



Rep. Barbara Flynn Currie

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LRB097 10235 HLH 69791 a

1 AMENDMENT TO SENATE BILL 2194

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2194 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing  
5 Section 5-1006 as follows:

6 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

7 Sec. 5-1006. Home Rule County Retailers' Occupation Tax  
8 Law. Any county that ~~that~~ is a home rule unit may impose a tax  
9 upon all persons engaged in the business of selling tangible  
10 personal property, other than an item of tangible personal  
11 property titled or registered with an agency of this State's  
12 government, at retail in the county on the gross receipts from  
13 such sales made in the course of their business. If imposed,  
14 this tax shall only be imposed in 1/4% increments. On and after  
15 September 1, 1991, this additional tax may not be imposed on  
16 the sales of food for human consumption which is to be consumed

1 off the premises where it is sold (other than alcoholic  
2 beverages, soft drinks and food which has been prepared for  
3 immediate consumption) and prescription and nonprescription  
4 medicines, drugs, medical appliances and insulin, urine  
5 testing materials, syringes and needles used by diabetics. The  
6 tax imposed by a home rule county pursuant to this Section and  
7 all civil penalties that may be assessed as an incident thereof  
8 shall be collected and enforced by the State Department of  
9 Revenue. The certificate of registration that is issued by the  
10 Department to a retailer under the Retailers' Occupation Tax  
11 Act shall permit the retailer to engage in a business that is  
12 taxable under any ordinance or resolution enacted pursuant to  
13 this Section without registering separately with the  
14 Department under such ordinance or resolution or under this  
15 Section. The Department shall have full power to administer and  
16 enforce this Section; to collect all taxes and penalties due  
17 hereunder; to dispose of taxes and penalties so collected in  
18 the manner hereinafter provided; and to determine all rights to  
19 credit memoranda arising on account of the erroneous payment of  
20 tax or penalty hereunder. In the administration of, and  
21 compliance with, this Section, the Department and persons who  
22 are subject to this Section shall have the same rights,  
23 remedies, privileges, immunities, powers and duties, and be  
24 subject to the same conditions, restrictions, limitations,  
25 penalties and definitions of terms, and employ the same modes  
26 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,

1 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all  
2 provisions therein other than the State rate of tax), 4, 5, 5a,  
3 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
4 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
5 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
6 as if those provisions were set forth herein.

7 No tax may be imposed by a home rule county pursuant to  
8 this Section unless the county also imposes a tax at the same  
9 rate pursuant to Section 5-1007.

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

17 Whenever the Department determines that a refund should be  
18 made under this Section to a claimant instead of issuing a  
19 credit memorandum, the Department shall notify the State  
20 Comptroller, who shall cause the order to be drawn for the  
21 amount specified and to the person named in the notification  
22 from the Department. The refund shall be paid by the State  
23 Treasurer out of the home rule county retailers' occupation tax  
24 fund.

25 The Department shall forthwith pay over to the State  
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected hereunder.

2 As soon as possible after the first day of each month,  
3 beginning January 1, 2011, upon certification of the Department  
4 of Revenue, the Comptroller shall order transferred, and the  
5 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
6 local sales tax increment, as defined in the Innovation  
7 Development and Economy Act, collected under this Section  
8 during the second preceding calendar month for sales within a  
9 STAR bond district.

10 After the monthly transfer to the STAR Bonds Revenue Fund,  
11 on or before the 25th day of each calendar month, the  
12 Department shall prepare and certify to the Comptroller the  
13 disbursement of stated sums of money to named counties, the  
14 counties to be those from which retailers have paid taxes or  
15 penalties hereunder to the Department during the second  
16 preceding calendar month. The amount to be paid to each county  
17 shall be the amount (not including credit memoranda) collected  
18 hereunder during the second preceding calendar month by the  
19 Department plus an amount the Department determines is  
20 necessary to offset any amounts that were erroneously paid to a  
21 different taxing body, and not including an amount equal to the  
22 amount of refunds made during the second preceding calendar  
23 month by the Department on behalf of such county, and not  
24 including any amount which the Department determines is  
25 necessary to offset any amounts which were payable to a  
26 different taxing body but were erroneously paid to the county,

1 and not including any amounts that are transferred to the STAR  
2 Bonds Revenue Fund. Within 10 days after receipt, by the  
3 Comptroller, of the disbursement certification to the counties  
4 provided for in this Section to be given to the Comptroller by  
5 the Department, the Comptroller shall cause the orders to be  
6 drawn for the respective amounts in accordance with the  
7 directions contained in the certification.

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

23 For the purpose of determining the local governmental unit  
24 whose tax is applicable, a retail sale by a producer of coal or  
25 other mineral mined in Illinois is a sale at retail at the  
26 place where the coal or other mineral mined in Illinois is

1 extracted from the earth. This paragraph does not apply to coal  
2 or other mineral when it is delivered or shipped by the seller  
3 to the purchaser at a point outside Illinois so that the sale  
4 is exempt under the United States Constitution as a sale in  
5 interstate or foreign commerce.

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

10 An ordinance or resolution imposing or discontinuing a tax  
11 hereunder or effecting a change in the rate thereof shall be  
12 adopted and a certified copy thereof filed with the Department  
13 on or before the first day of June, whereupon the Department  
14 shall proceed to administer and enforce this Section as of the  
15 first day of September next following such adoption and filing.  
16 Beginning January 1, 1992, an ordinance or resolution imposing  
17 or discontinuing the tax hereunder or effecting a change in the  
18 rate thereof shall be adopted and a certified copy thereof  
19 filed with the Department on or before the first day of July,  
20 whereupon the Department shall proceed to administer and  
21 enforce this Section as of the first day of October next  
22 following such adoption and filing. Beginning January 1, 1993,  
23 an ordinance or resolution imposing or discontinuing the tax  
24 hereunder or effecting a change in the rate thereof shall be  
25 adopted and a certified copy thereof filed with the Department  
26 on or before the first day of October, whereupon the Department

1 shall proceed to administer and enforce this Section as of the  
2 first day of January next following such adoption and filing.  
3 Beginning April 1, 1998, an ordinance or resolution imposing or  
4 discontinuing the tax hereunder or effecting a change in the  
5 rate thereof shall either (i) be adopted and a certified copy  
6 thereof filed with the Department on or before the first day of  
7 April, whereupon the Department shall proceed to administer and  
8 enforce this Section as of the first day of July next following  
9 the adoption and filing; or (ii) be adopted and a certified  
10 copy thereof filed with the Department on or before the first  
11 day of October, whereupon the Department shall proceed to  
12 administer and enforce this Section as of the first day of  
13 January next following the adoption and filing.

14 When certifying the amount of a monthly disbursement to a  
15 county under this Section, the Department shall increase or  
16 decrease such amount by an amount necessary to offset any  
17 misallocation of previous disbursements. The offset amount  
18 shall be the amount erroneously disbursed within the previous 6  
19 months from the time a misallocation is discovered.

20 This Section shall be known and may be cited as the Home  
21 Rule County Retailers' Occupation Tax Law.

22 (Source: P.A. 96-939, eff. 6-24-10.)".