the  
25 several counties in the State in the proportion which the total  
26 mileage of township or district roads in the respective



1 counties bears to the total mileage of all township and  
2 district roads in the State. Funds allotted to the respective  
3 counties for the use of road districts therein shall be  
4 allocated to the several road districts in the county in the  
5 proportion which the total mileage of such township or district  
6 roads in the respective road districts bears to the total  
7 mileage of all such township or district roads in the county.  
8 After July 1 of any year prior to 2011, no allocation shall be  
9 made for any road district unless it levied a tax for road and  
10 bridge purposes in an amount which will require the extension  
11 of such tax against the taxable property in any such road  
12 district at a rate of not less than either .08% of the value  
13 thereof, based upon the assessment for the year immediately  
14 prior to the year in which such tax was levied and as equalized  
15 by the Department of Revenue or, in DuPage County, an amount  
16 equal to or greater than \$12,000 per mile of road under the  
17 jurisdiction of the road district, whichever is less. Beginning  
18 July 1, 2011 and each July 1 thereafter, an allocation shall be  
19 made for any road district if it levied a tax for road and  
20 bridge purposes. In counties other than DuPage County, if the  
21 amount of the tax levy requires the extension of the tax  
22 against the taxable property in the road district at a rate  
23 that is less than 0.08% of the value thereof, based upon the  
24 assessment for the year immediately prior to the year in which  
25 the tax was levied and as equalized by the Department of  
26 Revenue, then the amount of the allocation for that road

1 district shall be a percentage of the maximum allocation equal  
2 to the percentage obtained by dividing the rate extended by the  
3 district by 0.08%. In DuPage County, if the amount of the tax  
4 levy requires the extension of the tax against the taxable  
5 property in the road district at a rate that is less than the  
6 lesser of (i) 0.08% of the value of the taxable property in the  
7 road district, based upon the assessment for the year  
8 immediately prior to the year in which such tax was levied and  
9 as equalized by the Department of Revenue, or (ii) a rate that  
10 will yield an amount equal to \$12,000 per mile of road under  
11 the jurisdiction of the road district, then the amount of the  
12 allocation for the road district shall be a percentage of the  
13 maximum allocation equal to the percentage obtained by dividing  
14 the rate extended by the district by the lesser of (i) 0.08% or  
15 (ii) the rate that will yield an amount equal to \$12,000 per  
16 mile of road under the jurisdiction of the road district.

17 Prior to 2011, if ~~if~~ any road district has levied a special  
18 tax for road purposes pursuant to Sections 6-601, 6-602 and  
19 6-603 of the Illinois Highway Code, and such tax was levied in  
20 an amount which would require extension at a rate of not less  
21 than .08% of the value of the taxable property thereof, as  
22 equalized or assessed by the Department of Revenue, or, in  
23 DuPage County, an amount equal to or greater than \$12,000 per  
24 mile of road under the jurisdiction of the road district,  
25 whichever is less, such levy shall, however, be deemed a proper  
26 compliance with this Section and shall qualify such road

1 district for an allotment under this Section. Beginning in 2011  
2 and thereafter, if any road district has levied a special tax  
3 for road purposes under Sections 6-601, 6-602, and 6-603 of the  
4 Illinois Highway Code, and the tax was levied in an amount that  
5 would require extension at a rate of not less than 0.08% of the  
6 value of the taxable property of that road district, as  
7 equalized or assessed by the Department of Revenue or, in  
8 DuPage County, an amount equal to or greater than \$12,000 per  
9 mile of road under the jurisdiction of the road district,  
10 whichever is less, that levy shall be deemed a proper  
11 compliance with this Section and shall qualify such road  
12 district for a full, rather than proportionate, allotment under  
13 this Section. If the levy for the special tax is less than  
14 0.08% of the value of the taxable property, or, in DuPage  
15 County if the levy for the special tax is less than the lesser  
16 of (i) 0.08% or (ii) \$12,000 per mile of road under the  
17 jurisdiction of the road district, and if the levy for the  
18 special tax is more than any other levy for road and bridge  
19 purposes, then the levy for the special tax qualifies the road  
20 district for a proportionate, rather than full, allotment under  
21 this Section. If the levy for the special tax is equal to or  
22 less than any other levy for road and bridge purposes, then any  
23 allotment under this Section shall be determined by the other  
24 levy for road and bridge purposes.

25 Prior to 2011, if ~~if~~ a township has transferred to the road  
26 and bridge fund money which, when added to the amount of any

1 tax levy of the road district would be the equivalent of a tax  
2 levy requiring extension at a rate of at least .08%, or, in  
3 DuPage County, an amount equal to or greater than \$12,000 per  
4 mile of road under the jurisdiction of the road district,  
5 whichever is less, such transfer, together with any such tax  
6 levy, shall be deemed a proper compliance with this Section and  
7 shall qualify the road district for an allotment under this  
8 Section.

9 In counties in which a property tax extension limitation is  
10 imposed under the Property Tax Extension Limitation Law, road  
11 districts may retain their entitlement to a motor fuel tax  
12 allotment or, beginning in 2011, their entitlement to a full  
13 allotment if, at the time the property tax extension limitation  
14 was imposed, the road district was levying a road and bridge  
15 tax at a rate sufficient to entitle it to a motor fuel tax  
16 allotment and continues to levy the maximum allowable amount  
17 after the imposition of the property tax extension limitation.  
18 Any road district may in all circumstances retain its  
19 entitlement to a motor fuel tax allotment or, beginning in  
20 2011, its entitlement to a full allotment if it levied a road  
21 and bridge tax in an amount that will require the extension of  
22 the tax against the taxable property in the road district at a  
23 rate of not less than 0.08% of the assessed value of the  
24 property, based upon the assessment for the year immediately  
25 preceding the year in which the tax was levied and as equalized  
26 by the Department of Revenue or, in DuPage County, an amount

1 equal to or greater than \$12,000 per mile of road under the  
2 jurisdiction of the road district, whichever is less.

3 As used in this Section the term "road district" means any  
4 road district, including a county unit road district, provided  
5 for by the Illinois Highway Code; and the term "township or  
6 district road" means any road in the township and district road  
7 system as defined in the Illinois Highway Code. For the  
8 purposes of this Section, ~~"road district" also includes park~~  
9 ~~districts, forest preserve districts and conservation~~  
10 ~~districts organized under Illinois law and~~ "township or  
11 district road" also includes such roads as are maintained by  
12 park districts, forest preserve districts and conservation  
13 districts. The Department of Transportation shall determine  
14 the mileage of all township and district roads for the purposes  
15 of making allotments and allocations of motor fuel tax funds  
16 for use in road districts.

17 Payment of motor fuel tax moneys to municipalities and  
18 counties shall be made as soon as possible after the allotment  
19 is made. The treasurer of the municipality or county may invest  
20 these funds until their use is required and the interest earned  
21 by these investments shall be limited to the same uses as the  
22 principal funds.

23 (Source: P.A. 95-744, eff. 7-18-08; 96-34, eff. 7-13-09; 96-45,  
24 eff. 7-15-09; revised 11-3-09.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.